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HOW BRITAIN ARMS APARTHEID

A MEMORANDUM FOR PRESENTATION TO

HER MAJESTY'S GOVERNMENT

ANTI-APARTHEID MOVEMENT

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I INTRODUCTION

On 4 November 1977 the United Nations Security Council adopted unanimously resolution 418 (1977) which imposed a mandatory arms embargo against South Africa. This historic decision, the first occasion on which the United Nations took mandatory action against a member state, was made against a background of events in Southern Africa, in particular the cold-blooded murder of school children during the Soweto uprising in June 1976, the death in detention of Steve Biko in September 1977, and the mass banning of black consciousness and other anti-apartheid organisations in October 1977.

Of wider significance was South Africa's invasion of Angola in 1975, its support for the illegal regime in Rhodesia and its continuing occupation of Namibia in defiance of the UN Security Council and the International Court of Justice. International diplomatic pressures had culminated in the UN Conference for Action Against Apartheid in Lagos, Nigeria, in August 1977, where African statesmen were forthright in their condemnation of the West's role in protecting South Africa.

The United Nations Security Council had first adopted a resolution to impose an embargo on arms sales to South Africa in 1963, but it was not mandatory and nor had it been implemented faithfully. The British Conservative administration abstained on the vote and said that they would only embargo arms for "internal repression"*(1)*. Repeated efforts had been made to make the embargo mandatory, but these were consistently blocked by Britain, France and the USA, the last occasion being at the end of October 1977. In response to the international outcry that followed this triple western veto, the western members of the UN Security Council introduced a draft resolution which was adopted as UN Security Council resolution 418 on 4 November 1977 *(see Appendix I for full text)*. Although much weaker than the vetoed resolution, it still reflected a shift in western policy. The following month, on 9 December 1977, the UN Security Council adopted Resolution 421 (1977) by which it established a Committee of the Council to assist in the implementation of the mandatory embargo. The objectives, scope and State obligations of Resolution 418 (1977) were explained in a subsequent report to the UN Security Council by its arms embargo committee*(2)*. This report states:

> *"1 Resolution 418 (1977) was adopted by the Security Council unanimously on 4 November 1977 in connection with the item 'Question of South Africa'. Two main objectives of the resolution are contained in the preamble, as follows:*
>
> *(1) ' . . . . the existing arms embargo must be strengthened and universally applied, without any reservations or qualifications whatsoever, in order to prevent a further aggravation of the grave situation in South Africa'*
>
> *(2) ' . . . . a mandatory arms embargo needs to be universally applied against South Africa in the first instance'*
>
> *"2 By this resolution, the Security Council acted 'under Chapter VII of the Charter of the United Nations'. The Security Council further determined that 'the acquisition by South Africa of arms and related material constitutes a threat to the maintenance of international peace and security'.*
>
> *"3 With regard to the obligations of States under the resolution, including States non members of the United Nations, they are*

described in operative paragraphs 2, 3 and 4 as follows:

'2 . . . . all States shall cease forthwith any provision to South Africa of arms and related material of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment, and spare parts for the aforementioned, and shall cease as well the provision of all types of equipment and supplies, and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned;

'3 Calls upon all States to review, having regard to the objectives of this 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;

'4 . . . . all States shall refrain from any co-operation with South Africa in the manufacture and development of nuclear weapons'."

The same United Nations report explained the role of the Committee established under Resolution 421

" . . . . the Security Council decided 'to establish, in accordance with rule 28 of the provisional rules of procedure of the Security Council, a Committee of the Security Council consisting of all members of the Council to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

"(a) To examine the report on the progress of the implementation of Resolution 418 (1977) which will be submitted by the Secretary-General;

"(b) To study ways and means by which the mandatory arms embargo could be made more effective against South Africa and to make recommendations to the Council;

"(c) To seek from all States further information regarding the action taken by them concerning the effective implementation of the provisions laid down in Resolution 418 (1977)"

Experience since the adoption of the mandatory arms embargo in November 1977 has revealed major weaknesses in the operation of the embargo. At the request of the Security Council, its Committee in 1980 submitted a report which made sixteen important proposals*(3)* for its reinforcement. That report has not so far been given full consideration by the Council, although one of its proposals has been partially adopted. That decision (SCR 558 (1984) of 13 December 1984) is a non-mandatory resolution, requesting member states *"to refrain from importing arms, ammunition of all types and military vehicles produced in South Africa" (see Appendix II for full text)*. It does not cover the importation of military *"related material"* as does Resolution 418 (1977). As a result of weaknesses in the arms embargo the South African regime had been able to substantially expand its military and nuclear capability. Repeated breaches of the arms embargo and the failure to curb South Africa's military build-up have grave implications for the authority of the UN Security Council and its responsibility under Chapter VII of the UN Charter to maintain international peace and security.

II SOUTH AFRICA: A THREAT TO INTERNATIONAL PEACE AND SECURITY

The Security Council determined in November 1977 that *"the acquisition by South Africa of arms and related materials constitutes a threat to the maintenance of international peace and security"*. This formulation was used because the major western powers did not wish to determine that the policies and actions of the apartheid regime themselves constitute a threat to peace because such a determination under Chapter VII of the UN Charter, they argued, would have paved the way for comprehensive mandatory sanctions against South Africa. That the apartheid regime is a threat to international peace, however, is self-evident. Since the adoption of UNSCR 418 (1977) South African military forces have committed acts of aggression against Angola, Zambia, Zimbabwe, Mozambique, Botswana, Lesotho and Swaziland.

International concern at these developments has been reflected in the various declarations and Resolutions of the Security Council as well as the priority accorded to Southern Africa at inter-governmental conferences. Discussions on Southern Africa dominated the Commonwealth Summit in Melbourne in October 1981 and there was equal concern expressed at the November 1983 Summit in New Delhi. The Communique, signed by all Heads of Government in New Delhi stated:

> *"Heads of Government expressed their indignation at repeated violations by South Africa of the territorial integrity of neighbouring states. These acts of aggression, intended to intimidate and destabilise South Africa's neighbours, had involved for example ground and air strikes, attacks on refugee concentrations in Lesotho and Mozambique, the occupation of parts of Southern Angola, as well as economic sabotage and blackmail. Heads of Government condemned these acts which endangered international peace and security and showed a total disregard for the norms of civilised conduct between sovereign states. They believed that the international community as a whole had an obligation to take effective measures to impose restraint on South Africa, and to ensure that the stability of the region was not jeopardised by further acts of aggression. In that context they called for the withdrawal of South African troops from Angola and an end to all forms of assistance to the subversive forces. AS A SIGNIFICANT ELEMENT IN COLLECTIVE ACTION TO ACHIEVE THESE OBJECTIVES, HEADS OF GOVERNMENT CALLED FOR A STRICTER ENFORCEMENT OF THE MANDATORY ARMS EMBARGO SO AS TO ENSURE THAT THERE ARE NO LOOPHOLES IN THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 418 OF 1977."(4)*

South Africa is able to sustain these policies of aggression and destabilisation against independent African states in the region because it has military superiority which in turn depends upon its ability to obtain arms and related materials from abroad in breach of the UN Security Council's mandatory embargo.

There is an added dimension to the threat which the apartheid regime poses, namely its stated desire to expand its role as an arms exporter. South African arms were used in the attempt to overthrow the Government of the Seychelles by a "coup d'etat" in November 1981*(5)*. South Africa arms, and equipment has been provided to anti-government groups operating under its control to destabilise African States, in particular UNITA in Angola, MNR in Mozambique and the LLA in Lesotho.

In 1982 the British Government was concerned about reports of South African arms aupplies to the Argentine during the conflict in the South Atlantic; this was confirmed by subsequent press disclosures*(6)*.

III SOUTH AFRICA'S MILITARY BUILD-UP

Since 1960, and particularly over the last decade, South Africa has been engaged in a massive military build-up, reflected in both dramatic increases in military expenditure as well as in the strength and deployment of its armed forces.

The Defence Budget for 1959-60 was a mere R40 million. The Cash Vote for 1984/5 was R3,755 million (which represents approximately 15 per cent of total state expenditure) - a figure which seriously under-estimates real defence expenditure because a wide range of military expenditure is in fact borne by other Ministries, eg the Department of Finance funds Military Intelligence; the Department of Public Works funds the construction of military bases; and the "South West Africa Administration" funds much of the war operation in Namibia. Taking such expenditure into account, direct defence expenditure in fact represents at least 20 per cent of total state expenditure*(7)*.

The most critical factor in South Africa's military build-up has been its ability to procure and produce armaments. The main responsibility for this task has rested with the South African Armaments Corporation (Armscor) which was established in 1968. In 1977 it amalgamated with the Armaments Production Board to form what is described as "an autonomous government organisation". It has responsibility *"for controlling the procurement and production of all armaments from both its own subsidiary companies and private industry"* as well as *"approving and administering all applications from the private sector for armaments marketing and export permits"(8)*.

Armsor is reported to have assets of R1,400 million and an annual turnover of R1,600 million. Estimates of the number of its employees vary from 23,000 to 33,000*(9)*. It has a series of wholly owned subsidiaries:

* Atlas Aircraft Corporation (aircraft manufacture, servicing and maintenance) which has its own subsidiary Telecast (aircraft metal pressing)
* Infoplan (computers)
* Kentron (development and production of guided weapon systems) which has its own subsidiary Eloptro (optical equipment)
* Lyttelton Engineering Works (production and maintenance of artillery and small arms)
* Musgrave (commercial rifles, shotguns and handguns)
* Naschem (heavy calibre ammunition and aircraft bombs)
* Pretoria Metal Pressings (small calibre and rapid fire cannon ammunition)
* Somchem (propellants, explosives, rocket motors and rockets)
* Swartklip Products (pyrotechnics, hand-grenades and commercial ammunition).

Armscor owns fifteen factories including three for the production of ammunition*(10)*. It has a further subsidiary about which there is little publicity, "Nimrod", which is responsible for sales and overseas procurement*(11)*. There is some evidence, however, that there has recently been a restructuring of this area of Armscor activity.

South Africa has been able to maintain the supply of armaments to its armed forces through a variety of means:

1 clandestine operations involving the smuggling of arms, components and spares;

2 imports of so-called "dual-purpose" equipment. These are items for which export approval has been granted by the respective governments on the grounds that they are not covered by the arms embargo;

3 the manufacture of armaments under licencing and other arrangements in South Africa; such items almost always include a large percentage of foreign components which are usually obtained through the subsidiaries of foreign companies operating in South Africa;

4 the manufacture of armaments based on foreign technology; such items include a large percentage of foreign-made components;

5 the manufacture of "indigenously developed" armaments; again, most such items usually include foreign components.

The South African authorities have sought, especially since November 1977, to popularise the myth that they have created a "self-sufficient" armaments industry. This impression has been deliberately fostered by South Africa and its friends. The Editor of the "authoritative" Janes Military Review, in a recent article, stated, *"Not in spite of, more because of, the UN arms embargo, the South Africans have not only caught up with, but have in many areas surpassed the rest of the world in armaments development."(12)*. The objective appears to be to so ridicule the arms embargo that it collapses through disrepute. South Africa would then be in a position to secure the vital equipment which is at present denied to it, such as naval vessels, combat aircraft as well as the replacement of Shackleton maritime aircraft etc. The fact is that even the present weak and limited UN mandatory arms embargo is seriously hampering and impeding South Africa's military build-up;

Recent widespread publicity about Armscor and its subsidiaries has contributed to the growing impression of a self-sufficient arms industry. However, a closer examination of official statements and reports reveal a very different picture. In fact South Africa continues to be heavily dependent on both overseas armaments and supplies from South African based subsidiaries of foreign companies and Transnational Corporations.

A recent claim stated that South Africa was 95 per cent self-sufficient in military production*(13)*. However, such claims are based on extremely questionable definitions of self-sufficiency.

The 1982 South African White Paper on Defence and Armaments Supply defined self-sufficiency as:

> *"the local ability to conceptualize products and systems in order to satisfy local requirements and then to develop and produce these without direct assistance from abroad. This does not include certain non-critical components which could be made locally but are being imported at more economical prices".*

The definition not only of "self-sufficient" but also "conceptualize", "direct" and "non-critical" appear to be peculiarly South African. The following quotations from the 1984 White Paper on Defence and Armaments Supply provide more insight into the realities of South Africa's armament production:

* *"the provision of spares for highly sophisticated equipment in the South African Air Force has been a severe problem"*
* *"A major problem is that some of the most reliable main armaments are obsolescent"*
* *"during the next decade the South African Defence Force will have to concentrate on the development, production and commissioning of a new generation of main armaments . . . . This renewal programme will of necessity entail increased demand in respect of manpower, finance and sophistication."(14)*

Other reports reinforce these statements.

The Financial Mail, describing Atlas Aircraft Corporation's capability, stated *"Although fighter aircraft are assembled in South Africa, many of their components are still imported."(15)*. The Executive Director of Armscor stated in July 1982 *"South Africa's military radar manufacturing capabilities left something to be desired"(16)*. These statements provide an indication of some of the problems confronting the apartheid regime in expanding its military capability. The fundamental cause of these problems is the tremendous dependence of the South African economy, and in particular its manufacturing industries, on both imports of components and plant etc, and imported technology. A recent official Study Group report stated *"South Africa is largely dependent on imported technology"*. This report was critical of the very small amount of resources allocated to Research and Development and the correspondingly large amount of foreign exchange expended on licences and royalties. It identified the major reasons for continuing dependency on imported technology. These included:

* *"the technology is frequently not available in South Africa"*
* *"the commrecialisation risk is generally reduced by making use of proven overseas technology"*
* *"overseas suppliers of technology can often provide or arrange for essential technical assistance"*
* *"many South African firms lack qualified staff to commercialise available domestic technology or adapt it to their purposes".*

The study adds *"the acquisition of expertise is facilitated by South Africa's close ties with many multi-national enterprises controlled from the developed countries".*

This dependency on foreign technology is particularly acute in the armaments industry because of the sophisticated character of so many of its products*(17)*.

South Africa's armaments procurement and production is shrouded in secrecy and it is therefore extremely difficult to obtain a complete and comprehensive picture. However, some of the published statistics do provide certain vital facts.

According to evidence presented to the UN Security Council arms embargo committee in 1984, out of its annual total arms procurement budget of some R1.62 billion over R900 million was to be spent on arms purchases from overseas*(18)*. This R900 million is spent on the procurement of arms directly by the regime from overseas and via the private sector. No official figures are published about how much is actually spent on direct imports of armaments. However, it can be estimated from figures contained in an in-depth survey by the Johannesburg Sunday Times in July 1982 that imports from overseas were 15 per cent of defence spending which then stood at R3,320 million per annum*(19)*.

Armscor places great stress on its procurements from the "private sector". Some of these companies are little more than "dummy companies" set up to break the arms embargo. Armscor states, however, that an estimated fifty companies are involved in armaments manufacture in South Africa, together with over four hundred sub-contractors and another one thousand providing smaller items*(20)*.

The great majority of "private sector" companies supplying Armscor are in fact subsidiaries of foreign companies and a significant percentage in turn of the products supplied by these companies are items (a) manufactured under foreign licence; (b) imported into South Africa in defiance of the arms embargo; or (c) include components similarly imported. This is equally the case with many items produced by Armscor itself.

The engineering, electronics, chemical, computer and manufacturing sectors of the South African economy are dominated by subsidiaries of Transnational Corporations and other foreign companies. They are almost entirely dependent on the technology, personnel, finance and "know-how" of their parent companies. Many of them are household names in Britain such as ICL, Marconi, Plessey, GEC, ICI and Cementation. South Africa's dependence on foreign military collaboration, in defiance of the arms embargo, is confirmed by detailed study of the major products of South Africa's armaments industry. For example:

* South Africa's new Oliphant tank is a modernised version of the British Centurion*(21)*;
* the G5 and G6 155mm artillery weapons are based on the artillery system developed and manufactured by the US-Canadian Space Research Corporation; the licences to produce it were purchased lock, stock and barrel by Armscor*(22)*;
* South Africa's SAMIL and SAKOM military truck series, build by Magnis Truck Corporation, are based on designs by Nissan and the "Club of Four" associates of Magirus - Deutz, DAF, Volvo and Saviem*(23)*;
* the Scorpion missile is a version of the Israeli Gabriel*(24)*;
* the Eland armoured car is based on the French Panhard, built under licence by Sandock-Austral in South Africa*(25)*;
* the Impala I and II military aircraft are South African versions of the Italian Aermacchi 326 and 326K, fitted with Rolls Royce engines of British origin*(26)*;
* the Cactus missile is in fact another name for a joint South African/ French system known abroad as the Cretole*(27)*.

The dependence on foreign components and expertise has been confirmed in statements and reports appearing in the specialised press and elsewhere. For example, the International Defense Review*(28)*, describing the Grinaker Electronics frequency hopping manpack patrol radio - the TR 178 - stated: *"most of the components used in the TR 178 are of foreign origin"*. In another case, this time a report in 1984 based on an article in "Trucks and Trucking" which had disclosed a new range of MAGNIS military vehicles, it was stated *"several pressings are foreign and considerable international expertise was employed on the truck"(29)*. Magnis, in fact, gets its name from Magirus - Deutz and Nissan; the diesel engines powering the trucks are manufactured by Atlantis Diesel Engines, which has two production lines, one manufacturing Daimler-Benz and the other, Perkins engines. Government Ministers, outside the Defence Ministry, have been more ready to admit to this type of external dependence. The Minister of Industries, in August 1984, warned that the electronics industry was in danger of becoming even more dependent on imported know-how and components*(30)*. (In 1982 it was estimated that 80 per cent

of turnover in the electronics industry was controlled by foreign companies)*(31)*. Apparently to counter this dependency, in May 1984, Armscor, the Nuclear Corporation and other parastatals established a joint committee at the initiative of the Minister of Industries to promote the development of the electronics industry*(32)*.

Those breaches of the arms embargo which have been exposed have also revealed the myth of South Africa's self-sufficiency. Equipment smuggled into South Africa include weapons such as machine guns, rifles and pistols as well as spares and components for them. In a trial at the Old Bailey, London, in October 1982, the Court was informed that South African efforts to produce components for pre-war machine guns had not been successful. This points to the serious deficiencies in the quality and reliability of even minor items manufactured in South Africa.

Meanwhile South African officials have become increasingly audacious in their statements on the "self-sufficiency" of the armaments industry. Armscor Chairman, P Marais, boasted: *"Before 1965 we used to spend at least 70 per cent of our total military procurement budget on armaments purchases from overseas. Today we have turned that around and we are spending very nearly 100 per cent within South Africa."*. Such claims are intended to divert attention from the vital and substantial dependence on overseas plant, components, licences and "know-how".

The viability of South Africa's armaments industry, moreover, is being affected increasingly by financial factors. South Africa's entire economy is already in a serious crisis because of the level of militarisation of the country as a whole. Military and related expenditure represents at least 20 per cent of the annual state budget. This will grow out of all proportion if more and more resources have to be concentrated into the armaments industry.

The measures which South Africa has taken to increase its self-sufficiency have already had a major impact on the economics of the military-industrial complex. The head of the South African Defence Force, General Viljoen, complained in July 1982, *"The escalation figures for military equipment can be as much as 30 per cent per annum. So if you level off your defence expenditure then you must realise that you are reducing the price of escalation."*. He added, *"We have less equipment because we have to maintain a war and also pay more for the equipment we get."(33)*.

These problems are becoming increasingly acute. The 1984 Defence White Paper reported that *"increased South African Defence Force activities have resulted in the operating costs forming an increasingly larger part of the total Defence budget, ie 72 per cent in 1982/3 as against 56.6 per cent in 1979/80"*. Thus financial resources available for armaments production and procurement are declining significantly at a time when inflation in the industry is increasing dramatically. Armscor has already, according to press reports in December 1984, cut back its staff from 30,000 to 23,000*(34)*. The 1984 Defence White Paper admitted that there had been a similar impact on the private sector. *"Some private contractors"*, it explained, *"have found that the demand for their products decreased or, in some cases, even ceased completely."* The Study Group on Industrial Development Strategy expressed concern about the impact of efforts to secure self-sufficiency for strategic industries on the economy as a whole: *"the establishment of some so-called strategic industries definitely had the economic effect of raising the cost structure in industry and some other sectors. It has become increasingly clear in recent years that a critical assessment of the actual strategic value of such industries and of their economic effect has become necessary in order to prevent them from damaging the economic strength of the country more than they increase its strength in other areas."(35)*.

These problems are compounded by the small scale of production in the armaments industry. South Africa is now seeking to overcome the problems arising from the high unit cost of production by embarking on a major export offensive. It hopes to increase the financial viability of the industry by expanding the scale of production.

Thus South Africa's Defence Minister, General Malan, stated in the South African Parliament in April 1982: *"No country in the world can ever become totally self-sufficient in the production of armaments . . . . This fact is generally also applicable in South Africa for armaments in general."(36).*

IV BRITAIN'S ROLE IN ARMING APARTHEID

South Africa continues to be critically dependent on the supply from external sources of arms and related materials to its security forces. In this, Britain plays a major role. For most of this century there has been a close alliance between Britain and South Africa. Until 1964 Britain was South Africa's main arms supplier.

On 17 November 1964 Prime Minister Harold Wilson announced in the House of Commons the Government's decision to impose an embargo on the export of arms to South Africa, but that *"outstanding commitments by the Ministry of Defence will be fulfilled"*. The British Government's position was clarified in an Aide Memoire dated 15 February 1965. This stated that Her Majesty's Government

> *"wish to inform the South African Government that they are prepared in principle to supply the following items . . . .*
>
> *(i) Spare parts for Buccaneer, Canberra, Shackleton, Viscount and Vampire aircraft and for Westland Wasp helicopters;*
>
> *(ii) Electronic replacement equipment for Shackleton aircraft;*
>
> *(iii) Cartridges for engine starting and aircrew ejection for Canberra aircraft;*
>
> *(iv) Spare parts and replacement and additional equipment for the South African Defence Radar system and spare parts for British Communications equipment in use with the South African Defence Forces;*
>
> *(v) Electronic and Communications equipment for naval and military organisations and installations."*

Moreover the imposition of this arms embargo did not affect Britain's formal military alliance with South Africa, the Simonstown Agreement of June 1955, which was only terminated in 1975. Under this Agreement South Africa was able to maintain the use of British naval training facilities, military communications systems, etc.

Britain's refusal to strictly implement the UN arms embargo and its continuing military collaboration in various fields are not totally surprising since much of this arises out of its traditional relationship with South Africa. This collaboration takes different forms:

1) Illegal Exports to South Africa of Embargoed Equipment

South Africa has developed multi-million pound operations in order to sabotage the United Nations mandatory arms embargo. These involve the establishment of "front companies"; production of false end-user certificates; importing arms via "third countries"; and fraudulent exports by an extensive network of arms dealers who have been willing to undermine the embargo in return for high reward.

Armscor and its subsidiaries have been directly involved in numerous clandestine operations to obtain armaments. The case of the so-called "Coventry Four" provides an insight into such operations. Four senior Executives of the Armscor subsidiary, Kentron, its guided weapons division, were arrested in Britain in

March 1984. They were: a member of the top management of Kentron, Colonel Hendrik Botha; a financial manager of Kentron, Stephanus de Jager; a Kenton technical expert, Jacobus le Grange; and a consultant, William Metelerkamp. They appeared in Court and were subsequently released on bail and allowed to return to South Africa. They failed to re-appear in Court on 22 October 1984 and the following weekend gave a press conference. At it, Colonel Botha disclosed that they had operated as undercover agents for five years and *"had saved the country at least R5 million on purchases of vital equipment"*. Metelerkamp claimed he was only a consultant to Kentron and was the Managing Director of R J Electronics International. However, it emerged that he had been employed by Kentron up to a month prior to his arrest, and R J Electronics International was *"a company used to purchase illicit arms"(37)*.

The four men would have faced trial on charges of conspiring to smuggle spare parts for guided weapons systems to South Africa from Britain. It would appear that this was only part of their operations because, according to an interview with the South African Foundation's London Director, *"a trial could put at risk contacts, companies and people involved in Armscor in Europe and Britain"(38)*.

Britain has been an important centre for such clandestine operations because much of the equipment, components and spare parts which South Africa requires is of British origin.

To take one case which was reported extensively in the British press. On 18 October 1982, three British citizens were imprisoned at the Old Bailey for conspiring to smuggle arms to South Africa. The case involved some thirty one shipments of components of machin-guns as well as FN rifles, to South Africa, valued at over £1 million. All three were known arms exporters. The components were exported without licences. They were simply falsely described as hydraulic equipment. The items were purchased by a Johannesburg-based company, Day Technical Products, which was registered as a tyre repair company but in fact served as a conduit for the illegal shipments to South Africa. These components, in some cases, were flown to South Africa via Switzerland and Israel*(39)*. In 1980 it had been reported in the British press that one of the men convicted in this case, Leonard Hammond, was supplying arms to South Africa, using forged end-user certificates*(40)*. This was the method used by two other Britons arrested at Houston, Texas, in May 1981, for seeking to smuggle a massive quantity of arms to South Africa*(41)*.

The October 1982 Old Bailey trial and subsequent investigations resulted in disturbing allegations of a deliberate cover-up by British Customs and Excise officers. In Court one of the convicted men, Len Hammond, said *"There are certain people who I consider should have been here today to answer charges. They are the shippers who introduced me and told me how to ship the stuff."*. The shippers were "Keuhne and Nagel", now part of the Lonrho empire, whose Managing Director was Mr B S Trinkler. One cargo of FN rifles was initially exported by air to Red Baron Ltd at an address in Zurich before being forwarded to South Africa. This company, however, was not Swiss, but registered in England. Its directors were Mr Trinkler and two others who had also been directors of Kuehne and Nagel in Britain*(42)*.

The company was not even named in Court. Hammond also told Customs officials that he had obtained a licence to export Browning spares to an Israeli company, Mifal-Mivza, which had then arranged for them to be re-exported to South Africa.

In April 1984 the Observer newspaper disclosed another major case. It involved five companies and five individuals and was settled in 1980 *"by Customs compounding proceedings under their statutory powers"*. According to the Observer, which had

obtained a Customs Report on the case, in excess of £2 million worth of armaments, including dies for the manufacture of bullets, shells, motors and rockets had been exported illegally. Dies had been described as sewing machines. Those involved included Angus Murray, Chairman of Redman Heenan International, who had visited an ammunitions factory in South Africa where bullets were made with his company's dies. According to the Customs Report, *"the public company was so concerned about the bad publicity which would accompany a court case that they made an offer to compound"*. Penalties totalling £193,000 were paid. Neither the public nor Parliament were made aware of the case at the time and the UN Security Council Committee was not informed. Following the publicity of the case, the Prime Minister declined in Parliament to give any further information*(43)*.

These examples only reflect the tip of the iceberg. There continues to be a massive clandestine trade in armaments to South Africa, in total violation of the arms embargo. Reports to the UN Security Council Committee from many different countries confirm this.

2) Dual Purpose Equipment

South Africa has been able to obtain an extensive range of items which have military and strategic significance but which a number of governments refuse to place under the embargo. Most of such items are claimed to be "dual purpose", that is, they are said to have both military and civilian use and are therefore provided to South Africa.

Britain and a number of western governments grant export licences for such "dual purpose" equipment. In some cases, items are effectively re-classified as "dual purpose" in order to permit their export to South Africa.

"Civilian" Aircraft

An important example of such "dual purpose" equipment is aircraft. A range of British aircraft has been exported to South Africa on the grounds that they are "civilian".

The most controversial case was that of the British Aerospace naval reconaissance aircraft, the Coastguarder. In May 1984 it was disclosed that British Aerospace had been approached by the South African Government and that initial discussions had taken place concerning the purchase of eight aircraft*(44)*. These were to replace the Shackleton aircraft which were having to be phased out. The South African authorities had sought to evade the arms embargo by forming a Coastguard service as a civilian authority through which the order for the aircraft would be placed.

Repeated efforts to secure from the Government an undertaking that the Coastguarder would not be granted licence for export to South Africa met with the response that *"it would not be proper for me to offer a definitive view now on the hypothetical question on the issue of a licence for the export of an aircraft such as the Coastguarder to South Africa"(45)*.

In fact the controversy over the deal was such that the South Africans apparently abandoned the discussions and no application for an export licence was made. However, the disturbing fact remains that the Government was unwilling to give a categorical assurance that such aircraft are not covered by the embargo.

One aircraft that was exported to South Africa was a Skyship 500 - a powered balloon manufactured by Airship Industries. According to press reports, the manufacturers make no secret of their aim for military orders. *"It is an ideal submarine weapon . . . . The airship is well-suited to minelaying and mine-sweeping . . . . it is a suitable platform from which to deploy paratroops"* commented the Rand Daily Mail*(46)*.

The most recent controversy has centred on the Optica aircraft which has been developed for police surveillance operations. Following reports in February 1985*(47)* that the National Airways Corporation of South Africa (the wholly owned subsidiary of Lonrho), which had negotiated the franchise to distribute the aircraft in South Africa*(48)*, was to purchase four Optica aircraft, the Anti-Apartheid Movement wrote to the Foreign and Commonwealth Office*(49)*. It transpired in this case that the plane did not require a licence for export unless it was equipped with navigation or radar equipment*(50)*. When it was pointed out to the Government that aircraft engines require export licences, we were advised that if the engine is incorporated in an aircraft it does not require a licence*(51)*! The Government did agree to consider *"whether aircraft such as the Optica should be brought within the export licensing system"* but four months after the Government had been alerted to this loophole, no action had been taken. The AAM was advised by the Government that the original contract *"had been cancelled"(52)*, but in June 1985 the Guardian disclosed that representatives of the manufacturers of the Optica, Edgley Aircraft Ltd, were visiting South Africa and had met with National Airways Corporation*(53)*.

Radar with a "civil application"

The provision to South Africa of advanced military radar systems has represented the most serious violation of the arms embargo by Britain. As explained in Section IV of the Memorandum, the British Government informed the South Africans in February 1965 that it was prepared in principle to supply inter alia *"spare parts, and replacement and additional equipment required for the South African Defence Radar system"*.

This undertaking has been honoured by successive British governments, despite the imposition of the mandatory UN arms embargo in 1977. The AAM has succeeded in exposing the delivery of two major military radar systems to South Africa since 1977. One of these systems was static and the other mobile. The role of this equipment was explained in the 1979 South African Defence White Paper in Section IV on Air Defence:

> *"114 Modernization of the static air defence radars to ensure a better air-space control is being planned. At the same time, the mobile system is being extended considerably to protect mobile forces during deployment and to supplement the static system.*
>
> *115 Modern air defence fighters are integrated with the radar system to give full cover to the vital areas. Point defence will be maintained by missile and gun systems.*
>
> *116 Greater operational effectiveness will be achieved by the master plan for new air force bases and the new centralized command and control system. The first of these modern hardened air bases was brought into service in 1978 while good progress has been made with the project study for the command and control system."*

The first system to be exposed was the Plessey AR3D, a mobile radar system classified by Jane's as a Weapons System. On 29 April 1981 a member of the AAM witnessed and photographed the loading of part of an AR3D unit onto a South African paramilitary Hercules L100-30 aircraft at Hurn Airport. Amongst the capabilities of the AR3D is *"control of up to four simultaneous computer assisted air-to-ground strikes"*.

The AAM had been first alerted to this case when it received information at the end of July 1979 that South African Defence Force personnel were training on a radar system incorporating PDP 11/34 mini-computers at a Plessey plant in England. At that time the AAM was unaware of the identity of the system. The Government initially stated that Plessey had a contract to supply radar to South Africa for *"civil air traffic control"*, however the then Foreign Secretary, Lord Carrington, eventually claimed that *"the equipment is to be used in the South African combined civil and military air control system"*. However, when the equipment was photographed and identified as the AR3D system in April 1981, it was clear that the system was purely military in character. However the Government persisted in claiming that the system had *"a genuine civil application"* and allowed the equipment to be exported to South Africa.

The AR3D system in fact has absolutely no civilian application and Plessey would never claim that it has (except that it can obviously detect civilian as well as military aircraft). It is described in Jane's Weapon System (1979-80) as an *"air-defence surveillance radar giving three-dimensional information on targets"*. It is interesting to note that the AR3D system was installed by the British Ministry of Defence in the Falklands after the re-occupation of the Islands in 1982.

The second radar system to be exposed was supplied by Marconi Ltd, a subsidiary of GEC. This equipment was designed to update the existing S247 surveillance radar system originally supplied by Marconi to the South African Air Force in the 1960s. This case was first reported to the Observer on 24 April 1983. Again, despite conclusive evidence that this system was exclusively military in character, the Government had granted a licence for its export to South Africa. When challenged in Parliament, the Foreign Office Minister of State, Douglas Hurd MP, again claimed that *"we have no doubt that the system in question has a genuine civil application"*.

Comprehensive and well-documented accounts of these two cases have been published; Plessey Arms Apartheid (an AAM Report of 20 May 1981) and Marconi Radar to be Exported to South Africa from Britain: Background Note (published by the World Campaign against Military and Nuclear Collaboration with South Africa on 20 May 1983)*(54)*. The latter document describes the application of these military radar systems:

> *"The combined effect of the supply of the Marconi and Plessey systems is to provide South Africa with the most advanced radar equipment available. This will ensure that the South African regime will be able to maintain its vast air superiority, allowing it to carry out airbourne attacks against neighbouring and other African States as well as enabling it to undertake reconnaissance flights and otherwise violate the airspace of independent African States; This has been confirmed by the Pretoria regime itself. Its 1982 Defence White Paper states:*
>
> > *"During the past two years air operations conducted by the South African Air Force were the most extensive undertaken since World War II. The strike capability of the South African Air Force contributed considerably to the success of such*

operations as Sceptic, Protea and Daisy."

(NB These were code names for the South African acts of aggression against the People's Republic of Angola.)

With the new equipment the apartheid regime is in a position to escalate its aggression to an all-out war in the region including the occupation of further territory. This has also been effectively confirmed by the Pretoria regime. The 1982 Defence White Paper states:

> *"Air defence fighters are linked with the radar system to ensure complete cover. Fighter support on the borders of the area where the main threat exists is a prerequisite for a rapid interception capability, and bases relatively close to the border, such as Hoederspruit in the Eastern Transvaal, are therefore essential. Further expansion in the Northern Transvaal area have been planned and programmed. The operational capacity of the air defence system will improve as progress is made with the expansion and modernization programmes."*

(The bases referred to are close to the borders of Botswana, Zimbabwe and Mozambique.)"

Indeed the provision of these systems allowed the South African Ministry of Defence to boast in its 1984 White Paper that *"good progress has been made in modernizing and expanding static as well as mobile air defence radars"*. Indeed the Marconi equipment has been photographed in operation at a military base in the Eastern Transvaal. The 1984 South African Defence White Paper provided an insight into British claims that the equipment has a genuine civil application. It stated that:

> *"a project launched during 1979 to modernize the control and reporting system of the South African Air Force and to improve its efficiency, necessitates a reorganization of national air space. The South African Air Force is, however, not the sole user of RSA air space and in order to ensure co-ordination, co-operation and optimum utilization of air space and equipment both the Directorate of Civil Aviation and the South African Air Force are involved in the project"(55).*

Thus there is a civilian involvement in a project to *"modernize the control and reporting system of the South African Air Force"*. Indeed the Airspace Control Centre for which the systems were supplied is operated by the South African Air Force. Its role is to co-ordinate *"air traffic, air defence and air defence artillery"*.

The advanced radar systems which Britain has permitted to be exported to South Africa have allowed the South African Air Force to boast that it has *"some of the most sophisticated radar tracking equipment in the world"(56)*.

Following reports that the Plessey and Marconi systems were being used for military operations, Richard Caborn MP asked in Parliament if the Government would:

"require the British military attache in South Africa to establish whether the Plessey AR3D radar system delivered to South Africa in 1981 and the Marconi system updating the S247 radar system which was delivered in 1983-4 are being used for the purposes for which the export licences were granted".

He received the following reply:

"At the time of granting the export licences we were fully satisfied that the equipment was intended for use in air traffic control, having a civil application. I know of nothing to indicate that it is not being used for the purpose for which it was supplied"(57).

This was a frank admission that the Government did not act out of ignorance nor was it misled. It knowingly supplied South Africa with advance military radar systems which ensure that it has air superiority over the entire region and thereby threaten international peace and security.

Military Communications

The backbone of South Africa's military communications system is a network of tropospheric scatter units running along the borders of South Africa from Durban, to the south of Swaziland, along the northern border of the Transvaal, and then south along the border to Upington. It is an integrated system used by all three military services. The basic requirement of this system is a facility which could be used to command units at any military establishment throughout the country, using both fixed and mobile communications systems, together with an additional capability to relay large amounts of data from border radar stations back to the main command and control centre in the Pretoria area.

The static tropospheric scatter system was manufactured by Marconi Ltd. In 1976 a licence was granted by the then Labour Government for its export to South Africa in the face of a major controversy provoked by the protests of a young engineer working on the project who objected to its installation in Namibia. (The export licence application was subsequently amended to exclude Namibia.) A detailed account of the initial stages of this controversy is contained in a report on the Contract entitled "Marconi Arms Apartheid", published by the AAM*(58)*. Although the Contract predates the mandatory arms embargo, supplies of military communications equipment have continued to be delivered to South Africa. Indeed it is now understood that the static system of tropospheric scatter units has been complemented by a mobile telecommunications system which includes mobile tropospheric scatter systems apparently partially manufactured in Britain and partially in South Africa.

Computers

Computers are another example of strategic equipment which Britain allows to be exported to South Africa for military and police use. Very few computers are designed or developed for purely military purposes; however, computers produced for civilian use can be extremely valuable for the security services. In 1978, for example, ICL exported two 2960s to the South African police. The then Labour Government explained one of these exports as follows:

"The ICL computer which has been sold to the South African police and which has already been exported does not however fall within the UN embargo or the legislation passed to implement that embargo. Not being part of a weapons system, it does not come within the definition of military or paramilitary equipment but is a general purpose computer which will replace existing ICL equipment used for internal police administration and to help trace stolen cars."

"While the Secretary of State therefore understands the criticism which the sale of this computer has aroused, there is no power under our legislation by which its export could have been prevented. And whilst he can also understand your concern in the matter, I regret that he cannot undertake to add general purpose computers to the list of goods for which an export licence would be required for export to South Africa; to do so would be to impose a restriction on normal civil trade with that country. In defending that commercial activity (in which our international competitors also participate) I would stress that it should not be taken as implicit approval of apartheid, to which the Government remains implacably opposed."(59).

The Carter administration in the USA, significantly, did not take this view. The British Government explained this difference as follows:

> *"The position in the USA is different because the US Government has placed a prohibition on goods of all kinds destined for the South African police or military authorities. In doing so they have gone beyond the arms embargo. When the various amending Orders were made earlier this year, the British Government, like most other governments, decided that it would not be right to supplement the UN embargo in this way for as long as it remained the policy not to impede civil trade with South Africa."(60).*

Ironically, ICL was subsequently required in the USA to pay a small penalty for supplying these computers. The 2960s included disk drives of US origin (understood to be manufactured by Control Data) and ICL therefore was in breach of the US controls which enforce the embargo. In March 1982 ICL paid a civil penalty of $15,000 for alleged violations of the US Export Administration Act. But as the US Commerce Department release announcing this penalty explained: *"In agreeing to the civil penalty the firms* (ICL and its South African subsidiary) *neither admitted nor denied any violation"(61).* ICL had previously supplied two computers to the Armscor subsidiary Atlas Aircraft Corporation*(62)*.

These examples provide an insight into how narrow definitions of "arms and related material" have the effect of ensuring that South Africa continues to obtain a vast quantity of military and strategic equipment for its defence forces. In Britain the complete exclusion, in effect, of "dual purpose" items from the embargo makes a mockery of Britain's commitment to enforce the UN mandatory embargo, which explicitly prohibits the supply of all "arms and related material".

The full extent of the supply of "dual purpose" equipment is unknown because of the secrecy surrounding the granting of licences for those items which require export licences. All such licence applications are treated as being "commercially confidential" and Government Ministers have refused to reply to Parliamentary questions seeking information about such applications*(63)*. The Government, by refusing to disclose the nature and type of "dual purpose" equipment for which it has granted export licences, also prevents Parliament and the public from evaluating if the equipment in question is of military or strategic significance.

3) British Subsidiaries in South Africa

The arms embargo is also being sytematically sabotaged by the activities of the subsidiaries of foreign companies in South Africa which supply equipment to the military and police, or otherwise contribute to South Africa's strategic infrastructure. Many of these subsidiaries are British. They include Leyland (Landrovers and Trucks); ICI (through its 40 per cent holding in AECI) (Ammunition

and Explosives); Trafalgar House (through Cementation Engineering) (artillery shells); ICL (Computers); GEC including Marconis (Military Communications Equipment); Lontho (aircraft franchises); Plessey (Military Communications Equipment); BP and Shell (oil and other petroleum products for the military and police).

These and other TNCs assist South Africa to undermine the arms embargo in a number of critical ways: by manufacturing items in South Africa, either under licence or by simply importing the technology and "know-how" available to the parent company; by transferring to South Africa skilled personnel on temporary or permanent secondment; and by providing finance capital. Finally, by generally participating in the development of an elaborate military industrial complex and related infrastructure, the subsidiaries of British companies contribute to the needs of the South African military and police.

There are a total of over 650 British companies operating in South Africa. The British Government has even refused just to seek imformation from them about their supplies to the military and police*(64)*.

The South African authorities have already sought the necessary powers (the National Supplies Procurement Act of 1970) to require companies *"to manufacture, produce, process or treat and to supply or deliver or sell"* items of strategic use to the government. Further legislation (the National Key Points Act of 1980) has given the military the power to declare any industry, business or installation a "Key Point" and thus subject it to its security needs. With these and other legislative measures in force, foreign companies - possibly unwittingly - become potential contributors to South Africa's military build-up by establishing plant which can be transformed into a vital component of the armaments industry at the dictat of the South African authorities.

However, there is apparently no hesitation on the part of many British companies to assist the South African military, and some even openly boast of their contribution to South Africa's military capability. Marconi South Africa advertise their "Weapon Control Systems" and "Naval Communication System" in South African journals*(65)*; Trafalgar House admitted to a British TV programme that its Cementation subsidiaries in South Africa *"undertake various contracts for the South African government . . . . which include defence contracts"(66)*. Some which have been exposed have subsequently sought to reduce their profile. RACAL, for example, in 1978, sold out their interest in South Africa to Grinaker Holdings Limited, but it was agreed that the new group would continue to *"manufacture certain products under licence from RACAL and its subsidiaries and will act as the sole distributor of RACAL's other manufactured products"*. Similarly when Barlow Rand bought a 50 per cent holding in GEC South Africa, it was announced that *"it will be supplied by GEC as heretofore and the GEC names and trade marks will continue to be used"(67)*.

Even if there are some British companies which may not wish to contribute to South Africa's military capability, they are subject to existing South African law and can be obliged at any time to service the South African Defence Forces. When these laws were being enacted there is not a single case known of any company which raised any objection or protested in any way at the grave implications for their future operations.

Many British subsidiaries, however, are willing partners with the apartheid regime in its efforts to undermine the arms embargo. There is Cementation Engineering, whose headquarters are opposite the works of Sandrock Austral, which manufactures the Eland armoured car for Armscor. They share facilities. In March 1976 the Managing Director of Cementation Engineering, Graham Lother, claiming to represent the Cunard Line, another part of the Trafalgar House group, visited Vermont in the USA, with an Armscor official, Peter Smith, and the then head of the South African

Artillery School, Colonel Lombard, to finalise the shipment of Howitzer gun assemblies - described on the shipping documentation as "construction equipment" - from the Space Research Corporation to Cementation Engineering in South Africa. Documentary proof was produced in a world in Action TV programme, "South Africa's Bombshell".

There is Plessey. In addition to supplying mobile military radar systems, Plessey is one of seven companies in the newly formed Integrated Circuit Design Centre set up by the South African parastatal, the Industrial Development Corporation, currently developing strategically vital semi-custom chips. Plessey also has a holding in the SAMES (the South Africa Micro Electronics Systems) which supplies Armscor*(68)*. Plessey has also been responsible for the commercial development and manufacture of the Tellurometer in co-operation with the Council for Scientific and Industrial Research. This equipment, first developed in 1955, is an electronic distance measuring device; a military model has been designed for range findings.

In Section IV (10) further details are given of Plessey's role in "laundering" this equipment through Britain for export to third countries.

ICI's subsidiary in South Africa, African Explosives and Chemicals Industry, set up in agreement with the Government three munition factories in 1962. Somchem was originally owned by AECI but was taken over by Armscor along with AECI's other munition factories in 1970*(69)*.

ICL, the computer company, was selected by the Industrial Development Corporation of South Africa to co-operate in a study into the manufacture in South Africa of computers under licence. Although no announcement has been made, there have been repeated press reports that such a plan is under consideration*(70)*.

An impression of the full extent of the role of British subsidiaries in South Africa in undermining the arms embargo can be obtained from studying Appendix C. This is a list of British companies with subsidiaries in South Africa which are also known to be engaged in the manufacture of military and related equipment.

4) Licences

The South African armaments industry continues to produce items of foreign origin under licence. There is the example of the Impala I and II aircraft, used repeatedly for attacks against Angola. The Impalas are, in fact, the Italian Aermacchi MB 326 and MB 326K, powered by the Rolls Royce "Viper" engine. The licence for the manufacture of the engine was provided by Rolls Royce to Aermacchi, which in turn ceded it to Atlas Aircraft in South Africa una tantum*(71)*. Both the British and Italian governments have refused to take measures to require the South Africans to stop the manufacture of these engines. It is widely believed that because of this arrangement Rolls Royce in Britain continues to liaise directly with Atlas Aircraft over the production of aircraft engines. When representations were made to the British Government over these licences in 1976 by the AAM, the Government replied by stating that *"the Italian Government may well be in a better position to act"*. The Italian Government has justified its refusal to terminate the licences by claiming that it *"would just result in a net benefit for South Africa"*. In 1985, when the British Government was asked in Parliament to discuss the termination of this licensing agreement with the Italian Government, it again refused to pursue the matter*(72)*. The Rolls Royce "Viper" engines are just an example. There is a huge range of items which are manufactured under licence by British subsidiaries in South Africa, particularly in the fields of electronics and communications. The British Government announced in 1978 a review of licences which had been provided to the South African

authorities but it is not known how many have been revoked and which ones are still in operation*(73)*.

In 1978 the Government did introduce powers to prohibit licensing arrangements, but for a very limited range of items and then only to cover the production of items *"specifically designed for military purposes or para-military purposes"(74) (see post script)*.

5) Spares, Maintenance and Repairs for Aircraft

It is difficult for any country to build up adequate stocks of spares and components for modern weapons and this is particularly so for South Africa, since it is officially being embargoed. It is well known that South Africa does not have the capacity to manufacture the full range of components for all its military aircraft and helicopters. Some of these, such as the Buccaneers, which were delivered in 1964/65, are of British origin and have been operating for many years. The Buccaneers are used regularly to bomb Angola and carry out other military raids against the Frontline States. South Africa is clearly receiving spares and components from external sources. Repeated requests that the British Government carry out investigations into these supplies have received a negative response. On 9 April 1984 the UN Security Council Committee was provided with specific details of the sixteen Buccaneer aircraft supplied to the South African Air Force and the engines powering them, by the World Campaign against Military and Nuclear Collaboration with South Africa. Since the Buccaneer was only in service with the Royal Navy's Fleet Air Arm and the South African Air Force, it was asked *"Is it really all that difficult to establish how South Africa obtains the spares and other vital items to keep the Buccaneers flying?"*. (This matter is now sub judice as a number of people are facing charges in connection with supplying Buccaneer spares to South Africa*(75)*.)

South Africa's fleet of maritime reconnaissance aircraft, the Shackleton, was refitted in the UK in the early 1970s and continued to operate until the end of 1984.

6) Recruitment of Personnel

The supply of personnel represents in practice an important breach of the arms embargo. They are recruited for a number of important areas. Strategically the most important are skilled personnel in research, development and production. Many are recruited directly by British companies and therefore are unlikely to come to the public's attention. However, according to the World Campaign against Military and Nuclear Collaboration with South Africa and other sources, there is organised recruitment of personnel for helicopter development; managers for munitions projects; personnel for manufacturing high technology aircraft; and aircraft designers. In most cases, people undertaking such work would normally be signatories of the Official Secrets Act; however, this does not appear to affect their recruitment to South Africa.

British mercenaries, some recruited originally for the forces of the illegal Smith regime, are serving in a number of South African Defence Force units, including the infamous "32 Battallion" operating out of Namibia into Angola. A British mercenary was killed in the South African commando raid on the residence of South African refugees in Maputo, Mozambique, in January 1981.

There is also direct recruitment of British military personnel. The Daily Express reported in December 1982 that a South African official in the Military Attache section had been involved in such recruitment. The British Government has also

disclosed that six officers have been granted permission to serve in the South African Defence Force and an undisclosed number are serving without securing such permission. One such officer, Lt Alan Gingles, was killed deep inside Mozambique territory carrying out a sabotage operation against the Beira-Harare railway*(76)*.

British Government policy so far has been to grant permission for Officers to serve in the South African Defence Forces. This was explained by Secretary of State for Defence, Michael Heseltine, in a letter to the Rt Hon Denis Healey:

> *"An Officer is required to resign his commission before joining the forces of a country that does not owe allegiance to the Crown, and if he did not do so then the commission would be removed. As you will appreciate, this is the only power that we can exercise over an officer who has already retired from the Services. Guidance is given to officers about these procedures before they retire, but no specific recommendations are made about which countries' Armed Forces an officer should join; nor do I believe that it would be right to do so."(77).*

7) South African Visits, Exchanges, Diplomatic Representatives, etc

The ability of the South African authorities to openly flout the mandatory arms embargo is greatly facilitated by the ease with which South African passport holders can enter Britain without any visa control.

South African personnel involved in undermining the embargo fit into a number of related categories.

Based at the South African Embassy, with diplomatic protection, are a number of senior military officials who operate under the guise of military attaches. There is considerable evidence that, in addition to their arms embargo busting activities, they are also involved in covert, illegal and improper activities aimed against anti-apartheid organisations.

South African military attaches were involved in the payments made by South Africa House for a number of the shipments of arms smuggled to South Africa, which were revealed at the Old Bailey trial in October 1982. This was confirmed by the then Minister of State at the Foreign Office, Cranley Onslow MP, who wrote: *"There are prima facie grounds for suspecting that the Embassy or members of its staff were involved in transactions for the supply of arms to South Africa in contravention of United Kingdom legislation. We take a serious view and have told the South African Government about the evidence in our possession."(78)*. These matters were given detailed consideration by the House of Commons Foreign Affairs Select Committee in 1984, when it considered abuses of Diplomatic Priviledges. The Report of the Committee included in an Appendix a Memorandum submitted by the AAM.

South African Defence personnel, in addition to the Embassy staff, were last reported in Britain in the summer of 1979 when the Anti-Apartheid Movement disclosed the presence of a number of South African Defence Force personnel participating in a Plessey training course*(79)*. Information like this is not normally easy to obtain and such visits are secret. South Africans are also able to visit Britain to undertake strategic research. For example, J J Engelbrecht of the National Institute for Defence Research, who in 1980 was on secondment to Armscor, visited Britain to undertake research at the Royal Radar Establishment at Malvern. A Colonel in the South African police visited Marconi in Chelmsford and the Essex Police in 1984.

Equally important is the free movement into and out of Britain of South African arms dealers. They fall into a number of categories; officials of Armscor and its subsidiaries, representatives of Armscor "front companies" and semi-independent arms dealers. Their ability to visit Britain with such ease creates ideal conditions for deals to be made to flout the embargo. One such dealer, Dirk Stoffberg, received considerable publicity as a result of the Old Bailey trial in October 1982. The Home Secretary gave an assurance that his activities were being investigated. There is also traffic to South Africa of British arms dealers and middlemen who set up particular "deals" in South Africa and return to Britain to put them into operation.

Despite the substantial arms smuggling to South Africa from Britain, and related activities, there is little evidence that the British Government's agencies are being directed to investigate clandestine operations aimed at breaching the arms embargo. When cases have been reported, it has usually been due to some external factor, rather than as a result of any thorough internal investigation. Nor has any effective action been taken even when the evidence of South Africa House's direct involvement has been published and is undisputed.

8) Scientific and Technological Collaboration

British-South African scientific and technological collaboration appears to have continued unabated since the arms embargo was made mandatory. This collaboration has proved to be invaluable for the South Africans in extending their participation in the international scientific community. Such participation comes largely within the ambit of the South African Council of Scientific and Idustrial Reasearch. The CSIR does much to cultivate its international status. It hosts numerous conferences for a wide variety of international organisations; the CSIR and the British Science and Engineering Reasearch Council have a joint agreement to operate a South African observatory; CSIR representatives regularly participate in international scientific gatherings.

However, the CSIR in practice has a much more sinister role. It serves as a conduit by which military personnel can visit establishments in countries which could be embarrassed to be involved in direct military collaboration with South Africa. The CSIR is involved in recruiting personnel for military related research. The CSIR itself and its Institutes are involved in extensive military and strategic research.

An example is the apparently academically respectable "National Research Institute for Mathematical Sciences" of the CSIR. This Institute in fact plays a key role in the research and development of electronic components for the South African military. Its former Director is David Jacobson, who became Vice-President of CSIR in 1980, and Deputy-President in 1983. In March 1985, however, he became Group Executive of the electronics group ALTRON*(80)*, which the following month took over the management of South Africa Micro Electronic Systems (SAMES) and its sister company, Integrated Circuit Design Centre (ICDC). These two companies were set up at the initiative of the South African Government by its Industrial Development Corporation to design, develop and manufacture high technology equipment for the South African military. Both supply Armscor*(81)*. Jacobson's move from CSIR to take over ALTRON and in turn the running of SAMES and ACDC, was widely seen as further evidence of the close inter-relationship between CSIR, Armscor and private sector companies. (Jacobson, incidentally, was educated at Imperial College London and Harvard.) Another example of this inter-relationship is the participation of both Armsor and CSIR representatives on the Committee established by the Minister of Industries to promote the electronic industry*(82)*.

Another apparently "respectable" institute is the Optical Sciences Division of the National Physical Research Laboratory of the CSIR. It is involved in an extensive research programme on Laser Development including, it is understood, military applications*(83)*. The National Physical Research Laboratory also undertakes research on high speed explosives*(84)*.

The CSIR also developed in co-operation with Plessey the military model of the Tellurometer, details of which are described in Section IV (10) of this Memorandum.

9) Nuclear Collaboration

The most dangerous form of collaboration with South Africa is that in the nuclear field, since it enhances South Africa's nuclear weapon capability.

The stated policy of the British Government is:

> *"The Government does not collaborate in any way with South Africa in the development of a nuclear weapons capability. Nor do we supply nuclear material, nuclear facilities and equipment or related economic assistance directed towards this objective; and we do not collaborate with South Africa in the development of its civil nuclear power programme. We continue to urge the South African Government to sign the Non-Proliferation Treaty."(85).*

However, in practice, Britain continues actively to sustain South Africa's nuclear build-up. This is particularly the case in relation to the recruitment of skilled and qualified personnel.

South Africa's dependence on such personnel has become increasingly recognised. In July 1982 it was reported that its commercial uranium enrichment plant would only become operative in 1987; manpower shortages in particular departments were said to be *"killing us"*. In some cases only 40 per cent of positions were filled*(86)*. Earlier, in April 1982, the US Nucleonic Weekly had stated that at the nuclear plant at Koeberg, ESCOM staff were largely British immigrants*(87)*. There are two recruitment offices in London, one responsible for ESCOM and the other for the South African Atomic Energy Board.

Major national newspapers, in particular the Daily Telegraph, have frequently carried recruitment advertisements. The success of these recruitment drives was revealed in November 1982, when it was reported that some twenty staff at Dounreay had been recruited to work in South Africa*(88)*. The British Government has directly facilitated collaboration with ESCOM through the British Electricity International, which has supplied some thirty senior officials as consultants to South Africa*(89)*. In one case, the official was seconded from his post as Deputy Manager of the CEGB, Hinckley, a nuclear power station; he has since resigned from the CEGB and is a permanent ESCOM employee*(90)*.

South Africans are also able to come to Britain to train as nuclear physicists and engineers and for several years, South African Government sponsored students participated in the nuclear fuel technology course at Imperial College*(91)*.

British nuclear collaboration with South Africa has official endorsement as a result of the access granted to the Nuclear Development Corporation of South Africa to the latest British nuclear know-how and technology as a result of its Associate Membership of the Systems Reliability Service operated by the Safety and Reliability Directorate of the UKAEA*(92)*.

British companies involved in uranium extraction in Namibia and South Africa also directly contribute to South Africa's nuclear industry by providing technology, know-how and personnel. It is difficult to overestimate the strategic significance of South African controlled uranium resources. These account for more than twenty per cent of "Reasonably Assured Resources" of the world outside the centrally planned economies area (WOCA). South Africa has, for example, thirteen of WOCA's "Reasonably Assured Resources" of uranium at a cost level of less than $80/kg U (kilogrammes of uranium).

In 1983, according to a UN Institute for Disarmament Research Report, 5,800 Tonnes U were produced in South Africa and a further estimated 3,800 Tonnes U in Namibia. This represented over 25 per cent of all uranium produced in WOCA*(93)*.

Rio Tinto Zinc is the British company most directly involved in uranium production both at the Rossing mine in Namibia and as a by-product from its Palabora mine. A key figure in RTZ's operations in Southern Africa is Alistair Macmillan, who is Chairman and Chief Executive of Rio Tinto South Africa and chairs the board of its subsidiary Palabora Mining Company. When the nuclear industry in South Africa was restructured in 1982, Macmillan was appointed to the Board of the Atomic Energy Corporation, the new central co-ordinating body which has ultimate control over all South African nuclear installations, including its pilot enrichment plant at which it is believed uranium is enriched to fuel nuclear weapons*(94)*.

There appears, as these examples reveal, a very distinct difference between declared British Government policy and the implementation of that policy in practice. This is also reflected in the positions adopted by the British Government in the International Atomic Energy Agency where it has protected South Africa's role in the Agency. In the UN, it has threatened the use of its veto power to prevent the imposition of a mandatory ban on all forms of nuclear collaboration with South Africa.

10) South African Arms Exports

South Africa has been involved in extensive efforts to ensure the financial viability of its armaments industry by promoting arms exports. (Such exports could by economies of scale reduce the high unit cost of production.) In 1981 arms exports, it was reported, totalled R10 million. In a great show of publicity in the autumn of 1982, Armscor representatives predicted exports would rise to R150 million per annum. But in December 1984 an Armscor official admitted *"to be frank our export efforts have had limited results"(95)*.

In 1982 Armscor achieved a major breakthrough when it exhibited its G5 155 mm artillery gun and other equipment at the Defendory Expo 82 exhibition in the Greek port of Piraeus. The exhibit was closed by the Greek Government following prompt action by the World Campaign against Military and Nuclear Collaboration. However, the very fact that it was able to participate in an exhibition in an EEC and NATO country is an indication of the powerful friends Armscor has within the international armaments industry*(96)*.

In March 1984 Armscor appeared in another international arms exhibition, the FIDA 1984 International Air Show in Santiago, Chile*(97)*.

The UN Security Council met on 13 December 1984 and adopted UN SCR 5 8 (1984) which recognised *"that South Africa's intensified efforts to build up its capacity to manufacture armaments undermines the effectiveness of the mandatory arms embargo against South Africa"*. The resolution requested *"all States to refrain from importing arms, ammunition of all types and military vehicles produced in South Africa"*. The resolution, which was adopted after many years of campaigning

was, however, disappointing as it was non-mandatory and significantly did not include *"arms and related material of all types"*, the formula used in the mandatory arms embargo. Efforts by non-aligned members of the Security Council to include this formula were blocked by western members*(98)*. However, despite the fact that this relatively weak resolution was adopted unanimously, the British Government has done nothing to implement it. In reply to a parliamentary question asking what measures the Government was to take to implement UN SCR 558, Minister of State Malcolm Rifkind simply stated that *"the United Kingdom does not obtain its arms and military equipment of the type covered by SCR 558 from South Africa"(99)*. In fact, Britain is involved in promoting South African arms exports. A number of British defence journals give comprehensive reports of military equipment available from South Africa. But of much greater significance is the role of a British based subsidiary of Plessey South Africa Holdings.

The subsidiary, Tellurometer, markets the "Tellurometer" which has been developed in South Africa since 1955. It is a portable unit capable of measuring distances specially designed for range-finding. Plessey and the state-funded Council for Scientific and Industrial Research jointly developed military models of the Tellurometer. The 1983 Official Yearbook of the Republic of South Africa stated that it had *"already earned a considerable amount in foreign exchange by export of the instrument"*. These exports were illegally channelled via Britain to a number of third countries. The Tellurometer subsidiary, based in Chessington, Surrey, "laundered" the equipment by claiming that it was manufactured in Britain. In fact, it was exported from South Africa to London and then re-exported. In April 1984, Tellurometer was fined in the Kingston-upon-Thames Magistrates Court for offences under the Trades Description Act*(100)*.

In March 1985 the Minister of State for Defence Procurement, Mr Adam Buler MP, admitted in Parliament that Tellurometers had been purchased and used by the British armed forces. Following the exposure of Plessey's "laundering" operation, the assembly of Tellurometers, it is understood, was transferred to Britain, where they are being produced under licence*(101)*.

Britain has also facilitated the export of South African manufactured Remotely Piloted Vehicles. In April 1984 the Managing Director of National Dynamics Ltd of Pinetown, South Africa, Dr Maitland Reid, participated at the Fourth Bristol International Conference on Remotely Piloted Vehicles. National Dynamics manufactures the Eyrie which, according to Janes Defence Review, is capable of *"reconnaissance, surveillance, electronic warfare, etc"*. Dr Reid lectured at the Conference, which was jointly organised by the University of Bristol and the Royal Aeronautical Society, on the capabilities of the Eyrie. Participants at the Conference inlcuded military officials from twelve countries; the keynote address was given by the Assistant Chief of the General Staff (Operational Requirements) of the British Ministry of Defence*(102)*.

11) South Africa's Relations with NATO

In June 1975 documents published by the AAM and submitted to the UN Security Council revealed that South Africa had access to the NATO Codification System for spares and equipment. Under this system, all spares and components for NATO equipment are codified to facilitate ordering. South Africa made use of the NATO Codification System to obtain components and equipment for the construction of the Advokaat military communications centre at Silvermine, near Simonstown. The Advokaat system became operational in March 1973; it was built at a cost of R15 million; and it was claimed to be the most modern system of its kind with the ability to maintain surveillance from South Africa's coastline across the South Atlantic to South America and across the Indian Ocean to Australia and New Zealand. The Advokaat system is directly linked by permanent channels with the Royal Navy in Whitehall and the US Navy Base at San Juan in Perto Rico. The

documents showed that equipment and spares for the Advokaat system had been supplied from Britain, the USA, France, Denmark, the Federal Republic of Germany and the Netherlands in breach of the then voluntary UN arms embargo*(103)*. Following persistent representations to NATO by the AAM, seeking an explanation as to why South Africa had access to the NATO Codification System, Dr Luns, the then Secretary General, wrote on 9 June 1976 that *"I am unfortunately not in a position to inform you which members may have disclosed the open codification system for equipment and spares to which countries; as I pointed out before, this is a purely bi-lateral matter"(104)*. However, following direct representation by the AAM to the British Government, on 11 March 1977, the then Minister of State at the Foreign and Commonwealth Office, Ted Rowlands MP, informed the AAM that Britain was no longer supplying NATO codification data to South Africa*(105)*.

Controversy over the NATO Codification System, however, broke out again in October 1982 when it was revealed during the trial at the Old Bailey of three British arms dealers for smuggling arms to South Africa, that the South African authorities had access to the NATO Codification System and this had been employed to order spare parts for machine guns. The following month, on 22 November 1982, the Prime Minister informed the House of Commons that *"it remains Her Majesty's Government's policy not to provide the South African Government with details of the NATO Codification System"*. However, in response to a request from Robert Hughes MI that the Prime Minister *"discuss with the UK's NATO partners a collective policy of not providing NATO codification for weapons and equipment supplies to the Republic of South Africa"*, Mrs Thatcher also explained to Parliament:

> *"There is no need for this. Prior to the establishment of the arms embargo only the UK was authorised to provide such information. Since then the UK has strictly upheld the embargo and no NATO information has been supplied to South Africa".*

Thus it would appear from the Prime Minister's statement that the then Secretary-General of NATO, Dr Luns, had seriously misled the AAM in 1976. If authorisation had been given to the United Kingdom to provide such information, such authorisation must have been granted by an organ of NATO, in which case it was not a *"purely bilateral matter"* as Dr Luns insisted*(104)*. In another apparent contradiction, the Prime Minister's statement implies that the supply of the NATO Codification System ceased following the introduction of the arms embargo (November 1977) some eight months after the then Labour government had assured the AAM*(105)* that it was no longer being supplied to South Africa by Britain.

More significantly, none of these statements explain why it was possible for the South Africans to have access and to have been employing the NATO Codification System to obtain spare parts and equipment in breach of the arms embargo as late as the early 1980s, several years after Britain, which we are informed, was the only country authorised to provide the system to South Africa, had officially ceased to supply it*(106)*.

The wider issue of NATO-South African relations was raised by the AAM when the NATO Ministerial Council met in Oslo, Norway, in 1976. Following that meeting the NATO Secretary-General Dr Luns wrote to the AAM on 9 June 1976, when he stated, *"There are no contacts between members of the International Staff of the Alliance with the Republic of South Africa"*. However, on 14 November 1980, Dr Luns himself secretly met with the South African Foreign Minister, R F Botha in Brussels. When the World Campaign against Military and Nuclear Collaboration with South Africa protested to Dr Luns at this breach of an official written undertaking, he claimed that it was a private visit to his own residence*(107)*. According to a

letter from the then Foreign Office Parliamentary Under Secretary of State, Richard Luce, the South African Foreign Minister met *"Dr Luns, not in his capacity as Secretary-General of NATO, but as a respected and experienced European Statesman"(108).*

This meeting, together with reports that it was in fact the third such meeting between Dr Luns and the South African Foreign Minister, served to reinforce concern about possible NATO-South African co-operation*(109)*. Such co-operation, it should be stressed has always been officially denied. However in the early 1970s NATO had carried out a study into the feasibility of carrying out operations for the defence of the Cape Route and the month following Mr Botha's visit to Brussels, Dr Luns was reported, in December 1980, to have stated that NATO had made contingency plans to defend the Cape oil route in time of war*(110)*.

Further reports of NATO-South African co-operation appeared in the British press following the arrest of a South African Naval Commodore, Dieter Gerhardt and Ruth Gerhardt. Gerhardt, the Officer Commanding the Simonstown base, was arrested in the United States in January 1983 and subsequently was handed over to the South African authorities. He and his wife were charged with spying for the Soviet Union (and were convicted of High Treason on 29 December 1983). In an article in the Mail on Sunday on 20 November 1983, based on information that was clearly provided by highly placed intelligence sources either in Britain or the USA, details were given of the access which Gerhardt had, as a senior South African naval officer, to NATO and western military information. Amongst the items identified, about which he had had detailed technical information, were the Seacat missile system; the Selenia fire and weapon control systems; and the Sea Sparrow surface-to-air missile. Similar reports appeared in other British national newspapers*(111)*.

Clearly if these reports were accurate it means that, in practice, South Africa had obtained a vast range of military information that, according to public statements, it was officially denied access.

12) Military Collaboration

Direct military collaboration between Britain and South Africa through the exchange of naval intelligence was fully operational at least until the end of 1984. This collaboration was officially confirmed as a result of the controversy over South Africa's efforts to secure a replacement for its Shackleton fleet of naval surveillance aircraft. On 19 March 1984 a representative of the South African Defence Force verified reports that the South African Government had threatened to cease the supply of naval intelligence to Britain and the United States by the end of 1984 because, as a result of the arms embargo, they were unable to obtain replacements or spares for the Shackleton fleet*(112)*.

The British Government has refused to disclose information on this subject. When asked if South Africa had ceased to supply Britain with naval intelligence, the Minister of State Malcolm Rifkind MP replied, *"it is our practice never to comment on intelligence matters, so I cannot advise you on this point"(113)*.

It is not known if South Africa in fact has carried out its threat to terminate the supply of naval intelligence to Britain, which would have involved ending the direct link between Silvermine and the Admiralty in London, described in Section IV (11) of this Memorandum.

South Africa also had access to the Royal Navy's classified "Defence Council Instructions". In December 1964 the Labour Government, following the introduction

of the arms embargo by the Wilson administration, undertook to continue the regular supply of DCI (RN)s to the South African Navy. This practice continued after the arms embargo was made mandatory in 1977. It was reported in the article in the Mail on Sunday on 20 November 1983, that this was one of the items to which Gerhardt had access *(see Section IV (11) of this Memorandum)(114)*.

There is also close contact between senior British and South African military intelligence officers. For example, Major General G M G Swindells, Assistant Chief of the Defence Staff (Intelligence) has such close relations with the South Africans that he attended a party at the South African Embassy in London on 1 July 1983 to "celebrate" South Africa Defence Force Day*(115)*.

Britain and South Africa also exchange military attaches. In South Africa, British military attaches have taken these relations even further and attended south African military exercises. For example in September 1984, both the British Defence Attache and the Naval and Airforce Attache attended Exercise Thunder Chariot in the northern Cape Province, which was widely seen as a display of South African military might in the face of mounting popular unrest in South Africa following the elections for the new apartheid constitution*(116)*.

At a wider level the decision to use South Africa as a staging post in the construction of the new Falklands military airbase was seen by the Anti-Apartheid Movement and many others inside and outside Parliament as reflecting a major shift in the strategic approach of the British Government towards the South Atlantic. In a statement issued by the AAM on 28 June 1983, following the disclosure of the use of South Africa as a staging point, it warned that:

"the British Government has chosen to make the construction of the Falklands military base dependent on South African collaboration. This places in the hands of the Pretoria regime substantial power to influence British policies regarding Namibia and South Africa. Moreover the apartheid regime is bound to use this for its own expansionist and aggressive role in Africa and the southern hemisphere"(117).

V HOW THE UNITED KINGDOM CONTROLS ARMS SUPPLIES TO APARTHEID SOUTH AFRICA

The controls which the British Government has enacted to enforce the UN mandatory arms embargo have been shown to be weak and ineffective. In this section of the Memorandum these controls are described; the major "loopholes" identified; and the machinery for enforcing and monitoring the embargo examined.

1) British Controls

Prior to the adoption of the UN mandatory arms embargo in November 1977, British governments had imposed limited restrictions on arms sales to South Africa. These restrictions were imposed through export controls. Under Customs regulations, these are a range of military, nuclear and strategic items for which licences are required if they are to be exported from the United Kingdom. Following the adoption of UN SCR 418 (1977), in a Note Verbale (S/12494/ADD 1) dated 28 April 1978, the United Kingdom informed the UN Secretary-General of the existing measures which had operated prior to 1977 by which the voluntary British embargo had been enforced and of new measures which had been introduced to enforce the mandatory embargo.

This Note Verbale explained that the embargo on the supply of arms to South Africa was enforced through the Export of Goods (Control) Order 1970 (as amended). A new Statutory Instrument, No 271 of 1978, had been made on 1 March 1978 which had added five items of paramilitary police equipment to the list of "Aircraft, Arms and Military Stores and Appliances" listed in Group 1 of Schedule 1 of the Order. The Note Verbale stated that, with this amendment, all goods to which the Security Council Resolution 418 (1977) relates fell within Group 1. The Note Verbale listed all items in this Group.

The Note Verbale also stated that the United Kingdom government had taken powers through an Order - also made on 1 March 1978 (The South African (UN Arms Embargo) (Prohibited Transactions) Order 1978 (Statutory Instrument 277 of 1978)) - under the United Nations Act of 1946, to prohibit persons from entering into any licensing arrangements for the use in South Africa of patents, registered designs of industrial information or techniques specially designed for the manufacture or maintenance of arms or equipment specially designed for military or paramilitary police purposes. The Order limited this ban to items listed in Group 1 of Schedule 1 to the Export of Goods (Control) Order of 1970 (as amended). Subsequently, the United Kingdom informed the UN Secretary-General on 1 August 1979, through a further Note Verbale, that it had taken powers under the United Nations Act (1946) through the South Africa (Prohibited Exports and Transactions)(Overseas Territories) Order 1978 (SI 1624 of 1978) made on 15 November. This had the effect of enforcing the arms embargo, on the basis already outlined above, to a number of British overseas territories.

There have been a number of further developments since these two Notes Verbales were presented to the United Nations Secretary-General. On 1 June 1978 a new Export of Goods (Control) Order 1978 (SI 796 of 1978) was made in which there were a number of changes to the list of goods in Group 1 of Part II of Schedule 1. Then on 19 October 1978, an Amendment Order (SI 1496 of 1978) was made which prohibited the exporting to any destination in South Africa or Namibia of *"specialized parts, and components of the apparatus, appliances and equipment"* listed in Group 1 of Part II of Schedule I without a licence. An Amendment Order (SI 1894 of 1978) to enforce a similar ban in the United Kingdom Overseas Territories was made on 20 December 1978.

In 1981 a new Statutory Instrument No 1641 (The Export of Goods (Control) Order 1981) came into operation, which replaced the 1978 Order. It further revised the controls covering arms sales to South Africa.

These are the controls under which arms sales from the United Kingdom to South Africa are restricted. A complete list is provided in Appendix IV.

2) The "Loopholes"

In this section various "loopholes" in Britain's controls are examined. It will be shown that a range of strategically important items can be exported without violating Britain's controls.

a) Britain's definition of "arms and related materials"

The United Nations Security Council Resolution 418 (1977) states explicitly that *"all states shall cease forthwith any provision of arms and related material of all types"*. However, the items listed in Group 1 of Part II of Schedule 1 cannot be considered to be an exclusive list. Part II of Schedule 1 has two further Groups. Group 2 lists classes of atomic energy minerals, materials and appliances. Group 3, as the Explanatory Note of Page 64 of the Export of Goods (Control) Order 1978 stated, contains *"classes of other strategic goods"*. A few examples of such items in Group 3 of the 1981 Order are:

* Machines, apparatus and tools of the kinds used for the production of aircraft, aircraft engines and gas turbine engines derived from aircraft engines;
* Machinery, equipment and software for the manufacture or testing of electronic equipment, components or materials, and parts, components, specialised controls and accessories for such machinery and equipment;
* Apparatus designed to jam or otherwise interfere with radio reception and specialised parts and components of such apparatus;(A)
* Airborne communications equipment using frequency synthesizers;(A)
* Microwave equipment, including parametric amplifiers, capable of operating at frequencies over 1 GHz;(C)
* Airborne radar equipment;(C)
* Radio Transmitters and components;
* Computers, electronic and equipment systems incorporating such computers, and specialised parts, components, peripherals, displays, sub-assemblies, accessories and spare parts of such computers.

Many of these items clearly should be considered as *"arms and related material"*; the remainder come under the category of *"all types of equipment or supplies . . . . for the manufacture or maintenance of (arms and related material)"*. However, in the Note Verbale of 28 April 1978 it is stated explicitly that the United Kingdom believes that all items to which the Security Council Resolution relates are to be found in Group I; these Group III items are therefore not considered to be covered by the arms embargo.

Under the 1981 Order, most of the items listed in Group III require an export licence for South Africa and so the Government does have the power to stop their export, although it does not regard them as being covered by the arms embargo. Items which fall into this category include those marked with an (A) in the list above.

Of equal concern has been the fact that South Africa has enjoyed a "favoured nation status" because a substantial number of items listed in Group III did not require an export licence for South Africa. This was because South Africa and Namibia were included in a list of countries in Schedule II of the Export of Goods (Control) Order 1981 for which export licences were not required if the scheduled goods were indicated by the letter "C". There were over one hundred such categories of strategic goods which needed no export licences for South Africa and Namibia. These categories included those listed above which are marked with a (C).

It is recognised by the United Kingdom that items in Group III have a military or strategic significance. Indeed the Foreign and Commonwealth Office in 1976 prepared an "Explanatory Note" for the Anti-Apartheid Movement on the Order which explained why many items could be exported without a licence to South Africa; it stated:

> *"These arrangements operate to control supply of items of military and strategic significance to the Chinese and Soviet blocs and to guard against diversion to these blocs via third countries. Under these arrangements, while military and atomic energy equipment and highly sensitive items have been subject to export control to all destinations, the export of other items in the COCOM industrial list are not controlled to a number of countries including South Africa where there is no significant risk of diversion to the bloc countries." (10.11.1976).*

Successive governments have refused to disclose any information about export licence applications on the grounds of commercial confidentiality. Indeed, in April 1984, the Department of Trade even refused a request in Parliament by Robert Hughes MP that it should publish the total number of export licences granted to South Africa and Namibia for items listed in each of the three groups in the Export of Goods (Control) Order for each year since 1977*(118)*.

Without such information it is impossible to know how the Government is enforcing these controls in practice. However, two recent cases involving aircraft are revealing. Reference has already been made in Section IV (2) to the possible purchase by South Africa of Coastguarder aircraft. A Coastguarder clearly comes into Group I as it falls into the category of *"aircraft and helicopters, of the piloted or pilotless*

type, specially designed or adapted for military purposes". If it was government policy to automatically refuse export licences for all items covered by categories in Group I, the Ministers responsible could have given an immediate and explicit assurance that an export licence would not be granted. Since the Government repeatedly refused to give such an assurance, it must now be assumed that there is no automatic refusal of licences in respect of this Group *(see post script*

When Britain explained to the United Nations in 1978 how it would apply the arms embargo it stated that *"the goods to which Security Council resolution 418 (1977) relates"* fell within the scope of Group I and added that *"no licences are granted for the export of such goods to South Africa"*. A casual reading of the text gives one the impression that all items covered by categories in Group I would be embargoed. However, the text is so written that it could be understood to mean that licences would not be granted for those items in Group I which the government chooses to regard as coming under the arms embargo. Clearly from the Coastguarder experience, the latter is the correct interpretation*(119)*.

The case of the Optica aircraft raises a different issue. Namely that the categories of items in Group I are such that the Department of Trade can take the view that aircraft such as the Optica do not require a licence for export unless they are equipped with radar or other similar equipment. However since airborne radar is one of the categories marked with a "C", items falling under this category do not require a licence for export to South Africa. A fully equipped Optica therefore requires a licence, but if the aircraft and its radar and related electronics equipment are despatched to South Africa separately, no licence is required*(120)(see post script)*.

A further recent case arising from the trial in Birmingham was the disclosure that "cryostats", a vital component for heat-seeking missiles do not require export licences. Indeed there exists a range of equipment which does not fall within export controls which the South Africans seek to obtain to strengthen their military capability.

From this examination it can be seen that Britain's definition of *"arms and related material"* is so limited that it excludes many items which are recognised to be of strategic significance by the Government itself.

b) <u>"Dual Purpose" Equipment</u>

Much attention has focussed on the provision to South Africa of "dual purpose" equipment, ie equipment which can be of both military and civilian use. The interpretation of the arms embargo by the United Kingdom is such that only equipment specially designed for military use is embargoed. This is the case explicitly in relation to the South Africa (Prohibited Exports and Transactions) (Overseas Territories) Order 1978. Article 4 (3) states that it applies to goods *"specially designed for military purposes or paramilitary police purposes"*. In respect of the Order covering exports from the United Kingdom, the items listed in Group I are specially designed for military or paramilitary use. (In the case of any possible ambiguity the item has been defined explicitly, eg *"aircraft, and helicopters, of the*

piloted or pilotless type, specially designed or adapted for military purposes".)

Normally, "dual purpose" equipment is not embargoed. For example, airborne radar, ground and marine radar equipment are all listed in Group III. This is of special concern because in Group III many items listed do not require an export licence for South Africa. This "dual purpose" definition has been used by the British Government to justify the granting of export licences for strategically significant systems such as the Plessey mobile military radar and Marconi static military radar. This represents the most significant "loophole" in the UK's controls *(see post script)*.

c) Arms Supplies to South Africa through Third Countries

No legislation makes it a crime for a United Kingdom national to supply arms to South Africa and therefore if a United Kingdom national arranges for the supply of arms to South Africa through a third country he/she will not necessarily have committed an offence. This applies equally to the involvement of UK nationals and companies in the shipment and transportation of arms to South Africa. The only offence which may be committed relates to any person who

> *"makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false".*

It is for the Customs authorities to prove guilt.

The Order covering exports from the UK does empower the Customs to require proof that the goods have reached their destination, but the maximum fine for failing to comply with such a request is £1,000.

There appears to be no restriction on the transfer of licensing arrangements to a third party not based in the UK who then transfers the licence arrangements to South Africa. An offence would only be committed if it could be proved that any person had *"reasonable cause"* to believe that such arrangements would promote the manufacture of arms or related material in South Africa.

This represents a further important "loophole" in Britain's controls.

d) Manufacture under Licence

The Order made on 1 March 1978 (1978 No 277) was a significant measure in halting licence arrangements for the manufacture of UK designed arms and related materials in South Africa. However, the list of items covered by this Order is limited to those now listed in Group I of Part II of the Schedule I of the 1981 Order (SI 1981 No 1641) which means that licences for many items of military and strategic significance are not covered by this Order, in particular a range of electronic and computer equipment. In addition, the 1978 Order was not retrospective and therefore many British subsidiaries and

other companies may be continuing to manufacture military and strategic equipment in South Africa under licence *(see post script)*.

Nor has this control over licensing arrangements apparently been brought to the attention of the Ministry of Defence. During 1982, according to the Patent Journal of the Patent Office of Pretoria, three patents were awarded in 1982 by the South Africa Patent Office on application by the Secretary of State for Defence. The description of the items for which patents were granted was *"firearms with rotary magazines; actuating mechanisms for small arms; and firearms with re-chargeable magazine"*. Marconi was also granted a patent for a radar signal simulator*(121)*.

e) Spare Parts and Components

On 19 October 1978 an Order was made (SI 1978 No 1496) which specifically prohibited the export of all specialised parts and components of items listed in Group I of Part II of Schedule I of the 1978 Order (SI 1978 796)) without a licence. This was an important step towards stopping the supply of spare parts and components of arms and related materials. This Order is now incorporated as Clause 2 (vii) of the Export of Goods (Control) Order 1981 and the items covered by this Clause are those listed in Group I of Part II of Schedule I of the 1981 Order. However, by restricting this ban to items of Group I, it means that spare parts and components of many items of military and strategic significance are not covered by this Order. This enables South African subsidiaries to obtain a large range of spares and components for supplying to the South African Defence Forces *(see post script)*.

f) Controls over Nuclear Exports

Group II of Part II of Schedule I of the 1981 Order (SI 1981 No 1641) lists a range of *"Atomic Energy Minerals and Materials and Nuclear Facilities, Equipment and Appliances"*. Export orders are required for all these items for South Africa. However, they are not regarded by the United Kingdom as covered by the arms embargo, according to its Note Verbale of 28 April 1978. This list includes items such as *"plants and equipment specially designed for fabricating nuclear reactor, fuel elements"* and *"plants designed for the production of uranium hexaflouride, nuclear reactors"*, etc, all of which are directly related to South Africa's capability to develop nuclear weapons. The British Government has given assurances that

> *"it is the Government's policy not to assist South Africa in the development of a nuclear weapons capability or of its civil nuclear programme. In accordance with Britain's international obligations the export of nuclear materials and related equipment is subject to strict licensing controls. No sales to South Africa will be approved that conflict with our stated policy"(122).*

However, no legislation prevents the recruitment of United Kingdom scientists and engineers in the nuclear and related fields, nor are

there any restrictions on the training of South African personnel in Britain *(see post script)*.

3) The Enforcement and Monitoring of the Arms Embargo

The enforcement of the arms embargo involves a number of government departments and agencies including the Export Licence Branch of the Department of Trade, the Customs and Excise, the Foreign and Commonwealth Office and the Ministry of Defence, as well as the police and other security agencies.

a) Licensing

The Export Licence Branch grants licences for the export of equipment to South Africa for items listed in the 1981 Order on the basis of advice from the FCO and the Ministry of Defence. The responsibility for ensuring that goods leaving the United Kingdom have the appropriate licences rests with the Customs and Excise. It is unclear from UK statements as to whether all items listed in Group I of Part II of Schedule I of the Export of Goods (Control) Order 1978 are automatically embargoed - it has simply stated that all items which the UK has deemed to be covered by the embargo are included in the items listed in Group I. United Kingdom statements are ambiguous on this point. If the embargo is not automatic for Group I, then it means that the Export Licence Branch has discretion in deciding if items on this list are to be exported. (This discretion does not apply in respect of licences, and the export of items listed in Group I from British Overseas Territories because the relevant Orders cover all items in Group I.) Since the Department of Trade is also responsible for promoting trade, including trade with South Africa, it would be unnatural, if such discretion does exist, for companies seeking export licences not to use their influence in the Department in order to seek to obtain a licence.

A creative interpretation of the export licence controls was certainly applied in relation to the Optica aircraft. When the Government informed the AAM that *"the Optica in its basic form . . . . is not obviously covered by the Order"*, the AAM then drew the Government's attention to the control over the export of aircraft engines. The Government replied by explaining that although aircraft engines on their own require licences, aircraft engines in aircraft do not*(123)*!

Since the arms embargo was made mandatory in 1977, export licences have been granted for a number of strategically important items of equipment including military radar and police computers. Clearly in such circumstances it is important that the facts are known.

Moreover, the Government treats all export licences as confidential between exporter and Government. This makes it impossible for any effective monitoring of the application of the embargo by Parliamentarians and non-governmental organisations. In the few cases where licence applications have been challenged, it has been the result of "leaks", "press reports" and action by back-bench MPs *(see post script)*.

b) Penalties

However, there are many items in which there can be no ambiguity since they are explicitly arms and related material. In such cases, these items have to be smuggled to South Africa illegally. The penalties provided and imposed for such offences clearly affect the enforcement of the embargo.

The various Orders listed above include details of penalties which may be incurred for an offence against the Order. The penalties in fact, for most offences, are the same for each of the Orders, namely:

A person found guilty would be liable

(a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both; or

(b) on summary conviction to a fine not exceeding £1,000.

However, the penalty in respect of *"Custom powers to demand evidence of destination which goods reach"* under the Export of Goods (Control) Order 1981 is a customs penalty not exceeding one thousand pounds for failing to furnish proof that the goods have arrived at a legitimate destination.

It is also an offence contrary to Section 170 (b) of the Customs and Excise Management Act (1979) to be knowingly concerned in the evasion of the prohibitions under the Export of Goods (Control) Order (1981). However, there is a time limit of three years within which proceedings for such an offence must be commenced.

The Prime Minister reported to Parliament in April 1984 on cases involving the arms embargo since her election in 1979 as follows:

> *"two cases concerning the illegal export of arms or equipment to South Africa have been resolved since 1979. The first in 1980, involving five companies and five individuals, was settled by Customs compounding proceedings under their statutory powers. It is not the Commissioners' practice to reveal details of compounded settlements. The second case in 1982 involved three individuals who were prosecuted and convicted, one receiving nine months imprisonment with six months concurrent and £1,000 fine, and the others receiving six and three months imprisonment respectively"(124).*

Both cases have been described in some detail in Section IV (1). The first case was that involving, amongst others, Redman Heenan International. Prior to the Observer articles of 1984, neither Parliament nor the public, nor even the UN were aware that a major public company had been engaged in smuggling armaments valued at £2 million to South Africa. The compounded settlement of £193,000 (less than 10 per cent of the value of the deal) could not be regarded in any way as a deterrent.

In respect of the second case, the AAM described the sentences imposed as making a "mockery" of Britain's international undertakings to enforce the arms embargo. Judge Mason QC, presiding, said that *"I also bear in mind, as I must, that these things were supplied, not to*

revolutionaries or insurgents, but, as is beyond doubt, to the Republic Government" (125).

There was a further trial proceeding at the time of the final preparation of this Memorandum. Two of the accused were pleading not guilty to conspiracy charges concerned with evading the prohibitions under the Customs and Excise Management Act 1979. Three others had pleaded guilty and were awaiting sentence.

c) Enforcement Procedures

The Old Bailey trial referred to above revealed an even more serious issue; the lack of co-operation between different government departments. In this case the three convicted arms dealers had been questioned and then arrested by Customs officials following a Customs and Excise investigation. However, the Foreign and Commonwealth Office states that it only became aware of the case when reports of the trial appeared in the press, sixteen months after the arrests. This was despite the fact that the investigations revealed that officials in the South African Embassy had been involved in the payment of at least three of the arms shipments. This delay was used by the FCO to justify no action being taken in relation to the involvement of the South African Embassy.

Even within the Home Office there appears to be a lack of co-ordination because the accused had their licences to act as arms dealers renewed between their arrest and the trial. In addition, a South African arms dealer directly involved in the smuggling was allowed to enter and leave the UK on several occasions following the arrest of the arms dealers and before the trial.

From this case, and others, it appears that there is no effective and co-ordinated enforcement machinery involving the different Government departments and agencies. The enforcement of the embargo is further undermined because of the total lack of control over the entry into the UK of South African arms dealers and similar operatives. The Government even admitted in Parliament that *"the information is not available to enable a definitive list to be compiled"* of South African nationals and others involved in activities in breach of the UN mandatory arms embargo. Richard Caborn MP had asked that such persons be denied entry to the UK. In addition, there is the presence at the South African Embassy of a military attache section which is actively engaged in undermining the arms embargo*(126)*.

In addition, no controls apparently exist to stop the recruitment by South Africa of British military personnel; personnel involved in the manufacture of arms and related material; and nuclear scientists and engineers. Such personnel can play a vital role in undermining the arms embargo; most, if not all, would have signed the Official Secrets Act, yet this appears to provide for no powers to stop collaboration with South Africa.

d) Investigations

The Government has not instituted any serious investigation into the implementation of the arms embargo. Indeed in the few cases where

action has been taken it has been in response to the matter being brought to the attention of the relevant authorities. For example, the first allegations concerning Hammond's activities appeared in Private Eye. In the Redman Heenan case, a former employee alerted the Customs authorities. In the current case at the Birmingham Crown Court, it was the Coventry Evening Telegraph that discovered that arms smuggling was taking place. It must be recognised, however, that Customs and Excise, when so alerted, have carried out rigorous investigations.

> The Government, however, has refused to investigate such investigations even when it is obvious that a breach of the embargo is taking place. For example, in March 1981, the Government confirmed in Parliament that it had not authorised the supply of spare parts to South Africa for Buccaneer aircraft. However since the Buccaneers were still flying, indeed they had just carried out a series of bombing raids against Angola, spares must still be reaching South Africa. Despite the fact that South Africa was the only country apart from Britain to use Buccaneers and therefore any request for spares except by the Ministry of Defence would be clearly destined for South Africa, the Government refused a request in Parliament that an investigation be carried out. Similar proposals for investigations into a series of possible breaches of the arms embargo have received the same negative replies*(127)*.

From this section of the Memorandum it will be seen that the Controls which the United Kingdom has introduced are limited in scope and exclude many items of military or strategic significance. There are numerous "loopholes" and there is no control over the recruitment of military or nuclear personnel to South Africa. Finally, there is no co-ordinated enforcement machinery to ensure that the arms embargo is strictly applied.

VI MEASURES REQUIRED TO STRENGTHEN AND STRICTLY ENFORCE THE ARMS EMBARGO

Throughout the period of the UN Security Council's non-mandatory arms embargo from 1963-77 it was persistently breadched by several UN member states including members of the Security Council. Thus when the UN Security Council declared the arms embargo mandatory it was recognised that effective measures should be adopted by all UN member states to ensure that it was strictly implemented. The Anti-Apartheid Movement, which had campaigned vigorously for the embargo to be made mandatory, was invited to address the UN Special Committee against Apartheid on 12 December 1977. In his statement to that meeting, the Honorary Secretary of the AAM, Abdul Minty, commented:

> *"the resolution has already been described as 'too late and being too little'. However, if States do decide to implement it comprehensively and strictly it can make a major impact by weakening the South African defence establishment".*

He continued the statement by specifying the measures which the UN and member states should adopt if the arms embargo was not to be seriously undermined. The areas which he identified as requiring action were:

* *ARMS EXPORTS*
* *SPARES*
* *TRANSFER OF TECHNOLOGY*
* *CIVIL AVIATION*
* *EXCHANGE VISITS*
* *DEFENCE ATTACHES*
* *CO-OPERATION IN THE EXCHANGE OF SURVEILLANCE AND OTHER INFORMATION*
* *NATO CODIFICATION SYSTEM AND DATA*
* *SEMINARS, CONFERENCES AND ACADEMIC EXCHANGES RELATING TO THE MILITARY EFFORTS*
* *MERCENARIES AND OTHER RELATED PERSONNEL*
* *SHIPPING, MOTOR, ENGINEERING, CHEMICAL AND RELATED INDUSTRIES*
* *THE OIL EMBARGO*
* *NUCLEAR RELATIONS*
* *ARMS EXPORTS BY SOUTH AFRICA* *(128)*

In his statement, Mr Minty described the UN Security Council resolution as:

> *"an important advance from the voluntary embargo first adopted in 1963. However, as with the voluntary embargo, there is the danger that it will not be implemented comprehensively or strictly - and this is made easier because the wording of the UN Security Council resolution 418 leaves it to each Member State to interpret the meaning of what constitutes 'arms and related material'.".*

He continued by stressing the *"vital importance that public campaigns on the arms embargo must go on"* and announcing that the AAM had decided to initiate a World Campaign against Military and Nuclear Collaboration with South Africa *(129)*.

The World Campaign, under the Patronage of African Heads of State, was formally launched at a ceremony at the Zambian High Commission in London in March 1979, with the active support of the UN bodies concerned with South Africa. On 3 April 1979, the Director of the World Campaign, Abdul Minty, made a comprehensive statement to the UN Security Council Committee on the arms embargo in which he gave evidence of serious breaches of the embargo.

The UN Security Council Committee has received numerous reports from the World Campaign and other organisations on breaches of the arms embargo. It published its first detailed report in December 1979. In June 1980 the UN Security Council itself considered the question and on 13 June 1980 unanimously adopted Resolution 473. The Resolution expressed grave concern *"over reports of the supply of arms and military equipment to South Africa in contravention of Resolution 418 (1977)"*, and called on

> *"all states strictly and scrupulously to implement Resolution 418 (1977) and enact, as appropriate, effective national legislation for that purpose".*

The Resolution continued by requesting:

> *"the UN Security Council Committee established under Resolution 421 (1977) in pursuance of Resolution 418 (1977) on the question of South Africa to redouble its efforts to secure full implementation of the arms embargo against South Africa by recommending by 15 September 1980 measures to close all loopholes in the arms embargo, reinforce and make it more comprehensive".*

Recognition of the need to strengthen the arms embargo goes well beyond the UN. The World Campaign has made repeated representations to Commonwealth Summits. In October 1981 the Melbourne Summit:

> *"called for a full and effective implementation of the arms embargo, including its effective monitoring, and urged all governments to desist forthwith from any collabroation with South Africa which undermines the implementation of the arms embargo".*

The matter was considered again at the New Delhi Summit in November 1983 and the Communique called:

> *"for a stricter enforcement of the mandatory arms embargo so as to ensure that there are no loopholes in the implementation of Security Council Resolution 418 of 1977".*

Full consideration was given to the need to close all loopholes, to reinforce and to make the embargo more comprehensive in 1980 by the UN Security Council Committee.

The Committee prepared a 29-page report which was published on 19 September 1980*(130)*.

This report identified four major ways in which the arms embargo was being circumvented. These were:

1 Deliveries of embargoed equipment and components thereof through third parties;

2 Sub-contracting to third parties the manufacture of component parts of embargoed aircraft destined for South Africa;

3 Other indirect and/or clandestine ways of supplying arms and related material to South Africa;

4 Maintenance and repair of engines of embargoed aircraft and other South African military equipment.

This report also reviewed the legislative and other measures taken by UN member states to enforce the embargo and examined the interpretation of the UN SCR 418, in particular concerning "dual purpose" equipment; licensing arrangements and the implications of nuclear collaboration for the manufacture and development of nuclear weapons by South Africa.

As a result of its consideration of these issues, the Security Council Committee reached certain conclusions which it is useful to reproduce in full. The conclusions were:

"There is strong circumstantial evidence to indicate that illicit transfers of 'arms and related material of all types' to South Africa continue to take place. Clandestine operations are carried out from an undetermined number of countries, in circumvention of the arms embargo. Devious routes are used, on which the Committee has scant information. News media and non-governmental organisations have reported some cases of possible violations, but States have seldom reported such violations.

"In cases where 'a final destination clause' is not included in arms export agreements, embargoed military items may reach South Africa via third parties. Sometimes, the manufacture of component parts of embargoed equipment is subcontracted by one country to another, thus allowing the latter to be a participant in violating the embargo. The continued operation of South Africa's imported military aircraft indicates that spare parts continue to reach that country, and that aircraft and possibly other military equipment continue to be serviced and maintained by foreign companies.

"Some licensing agreements previously granted to South Africa, for the manufacture and maintenance of arms and related material, continue to be in force. Thus, military items are manufactured locally in South Africa, either by South African firms or by local subsidiaries of foreign corporations. Some States have either prohibited the granting of, or stated their intention not to grant, new licences. However, the 'review' by States of existing contractual arrangemens with and licences granted to South Africa under the terms of paragraph " of resolution 418 (1977) has, in most cases, not been brought to the attention of the Committee.

"The Committee notes with concern the existence of varying interpretations of certain provisions of resolution 418 (1977), as follows:

a) *The term 'arms and related material of all types' has not been adequately defined. No internationally-accepted list of products falling within this category has been compiled;*

b) *Some ambiguity exists with regard to 'dual purpose' items, ie items used for both civilian and military ends;*

c) *Some States may allow certain items to be exported to civilian customers in South Africa, with the possibility that they could be diverted to military use;*

d) *The word 'review' in paragraph 3 of resolution 418 (1977) has been considered to be lacking in precision. Some States have interpreted the provision regarding the termination of licences as either conditional or voluntary;*

e) *In paragraph 4 of resolution 418 (1977), the injunction 'to refrain from any co-operation with South Africa in the manufacture and development of neclear weapons' has been the subject of considerable discussion within and outside the Committee. There may be a lack of precision as to what type of nuclear co-operation falls within the purview of paragraph 4. Nuclear co-operation with South Africa, defined by some members as 'peaceful' and 'civilian', is considered by most members as constituting co-operation which could lead to 'the manufacture and development of nuclear weapons'. It has also been argued that full-scope international safeguards are necessary in order to prevent South Africa from manufacturing and developing nuclear weapons as provided for in paragraph 4 of resolution 418 (1977). Nevertheless, the Committee is convinced that an urgent need exists to prevent the acquisition by South Africa of nuclear weapons. The effective implementation of the embargo could be facilitated with a clarification of the nature and scope of State obligations under the said paragraph.*

"The Committee notes that few legislative measures have been adopted by States in implementation of resolution 418 (1977). Although general legislative or administrative measures may be invoked to enforce the embargo, would-be violators would find it more difficult to evade a specific law, whether in their own or other countries. Therefore, the enactment of such laws by all States would promote the effectiveness of the arms embargo.

"Although resolution 418 (1977) has created clear obligations upon States, the Committee has so far only dealt with breaches of the arms embargo reported to it. It has not been supplemented by additional machinery within the framework of the Committee for investigation, verification and control. There has not been a systematic study, undertaken on behalf of the Committee, of the international flow of arms and equipment towards South Africa, nor has there been an international system for research into reported violations of the arms embargo."

Finally, the Committee made a series of sixteen Recommendations as follows:

"(i) All States should undertake concrete steps to close existing loop-holes in the embargo. To this end, all States should ensure that arms-export agreements include guarantees which would prevent embargoed items from reaching the South African military establishment and police through third countries. The guarantees

should cover components of embargoed items subcontracted by firms from one country to another.

(ii) States should prohibit the export of spare parts for embargoed aircraft and other military equipment belonging to South Africa, and maintenance and servicing of such equipment.

(iii) States should revoke or terminate all industrial licences previously concluded with South Africa to manufacture arms and related material of all types.

(iv) States should prohibit government agencies and corporations under their jurisdiction from transferring technology or using technology subject to their control in the manufacture of arms and related material of all types in South Africa.

(v) States should prohibit corporations under their jurisdiction from investing in the manufacture of arms and related material in South Africa.

(vi) States should prohibit the export to South Africa of 'dual purpose' items, ie items provided for civilian use but with the potential for diversion or conversion to military use. In particular, they should cease the supply of aircraft, aircraft engines, aircraft parts, electronic and telecommunications equipment and computers to South Africa. Supplies of four-wheel drive vehicles destined for military or police forces should also be prohibited.

(vii) The term 'arms and related matrial of all types', referred to in resolution 418 (1977), should be clearly defined to include all equipment intended for the military and police forces of South Africa.

(viii) All forms of nuclear collaboration with South Africa should cease. There should also be a termination of the exchange of nuclear scientists with South Africa, as well as the termination of the training of South African nuclear scientists in any country.

(ix) All States should ensure that their national legislation or comparable policy directives guarantee that specific provisions to implement resolution 418 (1977) include stiff penalties for violation.

(x) All States should include in their national legislation or comparable policy directives provisions to prohibit within their national jurisdiction the enlistment and/or the recruitment of mercenaries or any other personnel for service with South Africa's military and police forces.

(xi) States which have not done so should put an end to exchanges of military attaches, as well as exchanges of visits by government personnel, experts in weapons technology and employees of arms factories under their jurisdiction, when such visits and exchanges maintain or increase South Africa's military or police capabilities.

(xii) No State should contribute to South Africa's arms-production capability: thus the embargo should include imports of arms and related material of all types from South Africa.

(xiii) NATO countries, in implementing the terms of resolution 418 (1977), should reject any arms purchase orders by South Africa, submitted through the codification system used by NATO member States.

(xiv) Recalling the provision of paragraph 1 (c) of resolution 421 (1977), in which the Committee's request to 'seek from all States further information regarding action taken by them concerning the effective implementation of the provisions laid down in resolution 418 (1977)', the Committee considers that further action is needed to study systematically the international flow of arms to South Africa, with a view to the effective monitoring and verification of transfers of arms and other equipment in violation of the embargo. Measures should also be taken to investigate violations and prevent future cimcumvention of the embargo. International public opinion should be more informed as to the terms of the embargo and alterted to its violations. It is, therefore, necessary to maintain direct contact with responsible intergovernmental and non-governmental organisations whose activities and/or expertise are likely to promote the strict implementation of the embargo. Consequently, the Committee considers that the machinery for the implementation of the embargo should be strengthened.

(xv) A sanctions branch should be created within the Secretariat to assist the Committee in carrying out its functions, as outlined above.

(xvi) One member proposed that the Committee recommend that the Security Council should call on all States which continue to collaborate with South Africa in the nuclear field to stop such collaboration unless South Africa accepts full-scope international safeguards.

Britain at the time expressed its reservations to all the recommendations and the US and French delegations expressed opposition to a number of specific recommendations. Britain's reservations on the recommendations were confirmed in the House of Commons in March 1985*(131)*. The position of the current US and French administrations to the recommendations is not known. Only one of the recommendations - No (xii) (covering arms exports from South Africa) has been adopted by the UN Security Council, in December 1984, but due to pressure mainly from the US and Britain, it is not mandatory and only covers *"arms, ammunition of all types and military vehicles"* - it does not cover a broader catogory of "related material".

The fact that permanent members of the UN Security Council, in particular Britain and the USA, continue to threaten the use of the veto to prevent the adoption of effective measures to enforce the arms embargo is an important factor in facilitating South Africa's military build-up.

Most of the measures recommended by the UN Security Council Committee are directly applicable to the United Kingdom and would, if implemented, seriously curb the continuing collaboration described in Section IV of this Memorandum as well as close most of the "loopholes" identified in Section V (2).

Detailed proposals for action are contained in the Declaration of the International Seminar on the Implementation and reinforcement of the Arms Embargo against South Africa organised by the UN Special Committee against Apartheid in London from 1-3 April 1981 as well as the declaration of the UN Seminar on Nuclear Collaboration with South Africa held in London on 24-25 February 1979*(see appendices V and VI)*.

VII CONCLUSIONS

This Memorandum identifies the growing threat to international peace and security arising from South Africa's military and nuclear build-up. It demonstrates that this build-up has increased South Africa's dependency on external military and nuclear collaboration and that South Africa is far from self-sufficient in armaments production.

It describes the major ways in which there continues to be substantial British involvement in arming apartheid and gives specific cases in each of twelve different areas. It also explains how British controls operate regarding arms supplies to apartheid South Africa; the "loopholes" in Britain's embargo and its enforcement and monitoring machinery. But above all, it provides conclusive proof that Britain has failed to implement both the letter and the spirit of the UN mandatory arms embargo. Whilst it is the case that it has introduced certain important controls (which some UN member states have failed to do), because of both Britain's unique relationship with South Africa as well as its responsibilities as a permanent member of the UN Security Council, it should have adopted much stricter and more comprehensive measures in order to help curb South Africa's military and nuclear build-up. It has failed to do so and the price is being paid by the peoples of Southern Africa who are the victims of South African aggression against independent African States and of its repression within Namibia and South Africa. These policies could not be pursued without the external military collaboration of a small number of states of which Britain is a major culprit.

The Anti-Apartheid Movement believes that urgent measures are required to ensure that the arms embargo is strengthened and strictly enforced. They are set out in detail in the final section of this Memorandum.

VIII RECOMMENDATIONS

This Memorandum represents the first comprehensive study of Britain's record in implementing the arms embargo. From this study it is evident that a series of measures need to be implemented to ensure that Britain honours its international undertakings.

The following recommendations are therefore being submitted by the Anti-Apartheid Movement for consideration by the British Government and in particular those Ministries and Departments directly involved in the enforcement of the arms embargo, namely the Foreign and Commonwealth Office, the Ministry of Defence, the Department of Trade and Industry and the Customs and Excise.

The Anti-Apartheid Movement recommends that:

A) The British Government should immediately:

(i) introduce the necessary Orders in Council so that all items listed in Groups 1 to 4 of Part II of the Export of Goods (Control) Order of 1985 should be embargoed to South Africa and Namibia. Similar changes should be made to the Orders covering the export of parts and components; licensing; and exports from British Overseas Territories. The Customs and Excise Management Act (1979) should be amended to increase the severity of penalties under the Act and to extend the limit of three years during which a prosecution must be made.

(ii) advise the United Kingdom delegation to the United Nations to withdraw Britain's reservations to the sixteen Recommendations of the UN Security Council Committee contained in its Report of 19 September 1980 and to actively seek the adoption of these Recommendations by the UN Security Council.

(iii) terminate the no-visa regime with South Africa and ban all visits to the United Kingdom by South African arms dealers; employees of South African armaments companies and procurement agencies; and military police and security personnel.

(iv) withdraw Britain's military attaches in South Africa and terminate the agreement under which there is a military attache section at the South African Embassy in London.

B) The British Government should undertake a major review of its policies in relation to the enforcement of the arms embargo with the aim of ensuring that in future it is strengthened and strictly implemented. This Review should be based on ensuring the implementation of the Recommendations of the UN Security Council Committee's Report of 19 September 1980 and should include:

(i) the introduction of comprehensive legislation to enforce the arms embargo. Such legislation should make it a criminal offence for British subjects and companies as well as other nationals within the

jurisdiction of the United Kingdom to:

a) export, either directly or through "third countries", arms and related materials to South Africa and Namibia including all items listed in Part II of the Export of Goods (Control) Order 1985 and any other items including "civilian aircraft" being supplied to the military or police which could enhance South Africa's military and security capability;

b) supply technology, licences, "know-how", for the manufacture of arms or related material in South Africa;

c) recruit for, or serve in the South African military, police and other security forces or its armaments and nuclear industries including mercenaries;

d) co-operate with South Africa in the nuclear field;

e) invest in or finance South African based companies, subsidiaries or associates which manufacture arms or related material;

f) import arms and related materials from South Africa either directly or via "third countries" including components.

Such legislation should also prohibit subsidiaries of British companies operating in South Africa or Namibia from selling 'arms and related material' to the South African military police. Any offence committed under such legislation should involve stiff penalties including prison sentences.

(ii) the introduction of effective machinery for the monitoring and enforcement of the arms embargo and the institution of effective co-operation between government departments and agencies.

(iii) the revoking and termination of all licences already granted for the manufacture of arms and related materials in South Africa, including components.

(iv) the full-scale investigation of the methods by which components and spare parts for British military equipment have been supplied to South Africa, such as Buccaneer aircraft spares, Rolls Royce "Viper" engines, etc and the adoption of measures to prevent such supplies.

(v) a concerted effort, in co-operation with our NATO partners, to deny South Africa the use of the NATO codification system.

(vi) a commitment to co-operate fully with the UN Security Council Committee and individual UN member states to ensure that there is effective and co-ordinated international action, including the exchange of information etc. Such co-operation also to be pursued within the Commonwealth and the EEC.

(vii) the extension of the arms embargo to include oil and other petroleum products because of the strategic importance of such supplies to the South African military and police.

C) The enforcement of the arms embargo should be subject to Parliamentary scrutiny and appropriate Parliamentary bodies should have access to all necessary information.

IX POSTSCRIPT

On 25 July 1985 "The Export of Goods (Control) Order 1985 (SI No 849 of 1985)" will come into effect. This new Order will make significant changes in how British controls over the export of arms and related materials to South Africa and Namibia operate. The xisting controls were explained in Section V (2) (a) of this Memorandum.

Under this new 1985 Order all goods specified in Groups 1 to 3 of Part II of Schedule 1 are now subject to control to all destinations. The arrangement by which no export licence was required for various categories of equipment in Group 3 to Commonwealth and certain other countries has been ended and so South Africa and Namibia no longer enjoy a "favoured nation status" as described in Section V (2) (b) of this Memorandum. In future all items covered by categories listed in Groups 1 to 3 will require export licences to South Africa and Namibia. It is not clear if this will seriously effect the enforcement of the embargo since the government has maintained since 1977 that all items falling under the arms embargo are listed in Group 1.

The new 1985 Order also introduces a new Group 4 with the purpose of controlling the export of technology. However the list of countries to which the export of such technology will be prohibited does not include South Africa or Namibia. These controls only apply to fifteen countries, such as members of the Warsaw Pact, China, etc. The Government now has the powers to control the export of military and strategic technology but has specifically decided not to extend such controls to cover South Africa and Namibia. There are apparently no major changes, however, in the existing controls over the provision of licences to South Africa and Namibia described in Section IV (4) and V (2) (c) of this Memorandum.

The new 1985 Order also changes the categories of items included in Group 1 of Part II of Schedule 1. This is the Group in which the Government has deemed that all items covered by the arms embargo fall. These changes could therefore seriously affect the application of the embargo. For example:

* under the 1981 Order, included in Group 1 were a range of aircraft and helicopters including all aircraft and helicopter engines. The new 1985 Order only includes in Group 1 *"Combat aircraft and helicopters and other aircraft specially designed for military purposes and any other aircraft and helicopters having special structural features for transporting and airdropping troops, military equipment and supplies"*. Aircraft engines included in future in Group 1 are restricted to those specially designed for such aircraft. Other categories of aircraft previously in Group 1 have been transferred to Group 3E as have space-craft and launch vehicles.

* another category of equipment which has been moved out of Group 1 (this time to Group 3F) is *"Telemetering and telecontrol equipment suitable for use with aircraft (piloted or pilotless), missiles (guided or un-guided) or space vehicles (guided or unguided) and specially designed test equipment thereof"*.

The effect of these and similar changes may be that the Government will argue that such items as the Coastguarder and Optica (see Sections IV (2) (a) and V (2) (a) of this Memorandum) are not covered by categories listed in Group 1 and therefore now fall outside the arms embargo, thus extending the categories of "dual purpose" equipment, for which export licences to South Africa and Namibia are granted. It will also immediately result in the lifting of the controls over the supply of

licences and spare parts and components for a range of aircraft to South Africa or Namibia because these controls are specifically limited to items listed in Group 1 (see Sections V (2) (d) and (e) of this Memorandum for details of these controls).

One category of equipment described as *"cryogenic and superconductive equipment"* specially designed or configured for military application which is capable of producing or maintaining temperatures below 103K or operating below 103K has been transferred from Group 3B to Group 1.

The new 1985 Order also changes the description of many of the categories in Group 1 in such a way as to weaken the embargo. For example:

* all parachutes were covered by the 1981 Order; only military parachutes are covered by the 1985 Order;

* the 1981 Order covered all cameras for *"aerial survey and reconnaissance"*; the 1985 Order redefines the category as *"air reconnaisance cameras and associated equipment designed for military purposes"*.

Other small changes have been made; *"interrupter gears"* for machine guns, for example, are no longer subject to controls.

Finally, the 1985 Order changes the description of certain of the categories in Group 2 (ie atomic and nuclear items). These changes, however, do not significantly alter the character of the controls in this field described in Section V (2) (f) of this Memorandum.

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(3) *Ibid.*

(4) *Communique of the Commonwealth Heads of Government, New Delhi, November 1983.*

(5) *Rand Daily Mail 4 May 1982; Argus 4 May 1982.*

(6) *Daily Despatch, 22.6.83.*

(7) *For an account of South African military expenditure, see "What Cost Botha's 'Peace'" in Resister No 32 June/July 1984.*

(8) *Interview with Chairman of Armscor, International Defense Review 10/1984.*

(9) *The Sunday Star, 30.12.84, reported 23,000 employees; Armscor Chairman, Piet Marais, claimed 33,000 in interview with International Defense Review 10/1984.*

(10) *Guardian 18.11.1982.*

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(13) *Ibid.*

(14) *Paragraphs 37, 138 and 139, White Paper on Defence and Armaments Supply, 1984, published by Department of Defence.*

(15) *Financial Mail, 17.9.82.*

(16) *Windhoek Advertiser, 12 July 1982.*

(17) *Report of the Study Group on Industrial Development Strategy, Department of Industries and Commerce.*

(18) *Abdul Minty: Statement to UN Security Council Committee 9.4.1984, published by World Campaign.*

(19) *Johannesburg Sunday Times 11 July 1982; Resister No 32, June/July 1984.*

(20) *For general articles on Armscor see Rand Daily Mail, 8.9.82; Financial Mail, 17.9.82 and Guardian, 18.11.1982.*

(21) *Johannesburg Radio, 9.9.82, described the Oliphant as a "modernised version of the British Centurion".*

(22) *There have been many reports of this case - see paras 16-22 of Security Council Committee Report S/14179, for brief account; Armscor explanation appears on pp 1565-67, International Defense Review 10/1884.*

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(24) *Janes Weapons Systems 1982-3.*

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(32) *Rand Daily Mail, 17.5.1984.*

(33) *Star, 10.7.1982.*

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(44) *Sunday Times, London, 20.5.1984.*

(45) *Letter from Malcolm Rifkind MP, Minister of State at the FCO to Robert Hughes MP, 14.5.1984.*

(46) *Rand Daily Mail, 12.1.1984.*

(47) *Times, 14.2.1985; Rand Daily Mail, 15.2.1985; Flight International, 23.2.1985.*

(48) Rand Daily Mail, 5.10.1985.

(49) Letter to Malcolm Rifkind MP, Minister of State at the FCO from Executive Secretary of the AAM, 13.2.1985.

(50) Replies from Malcolm Rifkind MP, 2.4.1985 and 1.5.1985.

(51) Reply from Malcolm Rifkind MP, 20.6.1985.

(52) Reply from Sir Geoffrey Howe, 13.5.1985.

(53) Guardian, 26.6.1985.

(54) These two publications provide extensive background material on these two cases and sources for the information in this Memorandum.

(55) South African Department of Defence: White Paper on Defence and Armaments Supply 1984.

(56) Citizen, 3.9.1984.

(57) Hansard, col 162, 13.3.1985.

(58) Marconi Arms Apartheid, AAM, 22.4.1976; New Scientist, 17.6.1976; additional documentation on this case is available from the AAM.

(59) Letter to the AAM Executive Secretary from Private Secretary to the Secretary of State for Trade, 24.1.1979.

(60) Ibid.

(61) US Department of Commerce News, 3.3.1982.

(62) Compuerising Apartheid: ICL in South Africa, published by the AAM, October 1978.

(63) Hansard, 13.4.1984.

(64) Hansard, 27.1.1978.

(65) Pantsevaksie '80.

(66) Transcript of South Africa's Bombshell: World in Action.

(67) Citizen, 23.6.1978 and Financial Mail, 14.4.1978.

(68) Financial Mail, 30.11.1984.

(69) Rand Daily Mail, 16.10.1981 and D, 11.2.1970.

(70) ICL statements 1978.

(71) UN Security Council Committee Report S/14179.

(72) Letter to the AAM Hon Secretary, Abdul Minty, from the Minister of State at the FCO, 7.6.1976; Hansard, 11.3.1985.

(73) UN Security Council Document S/12494/Add 1.

(74) *Statutory Instrument No 277 (1978).*

(75) *Hansard, 4.3.1981; Statement by Abdul Minty to UN Security Council Committee, 9.4.1984.*

(76) *Observer, 20.2.1983.*

(77) *Letter from Secretary of State for Defence to the Rt Hon Denis Healey MP, 28.3.1983.*

(78) *Letter to Robert Hughes, MP, 15.2.1983.*

(79) *Plessey Arms Apartheid: AAM publication, May 1981.*

(80) *Financial Mail, 22.3.1985.*

(81) *Financial Mail, 5.4.1985; Citizen, 2.4.1985.*

(82) *Rand Daily Mail, 17.5.1984.*

(83) *Sunday Times, 4.11.1984.*

(84) *Annual Report of National Physical Research Laboratory, 1970-80.*

(85) *Southern Africa: Minutes of Evidence to the House of Commons Foreign Affairs Committee, 13.5.1981.*

(86) *Financial Times, 1.7.1982.*

(87) *Nucleonics Week, 22.4.1982.*

(88) *Sunday Mail, 14.11.1982.*

(89) *Morning Star, 9.3.1982.*

(90) *Guardian, 27.11.1982.*

(91) *See paper presented to UN Arms Embargo Seminar, London, April 1981.*

(92) *Hansard, 15.3.1983.*

(93) *UN Institute for Disarmament Research Report A/39/470, 19.9.1984.*

(94) *Morning Star, 27.11.1982.*

(95) *See Financial Times, 14.9.1982; Financial Mail, 17.9.1982 and Flight International, 22/29.12.1984.*

(96) *Star, 16.10.1982.*

(97) *Rand Daily Mail, 3-7.3.1984; Citizen, 3.3.1984.*

(98) *See UN Security Council S/PV 2564, 13.12.1984, for report of debate.*

(99) *Hansard, 11.1.1985.*

(100) *See AAM records; Plessey Annual Reports 1983; Official Year Book of RSA; Guardian, 18.4.1984.*

(101) See Anti-Apartheid News, May 1985 issue; Hansard, col 295, March 1985 and letter to AAM Executive Secretary from the Assistant Director of Military Weapons, 24.4.1985.

(102) Guardian, 12.4.1984; Documents from Fourth British International Conference on RPVs.

(103) For a full account of Project Advokaat see Apartheid: A Threat to Peace, by Abdul S Minty, AAM January 1976.

(104) Letter from NATO Secretary-General to Hon Secretary AAM, 9.6.1976.

(105) Letter from Minister of State at the FCO to Hon Secretary, AAM, 11.3.1977.

(106) Regina v Hammond, Cherrett and Aspin, Court Transcript, October 1982; Hansard, 22.11.1982 (cols 336-7)

(107) Guardian, 19/20/21.11.1980.

(108) Letter AAM Chairperson, Robert Hughes MP, 1.12.1980.

(109) Statement on NATO-South Africa Links: World Campaign, 25.11.1980.

(110) See Apartheid: A Threat to Peace, by Abdul S Minty, AAM January 1976, for background on this matter; Cape Times, 17.12.1980.

(111) Mail on Sunday, 20.11.1983; Sunday Times, 20.11.1983; Daily Telegraph, 30.12.1983; Observer, 17.6.1984.

(112) Daily Telegraph, 20.3.1984.

(113) Letter to Robert Hughes MP, Chairperson AAM, 6.6.1984.

(114) Letter from the Minister of Defence to South African Embassy, 17.12.1964, reproduced in CMND 4589.

(115) Guardian, 12.4.1984.

(116) Hansard, col 407, 18.3.1985.

(117) Sunday Express, Johannesburg, 18.9.1983; 25.9.1983; AAM statement, 28.6.1983.

(118) Hansard, col 462, 13.4.1984.

(119) Note Verbale dated 28.4.1978; S/129494/Add 1.

(120) See correspondence between the AAM and the FCO (1983), available from the AAM.

(121) Patent Journal/Patent Joernaal, various issues 1980-83, as reported in Military Exports to South Africa - A Research Report on the Arms Embargo, published by NARMIC, January 1983.

(122) Letter from Malcolm Rifkind MP, Minister of State at the FCO to Bishop Trevor Huddleston, President of the AAM, 14.9.1983.

(123) See correspondence re the Optica between the AAM and the FCO, 1985.

(124) Hansard, 13.4.1984: written answer by the Prime Minister to question by Robert Hughes MP.

(125) Regina v Hammond, Cherrett and Aspin, Court Transcript, October 1982.

(126) Hansard, col 357, 18.3.1985: written answer by David Waddington to question by Richard Caborn MP.

(127) Hansard, 4.3.1981: written reply by Geoffrey Patten to question by Robert Hughes MP. Information on other requests for investigations is available from the AAM.

(128) Statement by Abdul S Minty to UN Special Committee against Apartheid, 12.12.1977 (A/AC.115/L.485) 12.12.1977.

(129) Ibid.

(130) Report of Security Council Committee established by Resolutoin 421 (1977) S/14179, 19.9.1980.

(131) Hansard, Parliamentary answer by Mr T Renton MP to Mr Richard Caborn MP, col 165, 13.3.1985.