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INTERFAITH CENTER ON CORPORATE RESPONSIBILITY

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MEMO

TO: Friends of the "Mobil Out of South Africa" Campaign

FROM: Timothy Smith and Donna Katzin Timothy Smith

DATE: September 30, 1988

RE: Mobil Oil's South Africa "Contingency Plans"

We thought you would be interested in the internal memorandum which we received from a source within Mobil Oil, detailing some of the company's proposals to by-pass the impact of the Rangel Bill and contingency plans to leave South Africa.

While Mobil's planning is by no means unique, it may be useful in exploring the discrepancies between the public positions of such corporations and their own planning. It is particularly interesting since Mobil has led lobbying efforts to oppose sanctions on Capitol Hill, and continues to chair the Industry Support Unit and to co-chair the U.S. Corporate Council.

For your information we have enclosed today's article by Jack Anderson and our own briefing memo. Feel free to share both with friends and to contact us for further information.

NY NEWSDAY, FRIDAY, SEPTEMBER 30, 1988

JACK ANDERSON

Mobil Worried Over Sanctions On South Africa

MOBIL OIL Corp., the largest American company remaining in South Africa, claims it will stay there as a positive force against apartheid. But one year ago, it began weighing plans for a possible pullout.

"Mobil will not disinvest from South Africa, because it is obvious that this will not benefit South Africa, any of its people, Mobil's employees or its shareholders," says its literature.

But an internal Mobil document, which we have seen, proposed some immediate, tactical moves that would allow the company to sell its South African affiliates without incurring tax on the profits. The memo also described three contingency plans Mobil has for withdrawing from the country.

Mobil's internal plans are noteworthy because of the public role the company has played in the debate over U.S. sanctions. Mobil is among the most active lobbyists against strict sanctions pending in Congress. The giant oil company claims to be a force for change in South Africa and has maintained that its withdrawal would be counterproductive.

Rumors of a Mobil pullout began circulating in January shortly after Congress repealed U.S. tax credits for American companies with subsidiaries paying taxes in South Africa.

An internal memo dated Dec. 18, from Mobil president Richard F. Tucker to chief executive officer Allen E. Murrey, suggested that the company could transfer its South African subsidiaries to the Island of Jersey in the English Channel. It noted that a transfer would allow Mobil to avoid a capital gains tax on the proceeds from a future sale of the South African companies.

That memo may sound like a wise hedge against inevitable sanctions, but it could come back to haunt Mobil. The Interfaith Center on Corporate Responsibility, a New York-based activist group and a leading proponent of disinvestment, plans to use the memo in its ongoing campaign to pressure Mobil to leave South Africa. The ICCR shared the memo with our associate, Scott Sleek. The group says it obtained the memo from a source inside the company.

"On the one hand, they [Mobil] argue that they must stay in South Africa to be a force for constructive change and that sanctions are irresponsible," said Tim Smith, ICCR executive director, ". . . while, on the other hand, they are preparing options and contingency plans for pulling out of South Africa."

The group contends that Mobil employees have not been consulted about the withdrawal options. Union workers in South Africa have publicly supported U.S. disinvestment, but have demanded that the companies negotiate with them on the terms of withdrawal.

Peter A. Spina, Mobil's general manager for corporate, public and government relations, said the company has to make contingency plans in case Congress approves sanctions. He said Mobil's most probable response to sanctions would be a court challenge, because it thinks the sanctions would be unconstitutional.

Mobil has $400 million in investments and 3,000 employees in South Africa. The work force includes 1,297 whites, 948 blacks, 444 of mixed race and 238 Asians.

BRIEFING MEMORANDUM

Mobil Oil Memo Reveals Plans to Circumvent Sanctions and/or Withdraw from South Africa

By Timothy Smith and Donna Katzin
August 30, 1988

Introduction

While U.S. corporations are making hard business and political decisions whether or not to withdraw from South Africa, some high profile companies have taken particularly strong public positions supporting business ties to South Africa. In particular the oil industry has taken the lead in countering public pressures to pull out and lobbying against sanctions. For this reason it is significant that even as they argue adamently against disinvestment, corporations like Mobil Oil may be reviewing options to avoid the consequences of sanctions, while considering alternative ways to withdraw from South Africa.

The Mobil Memo

Recently ICCR received from a source within Mobil Oil the draft of an internal memorandum prepared last December by R. F. Tucker, a Mobil tax attorney, to CEO Allen Murray. It proposes that Mobil establish an off-shore trust on the Isle of Jersey, to shield its South African subsidiaries and earnings from the impact of the Rangel Bill. [Last December the bill repealed tax credits U.S. firms received in this country for taxes they pay to the South African government.]

While it is not unusual for corporations to attempt to minimize their tax burden through legal measures, Mobil presents itself to the public and to Congress as a company which "has complied fully with the letter and the spirit of U.S. law" regarding the supply of crude oil to South Africa. The earlier memo indicates that Mobil was at least willing to explore alternatives to upholding the spirit of the Rangel Bill.

Moreover, while Mobil has taken a strong stand on its "image of responsible citizenship" in South Africa (using this argument to defend its sales to the South African police and military and its secrecy about its sources and sales as required by South African law), such principles do not compel it *a priori* to abide by mandated taxes to the U.S. government.

Further contradictions between public posture and internal planning are reflected in what the memo describes as the "three contingency plans which have previously been discussed in connection with a withdrawal from South Africa." While corporations seldom divulge plans to withdraw before completing the sale of their South African assets, such considerations call into question Mobil's public position and its testimony to the House Subcommittee on Mining and Natural Resources. The presentation concludes "...if we truly want to help end apartheid, then the only course is for the United States to remain engaged in South Africa and to do everything in our power from within to help achieve peaceful change."

The Oil Industry in South Africa

South Africa's lack of any commercially proven domestic oil reserves is its major obstacle to economic self-sufficiency, causing it to depend on foreign sources to supply two-thirds to three-fourths of its liquid fuel needs. Without such fuel the transportation sector (and industries dependent on it), police and military would come to a standstill. Recent research findings reported by the Shipping Research Bureau project that the South African government could not survive a total cut-off of imported oil for longer than 250 days.

Recognizing the country's strategic dependence on imported petroleum, Pretoria strictly regulates foreign oil companies operating in South Africa. It requires them to supply the government on demand, confine their sales and sources to secrecy, and allow state take overs of company facilities during emergencies.

The international oil embargo levied against South Africa has had a powerful economic impact, causing the Botha government to spend an estimated $8 above market price on every barrel of imported oil. Between January 1979 and January 1988, the Shipping Research Bureau estimates that South Africa has paid at least $20 billion over and above the market price for imported crude oil.

(over)

Mobil Oil in South Africa

Mobil is the largest U.S. employer in South Africa, among the most heavily invested there, and one of the country's highest corporate taxpayers. Its leadership among U.S. corporations in South Africa has been symbolized by its Allen Murray's chairmanship of the U.S. Corporate Council (consisting of U.S. corporations in South Africa). Mobil Vice President Sal Marzullo is the staff coordinator of the Industry Support Group, an organization of corporate signers of the Sullivan Principles.

In 1976 the United Church of Christ released secret Mobil reports revealing the company's secret route to sell oil to Rhodesia in violation of the U.N. sanctions and U.S. policy. The Interfaith Center on Corporate Responsibility, whose members have filed shareholder resolutions calling on Mobil to leave South Africa for more a decade, designated Mobil as a key "partner in apartheid" in 1986. Resulting activities by religious institutions, in coordination with labor, community and anti-apartheid groups, have called on Mobil to withdraw from South Africa through dialogues, post card campaigns and public protests. The Episcopal Church recently endorsed a boycott of all oil companies doing business in South Africa, including Mobil.

Recently Mobil has contributed to and participated in lobbying campaigns against sanctions. It is in the process of moving its New York City headquarters closer to Capitol Hill, and is expected to have relocated in Fairfax, Virginia by the summer of 1990.

Questions Raised by the Memo

1. Did Mobil in fact transfer any portion of its South African assets to an entity based in any other country?
2. Did Mobil take any other steps to counteract the tax implications of the Rangel Bill? What additional such vehicles are being considered at present?
3. Is Mobil further exploring disinvestment strategies? What factors have motivated such discussions? Under what circumstances would Mobil withdraw from South Africa?
4. Has Mobil discussed its disinvestment options with the Chemical Workers Industrial Union, which represents its South African employees, in keeping with the position of CWIU and the Congress of South African Trade Unions that firms planning to withdraw must consult with their workers and unions?
5. Are corporations like Mobil which are lobbying so vigorously against sanctions and corporate withdrawal being totally candid with the Congress and the U.S. public?

Conclusions

The Mobil memo does not prove that the corporation has avoided the tax implications of the Rangel Bill or that it will withdraw from South Africa in the near future. Indeed, many political and economic variables at the present time may have convinced corporate leaders publicly to continue business as usual, at least until after the U.S. elections, vote on comprehensive sanctions and outcome of events in South Africa. Nonetheless we can conclude from this memo that:

1. As legislation like the Rangel Bill and escalating public pressures increase the cost of doing business in South Africa, corporations like Mobil are exploring ways to avert or reduce these costs.

2. Even as corporations vigorously defend U.S. business ties to South Africa, they may be preparing ways in which to jettison their South African subsidiaries.

3. The mechanisms for corporate withdrawal contemplated by Mobil do not mandate the severing of non-equity ties, which would enable the company to retain profits and market share despite the sale of its assets, while continuing to supply South Africa with sorely needed petroleum products.

4. As Mobil coordinates corporate efforts and appeals to Congress to sustain U.S. business in South Africa, it may be leading corporate cohorts, law-makers, shareholders and the U.S. public in a direction about which it has serious doubts.