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RAISE
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Sec. 3. The Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall promptly take, to the extent permitted by law, the necessary steps to ensure that the labor practices described in section (2) (c) are applied to their South African employees.

Sec. 4. The Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable and to the extent permitted by law, in procuring goods or services in South Africa, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by persons in South Africa disadvantaged by the apartheid system.

Sec. 5. (a) The Secretary of State and the United States Trade Representative are directed to consult with other parties to the General Agreement on Tariffs and Trade with a view toward adopting a prohibition on the import of Krugerrands.

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TO BE ADDED
TO FINESSE

(b) The Secretary of the Treasury is directed to conduct a study to be completed within sixty days regarding the feasibility of minting and issuing gold coins with a view toward expeditiously seeking legislative authority to accomplish the goal of issuing such coins.

Sec. 6. In carrying out their respective functions and responsibilities under this Order, the Secretary of the Treasury and the Secretary of Commerce shall consult with the Secretary of State. Each such Secretary shall consult, as appropriate, with other government agencies and private persons.

Sec. 7. The Secretary of State shall establish, pursuant to appropriate legal authority, an Advisory Committee on South Africa to provide recommendations on measures to encourage peaceful change in South Africa. The Advisory Committee shall provide its initial report within twelve months.

Sec. 8. The Secretary of State is directed to take the steps necessary pursuant to the Foreign Assistance Act and related legislation to (a) increase the amount of internal scholarships provided to South Africans disadvantaged by the apartheid system up to \$8 million from funds made available for Fiscal Year 1986, and (b) increase the amount allocated for South Africa from funds made available for Fiscal Year 1986 in the Human Rights Fund up to \$1.5 million. At least one-third of the latter amount shall be used for legal assistance for South Africans. Appropriate increases in the amounts made available for these purposes will be considered in future fiscal years.

Sec. 9. This Order is intended to express and implement the foreign policy of the United States. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

RONALD REAGAN

THE WHITE HOUSE,
September 9, 1985.

Ringdahl

From the Desk of
AMBASSADOR CLAYTON YEUTTER
U.S. Trade Representative

To M. Smith

Mike, I agree with you that we ought to keep a low profile in this messy issue which is a no win proposition for everyone. It does, however, seem to me that a kruggerand embargo would be a clear violation of the spirit of the GATT, if not the letter.

CY

*al Holmer
FTI*

Mike

OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20506

CKY - The upshot of this would be
to be that we ought not
let State use GATT reasons
as a veto rationale.

Mike

August 26, 1985

MEMORANDUM

TO: Ambassador Smith
FROM: Alan Holmer *AH*
SUBJECT: South African Kruggerands
PREPARED BY: Warren Maruyama *WM*

This memorandum reviews the GATT implications of a ban on South African Kruggerands.

As you know, the Congress is likely to pass legislation to embargo South African Kruggerands. For that reason, the State Department has been searching for rationales to justify a Presidential veto.

On various occasions over the past year, the State Department has approached us about the possibility of using GATT arguments to counter kruggerand legislation. Our longstanding position has been that a kruggerand embargo would raise "serious questions" under GATT, but that the outcome of a potential South African GATT challenge is unclear.

Article XI of the GATT prohibits the use of quotas and embargoes to restrict trade. Normally, any embargo on South African products would violate Article XI. The kruggerands situation, however, is complicated by Article XX, which provides:

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

. . .

(c) relating to the importation or exportation
of gold or silver . . .

Article XX(c) therefore authorizes a ban on imports of gold coins as long as the ban does not constitute "a means of arbitrary and unjustifiable discrimination between countries where the same conditions prevail."

It is unclear how a GATT panel would rule if South Africa challenged kruggerand legislation in a dispute settlement action under Article XXIII. The legislation is plainly discriminatory. It does not purport to restrict the importation of gold coins from other countries, but singles out South African products exclusively.

The question therefore is whether a discriminatory ban on the importation of South African coins is "arbitrary and unjustifiable." Under normal circumstances, we would not hesitate to say that a Contracting Party cannot impose an import embargo for purely political reasons. However, the kruggerand situation is unusual because of the policy of apartheid. It could be argued that apartheid as a practice is so repugnant that South Africa is not a country "where the same conditions prevail." Under this view, it is not "arbitrary or unjustifiable" to take discriminatory measures against South Africa gold coins.

Assuming South Africa would be willing to risk a GATT challenge, it is unclear how a GATT panel would react. The panel would be in an extremely awkward position, since to rule in South Africa's favor would be seen as an endorsement of apartheid. Our strong suspicion is that in the end the LDC's, Nordics, etc. would find that the ban does not violate the GATT, although they might permit South Africa to obtain compensation under the non-violation "nullification and impairment" provisions of Article XXIII:1(b). Therefore, the most that we have been willing to say is that a kruggerand ban would raise "serious questions" under GATT.

Underlying this position was Ambassador Brock's strong reluctance to put USTR out in the front on defending South Africa. South Africa, apartheid, and "constructive engagement" are extremely unpopular on the Hill and GATT arguments are not going to change anyone's mind at this point.

shall name the party which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken provisionally without prior consultation on the condition that consultation shall be effected immediately following such action.

3. (a) If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES, the application to the trade of the contracting party taking such action, or, in the case envisaged in paragraph 1 (b) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent concessions or other obligations under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a contracting party to the domestic producers of products affected by the action, that contracting party shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such concessions or other obligations as may be necessary to prevent or remedy the injury.

Article XX

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

- (a) necessary to protect public morals;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to the importation or exportation of gold or silver;
- (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including



Department of State

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ACTION MEMORANDUM *9/24*
SEP 24 1985 S/S

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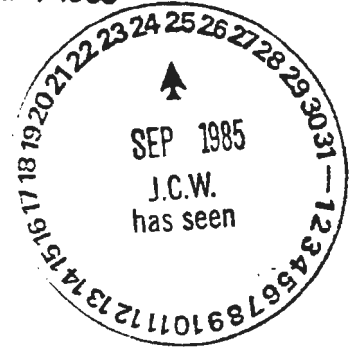
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SEP 24 1985

MEMORANDUM

TO: The Acting Secretary

FROM: AF - Chester Crocker
L - Abraham D. Sofaer
EB - Doug McMinn
H - William Ball } *by CAC*



SUBJECT: Executive Order Prohibiting the Import of Krugerrands

Issue for Decision

Whether to recommend to the President that he sign an executive order during the week of September 23 regarding the import of Krugerrands.

Essential Factors

The September 9 Executive Order on South Africa provides that the Secretary of State and the USTR are to consult with other GATT parties with a view toward adopting a prohibition on the import of the Krugerrand into the U.S. (Encl. 2). Key posts were instructed last week to engage in these consultations (Encl. 3), and the consultations have now been completed.

None of our key partners objected to the ban. Several indicated that they also were considering the imposition of such an import ban (e.g., Sweden and Belgium), some citing internal political pressures of the kind we have faced. Australia has recently adopted a specific Krugerrand ban, while certain other countries prohibit or restrict the import of all gold coins (e.g., France). Some commented that it is unlikely that the SAG would challenge the ban in the GATT (e.g., the FRG, Luxemborg, Norway).

We are now satisfied that we can make a strong legal argument that the Krugerrand ban is consistent with our international legal obligations under the GATT. Several of the GATT partners consulted volunteered that they had reached similar GATT conclusions (e.g., Belgium, Sweden, Australia). None has questioned our view.

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As you know, Senators Dole and Lugar were successful during the week of September 9 in their three attempts to prevent a vote on the Conference bill. It is now widely assumed that there will be attempts to force a vote on the bill by proposing it as an amendment to the debt ceiling bill or some other legislation (e.g., the foreign assistance appropriations bill or a continuing resolution). In light of the close votes two weeks ago (we were able to prevent a vote on the bill only by two votes), the likelihood that the bill could be adopted remains substantial.

The major criticism of the September 9 Executive Order is that it did not contain an immediate ban on Krugerrand imports. Many believe that the GATT provision on consultations was simply a ploy to stall on this issue, though the Secretary has made clear in Congressional testimony our intent to proceed rapidly on the ban. Signing an executive order on Krugerrands at this time should help Senators Dole and Lugar and other members of Congress in arguing against any further votes on the Conference bill. We consequently believe that we should act now.

One could argue for holding all of our implementing actions on the E.O. for one big package announcement. As a practical matter, however, it will take some time before we can announce the establishment of the Advisory Committee or minting of the American Gold Eagle coin. Moreover, a quick move on Krugerrands will help us gain credibility in a week that includes (1) acceptance of the credentials of Ambassador Beukes, (2) the revelations of SAG duplicity over Mozambique and (3) the SADF incursion into Angola. On balance, given the still delicate Congressional situation, we favor going ahead as rapidly as possible and would only revisit that judgment if the SAG did something so positive that we would wish to delay in order to avoid slapping their faces at the wrong moment.

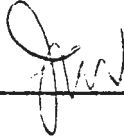
Senator Lugar will appreciate our imposing the ban quickly and making a public announcement on a weekday. This will enable Lugar and other leaders in the Congress to offer supporting public comments regarding the Administration's prompt implementation of the executive order. William Ball will provide advance notification of signature to Senators Dole, Lugar, Kassebaum, and other Senators as may be appropriate.

The USTR and Treasury concur in proposing a ban at this time. In accordance with established procedures, L will forward the draft executive order to OMB for formal coordination as soon as the memorandum to the President is signed (Encl. 4).

Recommendation

That you sign the attached memorandum to the President.

Approve

 _____

Disapprove

Attachments:

1. Memorandum to the President (with draft executive order and Congressional Report)
2. E.O. 12532
3. Instructions for GATT consultations
4. Memorandum to OMB

Drafted: L/AF - ERCummings^{ERC}

Cleared: AF - Mr. Wisner
AF/S - Mr. Davidow
L - Mr. Matheson
L/AF - Ms. Ely
L/EB - Ms. Rockwell
H - Ms. Morgan
EB - Mr. Lamb
EB/OT - Mr. Waller
STR - Mr. Smith (sub)
Treasury - Mr. Kimmitt (sub)

} by ERC

0111A

DEPARTMENT OF STATE
WASHINGTON

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MEMORANDUM FOR THE PRESIDENT

From: John Whitehead *JW* Acting

Subject: Executive Order Prohibiting the Import of Krugerrands

Your September 9 Executive Order on South Africa provides that the Secretary of State and the USTR are to consult with other GATT parties with a view toward adopting a prohibition on the import of Krugerrands into the U.S. Key posts were instructed last week to engage in these consultations, and they have now been completed. None of our key partners objected to the ban, and most indicated that they remain under substantial pressure to adopt similar measures directed at South Africa.

As you know, Senators Dole and Lugar were successful during the week of September 9 in their three attempts to prevent a vote on the Conference bill. It is now widely assumed that attempts will be made to force a vote on the bill by proposing it as an amendment to the debt ceiling bill or some other legislation (e.g., the foreign assistance appropriations bill or a continuing resolution). In light of the close votes two weeks ago (we were able to prevent a vote on the bill only by two votes), the likelihood that the bill could be adopted remains substantial.

The major criticism of the September 9 Executive Order is that it did not contain an immediate ban on Krugerrand imports. Many claimed to believe that the GATT provision on consultations was simply a ploy to stall on this issue. Signing an executive order on Krugerrands at this time should help Senators Dole and Lugar and other members of Congress in arguing against any further votes on the Conference bill. Given our clear and categorical statements on the issue, I believe the South African Government already expects us to proceed with this largely symbolic measure. We believe that we should act now, and I recommend that you sign an executive order this week prohibiting the import of Krugerrands.

The USTR and Treasury concur in imposing a ban at this time.

Attachments:

1. Executive Order
2. Report to Congress

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smf 7/7/10

Executive Order

- - - - -

Prohibition on the Importation of the
South African Krugerrand

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and considering the findings made in Executive Order No. 12532 of September 9, 1985 and the authorities relied upon in that order, and in view of the completion of consultations by the Secretary of State and the United States Trade Representative directed by Section 5 of Executive Order No. 12532, I hereby prohibit the importation into the United States of South African Krugerrands effective November 4, 1985. The Secretary of the Treasury is authorized to promulgate such rules and regulations as may be necessary to carry out this prohibition.

THE WHITE HOUSE

September

TO THE CONGRESS OF THE UNITED STATES:

On September 9, I informed the Congress pursuant to Section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), that I had exercised my statutory authority to prohibit certain transactions involving South Africa (E.O. 12532). I also informed the Congress that the Executive Order directed the Secretary of State and the United States Trade Representative to consult with other parties to the General Agreement on Tariffs and Trade with a view toward adopting a prohibition on the import of Krugerrands into the United States.

The consultations have been completed, and I am today exercising my statutory authority to prohibit such imports effective November 4, 1985.

All of the measures I have adopted against South Africa are directed at apartheid and the South African Government, and not against the people of that country or its economy. The Krugerrand measure ordered today was taken in recognition of the fact that the Krugerrand is perceived in the Congress as an important symbol of apartheid. This view is widely shared by the U.S. public. I am directing this prohibition in recognition of these public and Congressional sentiments and the strong symbolic value it would have in the United States.

Presidential Documents

Title 3—

The President

Executive Order 12532 of September 9, 1985

Prohibiting Trade and Certain Other Transactions Involving South Africa

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Foreign Assistance Act (22 U.S.C. 2151 *et seq.*), the United Nations Participation Act (22 U.S.C. 287), the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), the Export Administration Act (50 U.S.C. App. 2401 *et seq.*), the Atomic Energy Act (42 U.S.C. 2011 *et seq.*), the Foreign Service Act (22 U.S.C. 3901 *et seq.*), the Federal Advisory Committee Act (5 U.S.C. App. I), Section 301 of Title 3 of the United States Code, and considering the measures which the United Nations Security Council has decided on or recommended in Security Council Resolutions No. 418 of November 4, 1977, No. 558 of December 13, 1984, and No. 569 of July 28, 1985, and considering that the policy and practice of apartheid are repugnant to the moral and political values of democratic and free societies and run counter to United States policies to promote democratic governments throughout the world and respect for human rights, and the policy of the United States to influence peaceful change in South Africa, as well as the threat posed to United States interests by recent events in that country.

I, RONALD REAGAN, President of the United States of America, find that the policies and actions of the Government of South Africa constitute an unusual and extraordinary threat to the foreign policy and economy of the United States and hereby declare a national emergency to deal with that threat.

Section 1. Except as otherwise provided in this section, the following transactions are prohibited effective October 11, 1985:

(a) The making or approval of any loans by financial institutions in the United States to the Government of South Africa or to entities owned or controlled by that Government. This prohibition shall enter into force on November 11, 1985. It shall not apply to (i) any loan or extension of credit for any educational, housing, or health facility which is available to all persons on a nondiscriminatory basis and which is located in a geographic area accessible to all population groups without any legal or administrative restriction; or (ii) any loan or extension of credit for which an agreement is entered into before the date of this Order.

The Secretary of the Treasury is hereby authorized to promulgate such rules and regulations as may be necessary to carry out this subsection. The initial rules and regulations shall be issued within sixty days. The Secretary of the Treasury may, in consultation with the Secretary of State, permit exceptions to this prohibition only if the Secretary of the Treasury determines that the loan or extension of credit will improve the welfare or expand the economic opportunities of persons in South Africa disadvantaged by the apartheid system, provided that no exception may be made for any apartheid enforcing entity.

(b) All exports of computers, computer software, or goods or technology intended to service computers to or for use by any of the following entities of the Government of South Africa:

(1) The military;

- (2) The police;
- (3) The prison system;
- (4) The national security agencies;
- (5) ARMSCOR and its subsidiaries or the weapons research activities of the Council for Scientific and Industrial Research;
- (6) The administering authorities for the black passbook and similar controls;
- (7) Any apartheid enforcing agency;
- (8) Any local or regional government or "homeland" entity which performs any function of any entity described in paragraphs (1) through (7).

The Secretary of Commerce is hereby authorized to promulgate such rules and regulations as may be necessary to carry out this subsection and to implement a system of end use verification to ensure that any computers exported directly or indirectly to South Africa will not be used by any entity set forth in this subsection.

(c)(1) Issuance of any license for the export to South Africa of goods or technology which are to be used in a nuclear production or utilization facility, or which, in the judgment of the Secretary of State, are likely to be diverted for use in such a facility; any authorization to engage, directly or indirectly, in the production of any special nuclear material in South Africa; any license for the export to South Africa of component parts or other items or substances especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes; and any approval of retransfers to South Africa of any goods, technology, special nuclear material, components, items, or substances described in this section. The Secretaries of State, Energy, Commerce, and Treasury are hereby authorized to take such actions as may be necessary to carry out this subsection.

(2) Nothing in this section shall preclude assistance for International Atomic Energy Agency safeguards or IAEA programs generally available to its member states, or for technical programs for the purpose of reducing proliferation risks, such as for reducing the use of highly enriched uranium and activities envisaged by section 223 of the Nuclear Waste Policy Act (42 U.S.C. 10203) or for exports which the Secretary of State determines are necessary for humanitarian reasons to protect the public health and safety.

(d) The import into the United States of any arms, ammunition, or military vehicles produced in South Africa or of any manufacturing data for such articles. The Secretaries of State, Treasury, and Defense are hereby authorized to take such actions as may be necessary to carry out this subsection.

Sec. 2. (a) The majority of United States firms in South Africa have voluntarily adhered to fair labor principles which have benefitted those in South Africa who have been disadvantaged by the apartheid system. It is the policy of the United States to encourage strongly all United States firms in South Africa to follow this commendable example.

(b) Accordingly, no department or agency of the United States may intercede after December 31, 1985, with any foreign government regarding the export marketing activity in any country of any national of the United States employing more than 25 individuals in South Africa who does not adhere to the principles stated in subsection (c) with respect to that national's operations in South Africa. The Secretary of State shall promulgate regulations to further define the employers that will be subject to the requirements of this subsection and procedures to ensure that such nationals may register that they have adhered to the principles.

(c) The principles referred to in subsection (b) are as follows:

- (1) Desegregating the races in each employment facility;
- (2) Providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) Assuring that the pay system is applied to all employees without regard to race or ethnic origin;

(4) Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families;

(5) Increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) Taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health;

(7) Implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(d) United States nationals referred to in subsection (b) are encouraged to take reasonable measures to extend the scope of their influence on activities outside the workplace, by measures such as supporting the right of all businesses, regardless of the racial character of their owners or employees, to locate in urban areas, by influencing other companies in South Africa to follow the standards specified in subsection (c) and by supporting the freedom of mobility of all workers, regardless of race, to seek employment opportunities wherever they exist, and by making provision for adequate housing for families of employees within the proximity of the employee's place of work.

Sec. 3. The Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall promptly take, to the extent permitted by law, the necessary steps to ensure that the labor practices described in section (2)(c) are applied to their South African employees.

Sec. 4. The Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable and to the extent permitted by law, in procuring goods or services in South Africa, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by persons in South Africa disadvantaged by the apartheid system.

Sec. 5. (a) The Secretary of State and the United States Trade Representative are directed to consult with other parties to the General Agreement on Tariffs and Trade with a view toward adopting a prohibition on the import of Krugerrands.

(b) The Secretary of the Treasury is directed to conduct a study to be completed within sixty days regarding the feasibility of minting and issuing gold coins with a view toward expeditiously seeking legislative authority to accomplish the goal of issuing such coins.

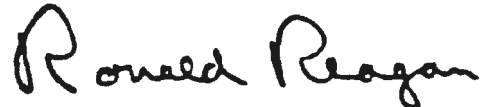
Sec. 6. In carrying out their respective functions and responsibilities under this Order, the Secretary of the Treasury and the Secretary of Commerce shall consult with the Secretary of State. Each such Secretary shall consult, as appropriate, with other government agencies and private persons.

Sec. 7. The Secretary of State shall establish, pursuant to appropriate legal authority, an Advisory Committee on South Africa to provide recommendations on measures to encourage peaceful change in South Africa. The Advisory Committee shall provide its initial report within twelve months.

Sec. 8. The Secretary of State is directed to take the steps necessary pursuant to the Foreign Assistance Act and related legislation to (a) increase the amount of internal scholarships provided to South Africans disadvantaged by the apartheid system up to \$8 million from funds made available for Fiscal

Year 1986, and (b) increase the amount allocated for South Africa from funds made available for Fiscal Year 1986 in the Human Rights Fund up to \$1.5 million. At least one-third of the latter amount shall be used for legal assistance for South Africans. Appropriate increases in the amounts made available for these purposes will be considered in future fiscal years.

Sec. 9. This Order is intended to express and implement the foreign policy of the United States. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.



THE WHITE HOUSE,
September 9, 1985.

[FR Doc. 85-21793

Filed 9-9-85; 11:59 am]

Billing code 3195-01-M

Editorial Note: For the text of the President's message to Congress and his remarks on signing Executive Order 12532, see the *Weekly Compilation of Presidential Documents* (vol. 21, No. 37).

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Department of State

OUTGOING
TELEGRAM

PAGE 01 OF 02 STATE 283712
ORIGIN L-03

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E.O. 12356: N/A
TAGS: PREL, ETRO, EEC, SF
SUBJECT: KRUGERRAND IMPORT BAN AND SOUTH AFRICA
EXECUTIVE ORDER

REF.: STATE 276160

1. LIMITED OFFICIAL USE ENTIRE TEXT.

2. SUMMARY. INSTRUCTIONS FROM THE SECRETARY AND THE USTR
ARE PROVIDED ON THE CONSULTATIONS REQUIRED UNDER THE RECENT
SOUTH AFRICA EXECUTIVE ORDER.

3. ON MONDAY, SEPTEMBER 9, THE PRESIDENT SIGNED AN
EXECUTIVE ORDER PROHIBITING CERTAIN TRANSACTIONS INVOLVING
SOUTH AFRICA. REF. CONTAINS THE TEXT OF THE EXECUTIVE
ORDER (E.O. 12532) AND A BRIEF COMPARISON WITH THE
CONFERENCE BILL CURRENTLY UNDER DEBATE IN THE SENATE.

4. SECTION 5 OF THE EXECUTIVE ORDER PROVIDES THAT THE
SECRETARY OF STATE AND THE UNITED STATES TRADE
REPRESENTATIVE ARE DIRECTED TO CONSULT WITH OTHER PARTIES
TO THE GATT WITH A VIEW TOWARD ADOPTING A
PROHIBITION ON THE IMPORT OF KRUGERRANDS. THE
EXECUTIVE ORDER DOES NOT REQUIRE ANY FORMAL OR INFORMAL
CONSULTATIONS IN THE GATT, NOR DOES IT REQUIRE
CONSULTATIONS WITH ALL GATT PARTIES. RATHER, THE
PRESIDENT EXPECTS CONSULTATIONS WITH CERTAIN KEY ALLIES
AND TRADING PARTNERS BEFORE IMPOSING THE BAN.
ADDRESSEE POSTS (EXCEPT GENEVA) SHOULD APPROACH THE
FOREIGN MINISTRY AT THE APPROPRIATE LEVEL TO CONDUCT
THE CONSULTATIONS. SUGGESTED TALKING POINTS ARE
PROVIDED BELOW. THE PRESIDENT HAS DIRECTED THAT THE
EXECUTIVE ORDER BE IMPLEMENTED QUICKLY, AND WE
CONSEQUENTLY EXPECT THE CONSULTATIONS TO BE COMPLETED
IF POSSIBLE NO LATER THAN SEPTEMBER 18'. REPORTS OF YOUR
CONSULTATIONS SHOULD BE PROVIDED BY SEPTEMBER 19.

5. SUGGESTED TALKING POINTS:

-- ON SEPTEMBER 9, THE PRESIDENT ISSUED AN EXECUTIVE
ORDER REGARDING SOUTH AFRICA. IT PROHIBITS OR
RESTRICTS CERTAIN BANK LOANS TO THE SOUTH AFRICAN

GOVERNMENT, NUCLEAR EXPORTS, AND CERTAIN COMPUTER
EXPORTS TO THE SOUTH AFRICAN GOVERNMENT. IT ALSO
REQUIRES U.S. FIRMS OPERATING IN SOUTH AFRICA TO COMPLY
WITH CERTAIN FAIR LABOR STANDARDS AS WELL AS OTHER
MEASURES.

-- THE PRESIDENT ALSO INDICATED IN HIS EXECUTIVE ORDER
THAT HE INTENDS TO BAN THE IMPORT OF KRUGERRANDS INTO
THE U.S. HOWEVER, HE INDICATED THAT HE WANTS THE
SECRETARY OF STATE AND THE SPECIAL TRADE REPRESENTATIVE
TO CONSULT WITH KEY TRADING PARTNERS BEFORE IMPOSING
THE BAN.

-- THE PRESIDENT WANTS TO ENSURE THAT OUR POSITION ON
THIS ISSUE IS UNDERSTOOD BY OUR ALLIES, AND THAT IS WHY
WE HAVE REQUESTED THIS MEETING.

-- IN LIGHT OF THE CURRENT SITUATION IN SOUTH AFRICA,
THE PRESIDENT HAS DECIDED ON FOREIGN POLICY GROUNDS TO
IMPOSE SUCH A BAN ON KRUGERRAND IMPORTS IN THE VERY
NEAR FUTURE.

-- IN MAKING HIS DECISION, THE PRESIDENT SPECIFICALLY
TOOK INTO ACCOUNT THE RECOMMENDATION MADE BY THE
SECURITY COUNCIL IN RESOLUTION 569 OF JULY 26, 1985
(WHICH IS CITED IN THE EXECUTIVE ORDER). THIS
RESOLUTION REQUESTED THAT STATES VOLUNTARILY ADOPT ONE

OR MORE OF THE PROHIBITIONS CONTAINED IN THE
RESOLUTION, WHICH INCLUDED A BAN ON KRUGERRANDS.

-- THE MEASURES IMPOSED BY THE PRESIDENT ARE DIRECTED
AT THE SOUTH AFRICAN GOVERNMENT AND NOT THE PEOPLE OF
THAT COUNTRY OR ITS ECONOMY. THE DECISION TO ADOPT A
BAN WAS BASED LARGELY ON THE FACT THAT THE KRUGERRAND
IS PERCEIVED IN THE CONGRESS AS AN IMPORTANT SYMBOL OF
APARTHEID. THIS VIEW IS WIDELY SHARED BY THE U.S.
PUBLIC. THE PRESIDENT DECIDED THAT A BAN WAS ON
BALANCE JUSTIFIED AT THIS TIME IN LIGHT OF THESE PUBLIC
AND CONGRESSIONAL SENTIMENTS AND THE STRONG SYMBOLIC
VALUE IT WOULD HAVE IN THE U.S.

-- BY TAKING THIS ACTION, HOWEVER, THE PRESIDENT IS NOT
REQUESTING THAT OTHER STATES DO LIKEWISE. IT DOES NOT
NECESSARILY MEAN THAT THE U.S. WOULD VOTE FOR ANY
MANDATORY SECURITY COUNCIL BAN ON KRUGERRANDS. ANY
PROPOSED SECURITY COUNCIL RESOLUTION INVOLVING SOUTH
AFRICA WILL CONTINUE TO BE CONSIDERED ON THE MERITS IN
LIGHT OF ALL THE RELEVANT FACTS.

-- THE U.S. CONTINUES TO BELIEVE THAT EFFORTS MUST BE
MADE BY ALL OF OUR ALLIES TO PERSUADE THE SOUTH AFRICAN
GOVERNMENT TO ABANDON THE POLICY AND PRACTICE OF
APARTHEID. WE WOULD ENCOURAGE ALL FOREIGN FIRMS IN
SOUTH AFRICA TO APPLY FAIR LABOR STANDARDS SUCH AS
THOSE CONTAINED IN THE EXECUTIVE ORDER. WE SHOULD TAKE
MEASURES WHICH ARE LIKELY TO ACHIEVE CHANGE RATHER THAN
TO SIMPLY PUNISH SOUTH AFRICA. WE WELCOME YOUR VIEWS
ON THE PRESIDENT'S DECISION ON KRUGERRANDS.

6. YOU MAY BE ASKED FOR INFORMATION ON THE LEGAL BASIS
FOR THE BAN UNDER THE GATT AND WHETHER WE INTEND TO
FOLLOW ANY PARTICULAR PROCEDURE IN THE GATT PRIOR TO
IMPLEMENTING A BAN. IF ASKED, YOU MAY INDICATE THAT WE
DO NOT CONTEMPLATE SEEKING GATT APPROVAL BEFORE
IMPOSING THE BAN. WE DOUBT THAT SOUTH AFRICA WILL
CHALLENGE US FORMALLY OR THAT SUCH A CHALLENGE COULD
SUCCEED. THE BAN IF CHALLENGED COULD BE JUSTIFIED
UNDER VARIOUS GATT PROVISIONS. THE PRESIDENT'S
DECISION TOOK INTO ACCOUNT THE RECOMMENDATION OF THE

~~LIMITED OFFICIAL USE~~

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~~LIMITED OFFICIAL USE~~
Department of State

OUTGOING
TELEGRAM

PAGE 02 OF 02

SECURITY COUNCIL REFERRED TO ABOVE AS WELL AS THE
UNIQUE SITUATION IN SOUTH AFRICA. YOU SHOULD AVOID
ELABORATING ON THESE MATTERS.

7. IF ASKED ABOUT THE TIMING OF A BAN, YOU SHOULD
INDICATE THAT WE EXPECT THAT THE BAN WILL BE ANNOUNCED
SOON AFTER THE CONSULTATIONS HAVE BEEN COMPLETED.

8. THE GATT DOES NOT REQUIRE A CONTRACTING PARTY
TO STATE THE BASIS FOR ITS ACTIONS AT THE TIME THEY ARE
TAKEN. ACCORDINGLY, THE BAN COULD BE IMPOSED WITHOUT
RECITING PARTICULAR GATT PROVISIONS.

9. FOR USTR GENEVA: WE DO NOT WISH FOR YOU TO
UNDERTAKE ANY CONSULTATIONS. YOU SHOULD INFORM THE
DIRECTOR GENERAL OF THE GATT OF POINTS SET OUT IN
PARAS. 4 AND 6. SHOULD OTHER DELEGATIONS INQUIRE
CONCERNING US INTENTIONS, YOU MAY DRAW ON PARA. 6.
SHULTZ

THE LEGAL ADVISER
DEPARTMENT OF STATE
WASHINGTON

September 24, 1985

MEMORANDUM

TO: Joseph R. Wright, Jr.
Acting Director
Office of Management and Budget

FROM: Abraham D. Sofaer

Attached is a copy of the recommendation made today to the President by the Acting Secretary of State regarding an executive order prohibiting the import of Krugerrands. In accordance with established procedures, I am forwarding the draft executive order and draft report to Congress for formal OMB coordination.

As indicated in the memorandum to the President, the consultations required under Section 5 of Executive Order No. 12532 have been completed. None of the countries consulted objected to the ban. We are now satisfied that we can make a strong legal argument that the Krugerrand ban is consistent with our international legal obligations under the GATT. Several of the GATT countries consulted volunteered that they had reached similar GATT conclusions and none questioned our view.

It is important in terms of Congressional strategy that the order be signed quickly, preferably on Thursday. It is consequently requested that the order be reviewed on an expedited basis.

Attachments:
As stated.

0126A

Executive Order

- - - - -

Prohibition on the Importation of the
South African Krugerrand

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and considering the findings made in Executive Order No. 12532 of September 9, 1985 and the authorities relied upon in that order, and in view of the completion of consultations by the Secretary of State and the United States Trade Representative directed by Section 5 of Executive Order No. 12532, I hereby prohibit the importation into the United States of South African Krugerrands effective November 4, 1985. The Secretary of the Treasury is authorized to promulgate such rules and regulations as may be necessary to carry out this prohibition.

THE WHITE HOUSE

September

TO THE CONGRESS OF THE UNITED STATES:

On September 9, I informed the Congress pursuant to Section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), that I had exercised my statutory authority to prohibit certain transactions involving South Africa (E.O. 12532). I also informed the Congress that the Executive Order directed the Secretary of State and the United States Trade Representative to consult with other parties to the General Agreement on Tariffs and Trade with a view toward adopting a prohibition on the import of Krugerrands into the United States.

The consultations have been completed, and I am today exercising my statutory authority to prohibit such imports effective November 4, 1985.

All of the measures I have adopted against South Africa are directed at apartheid and the South African Government, and not against the people of that country or its economy. The Krugerrand measure ordered today was taken in recognition of the fact that the Krugerrand is perceived in the Congress as an important symbol of apartheid. This view is widely shared by the U.S. public. I am directing this prohibition in recognition of these public and Congressional sentiments and the strong symbolic value it would have in the United States.

0111A

Trade Speecher

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

Administration Statement on
International Trade Policy

September 23, 1985

The Administration's Basic Trade Principles

A policy of free and fair trade is in the best interest of the citizens of the United States and the world. Such a policy produces more jobs, improves the use of our nation's resources, promotes more rapid growth and innovation, and ensures a higher standard of living for Americans. Free and fair trade also advance our national security interests by strengthening the economic and political systems of our developed and developing country trading partners.

Despite these clear net benefits, pressures for protectionism persist and have been on the rise in recent years. Protectionism is costly and inimical to our nation's economic prosperity and security interests. Protectionist proposals for import surcharges or quotas, whether or not made for the purpose of political gain, are irresponsible and dangerous.

The United States plays the critical role in ensuring and promoting an open worldwide trading system. If the United States falters in the defense and promotion of a more open worldwide trading system, the system will be in danger of collapse, adversely affecting our national well-being.

The international trading system is based upon cooperation. Thus, our trading partners also have a major obligation to support a more open trading system. This obligation includes: dismantling trade barriers, eliminating subsidies and other forms of unfair trade practices and entering into trade liberalization negotiations in the GATT. Since World War II, we have made significant progress in moving toward an open worldwide trading system. Protectionism threatens to undermine that system. Our trading partners must join us in working to improve the system of trade that has contributed to the economic growth and security of ourselves and our allies.

America has never been afraid to compete. When trade follows the rules, and there is an equal opportunity to compete, American business is as competitive as any. This is fair trade and we will not impair it. When these conditions do not exist, it is unfair trade, and we will fight it.

In its 1981 Statement on U.S. Trade Policy, the Administration indicated the high priority it would give to international trade. It emphasized the dual objectives of strengthening our private sector through the President's domestic economic recovery program and by pursuing open and fair trade internationally. Since then, real private investment has risen more rapidly than GNP, particularly in the case of producers' durable equipment, and now real plant and equipment investment accounts for a higher share of national output than at any other point in post-war history. This activity indicates that U.S. industry is re-equipping with the most modern and productive technologies available and is building a solid base to strengthen its long-run competitive position.

The Administration's basic policy approach has been to allow the operation of private market forces to the maximum extent possible. The results of this approach have been highly beneficial. Since 1980, private civilian employment has grown by 8 million. Manufacturing production has increased by 17 percent. Meanwhile, our nation's price inflation has dropped from double-digit levels (12.4 percent in 1980) to less than 4 percent. Ongoing efforts to strengthen our domestic economy through the restoration of noninflationary growth will help further strengthen our economy's performance in coming years and improve our international competitiveness.

Internationally, the Administration has stepped up efforts for a more open and fair system of global trade, in which market forces operate free from government restrictions and subsidies. The Administration has sought to reduce foreign barriers to U.S. exports, to counter foreign subsidy and other unfair practices abroad, and to use our legal authority to encourage our trade partners to live up to their obligations.

We continue to believe that open markets, based upon mutually agreed rules and equitable trading relations, are in our national interest.

Challenges of Expanding International Trade

The U.S. economy is becoming more integrated with the global economy. Our businesses, workers and various levels of government must increasingly take into account this fundamental fact. In 1985, U.S. exports and imports of goods and services will constitute approximately 21 percent of our gross national product. This compares with 13 percent in 1970 and only 9 percent in 1950.

The trend toward a greater role for international trade in our economy is irreversible. Rapid growth and change in the economies of other countries, both developed and developing,

provide new and growing markets for our exports and sources of our imports. As a result, U.S. production and consumption activities are becoming more integrated with those located abroad.

The growing dependence on foreign markets of our industrial and agricultural producers, and the important challenge of foreign competition in our domestic market, make it imperative that we continue to foster a strong and internationally competitive domestic economy and a more open global system for trade and capital flows. This Administration accords a high priority to policies that achieve these objectives.

Accompanying the growing importance of international markets to our economy are increasing major threats to open and market-based trade. Extensive government intervention in the economies of our trading partners impair our ability to do business internationally. This Administration will continue to seek vigorously the liberalization of trade, industrial, agricultural, intellectual property, and investment policies overseas to enable our producers to increase exports and foster U.S. growth and jobs.

We must also address protectionist pressures at home. Advocates of import surcharges or other forms of protection frequently cite our large trade deficit as an argument for restricting imports. They argue that our trade deficit is a drag on domestic economic growth. Yet, such an analysis is as wrong as its prescriptions. Protectionism simply benefits some industries at the expense of the rest of the economy. Fewer imports are offset by fewer exports; but the trade balance is not improved on more than a temporary basis. Protectionism drives up costs to consumers and misallocates resources within the economy. It also sets in motion a trade war psychology of retaliation and further market restrictions.

The best proof that free markets and free trade work is our own recent growth rate compared to the slower growth of the economies of our trade partners. Our trade deficit has become large; but at the same time, 8 million jobs have been created since 1980. Our robust growth over the last several years has stimulated demand for both domestic and foreign products. We must recognize that we could not have had our own vibrant growth without also creating a greater demand for imports. The availability of imports has served our interest by giving Americans greater choice and lower prices, and by helping to keep friendly nations economically stable.

In contrast to the robust economic growth and rising demand in the United States over the last several years, the growth of our trade partners has been generally slower. The wide differential between our growth and that of our trading partners has further contributed to our trade deficit (and our trade partners' surpluses). While our nation's industrial production

has grown by 19 percent since 1982, the industrial output of our major developed country partners generally has grown much less --by 17 percent in Canada, by 2.5 percent in France, by 8 percent in Germany, by 9 percent in Great Britain, and by 1.4 percent in Italy. In contrast to the 8 million jobs created since 1980 in our country, there has been no net increase in employment in Europe for more than 10 years. Greater private investment spending in these and other countries would help close the gap between their growth and employment rates and ours. This, in turn, would help shrink our trade deficit by increasing foreign demand for our products relative to our demand for their products.

The international debt problems of many developing nations have cut into their ability to import from the United States. U.S. exports to highly-indebted developing countries in some cases have been cut by half since 1981. As these debtor nations adopt policies that shift their economies away from government-controlled to market-oriented decision making, and as they regain the confidence of the international business and banking community, their potential to grow will be restored and U.S. exports will once more expand to them.

The Administration will encourage debt-burdened LDCs to reduce government impediments to the functioning of markets in their economies, encourage production through market incentives to their business firms and employees, and substitute equity capital for debt by encouraging both domestic and foreign investment. These steps will enhance economic growth, thereby increasing debt service capabilities and re-establishing U.S. export opportunities.

The Dollar in International Markets

Since 1978, the dollar has risen substantially in value relative to the values of the currencies of our major industrial trading partners. Its rise has been fueled by an increased demand for dollar-denominated assets worldwide, reflecting the strong growth prospects and safety of investment in the U.S. economy. These capital flows have added to our productive resources and have helped to put a lid on inflation.

The increase in the dollar's value, while enriching our economy, has also placed additional impediments in the way of our exports and has acted to encourage imports. The Administration is concerned about the effect of the dollar's rise in value on our ability to compete internationally. Many U.S. producers have become less competitive relative to their competitors overseas because of the dollar's increase in value over the past 7 years. There are, however, no quick fixes for this situation. We should avoid attempting to limit the inflow of capital which seeks to take advantage of, and contributes to, the positive prospects

for our economic growth. The dollar's strength, in part, reflects the relative strength of our economy.

An important contribution to moderating the dollar's rise would occur if the policies of our trade partners succeeded in accelerating the growth of their economies. This would importantly contribute to the growth of U.S. exports through both a gradual strengthening of their currencies and the effect of their expanded incomes on their purchase of U.S. products. The Administration is encouraging our trade partners to adopt policies that will accelerate their economic growth, and will urge Bonn Summit participants to act on their commitments to remove domestic rigidities and imbalances in their economies. We are not seeking old-fashioned "pump-priming" increases in government spending or inflationary monetary policies, but rather policy shifts such as expenditure and tax reductions, resource reallocation and financial market liberalization which would permanently increase growth opportunities.

Federal Expenditure, Tax and Regulatory Policies

The Administration's economic recovery program has provided incentives to invest, increase productivity and diminish inflation from the dangerously high levels reached in 1979 and 1980. The resulting reduction in interest rates, coupled with lower marginal tax rates for individuals and businesses, have encouraged investment and yielded a strong recovery with lower inflation.

The expansion of plant and equipment investment since 1982 has been the most rapid of any economic recovery in the postwar period. Investments being made today will result in long-term enhanced U.S. competitiveness both in our overseas and domestic markets.

It is important to our international competitiveness to maintain, under our tax policies, the stimulus to saving and investment. The Administration has retained, as part of its tax reform proposal, the elements of our tax code that are favorable to individual and business saving and capital investment -- including reduced individual and corporate tax rates, indexed depreciation of assets, and the tax credit provision for research and development expenditures. The President's tax reform proposal is essential to strengthening the economy and making U.S. businesses more competitive in international markets.

Another major Administration initiative -- to reduce federal expenditures -- is also important to the improvement of our international competitiveness through a moderation of the dollar's value and the reduction of the claims that such expenditures place on the nation's resources. Government spending, whether

financed by taxes or borrowing, drains resources from the private sector, requiring the importation of many billions of borrowed capital funds and contributing to raising the value of the dollar.

The high level of federal government expenditures also has other negative effects on our nation's international competitiveness. It has prevented interest rates from being further reduced. Unless government expenditures are brought back in line with historical levels, resources will be diverted from expanding investments in the private sector. The American business community has repeatedly indicated that the financial cost of capital is a major problem for U.S. companies competing in world markets. We must bring interest rates down further by reducing federal government spending.

The Administration has made great efforts to persuade the Congress to reduce federal expenditures substantially. Such reductions would not only benefit our domestic economy, but also substantially improve our international competitive standing. Interest rates could be further reduced, more resources would be released to more productive uses in the private sector; and, very importantly, we would expect to see a change in the level of the dollar that would benefit U.S. export and import-competing industries. We must recognize, however, the possibility that a reduction in the government budget deficit may not lead to a rapid and substantial decline in the value of the dollar, particularly if domestic and foreign investors perceive such an accomplishment as further increasing the attractiveness of U.S. assets. Nevertheless, tighter control over federal expenditures and greater public sector efficiency would improve the performance of the economy and our international competitiveness.

The Administration is also committed to work to reduce the burden of federal regulations that unnecessarily hamper U.S. economic growth, productivity and exports. On the export side, the Administration sought and obtained legislation in the form of the Export Trading Company Act of 1982, allowing banks to participate actively in the formation of export trading companies to facilitate U.S. exports of goods and services. The Administration will continually review the operation of this Act, and propose further modifications if there is a need to do so.

In the domestic regulatory area, introducing more competition into previously regulated sectors will increase productivity and our international competitiveness. The Administration will also consider trade implications when reviewing proposed regulations and when developing further deregulation initiatives. We will examine the use of the trade leverage created by its deregulatory

process to seek to open foreign markets, thereby minimizing the problem of free rides for foreign suppliers.

Increasingly, the international competitiveness of U.S. industries depends upon the protection of U.S.-generated intellectual property (patents, copyrights and trademarks). The Administration will increase efforts to protect U.S.-generated intellectual property; we will accelerate on-going work in this critically important area with a view toward possible Administration legislative and administrative initiatives. In a related area, the Administration is implementing an important new program aimed at increasing the rate of commercialization of new products and processes created by the federal government's investment in research and development. The Administration is vigorously implementing laws giving universities and small businesses ownership of technology developed with Federal funds.

The Administration is also reviewing, and will seek to amend where warranted, anti-trust laws or regulations that impede our international competitiveness.

International Financial and Development Policies

The Administration is also actively supporting U.S. trade interests by pursuing initiatives in the international financial and development policy area. At recent economic summit and ministerial meetings, we have urged our foreign partners to pursue economic growth-oriented policies. This would reduce the U.S. trade deficit through increased demand for our exports, and would also provide additional export opportunities for debt-ridden LDCs.

The Administration actively supports the efforts being coordinated by the International Monetary Fund and World Bank to help strengthen the international financial system and promote economic development.

To this end, the United States is prepared to consider the possible value of hosting a high-level meeting of the major industrial countries, to review the various issues involved in transforming the findings of the Group of Ten into appropriate action. Such a meeting could build on the G-10 studies by considering, in a cooperative fashion, the policies and performance in the major industrial countries, and how these can be improved to promote convergence toward noninflationary growth.

U.S. exports have suffered in recent years as a result of the external debt crisis affecting a number of developing countries. Conditional IMF financing programs can assist debtor

countries in making a transition to sustainable growth. To this end, it is important that the United States support IMF efforts to seek macro and micro-economic policy reform as part of financial assistance packages negotiated with debtor countries.

The Administration believes that reform of trade and investment policies should be part of the policy reforms being negotiated by the IMF as part of conditional financing programs. Reduced export subsidies and liberalized trade barriers will benefit many developing countries' efforts to improve economic efficiency and accelerate economic growth. The Administration continues to press for these reforms in its representation and voting in the IMF. Such efforts will contribute to a more open and healthy international environment for U.S. and developing country trade and growth.

In its relations with the World Bank, the Administration has been pressing for expanding the role of the private sector in promoting long-term economic growth in developing countries. Administration support was instrumental in creating a \$200 million private sector program affiliated with the Inter-American Development Bank.

The Administration believes that less government intervention in the economies of developing countries and fewer restrictions on domestic and foreign investment will greatly assist rapid development and growth of world trade. A liberalization of developing country restrictions on foreign investment can promote competition and reduce the inefficiency created by protected domestic monopolies, at the same time providing funds and productive capabilities to meet these countries' debt service requirements. The Administration supports the implementation of the Multilateral Investment Guarantee Agency recently negotiated in World Bank meetings, in order to help promote the international flow of investment. The Administration also encourages developing countries to stimulate investment by negotiating agreements to protect and give national treatment to foreign investment, and by increasing the level of protection given to intellectual property.

The Administration will continue to press the World Bank to assist in promoting market-oriented development policies. Price controls and subsidies often distort both development and trade and lead to wasteful uses of World Bank funds and the development of industries whose survival in the international marketplace depends upon continuing government aids. Such policies can also inflict damage on U.S. industries which are in competition with government-assisted foreign companies. We have supported a number of loans by the multilateral development banks in support of market and trade reforms in developing countries.

Trade Policy: Ensuring Better Access and Fairer Trade

U.S. trade policy must be based on a realistic appraisal of the competitive position of the United States in the world economy. Clearly, our nation remains strong and vibrant, the economic leader of the free world with a political leadership role based on that strength. To carry out this role we must continue to devote our efforts in creating conditions of open and expanding international trade that will contribute to global prosperity.

The Administration reaffirms its basic trade policy position as enunciated in its July 8, 1981 statement. In accordance with that position, the Administration will continue to pursue more open access to markets abroad for U.S. exports and fairer conditions of trade, while opposing policies at home and abroad that are protectionist. We seek substantial trade liberalization from our major developed and advanced-developing country trade partners that will open more markets to U.S. products. The United States will take the initiatives necessary to achieve more equitable access in a number of foreign markets, particularly in Japan and major developing countries.

Our trade policy must combine concerted efforts with our trading partners to attain more open conditions in the world trading community over the long run with a willingness to take short-run steps, as necessary, to ensure fair competitive conditions for U.S. business firms.

Other nations must understand that the political support in the United States for maintaining and building a more open trading system will be impossible to maintain if progress in achieving more open and fair trade abroad is not made soon. The United States will always approach international trade issues in a determined, but non-confrontational, way. But, if necessary, we will take action to achieve more open foreign markets and defend ourselves against unfair foreign trade practices.

The Administration will step up the use of the authority given to it by Congress to address foreign unfair trade practices which distort U.S. trade and investment, and it will vigorously pursue U.S. trade interests and rights under U.S. laws and the GATT, and will see that other countries live up to their trade agreement obligations with the United States.

Further, we will continue to vigorously enforce U.S. laws aimed at countering foreign dumping and subsidy practices.

Competition in international trade should involve business firms, not government treasuries. The diligent negotiation of improved international rules on export subsidies, is a high-priority endeavor of this Administration. Where such rules

are absent, inadequate, or unsatisfactory in their implementation the United States will vigorously defend its exporters against the subsidy programs of other nations.

The Administration will accelerate its efforts to address the problem of foreign governments' financial assistance to exports, particularly where mixed credits are involved, while pressing for international agreement to eliminate subsidized export financing. So-called "mixed credits" arise when governments combine export credits with financial assistance grants of funds in order to lower the cost of credit on their export sales. Mixed credits are a significant and growing subsidies problem in the world trading system. The Export-Import Bank will begin an aggressive, targeted mixed-credit lending policy. At the same time, the Administration will seek a \$300 million appropriation for grants to support up to \$1 billion in mixed-credit loans.

In the last two years, the Administration has successfully reached agreements to limit interest subsidies in export sales of large aircraft and nuclear power plants. These precedents in international cooperation must be extended to the mixed-credit problem as well.

The Administration will be receptive to petitions from U.S. firms and individuals that present valid complaints about foreign unfair trade practices. The President recently announced that five cases would be initiated or accelerated under Section 301 of the Trade Act of 1974 to address unfair trade practices abroad. This is the first time that any President has taken this important step. The Administration will also take tactical measures aimed at eliminating unfair foreign trade practices and opening foreign markets, if efforts fail to resolve such issues through consultations. The denial or limitation of access to the U.S. market may be a necessary measure in this process.

The Administration supports the market-opening objectives of equitable access legislation but will oppose legislation that would require the President to close U.S. markets on the basis of sectoral reciprocity. The proper approach is to give the Administration authority to negotiate foreign barrier reductions. Further, the Administration will follow up on its report to the Congress on the subject of foreign industrial targeting by continuing to examine the potential problems created by foreign targeting and, where appropriate, possible remedies.

We will seek the removal of foreign barriers and distortions to U.S. trade in services and high technology industries (areas in which we have a significant worldwide competitive advantage) and to U.S. direct investment abroad. An important new trade priority will be to reduce and eliminate barriers to and distortions in U.S. trade arising from inadequate foreign protection

of U.S.-generated intellectual property - patents, copyrights and trademarks.

In the agricultural trade area, the Administration will continue to counter foreign export subsidies which endanger our traditional overseas markets. The Administration will continue to explore possible uses of its export Payments-In-Kind (PIK) program to encourage our trade partners, particularly in Europe, to commit themselves to the elimination of agricultural export subsidies.

Occasional Temporary Safeguards and National Security

Free and fair trade is in the best interest of the citizens of the United States. Open trade produces more jobs, a more productive use of our nation's resources, more rapid innovation, and a higher standard of living. It also advances our national security interests by strengthening the economic and political systems of friendly nations. Protectionism, in the form of tariff surcharges or quotas, would be costly and contrary to our national economic and security interests.

It is, nevertheless, recognized internationally that nations may occasionally find it necessary to temporarily safeguard industries from serious harm caused primarily by a surge in imports. Occasional U.S. safeguard actions, taken in accordance with our trade laws, are consistent with our international obligations. They must, however, reflect the nation's overall economic or security interests. Relief must be determined to be in the national economic interest; it must also be temporary, decline over the period of relief, and offer the prospect of adjustment on the part of the U.S. industry so that it will be competitive after the relief is terminated.

Instead of protection, the Administration will examine ways to promote worker retraining. The Administration will review existing worker assistance programs in order to assure that they promote an effective human adjustment policy which contributes to the maximum capacity for change, mobility, and increased productivity. This review will include an assessment of: (a) training and retraining programs - sponsored by government, labor and business - on a comprehensive and continuing basis; and (b) employment service, job bank, training, and relocation support for displaced workers in order to minimize human cost and the loss of valuable skills.

The Administration reserves the right to respond to economic conditions internationally and to levels of import penetration that threaten domestic industries essential to our long-term national security. Furthermore, the Administration will vigorously enforce our export control laws in the interest of our own national

security. At the same time, the Administration recognizes the reality of foreign availability and the importance of our reputation as a reliable supplier. We are also aware that future technical advances by U.S. industry depend on maintaining the widest possible access to foreign markets and on fostering the widest exchange of scientific information.

International Negotiations to Improve Access and Achieve Fairer Trade

There is a great need to strengthen the international trading system through the cooperative efforts of the United States and its trade partners, in order to obtain better access and fairer conditions of international trade. There is a compelling need for overhaul of the General Agreement on Tariffs and Trade (GATT), which has provided the international legal framework for international trade over the past 40 years. The GATT's effectiveness has waned in recent years, primarily because its machinery and rules have not been adapted to current needs of the international trading community.

The GATT must be strengthened in the following areas: dispute settlement; discipline over import restraints (whether in the form of safeguards, and infant industry or balance of payments restrictions); and rules on the use of export subsidies. GATT negotiations must also achieve a vastly improved environment for the conduct of trade in agricultural products. Negotiations are needed to improve the non-tariff barrier codes which were initially developed in the Tokyo round. And the GATT must examine issues and extend its domain in areas which are increasingly important to international trade, including the protection of intellectual property, trade in services, and trade-distorting investment practices.

The United States has urged its trade partners to enter into a new multilateral negotiating round soon to deal with these issues in the GATT. Such a round would send a positive signal that GATT members reaffirm their belief in an open trading system and in the GATT as an institution capable of adapting itself to changing conditions. These negotiations should begin in early 1986.

While our highest priority remains the improvement of the world trading system through a new round of multilateral trade negotiations, the United States is interested in the possibility of achieving further liberalization of trade and investment through the negotiation of bilateral free-trade arrangements such as the one recently concluded with Israel. We believe

that, at times, such agreements could complement our multilateral efforts and facilitate a higher degree of liberalization, mutually beneficial to both parties, than would be possible within the multilateral context.

The United States will give careful consideration to any serious proposal to enter into the negotiation of such agreements. The paramount factor in evaluating such proposals will be their economic value to the United States; we will not pursue any agreement which is not clearly in our economic and commercial interest. Finally, the prospects for significant progress in a new round of multilateral trade negotiations will also influence our deliberations on such bilateral initiatives.

The Administration will consult closely with Congress and with representatives of the private sector before entering into formal negotiations aimed at reaching any bilateral free-trade arrangements and it will also notify Congress of its intentions in accordance with existing U.S. law.

In addition to possible bilateral free-trade arrangements, the United States will undertake other bilateral efforts to improve access for U.S. trade and investment. These bilateral efforts could address specific or sectoral trade issues. Recently, the United States entered into sector-specific discussions with the government of Japan to improve access for U.S. producers of telecommunications equipment, medical and pharmaceutical products, electronics goods and forestry products. New sectors will be added that offer the promise of expanded U.S. exports.

The Administration also entered into discussions with the Japanese government to seek more open financial markets in Japan and a role for the yen which more closely reflects Japan's increasing economic importance in the world economy. We will be following-up on the implementation of commitments made by Japan in this area.

Other bilateral initiatives include market-opening discussions with advanced developing countries (for example, Taiwan and Korea) and initiatives to negotiate bilateral investment treaties with developing countries. Such treaties provide nondiscriminatory treatment, protection against expropriation, the right of free transfer of funds, the arbitration of investment disputes and the coverage of intellectual property of U.S. investors.

Summary of the Administration's Trade Policy

At this time of major challenge to the future of U.S. and world trade, the Administration will carry out an active program to address the key elements of its trade strategy -- maintenance of a strong and growing domestic and international economy and more open and fair conditions for U.S. trade. In summary, the Administration will do the following:

Domestic and International Economic Policies

1. The Administration will, for the benefit of our international trade as well as our overall domestic economy, vigorously seek to bring federal spending under control. The Congress and public must clearly recognize the adverse impact of excessive government spending and budget deficits on the dollar's value and U.S. trade. As Congress wishes to contribute to reducing the trade deficit, it should focus its energies on cutting excessive spending and budget deficits rather than supporting protectionist legislation.
2. The Administration will continue to press for the adoption of the President's tax reform proposal, which is essential to strengthening our economy and making U.S. businesses more competitive in international markets.
3. The Administration will review, and will seek to amend, if warranted, our domestic anti-trust laws or regulations to the extent that they impede our international competitiveness.
4. The Administration will consider trade implications when reviewing proposed regulations and when developing further deregulation initiatives. The Administration will use the leverage created by its deregulatory process to seek to open foreign markets, thereby minimizing the problem of free rides for foreign suppliers.
5. The Administration will increase efforts to protect intellectual property rights (patents, copyrights, trademarks); we will accelerate work in this area with a view toward possible Administration legislative and administrative initiatives.

6. The U.S. will encourage our trading partners to adopt policies that will accelerate their economic growth, thereby expanding our export opportunities. Specifically we will urge Bonn Summit participants to act on their commitments to remove rigidities and imbalances in their economies. The U.S. will also continue to use discussions in the IMP and OECD to pursue this strategy.
7. The Administration will encourage debt-burdened LDCs to reduce government impediments to the functioning of markets in their economies, encourage production through market incentives to their business firms and employees, and substitute equity capital for debt by encouraging both domestic and foreign investment.
8. The 1984 yen-dollar efforts toward liberalizing Japan's financial markets and internationalizing the yen will continue.

Free and Fair Trade Policies

9. Because the United States depends upon both exports and imports for its prosperity and because protectionism is costly and counterproductive, the Administration's goal will be to work towards a more free and fair trading system.
10. The United States will vigorously pursue its rights and interests in international commerce under U.S. law and the GATT, and will see that other countries live up to their obligations and trade agreements with the United States.
11. The Administration will continue vigorous enforcement of U.S. antidumping and countervailing duty laws.
12. In the past, the United States has initiated Section 301 unfair trade investigations only in response to formal petitions for action from U.S. industries. The Administration will, as appropriate, also self-initiate such cases to address foreign unfair trade practices.
13. Where export subsidy rules are absent, inadequate, or unsatisfactory in their implementation, the U.S. will vigorously defend its exporters against the subsidy programs of other nations. Also, the Export-Import Bank will begin an aggressive targeted mixed-credit lending policy. At the same time, the Administration will seek a \$300 million appropriation for grants to support up to \$1 billion in mixed-credit loans.

14. The Administration will take tactical measures aimed at eliminating unfair foreign trade practices and opening foreign markets, if efforts to resolve such issues through consultations fail. The denial or limitation of access to the U.S. market may be a necessary measure in this process.
15. The Administration will support the market-opening objectives of equitable access legislation; but it will oppose legislation that would require the President to close U.S. markets on the basis of sectoral reciprocity. The proper approach is to grant the Administration authority to negotiate foreign barrier reductions.
16. The United States will continue market-oriented sector selective (MOSS) discussions with Japan. However, time limits will be placed on existing sector discussions, at the end of which specific commitments will be evaluated and follow-up procedures begun. New sectors will be added that offer the promise of expanded U.S. exports.
17. The Administration will follow up on its reports to the Congress on the subject of foreign industrial targeting by continuing to examine the potential problems created by foreign targeting and, where appropriate, possible remedies.

U.S. Export Promotion Policies

18. The United States will seek to reduce our nation's trade deficit through increasing exports instead of restricting imports.
19. The Administration will work with private sector advisory groups (e.g., the President's Export Council) to improve export promotion and to help U.S. companies expand their global marketing efforts.
20. The Administration will evaluate Federal export promotion activities during the fall budget review, and alter these activities as necessary to improve their effectiveness.
21. The Administration will again seek legislation to remove the export disincentives in the Foreign Corrupt Practices Act.

Multilateral and Bilateral Trade Negotiations for U.S. Exports and Fair Trade

22. There is a great need for a more comprehensive disciplined and effective system of world trade rules. The Administration will maintain efforts to launch a new GATT trade round.
23. The Administration will examine possible bilateral and plurilateral negotiating opportunities, both to improve market access and enhance fairness and promote wider interest in the multilateral negotiating process.

Safeguards and National Security Policies

24. The Administration is committed to market-based solutions to trade problems, at home and abroad; but occasional exceptions may be necessary.
25. Import relief, when undertaken, will be transparent, temporary, time-specific, and will decline over the period of relief, and lead to international competitiveness.
26. The Administration will review existing worker assistance programs in order to assure that they promote an effective human adjustment policy.
27. The Administration reserves the right to respond to economic conditions internationally and to levels of import penetration that threaten domestic industries essential to our long-term national security.
28. The Administration will vigorously enforce our export control laws in the interest of our own national security. At the same time, the Administration recognizes the reality of foreign availability and the importance of our reputation as a reliable supplier.



United States Department of State

The Legal Adviser

Washington, D.C. 20520



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September 25, 1985

MEMORANDUM

TO: Joseph R. Wright, Jr.
Acting Director
Office of Management and Budget

FROM: Abraham D. Sofaer *ADS by WDM*

Attached is a copy of the recommendation made today to the President by the Acting Secretary of State regarding an executive order prohibiting the import of Krugerrands. In accordance with established procedures, I am forwarding the draft executive order and draft report to Congress for formal OMB coordination.

As indicated in the memorandum to the President, the consultations required under Section 5 of Executive Order No. 12532 have been completed. None of the countries consulted objected to the ban. We are now satisfied that we can make a strong legal argument that the Krugerrand ban is consistent with our international legal obligations under the GATT. Several of the GATT countries consulted volunteered that they had reached similar GATT conclusions and none questioned our view.

It is important in terms of Congressional strategy that the order be signed quickly, preferably on Thursday. It is consequently requested that the order be reviewed on an expedited basis.

Attachments:
As stated.

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smf 7/7/10

DRAFT

Q. Why did the President impose a Krugerrand Ban?

A. -- THE EXECUTIVE ORDER SIGNED BY THE PRESIDENT ON SEPTEMBER 9 DIRECTED THE SECRETARY OF STATE AND THE UNITED STATES TRADE REPRESENTATIVE TO CONSULT WITH OTHER PARTIES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE WITH A VIEW TOWARD ADOPTING A PROHIBITION ON THE IMPORT OF KRUGERRANDS INTO THE UNITED STATES.

--THE CONSULTATIONS HAVE BEEN COMPLETED, AND THE PRESIDENT DECIDED TO PROCEED WITH IMPLEMENTATION OF THE BAN IMMEDIATELY.

--IN HIS NOTIFICATION TO CONGRESS, THE PRESIDENT NOTED THAT ALL THE MEASURES HE HAS ADOPTED AGAINST SOUTH AFRICA ARE DIRECTED AT APARTHEID AND THE SOUTH AFRICAN GOVERNMENT, AND NOT AGAINST THE PEOPLE OF THAT COUNTRY OR ITS ECONOMY. THE KRUGERRAND MEASURE WAS TAKEN IN RECOGNITION OF THE FACT THAT THE KRUGERRAND IS PERCEIVED IN THE CONGRESS AS AN IMPORTANT SYMBOL OF APARTHEID. THIS VIEW IS WIDELY SHARED BY THE U.S. PUBLIC. THE PRESIDENT ORDERED THIS PROHIBITION IN RECOGNITION OF THESE PUBLIC AND CONGRESSIONAL SENTIMENTS AND THE STRONG SYMBOLIC VALUE IT WOULD HAVE IN THE UNITED STATES.

DRAFT

Q. Does the ban prohibit the sale of Krugerrands?

A. THE E.O. PROHIBITS THE IMPORT OF KRUGERRANDS INTO THE U.S. THE E.O. DOES NOT PROHIBIT THE SALE OR TRANSFER OF KRUGERRANDS ALREADY IN THE U.S. THE HOUSE CONFERENCE BILL ALSO DEALS WITH IMPORTS AND NOT SALES OR TRANSFERS.

Q. Why will the ban not take effect until November 4?

A. -- THE DATE WAS CHOSEN IN ORDER TO ALLOW SUFFICIENT TIME FOR THE ISSUANCE OF APPROPRIATE REGULATIONS AND THE ESTABLISHMENT OF PROCEDURES FOR IMPLEMENTATION OF THE BAN.

-- THE SAME IS TRUE WITH RESPECT TO OTHER PROVISIONS IN THE SEPTEMBER 9 EXECUTIVE ORDER. THE BANK PROVISION WILL BE EFFECTIVE ON NOVEMBER 11, AND MOST OF THE OTHERS ON OCTOBER 11.

-- LIKE THE PROHIBITION ON LOANS TO THE SAG, THE BAN ON THE IMPORTATION OF KRUGERRANDS WILL BE ADMINISTERED BY THE TREASURY DEPARTMENT UNDER A COMPREHENSIVE SET OF REGULATIONS ISSUED PURSUANT TO THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT (IEEPA). THE NOVEMBER 4 DATE WILL PERMIT THE TIMELY IMPLEMENTATION OF BOTH MEASURES IN ONE SET OF TREASURY REGULATIONS, AS WELL AS ALLOWING THE ORDERLY TERMINATION OF ANY AGREEMENT ALREADY MADE TO IMPORT KRUGERRANDS.

DEPARTMENT OF STATE
WASHINGTON

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MEMORANDUM FOR THE PRESIDENT

From: John Whitehead *JW* Acting

Subject: Executive Order Prohibiting the Import of Krugerrands

Your September 9 Executive Order on South Africa provides that the Secretary of State and the USTR are to consult with other GATT parties with a view toward adopting a prohibition on the import of Krugerrands into the U.S. Key posts were instructed last week to engage in these consultations, and they have now been completed. None of our key partners objected to the ban, and most indicated that they remain under substantial pressure to adopt similar measures directed at South Africa.

As you know, Senators Dole and Lugar were successful during the week of September 9 in their three attempts to prevent a vote on the Conference bill. It is now widely assumed that attempts will be made to force a vote on the bill by proposing it as an amendment to the debt ceiling bill or some other legislation (e.g., the foreign assistance appropriations bill or a continuing resolution). In light of the close votes two weeks ago (we were able to prevent a vote on the bill only by two votes), the likelihood that the bill could be adopted remains substantial.

The major criticism of the September 9 Executive Order is that it did not contain an immediate ban on Krugerrand imports. Many claimed to believe that the GATT provision on consultations was simply a ploy to stall on this issue. Signing an executive order on Krugerrands at this time should help Senators Dole and Lugar and other members of Congress in arguing against any further votes on the Conference bill. Given our clear and categorical statements on the issue, I believe the South African Government already expects us to proceed with this largely symbolic measure. We believe that we should act now, and I recommend that you sign an executive order this week prohibiting the import of Krugerrands.

The USTR and Treasury concur in imposing a ban at this time.

Attachments:

1. Executive Order
2. Report to Congress

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smf 7/7/10

Executive Order

- - - - -

Prohibition on the Importation of the
South African Krugerrand

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and considering the findings made in Executive Order No. 12532 of September 9, 1985 and the authorities relied upon in that order, and in view of the completion of consultations by the Secretary of State and the United States Trade Representative directed by Section 5 of Executive Order No. 12532, I hereby prohibit the importation into the United States of South African Krugerrands effective November 4, 1985. The Secretary of the Treasury is authorized to promulgate such rules and regulations as may be necessary to carry out this prohibition.

THE WHITE HOUSE

September

TO THE CONGRESS OF THE UNITED STATES:

On September 9, I informed the Congress pursuant to Section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), that I had exercised my statutory authority to prohibit certain transactions involving South Africa (E.O. 12532). I also informed the Congress that the Executive Order directed the Secretary of State and the United States Trade Representative to consult with other parties to the General Agreement on Tariffs and Trade with a view toward adopting a prohibition on the import of Krugerrands into the United States.

The consultations have been completed, and I am today exercising my statutory authority to prohibit such imports effective November 4, 1985.

All of the measures I have adopted against South Africa are directed at apartheid and the South African Government, and not against the people of that country or its economy. The Krugerrand measure ordered today was taken in recognition of the fact that the Krugerrand is perceived in the Congress as an important symbol of apartheid. This view is widely shared by the U.S. public. I am directing this prohibition in recognition of these public and Congressional sentiments and the strong symbolic value it would have in the United States.

RECEIVED 26 SEP 85 19

TO MCFARLANE FROM CHEW, D

DOCDATE 26 SEP 85

URGENT

KEYWORDS: SPEECHES ECONOMICS
CHLW REFERRAL

SUBJECT: PRES REMARKS RE TAX REFORM ACTION COALITION 1 OCT

ACTION: MEMO MARTIN TO ELLIOTT DUE: 27 SEP 85 STATUS S FILES WH

FOR ACTION
SMALL

FOR CONCURRENCE
DANZANSKY

FOR INFO
STEINER
PEARSON

COMMENTS ** COMMENTS DUE BY NOON 27 SEP **

REF# LOG NSCIFID (DR)

ACTION OFFICER (S)	ASSIGNED	ACTION REQUIRED	DUE	COPIES TO

DISPATCH _____ W/ATTCH FILE _____ (C)

WHITE HOUSE STAFFING MEMORANDUM **URGENT**

DATE: 9/26/85 ACTION/CONCURRENCE/COMMENT DUE BY: Noon tomorrow

SUBJECT: REMARKS: Briefing for Tax Reform Action Coalition

(9/26/85 3:00 p.m. draft)

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	LACY	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WRIGHT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHAVEZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RYAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DANIELS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FRIEDERSDORF	<input checked="" type="checkbox"/>	<input type="checkbox"/>	THOMAS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HICKEY	<input type="checkbox"/>	<input type="checkbox"/>	<u>ELLIOTT</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HICKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please give your comments/edits directly to Ben Elliott, with an info copy to my office by noon tomorrow. Thanks.

RESPONSE:

David L. Chew
Staff Secretary
Ext. 2702

(ROBINSON, BE)

September 26, 1985

3:00 p.m.

PRESIDENTIAL REMARKS: BRIEFING FOR TAX REFORM ACTION COALITION
TUESDAY, OCTOBER 1, 1985

Good afternoon and welcome to the White House. It's an honor to be able to greet so many leaders of American business. You provide our Nation with jobs, direct the creation of much of our wealth, and oversee the development of innovations which keep our economy vibrant.

Now you have come together to perform a further service to our Nation by supporting America's Fair Share Tax Plan. Permit me to thank you first of all for taking out that full-page newspaper ad last week. Believe me, it's not often that I get so much pleasure from opening the Washington Post.

Your efforts on behalf of our tax reform plan represent an important contribution to the national debate. Many already understand that our plan will lower Federal income taxes for most individuals. But there has been confusion -- some of it sown intentionally -- over just what our plan would mean to American business. Permit me to set the record straight.

For small business, our plan will represent a substantial tax break. Small businesses, as you know, are often taxed according to the personal incomes of their owners. Our plan reduces personal income tax rates for most individuals, therefore, it will be doing the same for most small businesses. The top rate alone will come down from 50 to just 35 percent.

This tax relief will in turn benefit our entire economy as small businesses multiply and grow. From 1982 to 1984,

industries in which small businesses predominated created new jobs at the rate of more than 11 percent a year. Under our tax plan, that rate could rise even more rapidly.

For corporations, America's Tax Plan will mean a lower maximum tax rate -- down from 46 to 33 percent. Countless provisions for special treatment will be reduced or eliminated.

Compare this to the present system. The corporate tax structure today represents a vast maze of deductions, credits, and allowances for those industries and corporations favored by bureaucrats or the influential on Capitol Hill. It encourages competition of the worst kind -- not to produce better products at lower prices, but to assemble ever-bigger, more clever teams of lobbyists or to hire lawyers more skilled in taking advantage of tax code ambiguities.

It all amounts to a so-called "industrial policy." That's a fancy name for Washington bureaucrats using the tax code to tell you how to run your shops.

Every man and woman in this room must know a gifted fellow worker whose career has been spent entirely on tax policy or political calculations. Think of that person as I assert that in making corporate taxes simpler and lower, we'll be engaging in a great act of liberation. The countless individuals who now waste their talents on tax considerations will be set free -- free to participate in the ennobling work of creating new goods, services, and techniques. My friends, isn't it time we let American business get back to business?

For capital formation, our plan envisions a cut in the top rate on capital gains to just 17-1/2 percent. This measure is founded on clear-cut recent experience.

During the sixties and seventies, you'll remember, capital formation suffered. High rates on capital gains combined with creeping inflation, nearly wiping out sources of venture capital and turning many of our best entrepreneurs into tax refugees.

One story concerns Gene Amdahl, the inventor of what many consider the most successful computer ever built. Back in the seventies, he decided to start his own company. He searched America for capital. He could not find enough. In the end he was forced to go to a large high technology firm in Japan. They gave him capital, all right -- in return for the rights to his ideas.

Then in 1978, taxes on capital gains were cut, and in 1981, we cut them again. The number of dollars committed to venture capital has exploded, from barely \$39 million in 1977 to more than \$4 billion last year.

Today entrepreneurs like Gene Amdahl are able to get the capital they need. Indeed, former Massachusetts Senator Paul Tsongas said, "The capital gains tax cut has done more for the economy of my State than any other measure during my 6 years in the Senate." When we cut the top tax on capital gains again this year, capital formation will climb still higher.

Perhaps the most significant aspect of our plan is that it will be good for business' employees and customers, the American people. I've already mentioned that we'll lower rates for most

individuals. In addition, we'll increase to \$4,000 the standard exemption for married couples filing jointly and nearly double the personal exemption, from just over \$1,000 all the way to \$2,000. The American people will have more money in their pockets -- more with which to purchase your goods, more to save, and more to invest.

History is clear: when we pit industry against industry in a costly combat for special tax treatment, when we diminish disposable income by shifting the tax burden onto individuals and families, then we choke off the sources of economic growth and innovation. America's Tax Plan will do the reverse. It will promote fairness by making certain that everyone -- corporations and individuals alike -- pays his fair share. It will increase disposable income and foster capital formation. It will, I am convinced, inaugurate a new era of economic opportunity and growth.

As you know, some in Washington claim that our tax reform plan cannot be passed during this session of the Congress. I have a one-word answer. The word I'd like to use was a favorite of Harry Truman's. Bess didn't like it much. I'm afraid Nancy doesn't either, so this substitute will have to do: bullfeathers.

Tax reform is among the most pressing issues facing the country. There can be no greater demand upon the time and attention of the Congress. For delay in enacting it, there can be no excuse. In the words of Congressman Rostenkowski, "To those who are preparing to stand against the charge, I have a

warning. Don't underestimate the public -- demand for reform is growing."

Permit me one final thought. The practice of business is in large measure a moral endeavor, a practice in which men and women give of themselves -- their strength, their intelligence and imagination -- to unlock the mysteries of the material world on behalf of their fellow man. To inhibit this process through an oppressive system of taxation is in a fundamental sense to inhibit human development. What we are dealing with in the matter of tax reform is not, therefore, a mere collection of facts and figures, but the liberation of the human spirit.

In speaking about the opportunities created by recent tax cuts, George Gilder, author of The Spirit of Enterprise, has stated, "Opportunities summon human initiatives. Initiatives develop character and a sense of responsibility, a feeling of optimism The future looks more open and promising to [our young peoplé] than it did before, for the simple reason that it is more open and promising. We've had a doubling of business starts in the last 7 years. There has been a riot of new technologies There's been a convergence of policy and technology that has changed the spirit of America."

My friends, by enacting this historic tax reform, we can make America's spirit brighter still. With your help, I am confident we will.

Thank you and God bless you.