

ANALYSIS OF THE ANTIAPARTHEID ACT OF 1986

BY JEANNE M. WOODS

There can be no doubt that the passage of sanctions legislation by the U.S. Congress -- overriding President Reagan's veto and in the face of intense White House lobbying -- constitutes a victory for the Anti-Apartheid Movement. The legislation bans the importation of coal, steel, textiles and agricultural products, and finally incorporates United Nations embargoes on arms, as well as crude oil and petroleum products, into U.S. law. At the same time, however, this compromise measure contains many pitfalls which must be recognized as serious weaknesses, and should serve to alert the Movement to the urgent need to intensify the campaign for the total isolation of the racist regime.

The Comprehensive Anti-Apartheid Act of 1986 is anything but comprehensive. Its provisions do little to curb U.S. corporate collaboration with the regime, and contain numerous loopholes. For example, the term "new investment" is defined so narrowly as to exclude the reinvestment of profits made in South Africa, or investments considered "necessary...to operate in an economically sound manner." (Section 3(4)(B)(i)&(ii)). Many types of loans and extensions of credit to the regime would still be possible. (Section 305). The ban on the sale of computers to certain departments can easily be circumvented and fails to take into account the substantial militarization of the civilian sector. And the prohibition on nuclear trade does not go beyond what is already proscribed by the Nuclear Non-Proliferation Act of 1978, and can be terminated if the President determines that it "would jeopardize the common defense and security of the United States." (§307). Similarly, the Act gives the President numerous opportunities to terminate the entire sanctions package, e.g., if he certifies that South Africa has adhered to four out of five conditions specified in the Act, or if he determines that the sanctions would increase U.S. "dependence" on any socialist state. (Section 502). With Reagan's record, such findings should not be difficult to make.

But, the most dangerous aspect of the Act is the fact that it leaves the underlying premise -- and many of the tenets -- of "constructive engagement"

and against those countries harboring such groups." (Section 103(b) (7)).

Thus, the U.S. Congress has embraced the discredited policy of "constructive engagement" -- a policy which defines freedom fighters as "terrorists" and fascists as "friends." It is the progeny of Henry Kissenger's infamous "Tar Baby" Memorandum 39, which viewed the white minority settler regimes in the region -- not the liberation movements -- as the only legitimate force for change.

In the words of Congressman Ronald Dellums (D-CA), author of the original version of the legislation which called for total divestment, the Act "is far from the will of the American people." It is also far from what has long been demanded by the South African people and the international community as a whole, which is comprehensive, mandatory sanctions under Chapter 7 of the United Nations Charter.

This demand reflects the position that it is the racist regime that must be isolated; that it is a criminal, a violator of the most fundamental norms of international law, which has no place among civilized nations; that those who aid, abet and conspire with criminals are also criminals.

Comprehensive, mandatory sanctions would close all loopholes. Corporations such as IBM and General Motors would be unable to camouflage their continued collaboration while pretending to "divest." Arms technology would no longer be available through third-party licensing agreements. Fascists would not be given the status of "diplomats." And the massive resistance of 26 million Blacks could not be withstood by the white minority regime, which can stand only with the financial, technological and military support of Western multinational corporations and their governments.

The passage of the Anti-Apartheid Act demonstrates that Congress can be forced to respond to the mass movement. The maneuvering of IBM, GM, et al., shows that they, too are feeling the pressure. It is up to us to redouble our efforts, and to raise the stakes; we must move from divestment to demand comprehensive, mandatory sanctions as the only effective way to end collaboration with the regime.

intact, i.e., that the U.S. and South Africa are "strategic allies." As Senator Richard Lugar (R-IND), Chairman of the Foreign Relations Committee, said, "We are saying to a government that is a friend, wake up!" The Act contains disturbing policy recommendations which have the effect of placing the onus of the violence of apartheid squarely on the backs of its victims -- the oppressed Black majority. Thus, U.S. policy toward the African National Congress (ANC) and other components of the liberation movement is not supportive, but is "designed to encourage them to...suspend terrorist activity so that negotiations...will be possible." (Section 102). In furtherance of this policy, the ban on cooperation with the South African armed forces excludes intelligence sharing (Section 322), and the Act calls for an investigation of "the extent to which Communists have infiltrated" the liberation movement (Section 509) and an investigation of the ANC under the Foreign Agents Registration Act. (Section 512).

Let us recall that in the first year of the Reagan administration, a Committee headed by right-wing Senator Jeremiah Denton conducted a similar "investigation," utilizing spies and traitors, which concluded that the ANC and SWAPO are "Soviet surrogates" promoting "international terrorism." Such code-words are merely pretexts for the acceleration of harassment, with the object of branding the liberation movements and isolating them from the American people. And while launching an attack upon the legitimate representatives of the South African and Namibian people, the Act provides millions of dollars to assist dubious organizations and individuals who are collaborating with the regime. (Sections 117 & 202(g)). Such collaboration is further encouraged by calling upon the regime to un-ban only organizations "willing to suspend terrorism." (Section 106(b)).

Moreover, the Act contains thinly veiled threats against the Frontline States by "encouraging, and when necessary, strongly demanding, that all countries of the region take effective action to end cross-border terrorism," (Section 104(b)(6)), and urging "diplomatic and political measures against those promoting terrorism