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SHIPPING RESEARCH BUREAU

AMSTERDAM

2 September 1991

African National Congress
attn: Kingsley Makhubela
801 2nd Avenue, Suite # 405
NEW YORK, NY 10017

Dear Comrade,

Enclosed you will find a copy of the text of my statement delivered on the Hearing on the Oil Embargo on August 15th.

Unfortunately, I had not enough time to meet you in person when I was in New York. I was very much pleased to hear your statement about the place of the oil embargo in the ANC's vision since the Durban conference. We have had some problems in getting texts of resolutions etcetera, and in none of the texts we have managed to get hold of, the oil embargo was mentioned explicitly. As you will see on the attached copy from the forthcoming issue of our Newsletter on the Oil Embargo, we have had to rely on a story in a Dutch daily newspaper when reporting on the outcome of the conference as far as oil sanctions are concerned. My colleague Huguette Mackay has however been able to include your statement in a section on the UN hearing, just before the Newsletter went into print.

We would be very much obliged if you could send us a copy of whatever document from the conference that mentions the oil embargo.

Yours faithfully,

SHIPPING RESEARCH BUREAU

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United Nations

Hearings on oil embargo

At special hearings on the oil embargo, Ambassador Nyakyi of Tanzania and chairman of the United Nations Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa stressed that the oil embargo must be maintained. Only a policy of pressure and assistance would bring closer a new non-racial democratic South Africa, he said, stressing also, that the embargo should be lifted only when a new democratic and non-racial constitution was adopted in South Africa.

The Intergovernmental Group organised hearings on the oil embargo against South Africa, on 15 August. The hearings focussed on: 1. how to render the oil embargo; 2. securing cooperation of Governments which had refused in the past to respond to the Group's appeals or had lifted their bans and restrictions; 3. the appropriate timing or condition for lifting the embargo.

Several speakers addressed the different issues of the embargo. A representative of the New York-based Interfaith Center on Corporate Responsibility (ICCR) said that not one of the oil compnaies operating in South Africa had headed the call of apartheid's South African and international opponents to refuse to comply with the country's strategic supply laws. Also, she had learnt from South African union leaders, oil companies continued to pay low wages and pursue anti-union practices. The ICCR spokesperson stressed that the oil embargo would continue to send a strong signal to those companies.

A spokesperson for the Shipping Research Bureau emphasised that the success of the oil embargo should not be measured by the import of crude oil but by the extent of the cost placed on the South African economy. Twenty-five to US $30 billion had been spent by South Africa over the last twelve years to overcome the embargo. The spokesperson also said that there are indications that South Africa is anticipating the end of the embargo. Refining facilities are being upgraded. Also talks between certain African countries and South Africa for oil deliveries via indirect routes have been part of the anticipated ending of the embargo. (see also p. 2 of this Newsletter).

Other invited speakers to the hearings were Mr. Wellington Nyangoni, professor at Brandels University, USA, and Mr. Richard Lillich, professor of law at Virginia University. He drafted a model law for the effective enforcement of the UN oil embargo. The law was presented by the Intergovernemntal Group in August 1990 (see newsletter No. 22 p. 12). Professor Lillich said that the model law still had importance. The Intergovernmental Group should continue in its present course of encouraging the adoption by member states of the model law enforcing the oil embargo. He also said that the voluntary sanctions had been successful and that they had changed South African conduct. The Group's view that the voluntary oil embargo had created change in South Africa was accurate, he stated. A political and economic cost had been imposed on South Africa.

At the hearings the ANC explained its policy on sanctions as adopted at its conference in July in Durban that major sanctions as the oil embargo, as well as the arms embargo and restrictions on high technology, should be the last sanctions to be lifted. They should be maintained until a transitional government was established leading eventually to the holding of elections for a democratic government.

ANC Conference

Oil embargo in place until

agreement on new constitution.

The oil embargo must remain in place until an agreement has been reached on a new constitution and the preparations for democratic elections has commenced. This was one of the conclusions of the ANC's 48th National Conference in Durban in the beginning of July. The conference also concluded that sanctions are an important weapon in maintaining pressure on the South African government. A call was made upon the international community to continue to use this weapon to maintain pressure on the 'regime to expedite forward movement to the attainment of the objective of a non-racial democracy.' The ANC conference was the first one to be held in South Africa since 1958.

The 'resolution on the foreign policy of the ANC' which covered the ANC's sanctions programme stated furthermore that sanctions must be used creatively in order to arrest the erosion that has occurred. Accordingly, sanctions must continue to be used as a necessary form of pressure. Specified groups of sanctions should be used to achieve the following strategic objectives:

a) The removal by the regime of obstacles to negotiations, as stipulated in the Harare [OAU 1988] and UN declarations, as well as the implementations of effective measures by Pretoria to end violence;

b) The installation of an interim government according to agreed transitional arrangements and modalities on the transition to a democratic order;

c) The adoption of a democratic constitution and the holding of free and fair elections for a non-racial parliament and a representative government.

In his closing address the newly elected president of the ANC Nelson Mandela stressed that the sanctions debate should focus at the problem as it is developing and should not rely on mere rhetoric. 'We want to continue to hold the line on the question of sanctions, and unless there is a great deal of flexibility and imagination we will be left holding a shell and nothing else. We will continue to call on the international community to support the position of the ANC for peace and unity in this country', Mr. Mandela said.

[de Volkskrant (the Neth) 8 July 1991]

Commonwealth postpones talks

on ending oil sanctions

Following the revelations on South Africa's funding of the Inkatha movement of Chief Buthelezi the Commonwealth decided not to discuss a possible lifting of the oil sanctions against South Africa at its coming meeting in Harare in October.

STATEMENT BY RICHARD HENGEVELD
SHIPPING RESEARCH BUREAU AMSTERDAM

HEARING OF THE UNITED NATIONS INTERGOVERNMENTAL GROUP TO MONITOR THE SUPPLY AND SHIPPING OF OIL AND PETROLEUM PRODUCTS TO SOUTH AFRICA

UNITED NATIONS, NEW YORK, 15 AUGUST 1991

The primary task of my Bureau is to follow the movements of the world's tanker fleet, identify ships and companies involved in clandestine shipments of oil to South Africa and regions from which oil and petroleum products flow to South Africa - in short, to act as a non-governmental 'oil embargo watchdog' monitoring oil embargo violations.

In my statement I will deal with:

a. The state of affairs with regard to the oil embargo: Is it 'crumbling', as the headlines sometimes have it?
b. A few remarks on what has been accomplished by the oil embargo, and on reasons speaking for its maintenance.
c. To conclude, I shall devote attention to a few recent developments as regards South Africa's relation with the outside world in the field of oil.

a.

The oil embargo, which should be understood in a broad sense, [1] is still in place today.

Until July 10th, I would have said it was still firmly and fully in place, as not a single country, and not a single international organisation had repealed or softened any piece of oil embargo legislation or policy or agreement, or call for an oil embargo until that date.

On 10 July 1991, President Bush lifted the Comprehensive Anti Apartheid Act (CAAA) of 1986, including its Section 321(a) reading that *"No crude oil or refined petroleum product ... may be exported to South Africa"*.

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1. The existing oil embargo has a variety of facets, including: the calls contained in the General Assembly's oil embargo resolutions; oil embargo measures called for or imposed by various transnational bodies; laws, regulations etcetera on the national level in a large number of individual states; policies adopted and the cancelling of contracts with oil companies by local authorities; decisions taken by certain companies not to deal with South Africa in the oil business (or at least their apparent restraint in this respect); and various actions by concerned bodies and persons, ranging from consumer boycotts to the refusal by trade-unionists to handle tankers or decisions by pension funds to divest their shares in oil majors active in South Africa.

Thus, the United States of America became the first country in the world to lift its oil embargo.

On 14 July 1991, the Government of Israel followed suit and cancelled its boycott measures of 16 September 1987, which included a prohibition of *"the sale and transfer to South Africa of oil and its products"*.

What are the consequences of these two steps?

Before the two countries introduced their embargoes, neither of them had been important for South Africa as far as crude oil is concerned. [2]

The Israeli oil embargo was largely a symbolic decision, since nothing is known on oil links between Israel and South Africa, either before or after 1987.

The USA, however, has of course been very important as the base of some of the large multinational oil refiners in South Africa. It was described at the time as *"a victory for all anti-apartheid forces"* [3] when Mobil, prompted by the US anti-apartheid legislation, announced its withdrawal in April 1989. Recently, Mobil has said it was now not planning to return to South Africa. [4]

Other US companies assisted South Africa in its synthetic fuel and other import substitution programmes, such as the SASOL fuel-from-coal plants and the Mossel Bay gas production and liquefaction project.

Tankers of some US shipping companies have been identified by the Shipping Research Bureau as carriers of crude oil to South Africa in the years up to 1987, although not from the USA. The USA itself has been a source for refined petroleum products, and even the earlier quoted section of the CAAA 1986 has not prevented shipments of petroleum-based products such as vital lubricant additives after 1986.

However, summing up:
Since neither of the two countries that have lifted their oil embargo so far have played a part as sources for crude oil for South Africa, their change of policy will not alter the fact that *still every load of crude oil reaching South Africa does so in contravention of oil embargoes.* [5]

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2. In our files there is only one small tanker which delivered crude oil from the USA to South Africa (*Esso Portland*, 50,967 tons deadweight). This happened as far back as February 1979.
3. Statement National Executive Committee Chemical Workers Industrial Union, South Africa, 30 April 1989.
4. *Business Day*, South Africa, 12 July 1991.
5. That there is a problem with regard to the actual *enforcement* of adopted embargo policies, and that there are key shipping and 'oil-handling' nations which have not adopted any measures or only limited ones, and that much of this is to be attributed to the non-mandatory status of the oil embargo, is certainly true. These are questions which have been raised in almost every publication of the Shipping Research Bureau since its inception in 1980, and which have also been at the core of the Intergovernmental Group's endeavours since 1986.

We have seen trade embargoes being called into question and even being lifted in other places as well since 1990, but this has had no bearing on the oil embargo.

Even the much misunderstood 'lifting' of sanctions by the European Community applies, if to anything, to the package of 1986 only, leaving the limited EC oil embargo intact.

The Foreign Ministers of the Nordic Countries, which include the two nations Denmark and Norway whose companies once were the biggest oil transporters to South Africa, have been considering the issue, and concluded that *"in the light of the developments ... the time is approaching when the economic sanctions applied by the Nordic countries against South Africa must be re-examined"*. But they also concluded that that time had not yet come, [6] which leaves their exemplary legal bans on crude transports to South Africa in force unscathed.

In the United States of America, the lifting of the federal sanctions law leaves in place sanctions imposed by numerous states, counties and cities. [7] Some of them directly affect oil companies active in South Africa, as was shown as recently as February when the state of New Jersey decided not to renew a multi-million dollar contract with Shell Oil because of Shell's investments in South Africa. [8]

Even more recently, the political crisis in South Africa prompted by the disclosures in the so-called 'Inkathagate' scandal has strengthened the determination to maintain oil embargo measures.

Previous hopes entertained at the Commonwealth Secretariat that the repeal of the oil embargo could be endorsed at the Commonwealth Harare conference next October have now disappeared, we read in an oil weekly ten days ago. [9]

The Organisation of African Unity met in Nigeria in late July to discuss the possible relaxation of the oil embargo and other sanctions. Any steps in that direction, and attempts by South Africa to forge bilateral oil links with West African states – to which I will return shortly – also appear to have been checked.

Last, but not least, today's meeting is sufficient proof that the United Nations shows no sign of abandoning the oil embargo.

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6. Nordic Statement on Africa, released at the conclusion of a meeting held at Karlshamn, Sweden, 22-23 March 1991. UN Centre against *Apartheid*, Notes and Documents No. 8/91.
7. The South African *Weekly Mail* of 12-18 July 1991 lists 26 states, 20 counties and 78 cities that have imposed some form of sanctions.
8. As State Governor Jim Florio said, *"New Jersey can't do business with such a company. Sanctions are working. Victory is in sight. And now is no time to give up"*. The loss of the contract as of March 1992 will reportedly cost Shell US $ 50 million in lost revenue annually for five years. (*New York Times*, USA, 12 February 1991; *Weekly Mail*, South Africa, 15-21 February 1991.)
9. *Petroleum Argus*, UK, 5 August 1991.

b.

The succes of the oil embargo is not to be measured against the criterion that it should have been able to shut off South Africa from all external oil supplies. Oil has always continued to reach South Africa in spite of the embargo. However, the creation of the costly SASOL plants as a direct response to the boycott threat has enabled South Africa to keep down imports. This means that, were it not for the embargo and its consequences, South Africa would import much more than the estimated 14 million tons it is now estimated to import per year.

The aim of entirely turning off South Africa's oil tap clearly has never been reached even in South Africa's worst moments around 1979-1982. Our reports document the extent to which companies have been willing to break embargo measures, and the extent to which nations have refrained from enforcing adopted policies. This idea of turning off the tap serves, so to speak, less as the ultimate aim of the embargo than as a 'point of reference'. The succes of the oil embargo is that it has imposed massive costs on the South African economy, and raised some public questioning as to whether the *costs of maintaining apartheid* were too high.

Recently, in May 1991, the second large import substitution project Mossgas has once again been described in the South African Parliament and the press as *"a spectacular waste of money which was inspired by the siege mentality of the P.W. Botha era"* and as *"South Africa's biggest ever 'white elephant' and a growing additional burden on taxpayers"*. [10] The official and unofficial cost estimates for the Mossel Bay project have kept rising ever since the start, from R 5.5 billion in 1987 to the latest unofficial figure of R 13 billion. [11] Even if we don't take into account the latest rises, our conservative estimate says that South Africa has had to spend *between US $ 25 and 30 billion* over the last twelve years to overcome the direct and indirect effects of the oil embargo.

There are several sound reasons why the oil embargo should be maintained in the present circumstances.

Lifting the oil embargo now would be another step in taking pressure off the South African government. The argument in favour of such lifting of pressure is often put in terms of 'giving the government a chance' to mend its ways. That is precisely what should be done indeed. However, it will mend its ways when pressured to do so, not when pressure on it is being relaxed.

Over the years, the oil embargo has contributed to the cost South Africa has had to pay for maintaining apartheid. At present, the embargo should continue to contribute to the cost for the South African government of obstructing the process towards the definitive dismantling of apartheid and towards full democratisation.

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10. R. Hulley MP in the Extended Public Committee meeting in Parliament, 3 May 1991, Hansard, South Africa, p. 7436; *Star Weekly*, South Africa, 29 May 1991.
11. *Star Weekly*, South Africa, 29 May 1991.

One problem that has been pointed out with regard to the lifting of the oil embargo while arms sanctions remain in place, is that a series of laws have made oil an integral part of the South African *military machine*.

It could be argued that also for the sake of formerly South African-occupied *Namibia* oil pressure should be kept up against South Africa. Namibia has always been fully dependent on South Africa for its oil supplies. It received its first shipments of oil products not originating from South Africa at the end of 1990. The oil was not lower-priced than the South African product, but the oil companies in Namibia said the advantage of the new deliveries would be the strategic one of breaking South Africa's stranglehold on Namibian fuel supplies. The Namibian government has asked oil companies to buy up to 50 per cent of Namibia's fuel requirements from sources other than South Africa within the next five years. [12]

The *ANC* in its conference in South Africa of July 1991 has put forward a 'phased perspective' on the question of sanctions. The organisation is reported to have indicated its wish that the oil embargo remains until a new Constitution has been agreed upon and preparations are under way for majority rule elections.

c.

I come now to a number of recent developments which have raised the question of whether South Africa is regaining normalised relations with the outside world in the field of oil already *now*.

Domestic demand in South Africa for fuel has been growing steadily. This is said to have led already to de-mothballing facilities at South African refineries. [13] Probably also related is an apparent growth in imports of gasoline and other refined petroleum products. Since mid-1989, the Shipping Research Bureau has found a surge in refined product shipments by relatively large, mostly Norwegian-controlled vessels, especially from Amsterdam. Refined product deliveries are covered neither by the EC oil embargo nor by the Norwegian oil transport ban. Although after much publicity concerning the Norwegian involvement in late 1990, Norwegian shipping companies seem to have withdrawn, our provisional impression is that these transports are continuing and are now taken care of by other vessels.

In recent months, all four South African oil refineries have announced expansion and upgrading plans, the last only a few days ago. The plans are apparently prompted by the just-mentioned growth in demand which can no longer be accounted for by SASOL's synthetic fuel production. They are also made in anticipation of the embargo being eventually lifted, which would bring about a freer access to the world oil market and more opportunities for exporting oil products into the region. The

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12. *SouthScan*, UK, 18 January 1991.
13. *Petroleum Argus*, UK, 22 April 1991; *Petroleum Intelligence Weekly*, USA, 6 May 1991.

upgraded facilities are aimed at giving the refiners a greater choice in running cheaper crudes when these will become available.

The plans cannot be seen as signs that the refineries are already now regaining free access to the international crude oil market. Even the oil companies themselves, according to a source in one of the oil majors quoted in a South African newspaper a few weeks ago, [14] are working on the assumption that oil embargoes will be the last trade bans to go.

Secondly, a matter of some concern are reports on a quick normalisation of relations between South Africa and a range of oil-producing countries in Africa.

Talks between those countries and South African delegations made up of government officials and energy company representatives have been going on for some time, and are aimed at laying a framework for future oil co-operation, but in some cases already far-going steps seem to have been taken.

Less than three weeks ago, detailed information was published on an oil deal between *Angola* and South Africa's Strategic Fuel Fund. Under this deal Angolan crude would not be shipped to South Africa directly to be refined at the refineries there. The SFF or a trader would sell the oil for hard currency on the spot market. Angolan sources appear to have indicated that the agreement would be subject to satisfactory political changes in South Africa. [15]

For those who are in favour of a 'carrot and stick' policy with regard to the oil embargo, this could be their perfect carrot: Much wanted oil supplies from West Africa should only be made available to a post-apartheid South Africa. This should be the course adopted by the countries now engaged in these talks. Unfortunately, we have seen in recent years the bad example set by one African country, from which crude oil has already been flowing steadily to South Africa since 1988. The Shipping Research Bureau has identified a striking number of tankers sailing with oil to South Africa from *Egypt*, and nothing appears to have been done to stop these.

The third and last issue I would like to address is related to the strategic stockpile. As is known, South Africa keeps a relatively large stockpile of oil. In a recent comment on the reasons why, and on the effects, President de Klerk said in late April 1991: *"Sanctions and threats of sanctions have obliged South Africa to invest a portion of its savings in strategic reserves, including oil".* He had to admit: *"Obviously this is a very unproductive form of investment that has con-*

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14. *The Citizen*, South Africa, 27 June 1991.
15. *Petroleum Argus*, UK, 29 July 1991. While the Angolan agreement would not entail direct deliveries of oil to South Africa, there have been signs from *Nigeria* that this country is looking forward to a time which will allow it to capture the big South African market with its oil. See *SRB Newsletter*, Nos. 22 and 23, 1st and 2nd quarters 1991.

tributed to the unfavourable course of economic growth and job creation". [16]

Having to keep a stockpile of such dimensions imposes a burden on the economy. The stocks of oil are considerably larger than they would have been in a situation without apartheid and without an oil embargo.

In the past, the government of South Africa regularly used the stockpile to counter its economic and political problems, for instance when it ran into major financial problems in 1985, and the stockpile was drawn upon in order to reduce oil imports and save foreign currency.

The government's decision to rely on the stockpile and postpone oil imports when oil prices were highest during the Gulf crisis (October-December 1990) was therefore not without precedents. [17]

Directly linked to hopes for a future without an oil embargo (at least by the government when it made the announcement in late April) was, however, a decision to lower the stockpile to raise up to R 2 billion for economic stimulation and job creation - but also to pay for the ever rising costs of the Mossgas project. President de Klerk explained the decision in Parliament by saying that *"South Africa's relations with the rest of the world have improved to such an extent ... that it has now been decided to lower the strategic reserves as far as oil is concerned".* [18] Clearly, the idea implied is that this time, lowering the stockpile is not a temporary matter.

Bidding for the oil is believed to be restricted to domestic buyers, as the operation is aimed at releasing money while saving foreign exchange by slowing down oil imports. It has been reported, however, that the government's acute need for foreign currency has led it to sell to foreign buyers as well. [19]

There has been speculation that the decision could lead to a three-month moratorium on oil imports as of June. However, on 6 August Central Energy Fund chairman Vorster told the press that sales had started, but that *"Existing long-term oil supply contracts do influence the rate of sell-off to some extent".* [20] Analysts haven't found signs of diminished oil imports.

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16. Reuter, Cape Town, 29 April 1991; *The Citizen*, South Africa, 30 April 1991.
17. *The Citizen*, South Africa, 20 February 1991; *Financial Mail*, South Africa, 5 July 1991.
    What may have been a new phenomenon, however, was that the high prices were taken advantage of by selling a few VLCC cargoes from the stocks to Europe last December and replenishing the stockpile when prices had dropped. Thus, a nice US $ 10 per barrel windfall profit was made. It was hardly surprising to hear that most probably key oil sanctions-buster Marc Rich was involved in the operation as an intermediary (*Africa Confidential*, UK, 22 March 1991).
18. See note 16.
19. *Petroleum Argus*, UK, 6 May 1991.
20. *Business Day*, South Africa, 6 August 1991.

Although the South African government likes to create the impression that the decision concerning the stockpile sale is a consequence of improving relations, it is as much prompted by financial necessities. The oil embargo is still being felt, and the stockpile, even if somewhat decreased in volume, will still be there.

Let me, to conclude, quote from the speech of South Africa's Deputy Minister of Mineral and Energy Affairs in Parliament earlier this year: *"What people ... tend to lose sight of, ... is the fact that South Africa is still subject to a crude oil embargo. Despite everything that has already been done, the old pressure groups ... are trying to withold crude oil from South Africa from a dated point of view".* [21] He said this to defend his government's refusal to bring down the petrol price. Repeated hikes in petrol prices, and the subsequent escalatory effects on other prices have often been criticised within South Africa as part of the economic burden that apartheid has had to carry as a result of sanctions. [22]

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21. Hansard, South Africa, 14 February 1991, p. 1014. 'The old pressure groups', that's probably you and us.
    The trade has lost nothing of its secretive and clandestine image. Monitoring leads to publicity which is precisely what the participants dislike most. The reporting of false destinations, the hiding of ships' movements, the falsification of discharge documentation, the blacking out of ships' names during calls at South Africa, all this is still being applied. Oil imports remain hidden in the 'unclassified' imports category created years ago to keep information on South Africa's oil imports secret, and despite recurrent criticism in Parliament against the secrecy laws, all information relating to oil is still kept under tight cover.
22. *New Nation*, South Africa, 9 November 1990.