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# WITHDRAWAL SHEET

## Ronald Reagan Library

Collection: BAKER, JAMES: FILES

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File Folder: Legislative Affairs [7 of 7] ~~QA 10514~~ Box 8

Date: 3/1/99

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo	M.B. oglesby to Baker re White House Legislative Affairs personnel 2 p.	1/10/84	<del>P6, F6</del> B6
2. memo	Oglesby to Baker re hill attitude regarding Lebanon 2 p. (p. 1, partial)	1/3/84	P5 CEB 10/5/100

### RESTRICTION CODES

**Presidential Records Act - [44 U.S.C. 2204(a)]**

- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

**Freedom of Information Act - [5 U.S.C. 552(b)]**

- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statute [(b)(3) of the FOIA].
- F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
- F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

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THIS FORM MARKS THE FILE LOCATION OF ITEM NUMBER 1 LISTED ON THE  
WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER.

*Support for Marine presence  
has not just eroded - it's  
vanished.*  
[Dem + Rep.]

THE WHITE HOUSE  
WASHINGTON

January 3, 1984

*Need movement.  
Worst thing in world  
will be to have to act  
following Cong's disapproval.*

MEMORANDUM FOR JIM BAKER

FROM: M. B. OGLESBY, JR. *MB*  
SUBJECT: Hill Attitude Regarding Lebanon

*Terrible indictment  
of our inability to conduct  
for pol.*

Congressional discontent regarding the Marines in Lebanon, which has been growing steadily among Democrats and Republicans alike, will bubble to the surface on the Hill this week.

*Lead - not follow.*

*We have*

*4/1/84*

1) The Speaker's Ad Hoc Group on Lebanon meets today to reassess the situation. The Speaker will not call to pull the troops but will question our policy and lack of progress. The general attitude of the group will be negative - and news coverage will be negative.

2) House GOP leadership will meet with Weinberger and McFarlane on Wednesday. Bob Michel accurately reflects the views of the House GOP when he says, "You can't keep going on forever and ever." Dick Cheney and Trent Lott want the Marines out. Jack Kemp is our strongest supporter but he wants the Marines moved.

3) The Tower-Warner trip to the Mid-East (they will return next Monday) came with short notice and reflects Senate GOP frustration with the situation. Howard Baker has always been opposed to the Marines' presence. Barry Goldwater's public statements about getting out are privately supported by most GOP Senators. These private misgivings will become public if there is no visible progress on the diplomatic front or in the event of more Marine casualties.

4) Congressmen Dante Fascell, Chairman of the House Foreign Affairs Committee, and Lee Hamilton, Chairman of the House Foreign Affairs Subcommittee on Europe and the Middle East, were the two Democrat Members who, with Zablocki, negotiated the Lebanon package with the Administration. As the attached letter and news release show - they are setting the stage for changing their position when the Congress reconvenes.

With the lack of diplomatic progress, and the perceived lack of troop security, support for the Marines presence has not just eroded - it has basically vanished. Hill Democrats

will force votes as soon as possible. We would anticipate fighting a delaying battle to stave off final Congressional action to reduce the time of authorization and effectively end the mission of the Marines. Hearings will start in January, with Committee votes possible the first week back. Floor action might be delayed but the expedited procedures of the War Powers Act will force consideration.

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Congress of the United States  
House of Representatives  
Washington, D.C. 20515

December 13, 1983

The Honorable Ronald W. Reagan  
President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

We write as Democratic Members of the House of Representatives who supported you in recent votes on the Marine presence in Lebanon. Our votes meant that we shared your belief that it was both right and necessary to make an effort on behalf of peace in that country. We accepted your view that a short-term cut off date would have greatly reduced chances for success.

We want to make clear our view that our commitment in Lebanon should not be open-ended. The American people have little tolerance for further sacrifice of their young men to the hatred and ambitions of others. Not only are the people unlikely to support a continued Marine presence in the absence of progress toward peace, but the peace process itself may suffer if it appears our policy includes no practical limit to our participation.

We have concentrated on getting the Marines into Lebanon and keeping them there. We should also keep in mind that getting the Marines out of Lebanon is a policy option, and one which needs to be considered. Just as we cannot allow ourselves to be pushed out of Lebanon by terrorists, neither should we overreact to terrorism by staying there even if hopes for peace evaporate. We will err if we continue to act as though hanging on is the only way to protect our interests.

It seems to us that there are two actions we are taking which need more emphasis and three policy issues with which we have some disagreement.

The first action to be emphasized has to do with the safety of the Marines. Initially, at least, the Marines were sent to Lebanon on a "presence" mission. Before the October 23rd bombing, "presence" was interpreted to mean "visibility," and "visibility" was interpreted to mean there could be no substantial barricades around the Marine positions. The lack of adequate security endangered their mission; it did not enhance it. The increased emphasis now being put on security must continue."

Honorable Ronald W. Reagan  
December 14, 1983  
Page Two

The second action to be emphasized is the effort to include other nations in the peacekeeping force in Lebanon. The Marines in Lebanon are surrogate targets for the United States itself in the minds of those who oppose us. To attack these men is to attack this country symbolically. In this sense, there is a contradiction between our purposes as a peacekeeper, and our interests as a great power. We would be better off, both as a peacekeeper and as a great power, were other countries to join the peacekeeping force, and were our presence to be diluted by the involvement of others.

There are three policy issues on which we must express disagreement. First, we believe you have overstated our stake in Lebanon. We would all like to see a peaceful, stable, united Lebanon, free of foreign troops. However, outcomes short of that ideal are more likely and, in any event, even the collapse of the peace effort ought not to be presented as a calamity for America. Lebanon is neither the key to the supply of Persian Gulf oil, nor essential to the continued existence of Israel. While the Soviets are always ready to exploit other people's troubles, the origin of Lebanon's problems cannot be traced primarily to Moscow.

Second, we believe that you have not pushed hard enough to achieve a political solution to the crisis. The real source of Lebanon's tragedy is the struggle among local factions. To say that Lebanon's crisis is fundamentally indigenous is not to ignore the role of Syria, Iran, and the Soviet Union in making things worse. However, the national reconciliation process in Lebanon will do more to determine the prospects for that country than the rate at which foreign troops leave the country. In the national reconciliation process, Lebanese leaders have a chance, purchased at great and tragic expense to us, to give their country peace, and thereby to create conditions that would promote the withdrawal of foreign forces. For this to happen, painful compromises will have to be made. Those who have held a disproportionate share of power in the Lebanese government must realize that we are not in Lebanon to permit them to cling to their advantages. Those presenting claims for a share of power must understand that if they are unreasonable, we will depart and open the way for the dissolution of their nation.

Third, we must resist the temptation to resort to military solutions in Lebanon, despite Syrian behavior and the strong support that the Soviet Union is providing Syria and other groups in Lebanon. Specific military actions may be necessary to protect our forces in Lebanon when they are attacked, but we should have no illusions that military options will help resolve the political problems we confront in Lebanon. To seek a military solution in Lebanon would be unwise and against our national interest.

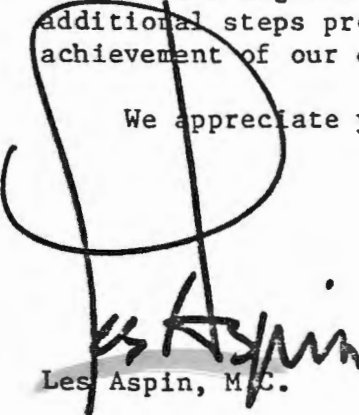


Honorable Ronald W. Reagan  
December 14, 1983  
Page Three


Mr. President, we support the American presence in Lebanon because its objectives are worthy. However, we believe the additional steps proposed in this letter would make the achievement of our objectives more likely.

We appreciate your consideration.

Sincerely yours,



Les Aspin, M.C.



Lee H. Hamilton, M.C.

Committee on Foreign Affairs

CONGRESS TO REVIEW MARINE PRESENCE IN LEBANON  
 WITHIN CONTEXT OF THE WAR POWERS RESOLUTION

Representative Dante B. Fascell (D-Fla.), Acting Chairman of the Committee on Foreign Affairs, today issued the following statement:

"In authorizing the continued presence of the U. S. Marines in Lebanon, the Congress clearly intended that both the letter and spirit of that authorizing legislation be strictly observed. The President's War Powers report is a key factor in the decision-making process.

"Congress will soon undertake a review of that commitment in the context of recent events. As we assert Congressional authority in this area, my personal goal will be to act within the cooperative decision-making structure provided by the War Powers Resolution. I do not seek confrontation or Constitutional impasse; instead, my only objective will be to promote the best national security interests of the United States.

"In one sense, therefore, the report is helpful in that it reflects the President's willingness to comply with the War Powers Resolution and to cooperate with Congress. Unfortunately, however, it still leaves unanswered too many vital questions regarding the future role of U. S. armed forces in Lebanon. For example:

- What is being done to improve the security of the Marines in Lebanon?
- Are we doing everything possible to avoid widening the conflict in Lebanon? In this connection, I remain convinced that the best way to achieve Syrian withdrawal is through diplomatic rather than military initiatives.
- How much longer will the Marines remain in Lebanon?

"Congress will be directly - and properly - involved in deciding whether a continued U. S. peacekeeping role in Lebanon is necessary or justified. That decision is central to the broader American policy of achieving a just and lasting peace in the Middle East. More immediately, it is also crucial to the development of a truly balanced and representative government in Lebanon.

"All of these issues are difficult and complex. They will require careful scrutiny and honest judgment. I believe Congress is ready and willing to meet that challenge. As Acting Chairman of this

THE WHITE HOUSE  
WASHINGTON

JAB —

FOR PHONE CALLS  
TO GARN +  
LAXALT

18.

M. B. OGLESBY, Jr.

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Talking Points  
for Conversation with Senator Paul Laxalt

- o We need you to talk with Jake Garn on the Export Administration Act to get his agreement not to have the Senate act on this bill.
- o We don't want it sent to the President -- it will force a decision on a veto on the eve of our Foreign Policy debate and give the Democrats an opportunity to bait the President on the Apartheid issue.
- o The bill would provide discretionary authority to the President to prohibit any investment in South Africa by U.S. firms not complying with so-called Sullivan principles on labor standards.
- o This bill will put the President in an untenable political position --
  - veto the bill and be accused by Mondale and the democrats of being for apartheid.
  - ~~sign~~<sup>sign</sup> the bill and accept the democrats charge that it is an indictment of the Administration's "failed policy of constructive engagement."
- o We have an essentially unanimous recommendation by the Cabinet for the President to veto the bill -- State, Treasury, Commerce, USTR, OMB ---- etc.
- o We'd like to avoid this potential embarrassment to the President -- we need you to talk with Jake and convince him that its simply not in our interest to have this bill sent to the President's desk.

Talking Points  
for Call to Jake Garn on EAA

- o We would like your agreement in having the Senate not act on the EAA.
- o We do not want it sent to the President -- it will force a decision on a veto on the eve of our Foreign Policy debate and give the Democrats an opportunity to bait the President on the Apartheid issue.
- o This bill will put the President in an untenable political position --
  - veto the bill and be accused by Mondale and the democrats of being for apartheid.
  - <sup>sign</sup> ~~veto~~ the bill and accept the democrats charge that it is an indictment of the Administration's "failed policy of constructive engagement."
- o Even though the authorities are discretionary, there will be relentless pressure from the press and the democrats for the Administration too indicate whether or not they intend to use the authority or accept the principle of using the authorities.
- o We appreciate all you have done on this bill and how much you have personally given up -- but we can't afford a political embarrassment for the President now.
- o We have an essentially unanimous recommendation by the Cabinet for the President to veto the bill -- State, Treasury, Commerce, USTR, Omb --- etc.
- o We would like your help and agreement.

TALKING POINTS

Administration Objections to Senate-Passed  
Export Administration Act (EAA)

1. Nuclear Exports (Section 401)- the bill requires transmittal of draft nuclear cooperation agreements to the substantive committees for consultation for 30 legislative days prior to a formal transmittal to Congress as now required by the Nuclear Non-Proliferation Act.
  - o This would create an unacceptable precedent of pre-clearance of required reports to Congress and, moreover, of prior concurrence in international negotiated agreements before transmittal to Congress.
  - o The provision could force a recently concluded nuclear agreement with the United Kingdom to be renegotiated.
  
2. South Africa (Section 301) - the bill would establish for the first time authorities to prohibit investment for up to one year in U.S.-owned firms in South Africa which do not comply with the Sullivan Principles on fair labor standards.
  - o The provision would require a unique extraterritorial application of U.S. laws in an attempt to control the labor practices of U.S.-owned subsidiaries in a foreign country.
  - o The authority to use investment sanctions is inconsistent with the long-standing U.S. policy of free flow of international investment.
  - o The provision would seriously undercut the Administration's successful policy of "constructive engagement" with South Africa.
  - o Even though discretionary, this section conveys a presumption that authorities should be used by creating an Advisory Committee composed of supporters of a policy of confrontation with South Africa.
  
3. Import Controls on COCOM Violators (Section 115) - the bill provides for the imposition of controls on imports into the United States from foreign firms that have violated export controls established by the Multilateral Coordinating Committee (COCOM) on exports of sensitive goods and technology.
  - o This provision provides the unprecedented authority for imposing controls on foreign firms for violation of foreign (COCOM) regulations -- not U.S. law.
  - o COCOM member countries are rightly incensed that the United States would undertake to punish their firms for violation of their own regulations.

- o COCOM is the only multinational organization in existence for cooperation among the industrial countries to prevent militarily useful goods and technology from reaching the communist world.
  - o Each member country is responsible for taking sanctions against any of its firms that violate the COCOM controls.
  - o There is a real possibility that foreign reaction to this import control provision will undermine the spirit of informal cooperation that has made COCOM work for the past thirty years.
  - o The result could be to diminish COCOM effectiveness in preventing more sensitive goods flowing East at a time when greater cooperation is vital to our national security.
4. Enforcement (Section 123) - the bill modifies the current arrangement where the Commerce Department and Customs Service share responsibility for both overseas and domestic enforcement activities for export controls. This bill assigns essentially all enforcement responsibility to the Customs Service.
- o This is inconsistent with the President's recent decision to maintain a dual-enforcement capability.
  - o The Administration believes that this issue should be resolved administratively, not through legislation.
  - o Commerce and Customs have recently reached agreement on a Memorandum of Understanding which improves the Administration's enforcement capability.









SLS509

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TITLE III--SOUTH AFRICA

Short Title

Sec. 301. This title may be cited as the "United States Policy Toward South Africa Act of 1984".

Subtitle 1--Sullivan Fair Employment Principles  
Endorsement and Implementation of Fair Employment Principles

Sec. 311. It is the policy of the United States that any United States person who--

(1) has a branch or office in South Africa, or

(2) controls a corporation, partnership, or other enterprise in South Africa,

in which more than 20 people are employed should take the necessary steps to insure that, in operating such branch, office, corporation, partnership, or enterprise, the opposition of the United States to apartheid is reaffirmed by actions including, but not limited to, implementation of those principles relating to employment practices set forth in section 312 of this Act.

Statement of Principles

Sec. 312. (a) The principles referred to in section 311 of this Act are as follows:

(1) Desegregating the races in each employment facility, including--

(A) removing all race designation signs;

(B) desegregating all eating, rest, and work

2

1 facilities; and

2 (C) terminating all regulations which are based  
3 on racial discrimination.

4 (2) Providing equal employment for all employees  
5 without regard to race or ethnic origin, including--

6 (A) assuring that any health, accident, or death  
7 benefit plans that are established are  
8 nondiscriminatory and open to all employees without  
9 regard to race or ethnic origin; and

10 (B)(i) implementing equal and nondiscriminatory  
11 terms and conditions of employment for all employees,  
12 and (ii) abolishing job reservations, job  
13 fragmentation, apprenticeship restrictions for blacks  
14 and other nonwhites, and differential employment  
15 criteria, which discriminate on the basis of race or  
16 ethnic origin.

17 (3) Assuring that the pay system is equitably applied  
18 to all employees without regard to race or ethnic origin,  
19 including--

20 (A) assuring that any wage and salary structure  
21 that is implemented is applied equally to all  
22 employees without regard to race or ethnic origin;

23 (B) eliminating any distinctions between hourly  
24 and salaried job classifications on the basis of race  
25 or ethnic origin; and

3

1 (C) eliminating any inequities in seniority and  
2 Ingrade benefits which are based on race or ethnic  
3 origin.

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

8 (5) Increasing, by appropriate means, the number of  
9 blacks and other nonwhites in managerial, supervisory,  
10 administrative, clerical, and technical jobs for the  
11 purpose of significantly increasing the representation of  
12 blacks and other nonwhites in such jobs, including--

13 (A) developing training programs that will  
14 prepare substantial numbers of blacks and other  
15 nonwhites for such jobs as soon as possible,  
16 including--

17 (i) expanding existing programs and forming  
18 new programs to train, upgrade, and improve the  
19 skills of all categories of employees, including  
20 establishing and expanding programs to enable  
21 employees to further their education and skills  
22 at recognized education facilities; and

23 (ii) creating on-the-job training programs  
24 and facilities to assist employees to advance to  
25 higher paying jobs requiring greater skills;

4

1 (B) establishing procedures to assess, identify,  
2 and actively recruit employees with potential for  
3 further advancement;

4 (C) identifying blacks and other nonwhites with  
5 high management potential and enrolling them in  
6 accelerated management programs; and

7 (D) establishing timetables to carry out this  
8 paragraph.

9 (6) Taking reasonable steps to improve the quality of  
10 employees' lives outside the work environment with  
11 respect to housing, transportation, schooling,  
12 recreation, and health, including--

13 (A) providing assistance to black and other  
14 nonwhite employees for housing, health care,  
15 transportation, and recreation either through the  
16 provision of facilities or services or providing  
17 financial assistance to employees for such purposes,  
18 including the expansion or creation of in-house  
19 medical facilities or other medical programs to  
20 improve medical care for black and other nonwhite  
21 employees and their dependents; and

22 (B) participating in the development of programs  
23 that address the education needs of employees, their  
24 dependents, and the local community.

25 (7) Implementing fair labor practices, including--

~~5~~

1 (A) recognizing the right of all employees,  
 2 regardless of racial or other distinctions, to  
 3 self-organization and to form, join, or assist labor  
 4 organizations, freely and without penalty or  
 5 reprisal, and recognizing the right to refrain from  
 6 any such activity;

7 (B) refraining from--

8 (i) interfering with, restraining, or  
 9 coercing employees in the exercise of their  
 10 rights of self-organization under this paragraph,

11 (ii) dominating or interfering with the  
 12 formation or administration of any labor  
 13 organization, or sponsoring, controlling, or  
 14 contributing financial or other assistance to it;  
 15 except that an employer may permit employees to  
 16 confer with the employer during working hours  
 17 without loss of time or pay,

18 (iii) encouraging or discouraging membership  
 19 in any labor organization by discrimination in  
 20 regard to hiring, tenure, promotion, or other  
 21 condition of employment,

22 (iv) discharging or otherwise disciplining or  
 23 discriminating against any employee who has  
 24 exercised any rights of self-organization under  
 25 this paragraph, and

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1 (v) refusing to bargain collectively with any  
2 organization freely chosen by employees under  
3 this paragraph; and

4 (C)(i) allowing employees to exercise rights of  
5 self-organization, including solicitation of fellow  
6 employees during nonworking hours, (ii) allowing  
7 distribution and posting of union literature by  
8 employees during nonworking hours in nonworking  
9 areas, and (iii) allowing reasonable access to labor  
10 organization representatives to communicate with  
11 employees on employer premises at reasonable times  
12 where there are no other available channels which  
13 will enable the labor organization to communicate  
14 with employees through reasonable efforts.

15 (b) The Secretary may issue guidelines and criteria to  
16 assist persons in implementing the principles set forth in  
17 subsection (a) of this section.

18 Advisory Committee

19 Sec. 313. (a) The Secretary shall establish an Advisory  
20 Committee (1) to advise the Secretary with respect to the  
21 implementation of those principles set forth in section  
22 312(a), and (2) to review periodically the reports submitted  
23 pursuant to section 314(a) and, where necessary, to  
24 supplement the information contained in such reports. The  
25 Advisory Committee shall be composed of at least 12 members

π

1 appointed by the Secretary from among persons in the United  
2 States and South Africa representing trade unions committed  
3 to nondiscriminatory policies, representatives of business  
4 (including the American Chamber of Commerce in South Africa),  
5 and the academic community, and from among community and  
6 church leaders, including those in South Africa, who have  
7 demonstrated a concern for equal rights. In addition to the  
8 appointed members of the Advisory Committee, the United  
9 States Ambassador to South Africa shall be a member of the  
10 Advisory Committee, ex officio. The Committee shall be  
11 authorized to meet in the United States Embassy in South  
12 Africa or such other location as the Secretary may designate.

13 (b) Members of the Advisory Committee in South Africa  
14 shall be appointed for 3-year terms, except that of the  
15 members first appointed, four shall be appointed for terms of  
16 two years, and four shall be appointed for terms of one year,  
17 as designated at the time of their appointment. Any member  
18 appointed to fill a vacancy occurring before the expiration  
19 of the term for which the predecessor of such member was  
20 appointed shall be appointed only for the remainder of such  
21 term.

22 (c) The Secretary shall provide the necessary clerical  
23 and administrative assistance to the Advisory Committee.

24 (d) Members of the Advisory Committee shall serve without  
25 pay, except that, while away from their homes or regular



1 places of business in the performance of services for the  
2 Committee, members of the Advisory Committee shall be allowed  
3 travel expenses, including per diem in lieu of subsistence,  
4 in the same manner as persons employed intermittently in the  
5 Government service are allowed expenses under section 5703 of  
6 title 5, United States Code.

### 7 Implementation

8 Sec. 314. (a) The Secretary shall submit an annual report  
9 to the Congress describing--

10 (1) the extent to which each United States person  
11 referred to in section 311 of this Act has implemented  
12 each of the principles set forth in section 312 of this  
13 Act;

14 (2) the progress each United States person referred  
15 to in section 311 of this Act has made since the previous  
16 annual report in implementing each of those principles;

17 (3) the actions the Secretary has taken to encourage  
18 implementation of those principles, as well as any  
19 related actions taken by other departments or agencies of  
20 the United States Government; and

21 (4) any other information relating to the  
22 implementation by United States persons of those  
23 principles that the Secretary believes is appropriate.

24 (b) The Secretary shall publish and make generally  
25 available to the public each annual report submitted pursuant

1 to subsection (a).

2 (c) The Secretary may, to such extent or in such amounts  
3 as are provided in appropriation Acts, enter into contracts  
4 with one or more private organizations to assist the  
5 Secretary in preparing the report required by subsection (a).

6 (d) Each United States person referred to in section 311  
7 of this Act shall submit directly to the Secretary, or  
8 through an organization with which the Secretary has a  
9 contract under subsection (c)--

10 (1) a detailed and fully documented annual report on  
11 the progress of that person in implementing the  
12 principles set forth in section 312 of this Act; and

13 (2) such other information relating to implementation  
14 of the principles set forth in section 312 of this Act as  
15 the Secretary shall by regulation require.

16 The reports and information required by this subsection shall  
17 be submitted at such times as the Secretary shall by  
18 regulation direct.

19 (e)(1) The Secretary shall make available to the Advisory  
20 Committee established pursuant to section 313, and may make  
21 available to the public, information obtained pursuant to  
22 subsection (d) that relates to the employment practices of  
23 United States persons referred to in section 311 with respect  
24 to blacks and other nonwhite employees.

25 (2) Notwithstanding any other provision of law, the

1 Secretary shall not make available to the Advisory Committee  
2 or disclose to the public any information that would harm the  
3 competitive position, or the proprietary interests, or would  
4 reveal trade secrets or confidential commercial or financial  
5 information, of any United States person required to submit  
6 reports under subsection (d), as defined under regulations of  
7 the Secretary.

8 (f) The Secretary shall undertake all reasonable efforts  
9 to verify the information submitted under subsection (d),  
10 including the establishment of arrangements with United  
11 States persons and entities referred to in section 311 of  
12 this Act for onsite monitoring, at least once every two  
13 years, of their activities and facilities in South Africa.

14 (g) The Secretary shall make reasonable and continuing  
15 efforts to promote the implementation of this subtitle and  
16 any regulations issued to carry out this subtitle.

17 (h) There are authorized to be appropriated such sums as  
18 may be necessary to the Department of State to carry out the  
19 provisions of this subtitle. The Secretary may establish an  
20 office to carry out such provisions.

21 (i) Upon the request of any United States person subject  
22 to the provisions of this subtitle which is made within 60  
23 days after the publication of the Secretary's report pursuant  
24 to subsection (b) of this section, the Secretary shall,  
25 afford an opportunity for a hearing, within 90 days after

1 such publication, in which such person may comment on the  
2 contents of such report.

**INVESTMENT LIMITATIONS**

1       Sec. 315. (a) In any case in which the ~~Secretary~~ <sup>President</sup>  
2 determines, after notice and an opportunity for a hearing,  
3 that a United States person referred to in section 311 of  
4 this Act is not making a good faith effort toward  
5 implementing the provisions of this subtitle, the Secretary  
6 may issue an order prohibiting that United States person from  
7 making any investment in South Africa for a period of one  
8 year, subject to subsection (b) of this section. The  
9 Secretary's decision to hold such a hearing shall be made on  
10 the basis of the annual report submitted pursuant to section  
11 314(a).

12       (b) The President may exempt a United States person that  
13 is subject to an order of the ~~Secretary~~ <sup>President</sup> under subsection (a)  
14 from the prohibition contained in the order for the purpose  
15 of making a particular investment or investments referred to  
16 in subsection (c)(1)(B) in that person's foreign affiliate in  
17 South Africa, but only to the extent that--

18               (A) the investment or investments are necessary to

~~2~~

1 replace or upgrade worn out or obsolete equipment;

2 (B) the purpose of the investment or investments is  
3 to make improvements in the workplace in the training,  
4 health, safety, and other working conditions of blacks  
5 and other nonwhite employees; or

6 (C) the investment or investments are for  
7 educational, housing, or health facilities, or other  
8 projects of significant humanitarian value, which are  
9 available to all employees on a totally nondiscriminatory  
10 basis and which are located in geographic areas  
11 accessible to all employees without any legal or  
12 administrative restriction.

13 (c) For purposes of subsection (a)--

14 (1) the term "investment in South Africa" means--

15 (A) establishing or contributing funds (including  
16 making a loan or other extension of credit) for the  
17 establishment of a business enterprise in South  
18 Africa;

19 (B) investing funds in a foreign affiliate in  
20 South Africa, including--

21 (i) acquiring a share or interest in the  
22 foreign affiliate;

23 (ii) acquiring a bond or other debt  
24 instrument issued by the foreign affiliate;

25 (iii) making capital contributions in money

~~3~~  
1 or kind to the foreign affiliate; and

2 (iv) making a loan or other extension of  
3 credit, with a maturity of more than two years,  
4 to the foreign affiliate;

5 except that this subparagraph shall not be construed  
6 to prohibit an investment which consists of earnings  
7 derived from a foreign affiliate in South Africa and  
8 which is made in that foreign affiliate; and

9 (c) making a loan or other extension of credit in  
10 a business enterprise in South Africa;

11 (2) the term "funds" means money or other  
12 resources;

13 (3) the term "foreign affiliate" means a business  
14 enterprise which is controlled by a United States person;

15 (4) the term "business enterprise" means any  
16 organization, association, branch, or venture which  
17 exists for profitmaking purposes or to otherwise secure  
18 economic advantage; and

19 (5) the term "branch" means the operations or  
20 activities conducted by a person in a different location  
21 in its own name rather than through an incorporated  
22 entity, and such term includes an office of that person.

23 (d)(1) The ~~Secretary and the Secretary of Commerce~~ shall  
24 take the necessary steps to insure compliance with an order  
25 of the ~~Secretary~~ <sup>President</sup> issued under subsection (a) and the

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1 regulations issued under this section, including the use of  
2 monitoring provided in section 314(f).

3       <sup>Any</sup> ~~If a~~ United States person <sup>that</sup> fails to comply with an  
4 order of the ~~Secretary~~ <sup>President</sup> issued under subsection (a) or the  
5 regulations issued under this section, ~~the Secretary shall so~~  
6 ~~notify the Secretary of Commerce. Such United States person~~  
7 shall be subject to the penalties provided in section 11 of  
8 the Export Administration Act of 1979 for violations of that  
9 Act.

10       (e) The Secretary may issue such regulations as are  
11 necessary to carry out the provisions of this section.

3 Regulations and effective date

6 4 Sec. 315. (a) The Secretary shall, not later than 120  
5 days after the date of the enactment of this Act, issue such  
6 regulations as are necessary to carry out this subtitle.

7 (b) Before issuing final regulations pursuant to  
8 subsection (a), the Secretary shall publish in the Federal  
9 Register the regulations proposed to be issued and shall give  
10 interested persons, including the Advisory Committee  
11 established pursuant to section 313 of this Act, at least 30  
12 days to submit comments on the proposed regulations. The  
13 Secretary shall, in issuing the final regulations, take into  
14 account the comments so submitted.

15 (c) The policy set forth in section 311 of this Act shall  
16 become the policy of the United States Government on the date  
17 of the enactment of this Act.

18 (d) The first annual report of the Secretary under  
19 section 314 of this Act shall be submitted to the Congress  
20 not later than one year after the date on which final  
21 regulations issued pursuant to subsection (a) of this section  
22 are published. Each subsequent annual report shall be  
23 submitted not later than the end of each 1-year period  
24 thereafter.

25



6 Subtitle ~~A~~--General Provisions

7 Cooperation of Other ~~Departments~~ and ~~Agencies~~

2

8 Sec. 331. (a) Each department and agency of the United  
9 States shall cooperate with the Secretary in carrying out the  
10 provisions of this title, including, upon the request of the  
11 Secretary, taking steps to ensure implementation of the  
12 provisions of this title and any regulations issued to carry  
13 out this title.

14 (b) The Secretary may secure directly from any department  
15 or agency of the United States information necessary to  
16 enable the Secretary to carry out the Secretary's functions  
17 under this title.

18 Definitions

19 Sec. 332. For purposes of this title--

2

20 (1) the term "United States person" means any  
21 United States resident or national and any domestic  
22 concern (including any permanent domestic establishment  
23 of any foreign concern);

24 (2) the term "Secretary" means the Secretary of  
25 State;

1 (3) the term "South Africa" includes the Republic  
2 of South Africa; any territory under the administration,  
3 legal or illegal, of South Africa; and the "bantustans"  
4 or "homelands", to which South African blacks are  
5 assigned on the basis of ethnic origin, including the  
6 Transkei, Bophuthatswana, Venda, and Ciske; and

7 (4) a United States person shall be presumed to  
8 control a corporation, partnership, or other enterprise  
9 in South Africa if--

10 (A) the United States person beneficially owns or  
11 controls (whether directly or indirectly) more than  
12 50 percent of the outstanding voting securities of  
13 the corporation, partnership, or enterprise;

14 (B) the United States person beneficially owns or  
15 controls (whether directly or indirectly) 25 percent  
16 or more of the voting securities of the corporation,  
17 partnership, or enterprise, if no other person owns  
18 or controls (whether directly or indirectly) an equal  
19 or larger percentage;

20 (C) the corporation, partnership, or enterprise  
21 is operated by the United States person pursuant to  
22 the provisions of an exclusive management contract;

23 (D) a majority of the members of the board of  
24 directors of the corporation, partnership, or  
25 enterprise are also members of the comparable

1 governing body of the United States person;

2 (E) the United States person has authority to  
3 appoint a majority of the members of the board of  
4 directors of the corporation, partnership, or  
5 enterprise; or

6 (F) the United States person has authority to  
7 appoint the chief operating officer of the  
8 corporation, partnership, or enterprise.

9 Applicability to evasions

10 ~~Sec. 333. Subtitle 2 of this title shall apply to any~~  
11 ~~United States person who undertakes or causes to be~~  
12 ~~undertaken any transaction or activity with the intent to~~  
13 ~~evade the provisions of subtitle 2 of this title or any~~  
14 ~~regulations issued to carry out that subtitle.~~

15 Construction of Title; Severability

323) 16 ~~Sec. 334.~~ (a) Nothing in this title shall be construed as  
17 constituting any recognition by the United States of the  
18 homelands referred to in section 332(3) of this Act.

19 (b) If any provision of this title or the application of  
20 this title to any person or circumstance is held invalid,  
21 neither the remainder of this title nor the application of  
22 that provision to other persons or circumstances shall be  
23 affected thereby.

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William Raspberry

## Another Blow to Apartheid

House-Senate conferees considering the Export Administration Act have agreed to one of the strongest anti-apartheid measures ever taken against South Africa.

The action, taken late Monday night, would prohibit loans by American banks to the South African government "or any of its entities"—far less than opponents of the administration's policy of "constructive engagement" had hoped for but still a significant reduction of U.S. support for South Africa's official racism.

According to Rep. Stephen J. Solarz (D-N.Y.), sponsor of the measure, the amendment covers roughly half of the total economy of South Africa, which now gets some \$400 million a year in loans from American banks.

In addition to the prohibition on bank loans, the measure also requires annual reports from the State Department—similar to the human-rights reports already in effect—on the degree to which the American firms doing business in South Africa are complying with a tough set of fair-employment principles.

Conferees were not expected to complete work on the Export Administration Act until late in the week, but the South African sanctions appear to be locked in place. According to Solarz, passage of the conference bill is almost certain in the House and "likely" in the Senate.

Opponents of apartheid had hoped to gain passage of legislation introduced by Solarz and Rep. William H. Gray (D-Pa.) that would bar further importation here of South African krugerrands, place civil and criminal sanctions on American companies that violate the fair-employment principles and prohibit new U.S. investments in South Africa.

Still, Solarz was happy. "It's the first time we've ever applied economic sanctions to South Africa," he said yesterday. "This action repudiates the whole policy of 'constructive engagement.' It represents our judgment that we have a better chance [of affecting apartheid] through the application of pressure."

"It's unfortunate that the Senate was unwilling to accept the Gray prohibition on new investment, the most significant piece of the whole package, but Bill Gray's amendment was very helpful in creating the climate for what we did achieve."

It's quite an achievement at that. The administration has been made to look silly in its attempt to use the carrot of "constructive engagement" instead of the stick of sanctions to move South Africa toward accommodation on a number of issues, including some significant softening of apartheid and a settlement in Namibia. South Africa, apparently reading the U.S. position not as enlightened diplomacy but as weakness of will, has dallied for almost the whole of the Reagan term.

Assuming final passage of the measure (with time running out until adjournment at the end of this week), it will be interesting to see whether President Reagan dares to veto the bill.

Solarz thinks he won't. "Even a conservative administration would have second thoughts about vetoing it because of this," he said. "And if he does, it would give the whole issue visibility of the sort that could hurt him in the presidential campaign."

While Solarz would have been happier with "the full loaf" of civil and criminal sanctions against American businesses that violate the fair-employment principles, he thinks the "half-loaf" adopted this week might serve nicely. "Even without the sanctions, public scrutiny [as a result of the annual reporting requirement] should generate sufficient public pressure to force compliance."

"If anybody at the beginning of this session of Congress had thought it possible to get even this much through, he would have been thought wildly unrealistic."

True enough. And if the most militant American foes of apartheid won't be exactly thrilled with this week's success, Solarz is convinced that "there will be weeping in South Africa."