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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

THE MANDATORY ARMS EMBARGO AGAINST
SOUTH AFRICA

Memorandum by the Secretary of State for Foreign
and Commonwealth Affairs

1. I attach (at Annex A) a paper prepared after extensive interdepartmental discussion at official level in Whitehall, which sets out the action we need to take in response to operative paragraph 3 of Security Council Resolution 418 (1977). This calls on all states to review, with a view to terminating them, contractual and licensing arrangements with South Africa relating to the manufacture and maintenance of arms and related material. I have delayed circulating this paper until after the CHGM and the launching of Sir J Murray's mission on Namibia.
2. The Secretary-General of the United Nations has asked all member countries to report on the action they have taken. A substantive reply from the United Kingdom is now considerably overdue. Through a bureaucratic oversight at the UN Secretariat in New York, what was intended as HMG's interim reply has apparently been taken as the substantive reply. However, as a result of recent and continuing controversy over the Plessey radar contracts, we must expect our performance in pursuance of our obligations under the embargo to come under renewed and perhaps more detailed scrutiny in the UN, at a time when in the Rhodesian context we wish to minimise friction with the African states. I therefore think it important that we should take the action

proposed without further delay. Our Permanent Representative in New York would then be able to inform Dr Waldheim of the UK's response to paragraph 3 of the Resolution (as suggested in Annex D attached).

3. By asking firms to "review arrangements with a view to terminating them" in a notice in "Trade and Industry" we shall have complied with the requirements of the Security Council Resolution.

4. I therefore recommend that we:

- (a) approve the approach to industry which is outlined in paragraph 6 and the draft notice at Annex C; and
- (b) approve the draft letter to the United Nations Secretary-General at Annex D.

5. I suggest that we may be able to deal with this matter out of Committee. Unless, therefore, there are objections, I propose to proceed as recommended in paragraph 4 above. I should be grateful for comments by the end of September.

Foreign and Commonwealth Office

24 September 1979

THE MANDATORY ARMS EMBARGO AGAINST SOUTH AFRICA

1. On 4 November 1977, the United Nations Security Council adopted a resolution (Security Council Resolution 418 (1977)) which imposed a mandatory embargo on the provision to South Africa of all arms and related materiel. Britain, together with the other Western members of the Security Council, voted in favour of the resolution, which was adopted under Chapter VII of the UN Charter and contains decisions that are therefore legally binding on all members of the United Nations. In a note of 18 May 1978 the Secretary-General of the United Nations asked what action the United Kingdom had taken in response to operative paragraph 3 of SCR 418, which reads:

"Calls on all States to review, having regard to the objectives of the resolution, all existing contractual arrangements with and licences granted to South Africa relating to the manufacture and maintenance of arms, ammunition of all types and military equipment and vehicles with a view to terminating them."

2. Action has already been taken on goods subject to the mandatory embargo, regardless of existing contractual arrangements. Export licences are not issued for embargoed goods. A separate Order in Council under the United Nations Act 1946 controls the entering into any new licensing arrangements related to the manufacture or maintenance of embargoed goods. Nothing can be done about technology which has already been transferred. The only area not effectively covered is existing arrangements for the supply of information relevant to the maintenance of goods already exported, or made under licence, or to training and support in connection with them.

The extent of existing arrangements

3. The review which officials have carried out has identified ten firms which have contractual arrangements with, or have

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granted licences to, South Africa for the manufacture or maintenance of defence equipment. These are listed at Annex B. Without consulting the firms concerned, it would be difficult to assess the precise effect which the cancellation of such arrangements would have either on the firms themselves or on the South African defence capability. Some loss of revenue by firms would undoubtedly be sustained. Where manufacturing or exploitation licences have been granted (items 2, 4, 6a, 8 and 9 of Annex B) revocation would cut revenues to British firms while leaving the South Africans the free use of the designs. Revocation would thus be a benefit rather than a hindrance to the South Africans, although it might cause some difficulties by stopping the continued flow of technical support and advice. Of the other items, the Navigator Transmitting Stations (1a) have dual civil and military roles, and the same may apply both to the Airspace Simulator and Air Traffic Control Ground Equipment Simulator (5a and b) and the Marconi Airborne Radar Equipment (10). This leaves the items concerning navigation equipment for Hercules aircraft (1b), Buccaneers (3), Rolls-Royce engines (6b), and naval vessels (7). The termination of any of these agreements is unlikely to have a significant effect on the South African defence capability.

Possible action

4. Since the United Kingdom voted for SCR 418, we are committed to respond to operative paragraph 3. My legal advice is that operative paragraph 3 is, arguably, not to be regarded as mandatory in the same way as other paragraphs of the Resolution. Unlike the others, which "decide" on certain measures, it only "calls on" States to act and the action is to "review..... with a view to terminating". Termination is thus an objective of the review rather than an unqualified requirement. One effect of the absence of mandatory force is that the Government could not make an Order under the United Nations Act to require the termination of existing arrangements.

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5. Talks were held last year with our partners in the Nine. No conclusions were reached but a number of Western countries have since made reports to the United Nations Secretary-General. Belgium has stated that there are no licensing arrangements between Belgium and South African companies. Denmark and West Germany have responded similarly, saying that they know of no existing contractual arrangements, and the Netherlands plan to say the same. The United States have adopted the same line. The French claim to have called on their industry to take practical steps to terminate cooperation. It is generally known that the United Kingdom has a wide range of ~~contracts~~ contacts with South Africa. We have already identified some firms who have licensing arrangements. We might, however, be able to follow the French lead.

6. The important step to be taken is to ensure that the terms of operative paragraph 3 are brought to the attention of firms who might have such contractual arrangements. Officials of the departments concerned have considered how best to achieve this: whether to approach firms directly; or to approach firms which we know or believe to have relevant contracts or licensing arrangements; or to approach trade associations; or to disseminate the information more generally, eg by a notice in "Trade and Industry"; or a combination of these. The agreed view of officials was that, since we do not know who all the firms might be, a general approach to industry is the only way to ensure complete coverage: this can best be achieved by an appropriate notice in the Government publication "Trade and Industry". Additional approaches to individual firms or trade associations would not then be necessary. A previous notice has already drawn the attention of firms to the measures taken to fulfil the mandatory obligations placed on us by the Resolution. A further notice could draw attention specifically to operative paragraph 3 and invite firms to review any arrangements they have with a view to terminating them. A draft notice is at Annex C. Our action would need to be reported to the United Nations: a draft letter for this purpose is at Annex D.

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LIST OF FIRMS KNOWN TO HAVE EXISTING CONTRACTUAL ARRANGEMENTS WITH SOUTH AFRICA

1. Decca

- a. Sub-contracted by Decca South Africa to provide personnel for the operation and maintenance of Navigator Transmitting Stations (used by civil and military).
- b. Agreement with Atlas Aircraft Corporation to install Doppler Navigation Equipment aboard C130 (Hercules) aircraft.

2. EMI

Agreement with Barlow Electronic Systems Ltd, Transvaal, for commercial exploitation of Cymbeline. The Contract dated 1 November 1973 is for an unspecified period. EMI say the contract has a 10 year clause for provision of training and maintenance.

3. BAe(HAS)

Agreement with Atlas Aircraft Corporation of South Africa, dated 24 July 1967, subject to renewal annually at this date. The agreement allows Atlas to service, repair and overhaul the South African Air Force Buccaneers (HAS sold the South African Air Force 16 of these in 1962). It also covers the supply of technical information relating to maintenance and overhaul, training and design services and other technical advice and assistance pertaining to the aircraft.

4. Racal

Racal were recently considering the sale of the whole of their holding (some 95 per cent) in their South African subsidiary to a South African company. This would have involved the novation of several existing licensing arrangements for electronic equipment, which might have been in breach of the South Africa (Prohibited Transactions) Order. We do not know what decision Racal finally reached on this transfer.

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5. Redifon

- a. Agreement dated 21 April 1975 sub-contracting Astra Aircraft Corporation in connection with an Airspace Simulator already supplied by Redifon. The scope of the agreement is not known.
- b. Links with the South African Armaments Board on Air Traffic Control Ground Equipment Simulator, already delivered and installed. The nature of the links is not known.

6. Rolls_Royce

- a. Rolls Royce licensed Piaggio in 1960 to manufacture the Viper engine in Italy. The licence allowed Piaggio to sub-license production of the engine to third countries, subject to RR approval. Piaggio subsequently sub-licensed the Viper to South Africa. At a recent meeting of the UN Working Group the Italian representative claimed that the licence had been terminated "several years ago", though production of the engine in South Africa continues and the sub-licence is still quoted in current reference books. We have not consulted Rolls Royce and do not have conclusive evidence.
- b. Servicing support agreement with the South African Air Force, Atlas, the South African Navy, and South African Airways for RR engines in service with the foregoing. The Agreement with the South African Air Force and Atlas covers servicing of Buccaneer Spey 101c engines.

7. Y--ARD

Agreement with Yarrow Africa Maritime Consultancy (PTY) Ltd to provide personnel to the South African company in a consultancy capacity, primarily to the South African Navy at Simonstown, relating to design and refitting of Naval vessels.

8. S_Davall & Sons Ltd

Licence granted to the South African Government in 1969 to manufacture a Delayed Arming Device. Duration of the agreement is not known.

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9. Schermuly Ltd

Licence granted in 1964 to the South African Government to manufacture signals equipment for use by the South African Armed Forces. Duration of the agreement is not known.

10. Marconi_Elliott

Marconi Elliott have been engaging in technical discussions on computers for Airborne Radar Equipment with the South African Armaments Board, Marconi, South African and Atlas Aircraft Corporation. Whether there is any contractual agreement is not known.

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DRAFT NOTICE IN "TRADE AND INDUSTRY"

1. A notice in "Trade and Industry" of 10 March 1978 gave details of measures taken by the British Government to fulfil the obligations placed on all United Nations member states by Security Council Resolution 418 imposing a mandatory arms embargo against South Africa.
2. The United Kingdom voted in favour of the Resolution when it was adopted by the United Nations Security Council on 4 November 1977. The United Kingdom implements the embargo on the supply of arms and related material to South Africa made mandatory in operative paragraph 2 of Security Council Resolution 418 by means of Group 1 of the Export of Goods (Control) Order 1978, as amended. The transfer of know-how in accordance with operative paragraph 2 of the Resolution is controlled through the Order in Council SI No 277 (1978) which prohibits persons from entering into any licensing arrangements for the use in South Africa of patents, registered designs or industrial information or techniques specially devised or formulated for the manufacture or maintenance of arms or equipment specially designed for military or para-military police purposes. Under these measures the British Government has the necessary powers to give effect in the United Kingdom to their legal obligations under the terms of SCR 418.
3. The British Government has to inform the United Nations of the action it has taken under the Resolution and wishes to draw the attention of companies to operative paragraph 3 of the Resolution which "calls on all states to review, having regard to the objectives of the Resolution, all existing contractual arrangements with and licences granted to South Africa relating to the manufacture and maintenance of arms, ammunition of all types and military equipment and vehicles, with a view to terminating them". Firms having any such arrangements are therefore asked to review

/them

5. The United Kingdom of Great Britain and Northern Ireland has taken further action to bring to the attention of companies which might be concerned the terms of operative paragraph 3 of Security Council Resolution 418.

6. The Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations requests that the text of this letter be circulated as a document of the Security Council.