



## Enforcement of the United States Arms Embargo against South Africa

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## Enforcement of the United States Arms Embargo against South Africa

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**ENFORCEMENT OF THE UNITED STATES  
ARMS EMBARGO AGAINST  
SOUTH AFRICA**

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**HEARING**  
BEFORE THE  
**SUBCOMMITTEE ON AFRICA**  
OF THE  
**COMMITTEE ON FOREIGN AFFAIRS**  
**HOUSE OF REPRESENTATIVES**  
NINETY-SEVENTH CONGRESS  
SECOND SESSION

—————  
MARCH 30, 1982  
—————

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# ENFORCEMENT OF THE UNITED STATES ARMS EMBARGO AGAINST SOUTH AFRICA

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TUESDAY, MARCH 30, 1982

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
SUBCOMMITTEE ON AFRICA,  
*Washington, D.C.*

The subcommittee met at 10:15 a.m., in room 2172, Rayburn House Office Building, Hon. Howard Wolpe (chairman of the subcommittee) presiding.

Mr. WOLPE. The subcommittee hearing on the American arms embargo against South Africa will come to order at this point.

The United States has had an arms embargo against South Africa since 1963, and the United Nations adopted a mandatory embargo in 1977. The existing arms embargo, which has bipartisan support, underlines U.S. opposition to apartheid, and projects a positive U.S. image to the majority of South Africans, other African countries, the Third World, and the United Nations.

The arms embargo is also a sign to the South African Government that it is internationally isolated and cannot expect external assistance in militarily subduing rising internal opposition. And, as illustrated by South Africa's problems in the Angolan civil war, the embargo does interfere with its ability to make timely acquisitions of advanced weaponry to fend off rising regional challenges.

South Africa itself has admitted this in its first comment on the recent subcommittee majority staff study of the Space Research Corp.'s violation of the arms embargo. According to the commandant of Armscor, the South African Armaments Manufacturing Corp., South Africa's 155-millimeter gun, which fires accurately up to 40 percent farther than any other comparable weapons of its class, was dependent for its design on computer facilities in Canada and the United States and in the process the arms boycott had to be circumvented.

Over the years there have been many reports, some in reliable military journals, that South Africa was circumventing the U.S. arms embargo. In fact, the current Assistant Secretary of State for African Affairs, Chester Crocker, wrote shortly before his appointment that—

There is little doubt, as the critics of Western arms export policy charge, that substantial amounts of hardware and related technology have been purchased by Pretoria through various channels.

Now the subcommittee majority staff study of Space Research Corp.'s \$19 million illegal deal with South Africa, along with recent

revelations of illegal exports to Libya, indicate that there has been something of a breakdown in U.S. enforcement of arms embargoes. According to the staff report, the State Department, CIA, and Defense Department failed to adequately implement the embargo against South Africa, and there is no systematic effort within the U.S. Government to enforce the embargo.

Furthermore, there are recent signs that this administration is willing to countenance greater cooperation with the South African military and therefore to tolerate some further erosion of the embargo. Alongside the recent easing of restrictions on nonmilitary sales to the South African military and police, the administration has begun to permit South African generals to visit the United States—bending previous restrictions which were adopted as a corollary to the arms embargo.

In addition, the administration has allowed the sale of a computer to Atlas Aircraft, an Armscor subsidiary, and is contemplating approval of another computer that can model nuclear explosions to a defense-related research institute in South Africa.

The purpose of our hearing today is to examine administration views on the rationale and actual impact of the arms embargo against South Africa, and on the need to design a more effective system of implementing U.S. arms export restrictions.

Our witnesses today will be William Robinson, Director of the Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State, and Dan Simpson, Office Director for Southern Africa, Department of State.

I want to also indicate that we have also invited Mr. Richard Burt, the Director of the Office of Politico-Military Affairs of the State Department. It is Mr. Burt who has the broad responsibility for all efforts to restrict arms exports. Mr. Burt was requested to testify before this committee some 3 weeks ago. We then postponed the date of the hearing in order to accommodate his own schedule and to provide more time for him and for the Department of State to review the staff report that had been developed.

Mr. Burt is in the country at this point; I understand he is testifying on the Hill today. I am very disappointed that neither he nor the Department Assistant Secretary will be testifying before this committee. I would have thought that he might have at least extended us the courtesy of some returned phone calls this past week.

Be that as it may, I am delighted to have Mr. Robinson and Mr. Simpson before the committee. I understand that Mr. Robinson has a brief statement that he would like to present before we move into the questioning.

**STATEMENT OF WILLIAM B. ROBINSON, DIRECTOR, OFFICE OF MUNITIONS CONTROL, BUREAU OF POLITICO-MILITARY AFFAIRS, DEPARTMENT OF STATE**

Mr. ROBINSON. Thank you, Mr. Chairman.

I am pleased to be here this morning. As you mentioned, I have Mr. Simpson, our Director for Southern African Affairs; and he has on his left Mr. Greg Frost, desk officer for South Africa; and I have with me Mr. Clyde Bryant, Director of Enforcement in our Office of Munitions Control.

We have given out the usual 50 copies of our cover statement which covers my material as well as that provided by Mr. Simpson. As far as my office is concerned it covers our organization, our responsibilities; it discusses our operating procedures, addresses the questions of personnel, enforcement from the African Bureau side. It covers U.S. arms policy toward Africa. The report also touches on space research.

We, of course, in my office welcome constructive suggestions, and if we can receive any we would be quite happy. I don't think I have anything more to say at this point, Mr. Chairman.

Mr. WOLPE. The statement will be, of course, entered into the record in its entirety.

[Mr. Robinson's prepared statement follows:]

**PREPARED STATEMENT OF WILLIAM B. ROBINSON, DIRECTOR, OFFICE OF MUNITIONS CONTROL, BUREAU OF POLITICO-MILITARY AFFAIRS, DEPARTMENT OF STATE**

Mr. Chairman and members of the Subcommittee, I am pleased to have this opportunity to testify on behalf of the Department of State on the Department's role in carrying out U.S. arms export control policy, particularly with respect to South Africa.

As you know, Section 38 of the Arms Export Control Act of 1975 (AECA) authorizes the President, in furtherance of the foreign policy and the security of the United States, to control the import and export of defense articles and services, to designate those items which shall be considered as defense articles and services for the purpose of the Act, and to promulgate regulations for the import and export of such articles and services. These designated articles constitute the U.S. Munitions List (USML).

By Executive Order 11958, the functions conferred upon the President by Section 38 of the AECA are delegated to the Secretary of State and Treasury. The Secretary of the Treasury is responsible for the control of the import of defense articles and services, and the designation

of items or categories of items which shall be considered as defense articles and services subject to import control; such designations are made with the concurrence of the Secretaries of State and Defense. On the other hand, the Secretaries of State, with the concurrence of the Secretary of Defense, is responsible for the designation of the items or categories of items which shall be considered defense articles and services subject to export control. The Secretaries of Treasury and State are also responsible for the promulgation of regulations for their respective functions and authorities under the AECA.

By internal delegation of functions and authority within the Department of State, through the Under Secretary for Security Assistance, Science and Technology, and the Director, Bureau of Politico-Military Affairs, the Director of the Office of Munitions Control (OMC) is responsible for discharging the functions of the Secretary of State in controlling the commercial export of defense articles and services. OMC prescribes the International Traffic in Arms Regulations (ITAR) in Title 22, Code of Federal Regulations (Parts 121-128, 130). The ITAR defines the USML and the requirements that must be met in order to export the designated defense articles and services, including technical data relating thereto.

The commercial export of defense articles and services

is regulated by a licensing process administered by OMC. Licenses and other requests for approvals are granted only if the proposed transactions are consistent with U.S. foreign policy and national security and comply with all ITAR requirements. Approximately 80% of the munitions cases received by OMC are routine and are approved by OMC's licensing officers on the basis of established policy guidelines and precedents. These consist largely of:

- components, spare parts, and support equipment for defense articles previously exported under license or Foreign Military Sales (FMS) procedures
- unshipped balances of previously approved licenses which have expired before all authorized shipments were made
- handguns and sporting firearms and ammunition for personal use or commercial resale abroad
- return and repair of defense articles previously exported under license or FMS procedures

-- articles such as the above destined for  
allied and friendly countries

Those applications which entail policy and/or security and technical considerations beyond the scope of established guidelines and precedents are referred to the appropriate offices within the Department and to other agencies for review and recommendation. About 20% of the cases require such extensive review by policy offices in the Department, the Arms Control and Disarmament Agency, the Department of Defense, the National Aeronautics and Space Agency, the Department of Energy, and others which have a functional interest in the case. OMC takes final action on these cases based on the recommendations of the reviewing offices and agencies. No license or other approval is granted over the objection of any of the reviewing parties.

Of the seven officers in OMC who are directly responsible for licensing, five are career civil service employees and two are Foreign Service Officers. All the civil service officers have extensive experience in licensing work, most of them for several years, in several different USML categories. The shortest period of service in OMC among the present staff of civil service officers is about two years. The FSOs usually serve between two and four years in OMC. Their diversified experience abroad and in other Department offices adds both policy and administrative breadth to the licensing staff.

Licensing officers are not required to be technical experts in weapons technology. However, they remain current with developments in their areas of responsibility by

reading technical and trade journals, reviewing descriptive literature submitted in support of proposed exports, attending industry briefings and exhibits, and consulting regularly with industry representatives and other government officials. Whenever technical, security, or policy issues beyond their competence arise, licensing officers refer the case to other offices and agencies for expert review by responsible officials. Licensing officers operate on the principle, "when in doubt, staff it out."

Last year OMC processed about 36,000 cases. This figure represents an increase of about 40% over 1977. Although the office personnel complement of 29 has remained stable over this period, the office has adopted a number of technical, management, and procedural changes to accommodate the increased caseload without loss of effectiveness. Standard forms, form letters, and word processing equipment have facilitated and expedited paperwork management. Since October 1, 1981, case processing has been streamlined by an in-house computer which tracks every case from day of receipt to final action. The cases thus become part of the historical data base, and can be retrieved instantly for reference in reviewing subsequent related cases or for reporting purposes. Moreover, effective January 1, 1982, the validity period of all licenses was extended from one to two years. This will effectively eliminate the need for renewal of licenses for unshipped balances of previously approved licenses. We estimate that this will reduce caseload by as much as 10%. OMC is considering further administrative changes designed to reduce and eliminate paperwork without compromising its export control responsibility.

OMC is also responsible for initiating investigations into reports of violations and attempted violations of law and the ITAR. It assists law enforcement agencies in conducting their investigations, and may assist in preparing for prosecution in cases of \_\_\_\_\_ violations. In accordance with Section 38(c) of the AECA, any person who willfully violates any provision of law or regulation governing the commercial export of defense articles and services is liable, upon conviction, to be fined up to \$100,000 or imprisoned for up to two years, or both.

OMC's enforcement activities are both preventive and reactive. The office follows up on reported violations in coordination with other offices and agencies as appropriate. Such reports are received from many different sources, including but not limited to our embassies overseas, U.S. industry representatives, intelligence agencies, customs authorities, and law enforcement agencies. If there is reason to believe that a violation has been attempted or has occurred, OMC may defer action on any pending or received licenses which involve any of the parties alleged to be involved. Furthermore, under the authority of ITAR Section 123.05, OMC may suspend, revoke, deny, or amend any license without prior notice when it has reason to believe that applicable laws and regulations have been violated. Additionally, if the end user, end use, intermediate parties, or any other information stated on a license application is questionable, OMC either returns the license without action or requests our embassies in the country or countries concerned to verify the information contained on the license and to recommend issuance or denial.

In the case of South Africa, members of the Subcommittee may recall that Department of State witnesses testified before this body in July 1977 regarding the implementation of the U.S. arms embargo. The U.S. arms embargo against South Africa began in 1962.

It is one clear manifestation of the repugnance with which the American people view South African apartheid; it has been an element in the foreign policies of the Administrations of now seven American Presidents.

The intent of the arms embargo maintained by the United States, by the United Nations, and by many other countries has been both to express unequivocal opposition to South African apartheid and to try to limit the growth of South Africa's military strength.

This policy has made clear and continues to make clear to South Africa the constraint to improved relations with the United States and other nations that a lack of progress toward change away from apartheid represents. It has achieved and continues to achieve that objective of those who implement it. It has also been limiting factor to some extent in South Africa's efforts to expand its military strength. At the sametime, the impelementation of the embargo has coincided in time with and in part been the motivating force in an important augmentation of the productive capacity of South Africa's arms industry, to the point of near self-sufficiency in most fields. South Africa has thus not been deprived by the arms embargo of its basic tools of military power, although its access to many sophisticated weapons systems has been limited by the embargo.

It is worth noting moreover that South Africa has become the world's tenth largest arms producer at great economic cost, in effect at the expense of other more peaceful national priorities. By increasing the cost to South Africa of defending against internal and external threats generated to a great extent by South African policies, the embargo increased the incentive to change those policies.

Although the scope of the embargo has changed somewhat over the years, I can state categorically that the Department of State does not approve the commercial export of any defense articles or services covered by the USML to South Africa for use by military, security, or police forces. All such license applications are either returned without action or denied outright. The only USML article licensed for export to South Africa consist of certain items which are not strictly military but which are subject to export control by OMC for reasons of policy and security, and only for civil or commercial end use. Examples of such licensed exports are data encryption devices for use by U.S. corporate subsidiaries in South Africa to protect the privacy of business communications; inertial navigation equipment for civilian airlines; and explosive material for mining operations. Furthermore, the Department has not approved any third-party transfers of U.S.-origin defense articles or services to South Africa.

The U.S. also enforces restrictions on exports to the South African military and police that go beyond the control of "arms and related material" required by the U.N... arms embargo. The revised export control regulations

administered by the Department of Commerce continue to prohibit the export of all items to the South African military and police which would contribute significantly to military or police capabilities. U.S. restrictions on exports to South Africa are at least as stringent as those maintained by other major Western countries.

We fully support the arms embargo in its present form. As in the case of other reported or attempted violations of U.S. law, regulation, or policy regarding exports of defense articles and services, OMC investigates reports regarding South Africa in cooperation with law enforcement agencies and assists in prosecution of accused violators.

In this connection, to take the example of the Space Research Corporation, about which a Subcommittee staff member has prepared a report, OMC requested the U.S. Customs Service to investigate the allegation that SRC had exported defense articles and services to South Africa in violation of Section 38 of the AECA (22 USC 2778). The U.S. Customs Service conducted a thorough investigation and apprised the appropriate U.S. attorney as to the evidence developed. The suspected culprits were indicted, pleaded guilty to a bill of information charging a violation of 22 USC 2778, and served time in a Federal corrections facility. This matter was handled in accordance with standard procedure and resulted in prosecution of the violators. The Department therefore, considers that the SRC case was properly and successfully conducted.

Mr. WOLPE. Mr. Robinson, I would like to begin by trying to understand more clearly how it was that the agencies involved in this matter permitted the illegal arms export transaction to go forward. We have before us now two large metal objects. Are you aware of what each of these is yourself?

Mr. ROBINSON. Yes, sir.

Mr. WOLPE. Could the darker object on the right be used for any purpose other than ammunition?

Mr. ROBINSON. I would think not.

Mr. WOLPE. The gray object is the same basic rough-nosed, non-machined forging as that which had been produced for Space Research Corp. It was sent to us by the same army plant that produced it for Space Research Corp.

Could you indicate why it was stated in an April 23, 1976, letter from yourself to SRC that such nosed forgings could be exported without a license if they weren't clearly identifiable as arms.

Mr. ROBINSON. If it is agreeable with you, Mr. Chairman, let's track from your question in your letter to me, why did OMC indicate in its April 3, 1976, letter to Space Research Corp. that unmachined rough-nosed artillery shell forgings could be exported without a license if they weren't clearly identifiable as arms.

Now I don't believe that artillery shell forgings were mentioned here in the very letter, or in our letter, but we will let that go.

Could be supported without a license if they weren't clearly identifiable as arms. Is there fully any such category of nosed forgings? The answer is "Yes." There are high pressure gas bottles, there are tool joints, oil drilling equipment which would perhaps meet that category.

To go on, in a letter dated April 21, 1976, Mr. Bull requested confirmation in regard to his understanding of the requirement to export from the United States rough nonmachine-nosed forgings or rough-nosed forging blanks.

The Department letter dated April 23, 1976, to Mr. Bull, restated the applicability to the international traffic in arms regulations paraphrasing then section 121.15—it has a new number now. The response did not constitute a ruling as to whether rough non-machined-nosed forgings of rough forging blanks were on the munitions list because Mr. Bull did not furnish any technical data.

The OMC response was an interpretation of the ITAR regulations. It was consistent with the ITAR. State Department legal counsel found it to be consistent. The Department of Justice has found it to be consistent. And I suggest if you wish that in writing the Department of Justice will furnish it to you that it is consistent.

Now as far as the drawings are concerned, I cannot determine whether Mr. Hataway asked for the drawings or not. He was careful to follow procedures, and I am unable to find out what he told the grand jury, but I suggest again that the Department of Justice will confirm the use, that our answer was consistent with the ITAR and any use of our answer to export anything on the munitions list was a violation of law, and the person who did it went to jail.

Mr. WOLPE. Would you, please, for the committee, read the precise wording of the regulation, because I do not believe your letter is consistent with the regulations.

Mr. ROBINSON. The letter is an interpretation of the regulations which State Department legal counsel has found to be consistent.

Mr. WOLPE. Would you please read the regulation?

Mr. ROBINSON. Yes, sir, I shall. The Department of Justice has also found it consistent [begins reading]:

121.15. Items in a partially complete state such as forgings, castings, extrusions and machined bodies of any of the articles enumerated on the U.S. Munitions List which have reached a stage in manufacturer where they are clearly identifiable as arms, ammunition and implements of war are considered to be such articles for the purpose of 414 of the Mutual Security Act.

Mr. WOLPE. I didn't hear any reference to rough non-machined-nosed forgings.

Mr. ROBINSON. Perhaps you didn't. This was an interpretation. It was a restatement of the regulations. It is consistent. A man went to jail for attempting to use it. I am not a lawyer. I am not going to argue with the State Department lawyers or the Justice lawyers, but I understand your position.

Mr. WOLPE. I am less interested right now in trying to find personal accountability, but I am trying to understand how the system operates. Perhaps there is a problem with the regulation or the interpretation of the regulation that has been found to be legal. The fundamental issue is, is there a mechanism within your office to identify in advance whether or not proposed exports in fact have munitions significance?

Mr. ROBINSON. Mr. Chairman, in this particular instance we were asked for an interpretation of the international traffic in arms regulations. We were not asked about item A or item B. We gave an answer to the question which is consistent with International Traffic in Arms Regulations.

To answer your question specifically, if you come into me and say, "I have a radio. Is this a military or a commercial radio?" We go to the Department of Commerce and we go to the Department of Defense and obtain a commodity jurisdiction.

Mr. WOLPE. Were you under the impression that Space Research, when its officers came to see you, was something other than a munitions exporter or munitions manufacturer?

Mr. ROBINSON. Well, I was under the impression they were operating a facility for the U.S. Department of Defense.

Mr. WOLPE. Was not in fact a military person a part of the delegation who came to you?

Mr. ROBINSON. He was.

Mr. WOLPE. You don't think that—somehow it was your impression that they were asking kind of an academic issue that did not raise for you, at least, any question about their intention to export munitions-related material?

Mr. ROBINSON. Mr. Chairman, we have about 1,800 to 2,000 applicants. I worry about a lot of them. The president of a company who has had a long-term contract with the U.S. Department of Defense, accompanied by a distinguished lieutenant general retired from the U.S. Army, would not be at the top of my hit list.

Mr. WOLPE. Well, what is your function?

Mr. ROBINSON. My function is to make a judgment, and here are two people with long association with the U.S. Government. Why should I think they are crooks?

Mr. WOLPE. What is the function of your office? I thought it was your purpose and intention to try to monitor, among other things, the potentially illegal export of arms in violation of our embargo.

Mr. ROBINSON. It is, and we were asked a question; we answered it; and we answered it properly——

Mr. WOLPE. What I am hearing, frankly, is that you were more interested in responding in a legalistic sense than on whether this was an intention on the part of the munitions manufacturer to in fact sell export arms to South Africa.

Mr. ROBINSON. That is why he went to jail.

Mr. WOLPE. I find your interpretation of your responsibility intriguing.

Mr. ROBINSON. My interpretation of my responsibility is to enforce the international traffic in arms regulations. If I have someone come to me who I have any question about, I run an end-use check on their operation. I had no reason to question these two gentlemen, nor did my deputy.

Mr. WOLPE. Did you question yourself or anyone else within your office of the legal force of the letter that you supplied to this company? That is, were you aware that your letter, as it turned out, could impede subsequent efforts to prosecute the company if it were mistaken or if it were ambiguous? The content of the letter, that is?

Mr. ROBINSON. The letter was written by a man who actually wrote the ITAR, a fellow named Darby. He had been back there 35 or 40 years. My deputy, Mr. Hataway, was in charge of ammunition.

This type of material, the two of them put the letter together. I am not going back and attempt to create history.

Mr. WOLPE. I just want to say again because I don't want to have to say this repeatedly through the course of this hearing. Today, I am not anxious here to simply assess blame. That is not what we are trying to do. What we are trying to do is understand how the system operates. Clearly something happened that should not have happened. I would hope you would join with this committee in trying to find our way through an understanding of what happened in this instance to correct that.

Mr. ROBINSON. I don't think we could have been more cooperative with Mr. Weissman than we were.

Mr. WOLPE. That is right. But I detect a very defensive, confrontational tone in your response to the questions.

Mr. ROBINSON. Absolutely nothing defensive. We did nothing wrong, and I am not going to be pinned with it.

Mr. WOLPE. Well, if you have done nothing wrong, you don't have to be defensive.

Let us move beyond this to try to piece together precisely what happened and what can be done to avoid the situation happening one more time. Before these applications, how many times had your office handled applications for export of artillery shells and shell forgings? Let's say in the previous 5 years or so.

Mr. ROBINSON. Mr. Chairman, I think we furnished that in a previous letter to you, but a search of our records indicates to me that during the period 1972-75 there were only seven such applications

and they are all from Space Research, and you received copies of them.

Mr. WOLPE. All were from Space Research?

Mr. ROBINSON. Yes, sir.

Mr. WOLPE. And you were familiar with the weapons and the weapons components that were at issue?

Mr. ROBINSON. I came into the office in 1974. In 1975 whatever came across I would have been.

Mr. WOLPE. Is there anything that you would have done differently or is there any change you would make in either the regulations that you are empowered to enforce or in the method of the implementation of the regulations in the light of what happened in this instance?

Mr. ROBINSON. I would say not, since the evasion was based on misrepresentation. He had to misrepresent in order to get around the regulations, and I think the regulations are satisfactory. If there are any suggestions to improve them, I would appreciate it. But I don't have any. As I told you earlier, sir, we are constantly open to suggestion, and I would appreciate anything you come up with.

Mr. WOLPE. Let me just ask one last series and then defer to my colleague, Mr. Crockett.

In the same letter to Space Research Corp. you indicate the U.S. Government had no interest in technology Space Research Corp. exported from its Canadian subsidiary to its Belgian one. Why did you offer that opinion without seeing any evidence that the technology was of Canadian rather than American origin?

Mr. ROBINSON. The regulations on U.S. technology are quite clear. I believe Space Research knew what they were. Their questions did not address U.S. origin and technology. The pertinent regulations are quite specific as to the requirements, exporting technical data from the United States, and the requirements to transfer such U.S. origin technical data from one country to another.

Mr. Bull did not raise this, and again here I think you would do well to raise this question with the Department of Justice.

Mr. WOLPE. I believe that Mr. Bull, in fact, did raise this question in his April 21 letter. The question that was raised was precisely whether or not U.S. approval was needed for the export of technology from their Canadian subsidiary.

Mr. ROBINSON. I believe if you look at page 1 he refers to Canadian technology export. And as far as we are concerned any technology of Canadian origin is a matter between the Canadian Government and Space Research, Quebec.

Mr. WOLPE. I am sorry I just did not hear you. Could you say it again?

Mr. ROBINSON. I said it is a correct statement. We are not in control nor do we have any way to exercise control over Canadian technology exported from Canada. Now as far as U.S. origin technical data is concerned, he did not raise that question, and we can't raise it.

Mr. WOLPE. Were you under the impression this was a Canadian company?

Mr. ROBINSON. He refers to his Canadian Space Corp., Quebec.

Mr. WOLPE. Was a drawing supplied to you indicating that the company was physically located on the United States-Canadian border, in part of the United States?

Mr. ROBINSON. That was part of the letter; yes, sir.

Mr. WOLPE. Did you look at the company as a Canadian company? Was this your understanding?

Mr. ROBINSON. Well, as you know we had two companies. We had Canadian United States and Canadian Quebec.

Mr. WOLPE. They were two companies?

Mr. ROBINSON. Yes.

Mr. WOLPE. You felt you were dealing with this company when the question was asked about exporting technology, in its foreign capacity rather than its American?

Mr. ROBINSON. I am going to let Mr. Bryant speak to that.

Mr. BRYANT.<sup>1</sup> In the questions put to us it would appear that we were dealing with several companies. Not only Space Research United States but Space Research Quebec and a Space Research International located in Belgium. Mr. Bull's questions centered on the activities of the Canadian firm, over which we would have no control, and on the activities of Space Research International located in Belgium, over which we would have no control.

He specifically, on the first page of his letter, raises the question with regard to marketing activities. Now in his questions with regard to technology transfer, we responded in our letter of April 23 by advising him as to our regulations, and the regulations with regard to technology transfer are quite specific. That technology transferred from the United States requires authorization from the Department of State. That technology of U.S. origin transferred from one country to another requires such approval. But that technology originating in another country is not subject to our jurisdiction in any way.

Mr. WOLPE. So the problem, from your perspective, is that you were not aware that the technology in question was in fact American technology?

Mr. BRYANT. That is correct.

Mr. WOLPE. U.S. Customs amassed evidence that the technology was indeed American.

Mr. BRYANT. That is correct, sir.

Mr. WOLPE. And the question here, of course, is the letter that was supplied became a key factor permitting the illegal transaction to go forward. So the issue is whether there was any mechanism that we put in place within the office, to avoid——

Mr. BRYANT. If Mr. Bull had come to us straightforwardly and asked his questions and if he had come to us and provided technical data, specifics with regard to the so-called rough nosed forgings, we would have provided him——

Mr. WOLPE. Are you saying in effect that you don't have the mechanism to check out the authenticity or veracity of the people who are seeking applications, and that you simply respond to whatever the question is?

<sup>1</sup> Clyde Bryant, Chief, Support Services Division, Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State.

Mr. BRYANT. We have an established practice there. When someone comes in and asks us for a determination as to whether or not an item is on the U.S. munitions list, we ask them, in turn, for technical specifics of that item so that we can make an evaluation and a determination. In this case it is my own personal opinion that Mr. Bull had such technical specifics and such drawings, and did not provide them deliberately.

Mr. WOLPE. Why didn't you ask for them?

Mr. BRYANT. I have every reason to believe that we did. I believe that Mr. Hataway did.

Mr. WOLPE. Why did you supply the letter before receiving the drawings and technical specifics?

Mr. BRYANT. Because no drawings or technical specifics were provided?

Mr. WOLPE. That is right. My question is why did you not insist upon them before the provision of the letter that was requested?

Mr. BRYANT. I think, sir, if you will check with the Department of Justice that they will advise you that Mr. Bull told us there were none.

Mr. WOLPE. Mr. Robinson, is that your recollection?

Mr. ROBINSON. Yes, sir.

I have not been able to contact Mr. Hataway to pin this down, and I have no access to the grand jury testimony, obviously. Hataway was a very careful, organized man; and that is as far as I can go.

Mr. WOLPE. Would there be some merit to the consideration of a requirement that when this kind of request is transmitted to your office, that before a response is delivered that there be specific drawings?

Mr. BRYANT. That is a requirement, sir.

Mr. WOLPE. In this instance the letter was delivered without the drawings?

Mr. BRYANT. What we did in the letter and our response of April 23 was simply restated the regulations having to do with castings and forgings. Any castings and forgings.

Mr. WOLPE. Earlier Mr. Robinson said you simply did not restate the regulation but what you supplied was an interpretation of the regulations.

Mr. BRYANT. An interpretation, restatement, paraphrase; however you want to define it.

Mr. WOLPE. This is one case where the interpretation had some profound ramifications down the road.

Mr. BRYANT. Indeed.

Mr. WOLPE. I am not saying there was any malicious conduct here, or intentional wrongdoing or anything of that sort. But I guess at least the question that would come to my mind, hearing your own testimony right now, which has been very helpful, is whether or not the Department ought to be a bit more circumspect in providing what can be used that is a legal document, in terms of requiring in advance a clear understanding of what is involved.

Mr. BRYANT. I think it was the use made by Mr. Bull of that letter that was actually a case of wrongdoing, sir.

Mr. WOLPE. Mr. Crockett.

Mr. CROCKETT. Thank you, Mr. Chairman.

Mr. Robinson, I have some questions concerning Mr. Savimbi in Angola and to what extent he and his forces are receiving American arms. I recall at a former hearing we had Mr. Walker from the State Department here and we discussed with him some conversations he had with Mr. Savimbi or his representatives in Morocco. Subsequent to that time Mr. Savimbi visited the United States and I believe he had conversations at the State Department. Did he have conversations with you?

Mr. ROBINSON. Sir, if I may I would like to defer to Mr. Simpson. I have no knowledge of the subject at all, and I think he may be able to help you.

Mr. SIMPSON.<sup>1</sup> Mr. Crockett, Mr. Savimbi, during his visit, met with officers of the Bureau of African Affairs, the Assistant Secretary of State for African Affairs, Chester Crocker, and with the Secretary of State; but to my knowledge he did not meet with any representatives of the Office of Munitions Control. As I think you are aware, the supply of American arms to UNITA is contrary to the terms of the Clark amendment.

Mr. ROBINSON. I have never seen the man in my life.

Mr. CROCKETT. Are Mr. Savimbi and his forces receiving any American-made arms?

Mr. SIMPSON. It would be very difficult to answer that categorically, sir, because American arms, just as arms of many countries of origin are for sale on the international arms market. It would be absolutely impossible to say whether Savimbi is receiving American arms. He could be buying them secondhand. It would just simply be a question we could not answer.

Mr. CROCKETT. Now, Mr. Robinson, I believe you said you came with the Office of Munitions Control in 1974.

Mr. ROBINSON. Yes, sir.

Mr. CROCKETT. I understand that in December 1975, during the Angolan war, a U.S. citizen, whose name was John Frost, reported to your agency that he was working with an American official to obtain U.S.-origin arms for South Africa from Thailand and Taiwan, and he named the U.S. official and the South African Government representatives.

My question is, Did you inquire about the U.S. official's activity with other agencies and did you speak to the CIA about it, since they were known to be involved in Angola?

Mr. ROBINSON. I have never met Mr. Frost; I have never seen him. He came to my office once to my knowledge. He talked to Mr. Bryant. It is alleged that he gave us a written report. He has never given us a written report on anything, to my knowledge, and here again I would suggest—well, he has never given us a written report on anything. I will let Mr. Bryant take it from there.

Mr. CROCKETT. Did Mr. Bryant write a report?

Mr. ROBINSON. He wrote a memorandum for the record, that is correct; but it was alleged Mr. Frost provided us subsequently with a written report, which he never has.

Mr. CROCKETT. Forget about whether Mr. Frost provided you with a written report. My question is whether or not there was any followup action on what Mr. Frost supposedly told your office.

<sup>1</sup> Dan Simpson, Director, Southern African Affairs, Department of State.

Mr. BRYANT. To the best of my recollection, Mr. Crockett, that memorandum of conversation was circulated within the Department of State to two offices. One, a sister office within our own bureau, and the other to the Intelligence Bureau, the Intelligence and Research Bureau within the Department of State.

Mr. Frost in his conversations with me did not, and I repeat not, name a U.S. official.

Mr. CROCKETT. Did he name a South African representative?

Mr. BRYANT. Yes, sir, he did; several of them.

Mr. CROCKETT. Did he name the agency that the U.S. official was working for?

Mr. BRYANT. He suggested an agency that he thought the U.S. official was working for.

Mr. CROCKETT. Did you have any followup conversations with that agency?

Mr. BRYANT. No, sir, I did not.

Mr. CROCKETT. Did you or anyone else in State take any action as a result of the report made to you by Mr. Frost?

Mr. BRYANT. Other than to forward the report to what I thought was the appropriate people I cannot answer, sir.

Mr. CROCKETT. And who were the appropriate people?

Mr. BRYANT. The Bureau of Intelligence and Research and a sister office within our own Bureau of Political and Military Affairs.

Mr. CROCKETT. And you have had no further word from them?

Mr. BRYANT. No, sir.

Mr. CROCKETT. Is that the usual practice, when your office gets information about possible violation of U.S. embargo?

Mr. BRYANT. It depends on the nature of the possible violation, sir. If the violation involves, or the possible violation involves a violation of U.S. statute, I would refer this to the appropriate investigative agency, the U.S. Customs Service, for investigation.

Mr. CROCKETT. Am I correct that Frost was known to your agency as a Space Research consultant?

Mr. BRYANT. I think he may have been on record with our office in that regard, but I was not aware of it, sir, and the record is a very narrow record.

Mr. CROCKETT. Thank you, Mr. Chairman.

Mr. WOLPE. Thank you, Mr. Crockett.

I would like to invite a visitor to our committee, a member of the Appropriations Committee now and formerly a member of the African subcommittee, Mr. Bill Gray, to join in.

Mr. GRAY. I have been delighted to sit in on the testimony that has been provided.

There are a couple of questions which have come to my mind, and I am not sure if the chairman has raised them or not. Please let me know as I ask them.

I was wondering if Mr. Robinson or the panel could tell me what is the role of the U.S. defense attaché in South Africa?

Mr. ROBINSON. Sir, I am going to pass that to Mr. Simpson, please.

Mr. SIMPSON. Mr. Gray, do you mean with relation to the work of the Office of Munitions Control?

Mr. GRAY. Specifically, what is the role of the U.S. defense attaché in terms of munitions control. What is his role, generally in South Africa?

Mr. ROBINSON. Mr. Gray, let me narrow it down to my office, and then we will let Mr. Simpson take the wider picture, if that is satisfactory.

Mr. GRAY. Surely.

Mr. ROBINSON. Any time we want what we call an end-use check or want information on an activity in a country, we send what is normally called an end-use check to our Embassy in that country. Now normally the end-use check is made by the economic defense officer in the economic section. Occasionally attachés are used to make these checks.

I don't know who makes them in South Africa, but that would be his only possible relationship with us.

Mr. SIMPSON. That is the role that he would perform. Of course, sir, as you may know, defense attachés also perform basically intelligence and information roles, gaining information that is relevant to U.S. interests. Also, they carry out a certain amount of liaison with the Armed Forces of the country in question. They also in some circumstances work in cooperation with the attachés of the embassies of countries that are allies of the United States. For example, in South Africa there is close liaison among the attachés of the embassies of the countries that are members of the Contact Group.

Mr. GRAY. What kind of liaison would he carry out with the South African military? You said that he carries out a liaison relationship with the South African military. What does that mean specifically?

Mr. SIMPSON. Basically he tries to gain information about the South African Defense Force.

Mr. GRAY. Is the same thing true of the South African defense attaché here in the United States—probably a similar kind of role?

Mr. SIMPSON. Yes, sir.

Mr. GRAY. Why did the United States propose without, by the way, a request from South Africa, the enlargement of a South African defense attaché here?

Mr. SIMPSON. Sir, that was restoration of the level of attachés to a previous level that existed prior to the expulsion of some American attachés from South Africa.

Mr. GRAY. In other words, because they had expelled some of our attachés, we had cut down on the number of their attachés some time ago, and now we are restoring the levels. Is that what you are saying?

Mr. SIMPSON. Yes, sir.

Mr. GRAY. What is the increased capacity of the South African defense attaché here as a result of this decision? Is there any increased capacity or responsibility?

In a word, I guess you increased the level of the South African defense attaché here, the number of people. Are there any new roles the attachés play as a result of that increase?

Mr. SIMPSON. It is my understanding, and I would like to submit a correction for the record if this isn't precise, that they had previously an army attaché and they have now added an air force atta-

ché and a navy attaché. So presumably this would increase their capacity to report back to their government on our own—

Mr. GRAY. It is the same kind of role that our man plays in their country; is that right?

Mr. SIMPSON. Yes, sir.

Mr. GRAY. Which country proposed the U.S. training of the South African Coast Guard here? Was that a request from the South African Government?

Mr. SIMPSON. That is a request from the South African Government. I believe it has been going on since 1971.

Mr. GRAY. What is the nature and purpose of that training?

Mr. SIMPSON. Basically it is to increase their capacity to carry out the normal role that coast guards play, which includes air and sea rescue. As you know, there is quite a bit of international sea traffic around the Cape of Good Hope and one of the responsibilities of any coast guard is to see to the safety of ships in the area.

Mr. GRAY. In light of the training of the South African Coast Guard here and also the increase of the defense attaché from South Africa here, how do you reconcile that with the spirit of, if not the letter of, the United Nation-United States arms embargo of South Africa? Could you explain how our training of the South African Coast Guard here does not conflict with our being a signatory to the U.N. embargo?

Mr. SIMPSON. Well, the embargo, sir, applies to the sale and provision of materials. The other thing I think it is important to add that is a coast guard role is certainly not primarily military and, in fact, the South African Government has expressed the intention of creating a purely civilian coast guard within their Ministry of Transport.

The Coast Guard, in general, of course, sees to the security of the shores, but this is primarily a Navy function rather than a coast guard function.

Mr. GRAY. So in other words it does not violate the embargo which pertains primarily to arms sales to South Africa?

Mr. SIMPSON. Yes.

Mr. GRAY. Therefore, that is the rationale behind the training, that it does not contradict the letter of the U.N. agreement.

Mr. SIMPSON. Well, it is not quite that. U.S. ships, merchant marine ships carrying American goods and ships carrying American people go around the Cape of Good Hope. I think we have some interest in seeing that if some problem were to befall them South Africa would be capable of responding to their needs, to meet their problems.

Mr. GRAY. One last question for Mr. Robinson. Could you, perhaps, Mr. Robinson, shed some light on the recent decision to lift trade restrictions on sales to the South African military and police, which, from my understanding—

Mr. ROBINSON. Mr. Gray, before you go any further, if I may, sir, the change in no way impacted on munitions list articles. I control only munitions list articles. The change affected dual use items and technology, which comes under the Department of Commerce, so I must defer to Mr. Simpson.

Mr. GRAY. Perhaps it doesn't apply to you, but if you will let me finish my question you will see where I am coming from. I am well

aware of what it does and doesn't do. One of the items the lifting of the restrictions affected was airplane sales, and some of those planes could perhaps be used for military and police purposes. They are said to be medical evacuation planes, but isn't it conceivable that there might be use of these planes that would be sold for military or police purposes? Has that ever occurred and has your office looked at that sale of aircraft, which I know right now are stated to be small private aircraft? But I think if my memory serves me correct, one of the reasons why we reduced our defense attaché in South Africa was because of a United States aircraft flying over Namibia or someplace in a fairly restricted area. One of the items being opened to sale to the South African military is up is that same kind of aircraft.

So if we use it as a military plane and did use it as a military plane, why haven't we taken a close look at whether these aircraft will be used by the South African military and police forces? Have we developed any policy of monitoring so that those aircraft that have had trade restrictions lifted on them will not fall into the hands of the military or police?

Mr. ROBINSON. The arms you are discussing are under the control of the Department of Commerce, and they have never been referred to me. I read about them in the paper and that is the extent of my knowledge.

Mr. GRAY. In other words, no one from State or Commerce contacted your office to even get an opinion as to whether anything like this could be utilized in that kind of way?

Mr. SIMPSON. Perhaps I could shed some light on that. The changes in the regulations which took place in no way affect, if you will, U.S. compliance with the arms embargo. They are rather a different type of aircraft. The changes that have been made in the exporting regulations govern nonmilitary aircraft. Under the old regulations exporters of aircraft were required to obtain written assurances from South African purchasers that the aircraft would not be used for police, military, or paramilitary purposes.

Under the new regulations, also, licenses for export of aircraft will be granted only on the condition that the aircraft will not be put to such use, which is to say they will not be used for police, military, or paramilitary purposes.

Mr. GRAY. Besides a signed agreement is there any way you plan to monitor that to make sure that it doesn't happen? My point to you is, I believe the plane that you mentioned, the incident that occurred in the reduction several years ago of our attaché staff there was a direct result of an incident involving a plane which was converted to U.S. military use, and the same type of planes will be available under restrictions. Do you have a monitoring process besides the signing of that agreement?

Mr. SIMPSON. Those are two separate questions. The first is the question of the U.S. aircraft which led to the expulsion of our attaché. That was an aircraft that was under the control of our defense attaché at our embassy in South Africa, and the South African Government alleged that this aircraft was used to take photographs which they considered to be in the category of spying. But that was an aircraft actually under the control of the U.S. Air Force.

Mr. GRAY. I am saying to you, as a result of a lifting of a trade restriction, the same model of aircraft will now be available in South Africa. The same model.

Mr. SIMPSON. No, sir; because that was a military aircraft, and military aircraft are not—

Mr. GRAY. I would urge you to check the record. I think you will find the aircraft was made by the same company. The only difference is it had been modified and painted in our usual U.S. Air Force colors with our U.S. Air Force insignia.

Mr. SIMPSON. I will be glad to check and correct the record.

[Mr. Simpson submitted the following:]

The trade regulations permit the export to the South African police and military of aircraft configured as air ambulances. The aircraft then used by the Defense Attache Office in South Africa was a passenger aircraft of a type regularly sold to South African civilian end-users with the appropriate assurances. The passenger aircraft used by the Defense Attaché office can be configured as an air ambulance and vice-versa. There are several firms manufacturing this type of aircraft.

Mr. GRAY. I am not talking about the incident; I am talking about the fact that same model plane will be made available under trade restrictions. And my question really is not to get into a debate about what happened 3 or 4 years ago, but basically besides someone signing a statement that these aircraft, which are supposed to be for private use, will not go for police or military use. Do you have any monitoring mechanism set up to insure that?

Mr. SIMPSON. That perhaps may be the case, but again we would obtain written assurances that the aircraft would not be used for police, military, or paramilitary purposes. According to the Export Administration regulations, any exporter who sells an item with knowledge or reason to know that such a license condition will be violated is subject to prosecution.

Mr. GRAY. I guess the answer is that you really haven't set in place a monitoring process other than the signing of a statement that it will not happen. That is where my interest is.

I have no further questions.

Mr. WOLPE. Mr. Robinson, I would like to return to the issue of the original letter you wrote to Space Research, and I do so because of the significance of the letter as events developed, even in the litigation that ensued. In the course of our staff inquiry we were told by Department of Justice personnel that they originally had the intention of indicting 13 individuals and 5 corporations. They ended up with plea bargaining convictions with respect to two individuals and one corporation.

The statements that have been made to us by Department of Justice officials indicate the chief reason had to do with the appearance of Government cooperation with the overall transaction. Not in the sense of intentional cooperation but in the sense of the provision of letters that subsequently became part of the transaction itself. This was also the judgment of the chief customs investigator that indeed the letter we began our discussion with was the key letter, making it very difficult to prosecute this case to its full force.

Now let's go back to that for just one moment, just so we understand precisely what happened. You are saying you received a request from an individual on behalf of Space Research Corp. asking

whether or not non-machine-nosed forgings required a munitions license for export, and to which you provided this response:

Exports of rough nonmachined nose forgings from the United States are not considered as falling under the purview of the U.S. munitions list so long as they are not clearly identifiable as parts or components of weapons or subsystems covered by that list.

I guess the question is what other rough nonmachined nosed forgings would a munitions manufacturer be inquiring about other than the rough machine-nosed forgings we have in front of us, which, as you indicated, can readily be seen as having some munitions significance?

Mr. ROBINSON. Well, we are getting back to semantics again.

Mr. WOLPE. No, no, I don't want to get into semantics. I would like to know. Maybe there is something that is missing me here, but what is a manufacturer of munitions hardware—he writes to you in your capacity as the controller of the munitions list and the person who decides whether or not munitions can be exported. He writes to you and you write back saying, "Well, if it is not clearly identifiable as ammunition, then the rough non-machine-nosed forgings would not be on the list."

Is there something they might contemplate selling that does not have munitions significance that you are aware of?

Mr. ROBINSON. As I indicated earlier, there are high pressure gasoline storage containers. There are tool joints for drills. But I come back to you, sir—

Mr. WOLPE. Are they in the business of providing gasoline drums? I thought they were clearly registered with your Department as a munitions manufacturer and exporter.

Mr. ROBINSON. Well, that is true. They asked a question, they asked for an interpretation of international traffic in arms regulations. They were given an interpretation which is consistent with international traffic in arms regulations. Now they misused it. Mr. Bull lied, and as you know, Mr. Bull went to jail.

Mr. WOLPE. The question is whether either the regulations or the administration of the regulations was consistent with commonsense. Why on Earth would a munitions manufacturer be coming to you asking you that question if it did not have some import for their industry and for their intention to export munitions? It wasn't intended as a rhetorical question.

Mr. ROBINSON. Well, he asked a question and we answered it. As far as I was concerned they were reputable people asking a question which we answered. Now I can't create 20/20 hindsight and I certainly can't go back—

Mr. WOLPE. But what we can do, and hopefully cooperatively with you, is think through alternative means of handling such requests in the future where there might be a more commonsense response. Why did your bureau supply Space Research Corp. with only in-transit licenses for weapons shipments to Canada, to New York, then to Israel, when any weapon on shipment beginning in the United States needs a regular export license as distinguished from an in transit license.

Mr. BRYANT. I think the submission by Space Research for an application for an in transit license is evidence on the part of Space Research that they recognized that this transaction required the

approval of the U.S. Government. How they moved the material from the United States to Canada may have been in violation of law. I say may have because I simply do not know. But they made a declaration to the U.S. Customs Service moving the material from the United States to Canada, and the form in which it was in we are not aware of.

But to move that finished goods, there is no question but to move that finished goods——

Mr. WOLPE. This is the material we are talking about [pointing to gray artillery shell forging exhibit]?

Mr. BRYANT. There is no indication on the application as I recall it—and your staff I believe has a copy of that application—that it was in that form.

Mr. WOLPE. My understanding is that the identification on the materials that were being shipped out of Canada via the United States to Israel referred to projectiles produced in an American Army plant.

Mr. BRYANT. I am under the impression—your staff can correct me if I am wrong—that it referred to projectiles that were produced in a Space Research plant in Quebec.

Mr. WOLPE. The reference is to a U.S. plant.

Mr. BRYANT. I would have to look at the application, sir.

Mr. WOLPE. That will be supplied to you. Let us move on.

I want to pursue one more aspect of the Canadian part of this. Under the Canadian exemption U.S. companies don't need export licenses for shipments to and from Canada.

Mr. BRYANT. That is correct.

Mr. WOLPE. But they have to acknowledge the fact that they are using the exemption. Yet Space Research didn't mail you the notification, and an associate of Mr. Robinson's within the Department indicated to our staff that OMC is simply too busy to even examine the notifications.

Mr. BRYANT. The regulations require that when a shipment of munitions list items moves from the United States to Canada the person doing the exporting files what is called a shipper's export declaration with the Customs Service, and they show the ultimate destination of this material is Canada and then cite as their authority for shipping the Canadian exemptions within our regulations, which is section 123.12.

They are supposed to send to us a copy of that declaration, and many do. Other declarations, I don't know whether they send them to us and they get lost or whether they do not file them, or whatever, but if they don't send them to us we are not aware of the shipment. But this is true of any shipment of munitions list articles.

Mr. WOLPE. That is interesting. What I am trying to get a handle on goes to whether or not the exemption or the method of implementation of the exemption can unintentionally lend itself to getting around arms embargos by shipping through Canada.

Mr. BRYANT. Such an evasion would, of course, be a violation of our regulations in the statute.

Mr. WOLPE. The issue is how do you find out that such a violation has occurred?

Mr. BRYANT. Let's take another case, and this is just a "what if." Let's suppose that someone ships material out of the United States, declares it to the U.S. Customs Service as hot water tanks. Someone has to misrepresent to the U.S. Government, in violation of law, what they are doing, and this would be the case whether they were shipping to Canada or whether they were shipping directly from the United States.

If you are so inclined, sir, you can evade any law, including the Internal Revenue Service.

Mr. WOLPE. What we are trying to find out now is whether or not the method of enforcement is adequate or whether there are measures that can be taken to improve the effective implementation so that people who do misrepresent will in fact be apprehended in the process.

Mr. BRYANT. The only solution to that question that I can think of is to open every package and every container leaving the United States. You would have to assume that every person making a declaration to the U.S. Government is making a false declaration and you would have to open their package to make sure that they were not, and I would suggest to you, sir, that that is a horrendous problem.

Mr. WOLPE. I had hoped we might be able to identify means short of that, that would allow for an agency investigation where there is at least reason to be somewhat concerned. Like where you have a munitions exporter involved. It seems to me you are narrowing the list of people that you want to check out to those munitions exporters and not to every transaction.

Mr. BRYANT. Whenever there is a reason to have some concern—let us get away from the legal term—whenever there is a reason to have some concern with regard to exports by a particular company, the U.S. Customs Service will check some of those exports. But there is no way that they can have enough people to check all of the exports by that particular company.

Mr. WOLPE. I want to pursue the question of just the staffing and method of operation of the bureau in just one moment, but I have gone on long enough and I would like to yield to my colleague.

Mr. CROCKETT. I have no further questions, Mr. Chairman.

Mr. WOLPE. With Congressman Crockett's permission I shall go on a little further. How large is OMC's arms licensing staff? Let me back up. One last question on this last point. Would one solution be to have U.S. Customs rather than the company notify you of citations of the Canadian exemption?

Mr. BRYANT. I don't know. The trade across the border is so heavy. I just don't know whether or not—

Mr. WOLPE. Are you saying the trade across the border in arms is so heavy.

Mr. BRYANT. All trade. We would have to check all trade.

Mr. WOLPE. The only question here is Canadian exemption with respect to arms shipments.

Mr. BRYANT. Well, the United States exported to Canada, I believe it was last year, let's say over the last 5 years, on the average the United States, both Government and commercial entities exported to Canada somewhere in the neighborhood of 85 million dollars' worth of goods.

Mr. WOLPE. 85 million dollars' worth of military goods?

Mr. BRYANT. Military goods, yes, sir.

Now this year and last year are an anomaly because the Canadian Government has purchased some patrol craft from the U.S. Government, but those craft require licenses from our office in order to be exported to Canada. They are not subject to the exception.

Mr. WOLPE. Of the \$85 million what part of that activity would be subject to the exemption specifically?

Mr. BRYANT. Well, probably the vast majority of them. I would be unable to make a statement.

Mr. WOLPE. Do you have any idea how many total transactions would be involved in that, or separate transactions?

Mr. BRYANT. No, sir.

Mr. WOLPE. Mr. Robinson, how large is OMC's arms licensing staff and how much has it grown in the last 5 years in relation to the increased numbers of registered arms exporters and license applications? I would think that, given the new administration, you guys must be having an unusual boost in activity.

Mr. ROBINSON. Sir, there are seven people. I have a total of 29 people in OMC. Seven are in the Arms Licensing Division.

Mr. WOLPE. I think you mentioned this earlier, but could you indicate again what is your number of license applications annually today?

Mr. ROBINSON. Well, we are running about 36,000. I would like to digress here just one moment, if I may. Licenses have been good for only a year, and a person who had a license and was unable to ship all of the material would have to come back for an unshipped balance. And after long, long deliberation we have now made the licenses good for 2 years. We did that on January 1 so it will only be next January when the impact of that will be felt.

Now I check daily on the number of licenses we get, and I think as of last night we had slightly over 3,000 on March 29, so it will probably get up around 3,500. We are probably going up to slightly over 36,000 a year.

Mr. WOLPE. How does that compare with 2 years ago?

Mr. ROBINSON. I just use the figure of 10 percent. It goes up 10 percent a year. So I would say approximately 31,000.

Mr. WOLPE. The seven people involved in the process of reviewing these applications, have they changed in number in the last few years?

Mr. ROBINSON. No, they haven't. The same number of people. Over the years the only change I was able to make was to take one person out of the administrative side and open up a space, and I got a young lady from the Department of Justice. She had worked on the Watergate plumbers, and she helps Mr. Bryant. That was the only real change that I have made. The seven people have stayed pretty solid.

Mr. WOLPE. Do arms licensing officers in your view have the time to carefully examine and determine the exact destinations of the exports?

Mr. ROBINSON. Would you object if I let the head of the Arms Licensing Division reply? He is a young man I recruited, a Ph. D., a former captain in the Marines, worked for the Naval Surface Weapons Center, and I am very proud of him. I have tried to im-

prove the people in the Arms Licensing Division. He is head of it. I would just like to have him answer that if you don't object.

Mr. SMALDONE.<sup>1</sup> Mr. Chairman, would you repeat the question?

Mr. WOLPE. Do arms licensing officers have the time to carefully examine the enormous number of applications that you are receiving including the professed destinations of the exports?

Mr. SMALDONE. Yes, sir, I believe they do.

Mr. WOLPE. Perhaps I have some other questions you might want to respond to. What technical training and competence do the officers have to help make licensing judgments on forgings and other weapons components as well as weapons themselves?

Mr. SMALDONE. Mr. Chairman, in thinking over the testimony, there is an aphorism, if you will, which I think captures the decision crux they face every time they review a license; and that is, "When in doubt, staff it out."

If they are not able, on the basis of their own competence and information, or what they know from what has been provided with the application to make an evaluation or a judgment, then they will consult with someone in the Department and/or other agencies to get an expert recommendation.

Mr. WOLPE. How many applications are staffed out yearly in proportion to the number received?

Mr. SMALDONE. Approximately 20 percent are referred to other agencies and offices.

Mr. WOLPE. Would they have been involved, members of your office, in responding to a question such as was put by Mr. Bull of the company?

Mr. SMALDONE. Yes, sir, I believe someone from the division was involved in that episode.

Mr. WOLPE. Would you have any view as to whether a munitions manufacturer would have in mind in exporting overseas anything other than what we have before the committee at this point [points to exhibit]?

Mr. SMALDONE. Sir, not having been involved in any of that, I don't think I can answer the question.

Mr. WOLPE. Does your staff ever visit or investigate registered arms exporters to better understand their products, their overall probity, the nature of the international business?

Mr. SMALDONE. Yes, sir, the staff both by visiting plants as well as by attending exhibits and public shows, do become familiar with the equipment which they handle.

Mr. WOLPE. I would like to pursue another aspect of the enforcement question. I think it may be more appropriate for Mr. Robinson at this point.

Mr. ROBINSON. Thank you, Mr. Chairman.

Mr. WOLPE. When Nkomo and others alleged Space Research Corp. was sending ammunition to South Africa in the fall of 1977, I would like to know something of the nature of the response to the allegations that were made at that point. My understanding is that there was no contact made with the arms plant, which you knew from previous licenses had been making shells for SRC. Why did

<sup>1</sup> Joseph P. Smaldone, Chief, Arms Licensing Division, Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State.

you not contact the arms plant, check out any recent orders to verify their destination?

Mr. ROBINSON. Mr. Chairman, I was not aware of Mr. Nkomo's allegations until well after this investigation started. The minute we received a cable out in the islands from the labor union man we put in a telephone call and started an investigation, and followed that up with a written investigation within 7 days. I had never heard of Mr. Nkomo's allegations.

Mr. WOLPE. It may be that this was not information transmitted to your office, but are you aware at least at this point the American Embassy was aware of the charges and they had been published in Canadian newspapers as well?

Mr. ROBINSON. I would like to defer to Mr. Bryant, the enforcement man, on that if I may.

Mr. BRYANT. Yes, we are aware of it now.

Mr. WOLPE. Is there a standard normal operating procedure when such charges are made?

Mr. BRYANT. Normally if the allegation is that material is being exported from the United States, they are referred to our office. It is my impression from the record that the embassy was of the opinion that this was a Canadian firm, not a United States firm involved in this.

Mr. WOLPE. The specific nature of the charge was that the ship involved in the exports went from Canada to New York to Antigua.

Mr. BRYANT. When ships pull into a port, then they go on to the next port to pick up whatever cargo they may have. That is not uncommon.

Mr. WOLPE. Did you attempt, down the road, when you became aware of the broader dimension of these charges, did your agency at that point check out the issue of the routing of the ship or did you go and interview Frost who was a Space Research consultant and had previously reported to you about his contacts with South African arms dealers?

Mr. BRYANT. No, sir, we did not. The U.S. Customs Service, who had been asked to investigate the matter, I believe, did.

Mr. WOLPE. That happened in 1979. The Customs investigation did not happen until 1979.

Mr. BRYANT. No, sir. We asked Customs to initiate an investigation on March 1, 1978.

Mr. WOLPE. I was referring to the Customs interview with Frost. That did not occur until much later in 1979.

Mr. ROBINSON. Just on that point, Mr. Chairman, we have two people in enforcement and as we receive allegations or information, any investigation is made for us by the U.S. Customs Service. Commerce has its own investigators; we do not.

Mr. WOLPE. So it is not your proper role then?

Mr. ROBINSON. Our proper role is to see that this is investigated, but we don't investigate it ourselves. It is our responsibility.

Mr. WOLPE. The thing we are trying to focus in on is there was roughly, as I understand it, a 6-month gap between the public surfacing of the charges and an initiation of an investigation.

Mr. BRYANT. Nkomo made his charges in October 1977. But we were unaware of them in the Office of Munitions Control, and

when we became aware of the allegations we referred them to the U.S. Customs Service for investigation.

Mr. WOLPE. Would it also be the Customs Division to which the request for investigation would be referred in the first instance?

Mr. ROBINSON. Yes, sir.

Mr. WOLPE. As we look toward the institutional question here it seems there are a lot of different actors who became involved in this kind of question. Is it your view that the Office of Munitions Control really ought to be the lead agency in this type of matter?

Mr. BRYANT. In what respect, sir? Do you mean by conducting investigations, itself?

Mr. WOLPE. No, not conducting investigations but with responsibility for insuring that there is an effective system to implement the arms embargo in place. In response to questions about what happened I am told. Well, there is a question for legal interpretation. We looked at the regulation, we made an interpretation and supplied it.

I would be much more comfortable sitting here feeling that someone actually cared whether munitions are being exported illegally or not.

Mr. ROBINSON. Well, we care very much, sir.

Mr. WOLPE. That came through in a rather nastier tone than I intended, I am sorry. The mission and the fundamental purpose was to try to see that there is an effective system in place rather than simply making certain we are protecting our bureaucratic position by making sure we are in conformity with whatever regulations exist. I am looking for the identification of who it is, what it is, and what is the mission of the agency that has chief responsibility for seeing to it that we have an effective method of enforcing the arms embargo.

Should that be OMB, or should it be someone else? Or rather OMC, rather. Should OMC simply be in a kind of a—

Mr. BRYANT. It depends on who receives the allegation, sir. If we receive an allegation of wrongdoing, we refer it to the U.S. Customs Service. They are our recognized enforcement arm. If, on the other hand, the U.S. Customs Service receives an allegation, they initiate an investigation and inform us that they have done so, and we coordinate and cooperate together to see that that investigation is pursued.

Mr. WOLPE. Let me change focus for a moment, Mr. Simpson, and put to you a few questions regarding the policy dimensions of the arms embargo itself.

What is the rationale for the United States arms embargo against South Africa, and is that embargo still supported by this administration?

Mr. SIMPSON. The intent of the arms embargo is to express unequivocal opposition to South African apartheid and to try to limit the growth of South Africa's military strength.

Mr. WOLPE. Is there any contemplation by our Government of a relaxation of the embargo in any respect?

Mr. SIMPSON. No, sir. The administration, just as six previous administrations, remains fully dedicated to observing the arms embargo.

Mr. WOLPE. Has the SRC episode triggered in the State Department a review of the method of implementation of the arms embargo?

Mr. SIMPSON. That would be a question which I think Mr. Robinson would be in a better position to answer. I would imagine this has been the cause of considerable reflection.

Mr. ROBINSON. That is an accurate statement, obviously.

Mr. WOLPE. Has there been reflection?

Mr. ROBINSON. Obviously there has been reflection, and we have tried to tighten up wherever we could.

Mr. WOLPE. Could you indicate what measures have been taken in response?

Mr. ROBINSON. We are just trying to improve our all source checks. We are increasing a number of end-use checks. We are just generally tightening up across the board. But I would say to you, Mr. Chairman, I can understand your—I hate to use the word preoccupation—but your preoccupation with South Africa. We have to worry about evasions worldwide. I am worried about Iran. I am worried about Iraq. They have to have materials to keep their war machines going. I am worried about a lot of places, and it is not just South Africa.

South Africa is a place where it is bad because it is against United States policy. But it is against the law anywhere.

Mr. WOLPE. This subcommittee is concerned with more than just the South African issue. Recent regulations regarding Libya and its obtaining of American munitions and hardware are also of concern to the committee.

Mr. ROBINSON. I think in the case of Libya some explosives on the munitions list were exported, and if someone wants to smuggle some explosives out, you can probably do it.

Mr. WOLPE. Export illegally.

Mr. ROBINSON. If you want to put them in a box and call them books and ship them out. If you want to take the chance, you can do it.

Mr. WOLPE. What about the C-130's that were shipped to Libya?

Mr. ROBINSON. There are C-130's shipped to Libya. Libya got eight in the late 1960's and no further C-130's have gone to Libya. Some L-100's have gone to Libya. There are no C-130's other than those initially sold.

Mr. WOLPE. Well, there was an ABC news documentary. It identified three C-130's.

Mr. ROBINSON. Let's be a little careful. If you go back and look at that program, it started out and it showed an L-100 belonging to Alaskan Airlines, and referred to it as a Hercules. It then showed a C-130 and referred to it as a Hercules. Then it said that some Hercules went to Libya, but no C-130's went to Libya. L-100's went to Libya. There are no C-130's in Libya. That program was very misleading.

Mr. WOLPE. I am glad to have provided you the opportunity to respond to that program, which I did not myself see.

Again in terms of the question that is before us, the issue is not just the implementation of the arms embargo in South Africa. What I am trying to do here is to try to find out to what extent did

this experience trigger any reflection upon the system that is in place for enforcing all of our arms export restrictions.

Mr. ROBINSON. Well, it caused me to shift a person from an activity I needed very badly to another activity to assist in the enforcement. When you talk about our people, Mr. Burt is in charge of the bureau and I am not. We have adequate people. I would say in fairness to him we have not suffered any of the cuts that some of the other offices have, but I would be more comfortable with one more enforcement officer, to answer your question. I could do a hell of a lot more checks on end uses, doublechecking.

We had a program with Customs which I hope that we will be able to finish up, and that is sort of a matrix which would indicate a license which was questionable. You apply certain factors to it and the license came up. It was almost like an income tax computer kicking out the returns that should be audited. We haven't finished that.

Mr. WOLPE. Has there been any prosecution with respect to the Libyan exports? Any criminal prosecution this year.

Mr. ROBINSON. The one that got the headlines, of course, is the Wilson-Terpil affair and that is handled by the Assistant U.S. Attorney here in Washington. There is an outfit by the name of Tenco in Chicago, which allegedly was shipping aircraft spares, and these were seized and I think the trial is underway now.

Mr. WOLPE. Is there any other investigation in process with respect to Libyan illegal arms shipments internally within the Government that you are aware of?

Mr. BRYANT. Yes, sir; but we are not in a position to comment on them.

Mr. WOLPE. Mr. Simpson, in 1962 the United States adopted as a corollary to the arms embargo a general policy of opposing visits to our country by South African military officers in the rank of brigadier or above. In the last few months, however, Lt. Gen. Van Der Westhuizen, chief of staff of military intelligence and other high ranking South African officers who reportedly came here to confer with your Department and with other administration officials.

Can you indicate who has visited the United States and the purpose of those visitations?

Mr. SIMPSON. Yes, sir. Gen. Van Der Westhuizen most recently visited, as part of a South African delegation to the Namibia negotiations. The South African Government has normally included military officers in its team in the Namibia negotiations.

Mr. WOLPE. Was Namibia the sole subject of the discussions?

Mr. SIMPSON. Yes, sir, to my knowledge.

Mr. WOLPE. What else, sir?

Mr. SIMPSON. South African officers have also visited the United States to attend private international conferences held here.

Mr. WOLPE. On what subjects?

Mr. SIMPSON. Airport and seaport police. Also, there was an International Conference of Chiefs of Police, and then also—I believe that is all.

Mr. WOLPE. Are there any restrictions still in place by this Administration of the sort that were in place previously with respect to visitations by high ranking military officials?

Mr. SIMPSON. Yes, sir. We review each application on a case-by-case basis. There were also visits during previous administrations.

Mr. WOLPE. I was going to ask how many were admitted under the Carter administration.

Mr. SIMPSON. It is very difficult to give a comprehensive, a totally comprehensive picture of that. As you know, the United States is not hermetically sealed and many South Africans travel on passports other than South African passports, so it would be very difficult for me to give you a categorical answer.

We know of several. General Biermann, Commander in Chief of the South African Defense Forces visited the United States in a private capacity in 1974. In 1979 General Van Vuuren of the South African Railway Police received a visa to attend an international conference here.

There may have been others. As I say, it is very difficult to give a comprehensive—

Mr. WOLPE. Do you know of any other specific Defense Forces people, South African Defense Forces personnel, that were permitted into this country for official business?

Mr. SIMPSON. Not in addition to what I have mentioned; no, sir.

Mr. WOLPE. What is the number of personnel that have been admitted under the new administration?

Mr. SIMPSON. I would like to provide that for the record. I wouldn't want to give you an incomplete answer.

[The information follows:]

Four military officers visited the United States March 9-15, 1981 on matters not related to the Namibia negotiations. In November, 1981 and March, 1982 the South African negotiating team on Namibia included two military officers. Two police officers attended international conferences which were being held in the United States in October, 1981.

Mr. WOLPE. What is the rationale for this, and do you believe it is a rationale which still has validity?

Mr. SIMPSON. The rationale really is to express the policy that we maintain toward South Africa, which is one of limited contact, good relations, any improvement in relations being posited on progress we are making in the Namibia negotiations and encouragement of peaceful change within South Africa. Our relationship with South Africa is limited. Careful monitoring of the visits of senior South African military officials is consistent with that.

Mr. WOLPE. I would like to insert in the record at this point a letter transmitted to this committee by Mr. Fairbanks detailing the rationale with respect to visitations.

[The information follows:]



## DEPARTMENT OF STATE

Washington, D.C. 20520

April 21, 1981

Honorable Howard Wolpe,  
Chairman, Subcommittee on Africa,  
Committee on Foreign Affairs,  
House of Representatives.

Dear Mr. Wolpe:

The Secretary has asked me to respond to your letter of March 24, 1981, concerning the recent U.S. visit by four South African military officials. I think that your questions can best be answered by beginning with a complete review of the of the circumstances surrounding the incident.

The Department of State was contacted February 26, 1981 by Brig. General Robert C. Richardson III, USAF (Ret.) of the American Security Council requesting a determination on whether the United States would issue visas to Lt. General Van der Westhuizen and two other unidentified high-ranking South African military intelligence officers to attend an American Security Council briefing. General Richardson noted that the American Security Council had been advised by its South African contacts that the South African military officers would not apply for visas unless prior assurance was given that the visas would be granted.

The Department noted that visits to the United States by high-ranking South African military officers were generally not permitted and that this policy was a long-standing position of the United States going back to 1962. On this basis the Department informed the American Security Council that it was unlikely that visas for Lt. General Van der Westhuizen and the other two officers would be approved. Nevertheless, the Department also noted that policy toward South Africa is currently under review and the Department would welcome an expression of the views of the American Security Council on the question of future visits by high-ranking South African military officers.

On March 7 the Department received a letter from the American Security Council which requested a formal decision representing the present Administration's policy on this question. We were reviewing the matter when we learned that the officers in question had already received visas and entered the United States. The request for visas for the officers was made to the American Embassy in Pretoria on

March 3, 1981, four days after the American Security Council was advised that such visits would probably not be approved. And, as previously noted, it was only on March 7 that we received the letter from the American Security Council seeking the Administration's review of policy toward high-level South African military visits.

We have undertaken and completed a thorough review of the circumstances surrounding the issuance of visas to these men. We have ascertained that there were only four officers involved in this incident. The fifth individual whose visa application was submitted together with the four military officers', travelled to the United States on routine business for the South African Embassy. All five were identified in the South African diplomatic notes requesting visas as government officials proceeding on official business for consultations with the South African Embassy in Washington. No mention was made of their military status or ranks.

We have discussed this matter with the South African Government and indicated that it is not normal procedure to send a visa request for a high-ranking South African Defense Force officer to the American Embassy without identification, as the United States Government's policy of not admitting such officers is well-known. The South African Government explained that the two letters from the South African Defense Force to the Department of Foreign Affairs, one dated February 27 and the second dated March 3 contained the ranks of the individuals. According to the South African Government, through an error committed by the Department of Foreign Affairs, the officers' ranks were inadvertently omitted from the diplomatic notes sent to the American Embassy requesting the visas.

Meetings were held in the United States with a staff member of the National Security Council and at the Defense Intelligence Agency. A private group also arranged for General Van der Westhuizen to meet United Nations Ambassador Kirkpatrick, who was not made aware of his identity.

Limitations on contacts with the South African Defense Forces were implemented by the Kennedy Administration in 1962 as a corollary to the voluntary U.S. arms embargo against South Africa. In 1965 this policy was formalized by the Johnson Administration into restrictions on visits to the U.S. by South African Defense Force officers of the Brigadier and equivalent rank and above. No restrictions were imposed on lower-ranking officers or on general contacts

with the South Africa Defense Forces through our mutual exchange of military attaches with South Africa. Neither are any restrictions imposed on purely private visits by such individuals. The policy was reviewed and reaffirmed by the Nixon Administration in March, 1972, the Ford Administration in June, 1974, and the Carter Administration in March, 1978. This policy of restricting such contacts is based on U.S. determination to abide by the arms embargo, in order to avoid conspicuous military association with South Africa, and in order to disassociate the U.S. from efforts to further apartheid.

As this was a policy decision and not a legal requirement, the mechanism used to control such visits was Section 212(a)(27) of the Immigration and Nationality Act. This section provides that the U.S. may review on a case-by-case basis whether an individual applicant's entry into the United States would be detrimental to U.S. foreign policy interests. Therefore, each application was reviewed on its own merits. Such a review of these four officers' applications would have been made if the process had not been preempted by the precipitate action of the applicants. Should such applications be made in the future, we would be required to review them on the same basis.

Our Embassy in South Africa has been instructed to revoke the officers' visas, and appropriate steps will be taken to assure that in the future no visas are inadvertently issued to high-ranking South African military officers contrary to established policy.

I hope this information answers the questions you raised. Please feel free to contact me should you desire further details.

Sincerely,



Richard Fairbanks  
Assistant Secretary for  
Congressional Relations

Mr. WOLPE [reading].

The Department noted the visit to the United States of high ranking South African military officers were not permitted and this policy was a longstanding position of the United States, going back to 1962. On this basis the Department informed the American Security Council that it was unlikely that visas for Lt. Gen. Ean Der Westhuizen and the other two officers would be approved.

That was at an earlier point, of course, with respect to an earlier visitation.

Mr. SIMPSON. Yes, sir. I would stress again the inclusion of military members in South Africa's delegations to the Namibia negotiations has been the occasion for most of these visits, and we consider that to be important and useful.

Mr. WOLPE. I welcome that clarification. In Mr. Fairbanks' own letter he indicated an explanation of the rationale: "This policy restricting such contacts is based on U.S. interpretation to abide by the arms embargo in order to avoid conspicuous military association with South Africa and in order to disassociate the United States from efforts to further apartheid," and I think that relaxation or liberalization of that beyond the immediate negotiation, the subject of the Namibia diplomacy I think would be most unfortunate.

Should the restrictions on visits of South African military officers to the United States be extended to high officials of Armscor and its subsidiaries, particularly in view of their visits to the United States to arrange Space Research Corp. and other violations of the U.S. embargo?

Mr. SIMPSON. Sir, we submit applications for visas by senior Armscor officials to the same case-by-case analysis we do applications for visas by senior South African Defense Force officers.

Mr. WOLPE. Has there been an inclination to permit their visitations more freely—

Mr. SIMPSON. No, sir. I would add it might be more difficult to monitor because these are civilians; and as I noted, you know, many South Africans do travel on passports other than South African passports.

Mr. WOLPE. Do you have a list of the Armscor officials and officials of the subsidiaries of Armscor so there is a mechanism in place for monitoring that list?

Mr. SIMPSON. Our Embassy in Pretoria and our consulates general in Durban, Johannesburg, and Capetown are very much aware of who the senior officials of Armscor are and try to be as aware as possible of such things.

Mr. WOLPE. Has South Africa been rebuked in any respect? Have there been any conversations with the South African Government with respect to the Space Research case and South Africa's illegal receipt of the American arms?

Mr. SIMPSON. This is a question which we were trying to figure out the answer to. I can't answer categorically that we have not, but I think it is possible that we have not. I guess I would have to ask, does one think that would have done any good? Would that have achieved anything? I mean in the sense their hand was in the candy jar.

Mr. WOLPE. I guess the issue is whether or not we are serious about discouraging subsequent violations and how serious we in fact are.

Mr. SIMPSON. We are very serious about that, but rebuking them for having managed to get around our own laws and regulations, whether that has served any purpose in terms of a deterrent.

Mr. WOLPE. Perhaps it was my use of the word that was misleading. My interest here is knowing what are we prepared to do if there are subsequent violations, anything, really with respect to South Africa.

Mr. SIMPSON. I would assume that if information came to the attention of Mr. Robinson's office of a similar violation——

Mr. WOLPE. No, no. I understand what we would do with respect to——

Mr. SIMPSON [inaudible]. Perhaps someone would have ended up in the slammer at the end.

Mr. WOLPE. Yes, but Mr. Robinson's mission is different from the State Department's in this regard, conceived more broadly. That is clearly there would be domestic prosecution if individuals can be apprehended. The question I am putting to you is what would be our response to South Africa for their cooperation and involvement in it?

Mr. SIMPSON. South Africa is very well aware that the United States intends to continue to enforce the letter and the spirit of the arms embargo. This is something that we have made very, very clear to them, and that we view with the greatest concern any attempts on their part to circumvent U.S. law. There is no question in their minds about that.

Mr. WOLPE. Commandant Piet Marais was quoted in a Johannesburg newspaper recently as saying—let me just read the entire, a portion of the statement here.

“Commandant Marais”—it says:

The G-5, which is generally regarded as the most modern 155-mm. field gun in the world, is capable of firing projectiles accurately up to 40 percent further than any other comparable weapon in its class. The gun, although its South African origin was dependent for its design and computer facilities on Canada and the United States and in the process the arms boycott had to be circumvented. Allegations it was based on American G-4 which South Africa was said to have had access to through the American Space Research Center were completely unfounded.

I would like to put to both Mr. Robinson and Mr. Simpson this question as to your reactions to both the reference to computer facilities and also to the denial of the Space Research Corp. relationship to the specific technology that he is discussing.

Mr. SIMPSON. I would speak to the political point and then ask Mr. Robinson to speak to the more technical point. I would see that statement by Commandant Marais as basically saying “we did it ourselves.” Now whether they could have done it themselves or not I am not competent to say.

Mr. ROBINSON. I am going to ask Mr. Bryant to address it, if I may.

Mr. BRYANT. I am inclined to think, sir, that Mr. Marais' comments:

One, is a bit of puffery. Forty percent farther than any 155-millimeter gun can fire, I question that, seriously. Ten percent perhaps but not 40.

Two, with regard to the computer access I am not sure what he means there. They have computers in South Africa. He had access to computers in Canada, perhaps. I simply don't know.

Mr. WOLPE. And didn't Space Research actually provide computers to do the testing of the cannons as well?

Mr. BRYANT. They provided some range-testing equipment. Whether it incorporated computers or not I don't know. I would have to look at the file.

Mr. ROBINSON. Could I go back to one thing you just mentioned. I would like to take your understanding and assure you that—I am not addressing South Africa—that any time from here on out on our checklist when we get a conviction we will consider whether or not we are going to make a protest or a comment to that government. Now I give you a case back a couple years ago. We arrested a man for attempting to export a fighter gunsight to the U.S.S.R. Well surely after we put him in prison there wasn't much reason to protest to the U.S.S.R. But I think there are times when that might be beneficial, and we will certainly put it on our checklist.

Mr. WOLPE. I thank you for that.

Let me ask Mr. Simpson at this point if he has any comments on the staff report and specifically the recommendations for improved implementation of the arms embargo?

Mr. SIMPSON. Sir, I found the report very, very interesting to read. Of course, as the policy office most concerned with the arms embargo against South Africa, we are very, very interested in the most effective enforcement of that embargo possible.

It is not really for me to comment on the effectiveness of Mr. Robinson's office. It is my general impression that they do their very best.

Mr. WOLPE. Aside from Mr. Robinson's own office, has anyone in the State Department assumed the initiative to kind of check out the interfacing of the Office of Munitions Control with the CIA, with the Defense Department, with Customs and other agencies, all of whom end up becoming involved in the monitoring and enforcement of the embargo?

Mr. Simpson.

Mr. SIMPSON. I don't know. Mr. Robinson.

Mr. ROBINSON. The staff report shows an awful lot of work, a lot of detail work, a lot of thought. As I told you, and I am quite sincere, we do welcome constructive criticism and I think there are some ideas here. I certainly can't speak for people above me, but I can assure you we have noted them and we will look into them. That is the best I can do.

Mr. WOLPE. That is all I can ask, and I appreciate your forthcoming response. I think it would be very useful in fact if we could generate from both your Department, Mr. Simpson, and—well, it is really outside your purview. Let me keep this focus on Mr. Burt and Mr. Robinson. If we could generate specific reactions, whether there is agreement or disagreement, so we can take a look at the various policy recommendations that have been suggested or generated by staff.

Mr. ROBINSON. Mr. Chairman, let me just say one thing here now. I have made a commitment to you to followup and bring this to the attention of my superiors. Now I want you to know that I probably, in commenting on it, would vary it to the extent that if it is done, I would call it worldwide rather than South African embargo.

Mr. WOLPE. The recommendations refer to the system of the arms embargo and are not specific to places in South Africa.

Mr. ROBINSON. We had a little difference in terminology. Sometimes we don't ship to by policy, some places we don't ship to by embargo, other places by law.

Mr. WOLPE. I understand the point. That would be useful and it would give us as a subcommittee a little fuller understanding of the system in place and of ways, perhaps, of improving this.

I have no further questions at this point. I want to thank all of you for taking the time to testify before the committee. I believe the information that has been developed will be very useful. Thank you very much.

Mr. ROBINSON. Thank you for the opportunity, sir.

Mr. WOLPE. Before I adjourn here, without objection I will enter the full staff report in the record.<sup>1</sup>

[Whereupon, at 11:55 a.m., the subcommittee was adjourned, subject to the call of the Chair.]

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<sup>1</sup> See appendix.

## APPENDIX

### "THE SPACE RESEARCH CASE AND THE BREAKDOWN OF THE U.S. ARMS EMBARGO AGAINST SOUTH AFRICA," A STAFF STUDY OF THE SUBCOMMITTEE ON AFRICA<sup>1</sup>

#### MAJOR CONCLUSIONS

1. From 1976-78, Space Research Corporation of Vermont broke the U.S. and U.N. arms embargoes against South Africa by selling and shipping to the South African Government approximately 60,000 155 mm. extended range artillery shells, at least four 155 mm. guns including three advanced prototypes, technology and technical assistance to establish its own 155 mm. gun and ammunition manufacturing and testing capability, and other military equipment. Almost all of the equipment sent to South Africa was acquired in the U.S., mainly from U.S. Army plants and supply stocks.
2. The SRC - South Africa transactions led to South Africa's acquisition and development of advanced 155 mm. artillery systems which have made major contributions to its regional military capabilities.
3. The SRC case shows that while there has been an official U.S. policy of embargoing arms to South Africa since 1963, the relevant U.S. Government agencies have thus far failed to adopt procedures to effectively implement the embargo. Had such procedures been in place, the SRC violations would have either not occurred or been promptly detected and halted.

<sup>1</sup>This report is the result of a cooperative effort by the majority staff of the Subcommittee on Africa over more than two years. The principal author of the report is Steve Weissman, Staff Associate. Johnnie Carson, Staff Director participated in the investigation and reviewed and edited the report. Others who assisted in the investigation were Rosalind Harmon, Staff Assistant and, former Staff members David Frank, Glenn Goldberg and Casby Harrison, House Foreign Affairs Committee staff consultant Gerald Pitchford, and Stanley Brand, Chief Counsel, Office of the Clerk of the House.

The findings in this report are those of the subcommittee staff investigation and do not necessarily reflect the views of the membership of the Subcommittee.

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<sup>1</sup> See appendix.

4. The State Department's Office of Munitions Control gave SRC a letter which misapplied its own regulations and thereby encouraged SRC and its financier, the First Pennsylvania Bank, to proceed with their plans to ship arms to South Africa. The letter indicated that it might be legally possible for SRC to ship unfinished artillery shell forgings out of the U.S. without an arms export license. It also accepted without investigation SRC's tenuous claim that its technology was not of U.S. origin and therefore did not need a license to be exported abroad. The effect of this mistaken letter was to minimize the corporations' legal risks in exporting arms and arms technology to South Africa. Without the letter, the First Pennsylvania Bank would probably not have approved SRC's use of U.S. manufacturing facilities to produce its shells, and might well have reconsidered the entire project. OMC's mishandling of SRC's questions was part of a pattern of errors and carelessness in dealing with the corporation's arms exports.
5. Acting under loose and ill-defined procedures, the U.S. Army approved two SRC requests to use a Government-owned ammunition plant to manufacture 65,000 artillery shell forgings nearly all of which went to South Africa. The Army made no attempt to independently verify the supposed destination of the shells.
6. According to the preponderance of evidence, it is probable that a U.S. defense consultant who was assisting the CIA's covert action program in Angola---and was under the supervision of a CIA officer---planned with South African Government officials shipments of U.S.-origin arms to South Africa for use in Angola. He also informed the South Africans (representatives of ARMSCOR, the state defense production and procurement agency) that they could obtain superior 155 mm. artillery from SRC. Much of this planning and discussion took place after the U.S. Government had decided not to ship arms for Angola via South Africa and not to respond to an official South African request for 155 mm. artillery from SRC.

At the very least, this episode suggests serious negligence

on the part of the Agency. At most, there is a possibility that elements of the CIA purposefully evaded U.S. policy. Although the probable CIA agent was one channel of information about SRC to South Africa, and was subsequently approached by ARMSCOR to act as an intermediary in concluding a deal with SRC, there were two other channels which seem even more important.

7. SRC's extensive and long term violations of the arms embargo were made possible by the absence of a coordinated U.S. enforcement system to detect and prevent such violations. The State Department and the CIA, respectively, did not follow up on reports of South Africans seeking U.S. -origin arms from a U.S. citizen or share information on South Africa's efforts to obtain 155 mm. shells from the U.S. Government. No U.S. foreign policy agency monitored the visits of at least 8 ARMSCOR-led arms buyers to the U.S. in 1976-77 or the often multiple trips of 16 high officials and technicians from SRC to South Africa in 1976-78. No U.S. agency was aware of the role of British and Israeli third parties in the development of the SRC-ARMSCOR contracts. As news reports began to expose the SRC violations, no U.S. foreign policy agency felt responsible for investigating the specific allegations being made. After a U.S. Customs investigation was launched, the emphasis was on the

slow careful construction of a criminal prosecution and not on the detection of continuing SRC violations and the prevention of future ones. Thus no coordinated action was taken to follow up on information that SRC had a Canadian export license for 35,000 artillery shells for the "Government of Spain" and that the shell forgings came from a U.S. munitions plant. As a result of these enforcement lapses, SRC was able to ship over 32,000 U.S.-forged artillery shells to South Africa, via Spain, 8-9 months after the initial allegations and 4-5 months after the Customs inquiry began.

8. The poor performance of U.S. foreign policy agencies in the SRC case seriously weakened the Justice Department's 1980-81 criminal case against SRC, the First Pennsylvania Bank, and their officers and associates. Of particular concern to Government lawyers in a potential trial was the appearance of possible U.S. Government authorization of SRC shipments to South Africa. The upshot was Justice's acceptance of a plea bargain in which only the two top officers of SRC paid a price---4 and 4 1/2 months at a minimum security prison --- for a \$19 million illegal arms deal. Although there was some minority sentiment in Justice for attempting more vigorous prosecution, no State Department representatives (and thereby no U.S. foreign policy interests) participated in the decision to accept the plea bargain.
9. The causes of the Government's failure to adequately implement the arms embargo were structural rather than accidental in nature. OMC's failures reflected the organization's lack of capacity to adequately enforce arms licensing regulations. OMC officials acknowledged their lack of sufficient technical expertise to make reliable judgments on applications of their

own regulations and lack of sufficient staff resources to properly process their workload. The Army's slipups were due to loose and ill-defined procedures, some of which have been tightened in the backwash of the SRC affair. At the CIA, a preoccupation with the immediate bureaucratic need to move arms efficiently into Angola through South Africa appeared to supersede the larger U.S. policy of enforcing the arms embargo against South Africa. Finally, SRC's successful implementation of its plans revealed that there is a "hon-system" of enforcing the arms embargo in the U.S. Government. U.S. foreign policy agencies did not interrupt this scam because collecting information on the embargo's operation was not high on the list of any agency's priorities, procedures for sharing and centrally-assessing relevant information did not exist, and --- most fundamentally --- there was no clear delineation of organizational responsibilities for obtaining relevant intelligence, evaluating it and acting upon it.

10. In order to strengthen the U.S. arms embargo against South Africa (and arms restrictions aimed at other countries), the following steps are recommended:

- a) The Secretary of State should promptly designate a lead office, logically the Bureau of Politico-Military Affairs, to supervise U.S. implementation of arms embargoes and restrictions. The lead office should have a formal, written mission and authority to represent the Department in inter-agency discussions. A Deputy Assistant Secretary of State should be made formally responsible for implementing arms export restrictions. At the time of these designations, the Secretary of State should clearly and vigorously express the rationale for the arms embargo against South Africa and other arms export restrictions.

b) Under the aegis of the lead office, the Executive should reassess the current system for implementing U.S. arms export restrictions. Following this review, and in consultation with Congress, the Executive should:

- delineate formally and in writing organizational responsibilities for implementation, including preventive action
- re-evaluate existing organizational procedures in light of newly assigned responsibilities
- take steps to ensure that each organization has the resources to do its job
- require increased intelligence collection on illegal international arms transactions and install formal communications procedures to make sure that intelligence is utilized

c) Pending completion of this reorganization,

- the Office of Munitions Control should be given increased resources in staff and technical training to perform its existing functions
- the House and Senate Intelligence Committees should investigate the possible roles of employees, agents and contacts of the CIA in efforts to evade the U.S. arms embargo against South Africa during the Angola conflict, and in the development of the SRC-South Africa relationship

THE SPACE RESEARCH CASE: A SIGNIFICANT VIOLATION OF U. S. POLICY

Between April 1976 and September 1978, Space Research Corporation of North Troy, Vermont broke the U.S. and U.N. arms embargos against South Africa by selling and shipping to the South African Government approximately 60,000 155 mm. extended range artillery shells, at least four 155mm. guns including three advanced prototype guns, a radar tracking and firing range instrumentation system to follow and measure the paths of fired projectiles, and a number of artillery sights, lights and mounts. \* Almost all of this equipment was acquired in the United States from U.S. Army-owned plants and supply stocks in Scranton, Pennsylvania, Watervliet, New York, and Aberdeen, Maryland, and from a variety of private firms. SRC also violated the embargos by exporting technology to South Africa. SRC personnel traveled to South Africa to assist the Government in setting up and operating artillery test range facilities (including advice on design of propellants and firing techniques) and in establishing its own 155 mm gun and ammunition manufacturing capacity. SRC also entered into manufacturing license agreements with the South African Government for both the guns and the ammunition. In return for SRC's services, South Africa paid SRC approximately \$19 million which the company assigned to its principal creditor, the First Pennsylvania Bank.

Specifically, SRC officials reached agreements and signed contracts with officials of ARMSCOR (the Armaments Corporation of South Africa), the Government agency which heads up Defense Procurement and Production for the South African military.

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\*SRC also subcontracted with PRB, a Belgian munitions manufacturer, and IMI, the Israeli state arms agency, for the development and provision of propellants for the shells. IMI eventually backed out after providing 300 charges, but PRB reportedly completed the order.

Formally, the deal was routed through two front companies: SRC's Paragon Holdings Ltd. of Barbados and ARMOSCOR's Colet Trading Establishment of Lichtenstein. The major contracts were christened Elana I (for the shells) and Elana II (for the guns) after a "charming hotel hostess" at the Meridien Hotel in Rio de Janeiro where the plans were completed.

With the exception of the range instrumentation system which was shipped to South Africa by air from New York City, SRC exported the arms from the U.S. to Canada and thence to South Africa via Antigua, Spain and the Canary Islands. For this purpose, SRC enlisted its sister company, SRC-Quebec, with which it shared land and facilities in a unified, SRC-administered operation on the Vermont-Canada border.

The SRC-ARMOSCOR transaction resulted in a major increase in South Africa's overall military capability. During the Angolan civil war of 1975-76, South African troops had found themselves at a distinct disadvantage against the Soviet-made 122 mm long-range rockets employed by their Cuban opponents. At the time, South Africa had only a few older, foreign-made 155 mm. gun systems with the range to neutralize the 122s. Through SRC, the South African military acquired the G 4 gun-howitzer and companion extended range shells which surpassed Soviet 122 mm and 130 mm artillery in both range and lethality.

Later, on April 24, 1979, the then Minister of Defense of South Africa, P.W. Botha, announced in parliament the birth of a successor G-5 gun system which "compares favorably with the best in the world" and "will place the South African Defense Forces in the forefront in the field of artillery pieces until the end of this century at least". In a press interview, Botha "indignantly" rejected suggestions that South Africa had obtained the G-5

system from another country. "Devoid of all truth", he declared; "ARMSCOR developed and is manufacturing it and its ammunition". (To the Point, May 4, 1979) However, according to the consensus of U.S. Government and private military experts interviewed by the Subcommittee staff, including former SRC officials, the G-5 is largely derived from the SRC-furnished G-4. Interestingly, both Botha and the Chairman of ARMSCOR have stated that the G 5 gun was "specified" by the Defense Forces 30 months prior to coming into production in April 1979 and that design work began 6 months later. These dates coincide almost exactly with those when South Africa gave SRC the specifications for the G-4 (October 1976) and when the resulting prototypes were demonstrated to the South Africans at performance tests in Antigua (March-April 1977).

Since 1976, South African military doctrine has emphasized the necessity of "a deterrent to be able to resist a fairly heavy conventional attack on South Africa". In particular, the Defense Forces' experience in Angola "demonstrated a need for longer range artillery and armored fire power". Although South Africa is for all intents and purposes self-sufficient in small arms and certain other areas, "for a number of heavy and sophisticated weapons and components" it "remains dependent on imports",<sup>1</sup> Hence SRC's exports of goods and technology appear to have made significant contributions to South Africa's military strength.

Public disclosure of the SRC-South Africa arms deals stemmed from two chance incidents in Antigua in May and/or August 1977. First, an SRC-Q shipping container being loaded onto the ship Tugelaland fell and broke open, apparently revealing weapons.

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<sup>1</sup>Robert S. Jaster, South Africa's Narrowing Security Options, Adelphi Papers #159 (London, International Institute of Strategic Studies, 1980), pp. 25, 28, 40.

Then dockworkers discovered, through conversations with the Tugelaland's crew, that the vessel was going to South Africa. Over the summer, Antiguan unionists and political dissidents relayed their concern to the Rhodesian (Zimbabwean) nationalist leader, Joshua Nkomo, who was visiting the Caribbean. In mid-October, Nkomo publicly charged in Ottawa, Canada that 900 tons of arms--including mortars, machine guns, field cannons and two mobile field communication units--had arrived in Antigua aboard the South African-owned Tugelaland, and been transshipped to South Africa which forwarded them to white-led military forces in Rhodesia.\* In November, the Antigua Workers Union expanded on the allegations, naming SRC as the company which was involved. SRC spokesmen acknowledged sending 155 mm. artillery shells "for testing" to Antigua aboard the South African vessel Tugelaland, but denied any transshipments. A Royal Canadian Mounted Police investigation was inaugurated.

Following an Antigua Workers Union boycott of new SRC shipments of "test range equipment" arriving aboard U.S. Military-chartered vessels in January-March 1978, and a telegram by the union chief to the State Department reiterating Nkomo's allegations, the Department's Office of Munitions Control initiated a U.S. Customs Service investigation on March 1st. The following December, the U.S. Attorney's Office in Rutland, Vermont began to present evidence of SRC's violations of the Arms Export Control Act to a federal grand jury. On March 25, 1980 the President and Vice-President of SRC, Gerald Bull and Rodgers Gregory, along with the corporation itself, pled guilty to a single count of illegally exporting "at least 30,000 projectile forgings and components", "2 gun barrels" and "2 radar vans" to South Africa. The corporation also pled guilty to 4 counts of filing false information on Customs declarations.

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\* No shipments to Rhodesia were ever confirmed however.

Bull and Gregory were each sentenced to one year in prison, of which six months were suspended, and the corporation was fined \$45,000. In the end, with time off for good behavior, Bull served 4 months and Gregory 4 1/2 months at the federal minimum security prison in Allenwood, Pennsylvania. SRC (which had changed its name to Saber Industries) declared bankruptcy and never paid its fine.\* Successive federal grand juries met to consider other possible indictments in the case, but the investigation was formally concluded in May 1981 without additional charges because, according to U.S. Attorney William Gray, "There was insufficient evidence to indicate a knowing and willful violation of criminal law by the First Pennsylvania Bank and other employees, agents and associates of Space Research Corporation."

Gray also took note of a growing public controversy over the possible role of the U.S. Government in the SRC affair. The federal investigation had concluded, he announced, that "There was no evidence at all that any Government agency, including the CIA, had any advance knowledge of the illegal contracts or assisted the shipments in any way." In an April 22, 1980 note, the U.S. Mission to the U.N. informed the U.N. Security Council Committee on Ways and Means of Making the Arms Embargo Against South Africa More Effective that "the very fact of the investigation and its outcome indicated the effectiveness and utility of the U.S. and U.N. arms embargos".

#### PURPOSE OF THE SUBCOMMITTEE'S INVESTIGATION

Notwithstanding these official perspectives, investigative reporting in the Burlington (Vermont) Free Press, Washington Post, Boston Globe, and two Public Television documentaries (including the Emmy award-winning "Hot Shells") raised serious questions about the performance of U.S. Government agencies in

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\* In a Canadian trial hearing of August 14, 1980, SRC-Q pled guilty to 5 counts of violating Canada's export laws and was fined \$50,000.

the SRC case and cast doubt on the efficacy of the U.S. arms embargo.

Specifically, some evidence was brought forward suggesting that:

- an agent of the Central Intelligence Agency helped bring SRC and ARMSCOR together and certain CIA officers may have also worked to arrange the eventual deal
- the State Department's Office of Munitions Control broke its own regulations by writing a letter to SRC indicating the company might be able to export U.S.-manufactured artillery shell forgings without an export license
- the Defense Department violated its own regulations by a rushed decision permitting SRC to manufacture the shell forgings at an Army-owned, contractor-operated ammunition plant in Scranton, Pennsylvania
- the Justice Department did not prosecute the case vigorously enough, partly because the actions of other Government agencies seemed to strengthen the defenses of potential defendants

On October 12, 1979, Congressman Donald J. Pease of Ohio, a member of the House Foreign Affairs Committee, wrote Congressman Stephen J. Solarz of New York, Chairman of the Subcommittee on Africa, regarding the SRC case. Congressman Pease indicated that he had been following reports of SRC's massive arms smuggling and had determined that "very little is known at present about what some agencies of the U.S. Government (the Pentagon and the CIA in particular) have known about SRC's dealings with South Africa, and what, if anything, they have done about them." "Accordingly", Pease wrote,

I strongly believe that the SRC case should be very carefully examined by your Subcommittee. A hearing around the SRC case

would be very instructive about the manner in which the South African arms embargo is or is not enforced. It might also reveal effective remedies that can be adopted to ensure full compliance with our commitment to withhold arms from South Africa.

At best the SRC case calls into serious question the capacity of the U.S. Government to enforce the South African arms embargo, let alone the commitment to do so. At worst, the SRC case raises the specter of some U.S. Government agencies being guilty in this latest and certainly most devastating transferral of weaponry and know-how to the South African armed forces.

At the same time, Congressman Howard E. Wolpe of Michigan, a member of the Africa Subcommittee, strongly urged the Chairman to investigate this matter. At Chairman Solarz's request, the Subcommittee staff began an inquiry into U.S. Government performance in the SRC case in late 1979. Although several interviews were conducted and some Government documents obtained, the Justice Department was initially unwilling to share information with the Subcommittee because of ongoing grand jury proceedings. It was not until August 1980 -- 3 months after Bull's and Gregory's guilty pleas -- that Justice provided an oral briefing on the case. And it was not until early 1981, as the grand jury investigation was concluding, that Justice agreed to a request by the new Subcommittee Chairman, Howard E. Wolpe, that it approach the U.S. District Court in Vermont to have relevant court documents released to the Subcommittee. These consisted of SRC and First Pennsylvania Bank documents subpoenaed for the grand juries and U.S. Customs reports and analyses of its investigation. By court order they were turned over to the Subcommittee during October and November 1981. Due to legal constraints the Subcommittee was unable however to obtain grand jury testimony, and due to policy constraints it was refused access to Justice Department internal memoranda including interviews with grand jury witnesses.

From the beginning of the staff investigation to the present, relevant documentation has been requested and obtained from the Departments of State, Defense and Justice, the Customs Service, the Immigration and Naturalization Service and the Central Intelligence Agency. The CIA declined to answer certain written questions concerning covert operations and to produce Directorate of Operations personnel for interviews, even on a classified basis. Yet the Agency did disclose a limited amount of information in classified oral briefings and some written responses to questions.

In order to amplify and fill in gaps in the documentation, the Subcommittee staff interviewed 50 individuals, many of whom were re-interviewed several times. The staff spoke with current and former officials of the State, Defense and Treasury Departments, the Customs Service, the CIA, Space Research Corporation and the First Pennsylvania Bank (with their lawyers), and other knowledgeable private businessmen and journalists.

This report contains no classified information provided to the Subcommittee; nor, in the opinion of the staff would inclusion of such information alter the analyses and conclusions therein.

#### PRINCIPAL FINDINGS

The staff investigation into U.S. Government performance in the SRC case has concluded that while there has been an official U.S. policy of embargoing arms to South Africa since 1963, including criminal penalties for knowing, willful violators of the policy, the relevant U.S. Government agencies have thus far failed to adopt procedures to effectively implement the embargo. The SRC affair indicates that where such procedures are lacking, agencies will respond to their dominant political interests and bureaucratic imperatives even if these are inconsistent with or subversive of the official arms embargo

policy. Given the gap between official policy and its actual implementation, U.S. restrictions on arms exports to South Africa -- and Libya and other Third World countries as well -- risk being embargoes in name only, policies which earn the contempt of our targets while rekindling the suspicions of those we are trying to impress.

1. The Involvement of the CIA

Based on the preponderance of evidence, it is probable that a U.S. defense consultant who was assisting the CIA covert action program in Angola -- and was under the supervision of a CIA officer -- planned with ARMSCOR officials for shipments of U.S.- origin arms from Thailand and Taiwan to South Africa for use in Angola. He also informed the ARMSCOR representatives that they could acquire superior 155 mm artillery systems and technology from the Space Research Corporation. Much of this planning and discussion took place after a high-level U.S. Government Working Group decided, over the objections of its CIA representative, not to ship U.S. arms to Angola via South Africa, and not to respond to official South African requests for 155 mm. artillery shells. The Subcommittee staff was unable to determine whether the probable CIA agent's activities reflected serious negligence by the Agency or a purposeful evasion of U.S. policy. In either case, the Agency's immediate goals in the Angola operation appeared to supersede the larger U.S. policy of enforcing the arms embargo against South Africa.

While the probable CIA "agent"\* was one channel of information about SRC to South Africa, and was subsequently approached by ARMSCOR to arrange a

\* This word is used here in its generic sense of one "who acts for or in place of another." It doesn't imply formal enrollment on a CIA payroll.

155 mm. deal with SRC, there were two other intermediaries who were probably more important. These were Aircraft Equipment International, a British firm, and Israeli Military Industries, the Israeli state defense production agency. Ultimately, SRC dealt directly with ARMSCOR. But had either one of the alternative channels not existed, the probable CIA agent could have been a decisive source of information for, or a key participant in, the eventual agreements. In the meantime his activity could have been taken by the South Africans as a signal that elements of the U.S. Government were prepared to wink at evasions of the arms embargo.

According to John J. Frost, a U.S. and Belgium-based defense consultant, the CIA enlisted him during the summer of 1975 to arrange arms shipments from Europe to "Zambia" which were destined for U.S.-aided forces in Angola. But in late September Frost says he was introduced, through his CIA contact, "A.B."\* to South African ARMSCOR officials instead of Zambians. Thereafter, Frost developed a plan to ship U.S.-origin arms for the war in Angola from Thailand to South Africa. In November Frost states he met with the South Africans in Thailand to inspect the arms and complete arrangements for their delivery. When the deal unexpectedly fell through due to difficulties on the Thai side, Frost says he made a new approach to the Government of Taiwan. Frost also maintains that A.B. and the CIA were kept informed of his progress. Frost recounts lengthy conversations with the ARMSCOR representatives at the Erawan Hotel in Bangkok concerning sources of desired military equipment and technology, especially 155 mm artillery systems. In particular, Frost relates that he strongly recommended Space Research Corporation (with whom he had been a

\* The name of this former CIA employee has been withheld because he is currently on assignment abroad. Staff has spoken directly with him and a knowledgeable non-CIA source and they have confirmed his past affiliation.

consultant) as the best source of 155 mm. technology.

"Jack" Frost's story is backed up by his daughter Barbars, who runs Frost's U.S. office and states she was a contact point between A.B. and his CIA colleagues and her father. Frost's account is also supported by an accumulation of compelling documentary evidence:

- (a) A memorandum written by Clyde G. Bryant, Jr. of the State Department's Office of Munitions Control relating a conversation with Jack Frost at the Department on December 16, 1975.

In this conversation, Frost described how he became involved in efforts to procure arms for Zambia and then South Africa through A.B. (whom he identifies as a representative of the Joint Operations Group of the Joint Chiefs of Staff); his previous involvement with A.B. in a program in Iran, his attempts to obtain the U.S.-origin arms in Thailand and Taiwan, and the names of four South African Government representatives with whom he was working. Frost also supplied OMC with copies of 3 purchase orders for arms shipments from Thailand through Commerce International Corporation.

- (b) A U.S. Customs Service Memorandum of an interview with Jack Frost of August 15, 1979.

This interview is consistent with the account Frost provided to OMC in 1975 and the Subcommittee staff in 1980-81.

(c) Five RCA Global Communications telexes between Jack and Barbara Frost in November 1975.

These telexes clearly indicate that a "Mr. Aybee"\* in Washington (whome the Frosts identify as A.B. of the CIA) is coordinating Frost's efforts to expedite large weapons shipments out of Thailand and arrange a sale of U.S. military goods from Taiwan. A November 4th telex from Barbara to Jack in Thailand relates,

Mr. [Aybee] feels that it might be more expedient and less expensive if his representative in Thailand, who is aware of the program, contacted you personally... It is hoped that the project can be completed within the time frame of the next week or two. The commitment is positive.

Earlier that day, Barbara had informed Jack,

[Aybee] desires urgent speech with you on delay of order discussed during your last trip...await your telex and he will contact me here.

A November 10 telex from Barbara reports,

Mr. [Aybee] has had a query from his overseas friends regarding the order placed with you. They are trying to contact you. Would it be possible to telex the Brussels office with a limited progress report.

On November 11, Jack sent the following message from Thailand:

Progress so far and subject to last minute schedule revisions twenty-six hundred tons will sail between November 12 and 15, arriving between November 16 and December first. Priority items by aircraft departing November 15/16. Require [Aybee's] approval for export. (emphasis added) Will contact him November 12/13 Direct.

And on November 17th Jack telexed Barbara:

Contact [Aybee's] office. Seller here in Taipei must have approval of U.S. to sell co-production items. I can coordinate with the MAAG [U.S. Military Assistance Advisory Group] to expedite. (emphasis added)

\* The telexes use a phoenetic spelling of the CIA officer's initials; this spelling has been changed to conceal the former officer's identity.

- (d) A December 3, 1975 letter from Jack Frost to Mr. Drago of Commerce International Inc.

On December 3, Frost wrote Mr. Drago that:

A meeting was arranged by and between [two other officials of Commerce International], Mr. Smith [Piet Smith, Chief of Procurement for ARMSCOR] Mr. Zeederberg [Dennys Zeederberg, Director of Quality Control, ARMSCOR] and myself to discuss the status of our purchase program...I was certainly misled as to who if anybody controlled the material [causing] me to expend time and funds on a will-of-the-wisp.  
- So therefore I have no alternative [but to terminate].

- (e) A December 4, 1975 letter from Jack Frost to Major-General Lai Ying of Taiwan, and Two RCA Global Communications telexes of December 19, 1975 between Jack Frost and an overseas contact.

Having given up on obtaining arms from Thailand through Commerce International, Frost and the South Africans pressed forward on the Taiwan front. On December 4, Frost wrote Major General Lay Ying:

I had intended to visit you this week with representatives of the South African Government. However [due to a health problem] I regret that I shall not be in attendance during their visit...I expect to hear the results of their mission to your office and will take action to have delivered to your office the export permit for the co-production requirements.

The December 19th telexes describe Frost's continuing effort to sell U.S.-origin equipment in Taiwan to South Africa and refer to efforts to contact "Zeederberg"

- (f) A letter of January 13, 1976 from Frost to Rodgers Gregory, Vice-President of SRC.

This is a request for an SRC proposal for the development of a long range 155 mm. shell and production of 10,300 units. It also refers to "our prior discussions". In addition the letter discusses a "contact" that day by "the buyer" for the 10-12 155 mm "Long Tom" cannons. One of the requested provisions in the proposal is for "complete transfer of technology and know-how for in country continued use". Both Frost and Gregory confirmed in staff interviews that this proposal was for South Africa.

(f) Letters from Jack Frost to Piet Smith and Dennys Zeederberg of ARMSCOR, July 16 and 21, 1976

In these letters, Frost mentions "the leaks to the far east on your...travels", presumably a reference to their November meetings in Thailand and Taiwan. More significantly, in castigating his correspondents for their recent attempts to do business directly with U.S. firms Frost had recommended to them "in previous conversations and correspondence", Frost writes, "As you know there was an approved and proper manner for meeting your requirements [earlier]" but now cooperating U.S. companies "could be barred from future U.S. business and [be exposed to] a probability of criminal prosecution". The implication here is that there was previous official authorization of embargo evasions.

In a recent telephone interview with Subcommittee staff, A.B. confirmed some aspects of the Frosts' account, notably that he was detailed to a paramilitary group in the CIA from 1973-76, had a professional relationship with Frost before Angola, and was a member of the CIA's Angola Task Force. However he denied any relationship with Frost concerning Angola, South Africa, and planned arms shipments from Thailand and Taiwan during the Angolan conflict.

Yet when he was given a summary of the above documentation and asked if there was any "logical explanation" of why Frost would tell such a story and document it, he replied,

the only logical explanation is that the [CIA] Africa Task Force called my office for information. I wasn't there and they gave them Frost's name.

At the conclusion of the staff interview, A.B. offered this general criticism:

The track of your questions before and now suggest that I acted unilaterally. I was part of a group.

Barbara Frost states that while she did speak to others in A.B.'s office during the Angola war, she dealt mainly with A.B. in person as well as on the telephone.

It is conceivable, but unlikely, that Jack Frost might have fabricated the telexes which tend to confirm his story or the letters which offer collateral support. Such fabrications have been found to be technically feasible. Still, according to a spokesman for RCA Communications Inc., the various codes and letters on the telexes in question "seem appropriate for telex traffic in 1975" and thus the telexes "appear to be valid calls". It is also difficult to discern any reason why Frost would commit such a deception. His motivation for reporting to OMC in December 1975 was admittedly "to cover my ass" by explaining and justifying his role in legal but shady anti-embargo activities. Yet he did not provide telexes and letters to OMC at this time. Had OMC checked Frost's story with the CIA (and an OMC official at the time stated that Frost expected the story to be checked) and received contradictory information, fabricated communications would hardly have been expected to make any difference. Nor is it reasonable to expect that Frost would have gone to such lengths when it was clear to both him and OMC that his activities abroad did

not violate any U.S. laws. Some of the telexes surfaced in 1979 when Frost was interviewed by Customs investigators during the SRC investigation; others, along with the letters, were obtained in the course of the Subcommittee staff inquiry. There is no apparent reason why Frost would feel driven to document a false story in this current period. Finally, the only time Frost was on shaky legal ground and plausibly might have sought a CIA "cover" was around January 1976 as the Angola war was ending and he was seeking to arrange a contract between SRC and ARMSCOR. Yet none of Frost's telexes relate to this period. Therefore, the Subcommittee staff has concluded that Frost's documentation is likely to be authentic.

Frost's probable role as a CIA agent was inconsistent with the 12 year old U.S. arms embargo against South Africa, a policy that was reaffirmed by the high level Interdepartmental Angola Working Group in October 1975. According to former CIA Angola Task Force Director John Stockwell's book, In Search of Enemies, an October meeting of the Angola Working Group reaffirmed the ban on U.S. arms shipments to South Africa over the objections of the CIA Africa Division Operations Chief who wished to cooperate with South Africa in Angola. Stockwell's account was based on notes taken at the time and was confirmed by two knowledgeable U.S. officials, one of whom specifically recalled that the meeting was in October. Stockwell and the two officials also stated that the Working Group decision covered concurrent South African requests through the CIA for 155 mm artillery shells.

Thus, while the CIA's Africa Operations Chief was aware of both the October reaffirmation of U.S. embargo policy and of South Africa's requests for 155 mm. ammunition, and A.B. acknowledges he probably learned of SRC's 155 mm. prowess from Frost well before Angola, \* there is no evidence that the CIA tried

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\*Confirmatory evidence appears in a February 4, 1975 letter from Frost to A.B.

to interrupt or restrict their probable agent's relations with ARMSCOR in November and December 1975. Clearly the Agency did not intervene to alter Frost's plans to ship directly to South Africa or caution him not to discuss U.S. sources of 155 mm and other technology with ARMSCOR. At the least, the above facts strongly suggest that the Agency's preoccupation with the efficiency of its covert actions in Angola overrode its obligation to strictly maintain the arms embargo.

Stockwell has also suggested that there was a conscious CIA conspiracy to ship 155 mm shells to South Africa. In newspaper and television interviews during 1979-80, he recalled a hallway conversation with A.B. wherein the latter said he had "located some 155 mm ammunition from a commercial supplier...through an arms dealer in Belgium", and "the way it would be handled would be that South Africa would be told where the rounds would be available---and that they could contact and make the arrangements themselves". Stockwell also believes that "[A.B.] would have been following orders. He would have been working with the Africa Division Chief.....on this."

Given various constraints, the staff investigation has been unable to confirm or refute Stockwell's allegations. On the one hand, Stockwell's factual (as opposed to interpretative) rendition of the CIA intervention in Angola has been described as "substantially correct" by former CIA Director William Colby (Sunday Times [London], May 21, 1978, p. 9) And Stockwell's recollection is not implausible considering the Africa Operations Director's preference for cooperation with South Africa in Angola and past examples of "ambiguous" command and control of CIA operations.\*

\* See especially Senate Select Intelligence Committee, Alleged Assassination Plots Involving Foreign Leaders, 94th Congress, 1st Session, November 20, 1975

On the other hand, Stockwell's charges are based on memory rather than notes, and in interviews with the staff he did not completely exclude the possibility that A.B. was only discussing an option or that the discussion occurred before the Working Group decision. When asked about the purported hallway conversation with Stockwell, A.B. at first said he did not remember it but then added, "He could have asked me, 'Do you know who might have the shells, and I could have told him who might have them'". Jack Frost affirms that A.B. never asked him to discuss the 155 mm. shells with the South Africans. But of course the idea might have been planted with the ARMSCOR officials themselves.

The CIA has responded to the staff inquiry with a blanket denial of any direct or indirect involvement in South Africa's acquisition of SRC "equipment, and technical data":

---This agency did not directly or indirectly give, sell, or otherwise transfer to the Republic of South Africa any such equipment, did not encourage or facilitate others to do so, and did not have any advance knowledge of such matters.

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\* See especially Senate Select Intelligence Committee, Alleged Assassination Plots Involving Foreign Leaders, 94th Congress, 1st Session, November 20, 1975

Yet a representative of the CIA General Counsel's Office acknowledged to the staff that the CIA has not made a complete investigation of its role in the SRC case. To his knowledge, there has been no internal inquiry that included interviews with A.B.'s paramilitary colleagues, CIA personnel in South Africa and in Brussels (to whom Frost says he reported), the Frosts, and Stockwell, as well as a complete review of all CIA communications from the period in question.

If the CIA did implicitly or explicitly cooperate in attempts to get around the arms embargo, the tangible results were relatively modest. Frost never managed to complete his projected arms deals for Angola. Regarding the 155 mm. system, Frost was certainly one channel towards the eventual SRC-ARMSCOR agreements, but he probably wasn't the most important one. According to two former SRC officials who were deeply involved in negotiating the agreements, the other channels were the parastatal Israeli Military Industries (IMI), a major SRC client, and Aircraft Equipment International, a British firm which was SRC's marketing agent in Egypt, Jordan and South Africa. By November 1975, according to a key SRC actor, the South African military was aware that the 155 mm. extended range rounds it had observed at tests in Israel the previous summer were from SRC; and IMI was requesting an SRC proposal for purchase of the ammunition and IMI marketing rights for it in South Africa and several other countries. When IMI delayed responding to SRC's late November or early December proposal, the South Africans (who preferred to avoid Israeli involvement) approached Frost. Around the same time, a representative of Aircraft Equipment contacted an SRC official and arranged for him to be invited to South Africa. Out of a subsequent visit to ARMSCOR by two SRC officials emerged the Paragon-Colet agreements. For its help, Aircraft Equipment was reportedly paid a commission. Jack Frost himself now believes, "I wasn't as important as I thought" in

bringing SRC and ARMSCOR together.

Nevertheless, Frost did provide ARMSCOR with favorable information about SRC's capabilities around the same time as IMI and Aircraft Equipment were furnishing similar reports. And he was a temporary intermediary between the two parties. Had the IMI channel not existed, Frost might have become a decisive source of information to ARMSCOR. Had the Aircraft Equipment channel been absent, Frost might have participated in the eventual agreements. Less tangibly, Frost's behavior may have signaled South Africa that elements of the CIA or U.S. Government were willing to turn a blind eye to violations of the U.S. arms embargo.

Lastly, in the absence of a full and independent investigation one cannot totally dismiss the possibility that the CIA could have acted through IMI and Aircraft Equipment to bring SRC and the South Africans together. However the Subcommittee staff has found no evidence of such manipulations.

## 2. The Involvement of the State Department's Office of Munitions

### Control

The State Department Office of Munitions Control furnished SRC with a letter which misapplied the Office's own regulations and thereby enabled SRC and the First Pennsylvania Bank to proceed with the Elana I (155 mm shells) project with expectations of minimal legal risk. First the OMC letter mistakenly assured SRC that unfinished artillery shell forgings could be exported from the U.S. without an OMC license if they were not "clearly identifiable" as arms. In reality, such "rough, non-machined nosed forgings" are always identifiable as arms, but the OMC did not request or examine technical drawings before offering SRC its opinion. By opening up the possibility of SRC's

exporting a mythical category of shell forgings that were not arms without a license, OMC weakened the legal barriers to use of cheaper U.S. manufacturing facilities for the Elana I contract.

Secondly, OMC's letter confirmed SRC's claim that its artillery technology hadn't originated in the U.S. and had been legally exported from its Canadian subsidiary (SRC-Q) to its Belgian one (SRC-International). This meant that the U.S. had no legal control over the transfer of this technology from SRC-I to South Africa either directly in the form of technical data, manufacturing licenses and technical assistance or indirectly in the form of equipment exports. Actually, there was a substantial, if not conclusive, body of evidence that the SRC technology was of U.S. origin and therefore could not be exported without an OMC license. Yet OMC did not make an independent investigation of the origin of the technology before offering its opinion. This part of the letter was extremely significant in that it virtually freed SRC and the First Pennsylvania Bank from liability for shipments to South Africa from outside the United States.

Without these twin OMC gaffes, the First Pennsylvania Bank---which was financing SRC's contracts with South Africa---would probably not have approved use of U.S. manufacturing facilities for Elana I and might well have reconsidered the entire project.

There is reason to believe that OMC's failure in this case reflected the organization's general lack of capacity to enforce arms licensing regulations. Beyond the aforementioned errors, OMC had previously given SRC two incorrect "in-transit" licenses for U.S.-manufactured shell forgings which had been exported to Canada and then re-imported into the U.S. on the way to Israel. The "in transit" licenses implied that for OMC purposes the export began in Canada. They seemed to bolster SRC's defense that exports of shell forgings from the U.S. did not need OMC licenses.

OMC officials acknowledge that they lack sufficient technical expertise to make reliable judgments on applications of their own regulations and lack adequate staff resources to properly process their workload.

On April 7, 1976 SRC and ARMSCOR officials met at the company's North Troy headquarters and signed the Elana I agreement. A few days later, three SRC officers visited OMC. As described by two of the officials, the main purpose of the trip was to "get a reading" from OMC concerning the origins of the shell technology since the First Pennsylvania bank (which was putting up letters of credit and direct loans for Elana I) was concerned that the technology might be American. Were that the case,

---an OMC license would be required for export of the

Elana I technology to South Africa

---such a license would not be provided due to the arms

embargo

---proceeding without a license (or with one which inaccurately

stated the ultimate destination of the technology) would ex-

pose the bank and corporation to clear criminal penalties

The SRC group was also interested in discussing delays in export licenses for several hundred shell forgings destined for Israel after finishing in Canada.

From their conversation with James D. Hataway, Jr., Deputy Director of OMC, the company representatives gleaned two welcome impressions which were expressed in an April 21st letter from Bull to Hataway. First, as to the question raised by "our bankers" whether "U.S. approvals" are necessary for technology exports by "our international company" (SRC-I in Belgium),

"you told us this definitely was not the case" because of the "non-U.S. interest in technology [already] exported to Belgium under Canadian export license". Secondly, "Items such as rough non-machined nosed forgings do not require munitions export permits..." Bull requested Hataway's confirmation in writing of these two points.

Two days later, OMC Director William Robinson wrote Bull:

This is to confirm that your interpretation is correct that U.S. Government approvals are not required with regard to contracts of your international company acting as a marketing agent under Canadian export license to Belgium. Similarly, exports of rough, non-machined nosed forgings from the United States are not considered as falling under the purview of the U.S. munitions list so long as they are not clearly identifiable as parts or components of weapons or sub-systems covered by that list. Hence, no license is required from this office for exports of such raw materials from the United States.

This response, which was drafted by the Chief of the Arms Licensing Division and the Deputy Director and signed by the Director, was not consistent with a reasonable application of OMC's own, international Traffic in Arms Regulations (ITAR). In the first place, without examining evidence of the origin of the technology, the agency gave the company a determination that "U.S. Government approvals are not required with regard to your international company" marketing that technology. In fact there is a substantial, if not conclusive, body of evidence that the technology was of U.S. origin since it had been developed in part by a U.S. company and even the Canadian border facility where it had been tested was considered by SRC, U.S. Customs, and Canadian Customs to be "an extension of the U.S. corporation" (Under a special binational "compound" arrangement, there was no Canadian Customs control for this border test range). Then

OMC said that exports of "rough, non-machined, nosed forgings" were not covered by the Munitions List if they were not "clearly identifiable" as parts or components of weapons. Yet ITAR 125.15 only states that "Items in a partially completed state, such as forgings...which have reached a stage in manufacturing where they are clearly identifiable as arms [are covered exports ". By indicating that rough, non-machined, nosed forgings might not be arms, OMC went well beyond the words of the regulations which referred only to "forgings". And once again it did so without requesting technical drawings of the items in question. Actually, OMC officials have acknowledged that SRC's rough, non-machined, nosed forgings were identifiable as arms. And Director Robinson told the Subcommittee staff that he "didn't know" if there could be any "rough, non-machined, nosed forgings" that weren't arms!

A former First Pennsylvania Bank officer who was deeply involved in the SRC-South Africa deals described the OMC letter as "critical" to bank support of the Elana I project. By May 1976, SRC was indebted to the bank for \$12 million. Under Elana I the bank was scheduled to invest \$14.5 million more in letters of credit guarantees and direct loans over the next 10 months. A contemporary SRC memorandum shows that the bank was seriously concerned about the multiple risks of the project ranging from political instability in Barbados (a proposed transshipment point) to SRC's dubious ability, based upon past experience, to estimate costs, produce profits and manage increased productive capacity. In the words of the former bank officer, the OMC letter was "critical" because "The bank was financing SRC, the U.S. company. It was our feeling that the OMC letter OK'd the shipment [of unfinished shells] to Canada, and we had continuing assurances from the company that the shipment from Canada to Barbados was

approved". Had OMC not opened up the possibility of U.S. manufacturing, it is quite possible that SRC and the bank would have obtained the required shell forgings in Europe. However this would have raised their cost at least 25% according to several of the parties, and thereby required a renegotiation of the contract. In any case, the OMC letter assured that there would be major exports of U.S.-origin equipment to South Africa.

Most important to the bank was OMC's lifting of the veil of doubt concerning the possible U.S. origin of the shell technology. Before committing funds for the deal, First Pennsylvania Bank<sup>1</sup> obtained two legal opinions, one from its own lawyers and one from an SRC-connected firm in Montreal, that title to the technology had been validly transferred from SRC-Q in Canada to SRC-I in Belgium. The only element of either opinion which contained an independent evaluation of this transaction's validity was a reference in the bank lawyers' letter to the exchange of correspondence between Bull, Hataway and Robinson. Given the bank's existing reservations about SRC's proposal, a more agnostic response by OMC might have aborted the project.

OMC's mishandling of SRC's questions was part of a pattern of errors and carelessness in dealing with the corporation's arms exports. In June and September 1975, OMC issued SRC the wrong licenses for exports of 175 mm shells to Israel. In these instances, artillery shell forgings had been manufactured at an Army munitions plant in the U.S., exported to Canada for finishing, and then shipped back into the U.S. and exported to Israel. Attachments to the OMC licenses noted that "U.S. army production facilities are required for use in the manufacture of the projectiles". These arms transactions clearly began in the U.S. at the Army plant and

therefore clearly required regular export licenses. Instead, OMC furnished "in-transit" licenses based on the assumption that the exports began in Canada and were simply "transiting" the U.S. on the way to Israel. SRC President Bull and Justice Department lawyers later referred to these licenses as an indication that the OMC did not consider Army-produced shell forgings as "arms" requiring export licenses.

Furthermore, the Customs investigation unearthed other OMC delinquencies in dealing with SRC exports. Under the "Canadian exemption" for example, U.S. exporters can ship arms to Canada without an OMC license provided it is the ultimate destination. However, the exporters are supposed to mail OMC a copy of their Customs declaration citing the "Canadian exemption". In this way, OMC is supposed to be kept aware, after the fact, of what has been exported presumably to Canada. As it turned out, SRC did claim the Canadian exemption for other arms exports, but neglected to mail the appropriate form to OMC. An OMC official acknowledged that even if the form had been forwarded---or if SRC had filed similar forms to mask the ultimate destination of its shell forgings for South Africa---OMC ignores the "Canadian exemption" declarations it already receives due to organizational overload. In yet another case discovered by Customs, OMC gave SRC a license for imports of gun barrels into the U.S. that was backdated by a year before the application. A Customs report concluded, "We have no explanation from OMC addressing the fact that this license was applied for after the two actual illegal importations and one illegal exportation and backdated to cover them". An OMC official informed the Subcommittee staff, "Maybe someone used the wrong stamp".

OMC's performance in the SRC case raises serious questions about the agency's capacity to adequately implement its own regulations. Incidents of weak performance were not isolated; they involved several key members of this small office over a period of two years. However there was no evidence of purposeful collusion between OMC and SRC or any other Government agencies. In interviews with the Subcommittee staff, OMC officials admitted to a lack of sufficient technical expertise on arms which sometimes prevented them from even knowing whether or not to "staff out" an application to experts in the Departments of Defense and Commerce. They also stressed the influence of an overloaded, overwhelming organizational environment. For example, in 1976 there were only five Arms Licensing officers to process 25,000 license applications and answer inquiries like those of SRC. Today there are still five officers for over 35,000 applications.

### 3. The Involvement of the Department of Defense

Acting under loose and ill-defined procedures, the U.S. Army approved two SRC requests to use a Government-owned ammunition plant to manufacture 65,000 shell forgings for "Israel" and "other NATO countries". In fact, nearly all the forgings were shipped to Canada, finished, and exported to South Africa. One key loophole was an Army regulation providing for use of Government production property by a private contractor "certifying that he is acting on behalf of a [friendly] foreign government" The regulation did not define what a "certification" entailed, and SRC met the standard solely by its own declarations. Another major loophole was an admittedly "ambiguous" Army policy letter which was interpreted as not requiring the sponsoring foreign government to also contact the Army's foreign military sales

and assistance office. This meant that SRC did not have to meet the normal foreign military sales requirement of showing valid OMC export licenses for sales of U.S. equipment. Unencumbered by strict procedures, Army officials expedited SRC's requests in order to avoid employee layoffs and reduce overhead costs at their Scranton ammunition plant. Thus SRC preserved the fruits of its apparent OMC laissez-passer and used Army production facilities for its South African contract.

In a related incident, one of the gun barrels which SRC sent to South Africa in 1977 was almost certainly a weapon borrowed from the U.S. Army Ballistics Research Laboratory at Aberdeen, Maryland. Although the gun barrel was lent to SRC for 6 months, the Army made no effort to account for it until Customs investigators raised the subject two years later and has never recovered it.

On May 3, 1976 the Chamberlain Manufacturing Company, which operated a Government-owned ammunition plant in Scranton, asked the U.S. Army Armament Command (ARMCOM) to approve production of 50,000 artillery shell forgings for SRC "acting as an agent of Israel and other NATO countries". An ARMCOM memorandum the following day referred to Chamberlain's warning that SRC would place the order overseas unless its offer was accepted by May 7th. Were Chamberlain to lose this opportunity, ARMCOM anticipated "a loss" of \$182,000 in potential charges for equipment rental and overhead, and layoffs of "65 skilled personnel" in "a depressed employment area". The SRC request was approved the same day by ARMCOM and forwarded to superiors at the Army Materiel Command (AMC) who assented verbally on May 7th. As an AMC memorandum explained, "Verbal concurrence of this approval was necessary so that continuity of production could be maintained at our GOCO [Government-Owned Contractor-Operated plant] Chamberlain Manufacturing Corporation." Between August 1976 and May 1977 the Scranton plant shipped 50,000 shell forgings

to SRC which exported them to Canada for finishing and then sent them to South Africa.

During this period there were two operative procedures to control requests like SRC's. Armed Services Procurement Regulation 13-406 spelled out various conditions for use of government production property by private contractors including that of "certifying" they were acting on behalf of a friendly foreign government. In 1975, SRC had requested use of the Scranton plant to produce 15,000 shell forgings for the Government of Israel and been told by ARMCOM to "contact its customer country in regard to being authorized as that country's agent in this sale". SRC had duly obtained a letter from the Minister of Defense of Israel confirming SRC as Israel's agent. But in 1976, according to both documentation and staff interviews, the felt need to make a quick decision to keep the plant going, and the lack of a clear definition of "certifying" in the regulation, led ARMCOM to dispense with outside confirmation of the latest SRC order to Israel and NATO.

A broader Army policy letter of April 1975\* attempted to lay out the decision-making process for all private contractor requests for Government materials, services, and property utilization for sales to foreign governments. Unhappily, the letter was so vaguely worded (AMC confessed it was "ambiguous") that AMC and ARMCOM disagreed for at least two years over whether a private contractor had to have his foreign government customer to contact the Army's International Logistics Office which supervises U.S. Government foreign military sales and assistance. This was a significant issue in the SRC case because the standard operating procedure of International Logistics was to require OMC export licenses.

With SRC's first request of 1975, AMC indicated that going through international logistics channels was not necessary, but subsequently routed

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\*The letter itself was provoked by SRC's initial request to use the COCO plant.

the request through International Logistics anyway because of a contemporary Army "Security Assistance" memorandum which raised a question about whether Israel should receive more U.S. artillery ammunition. Therefore export licenses were required and checked by the Army. But in 1976 there was no additional memorandum on Israel, international logistics channels were avoided, and export licenses were not required. Favored by loose policy and the Army's economic interest in sustaining its own ammunition plant, SRC and its banker never had to confront the need to return to OMC for a review of its previous opinion --- this time perhaps with technical drawings of a specific order of rough, non-machined forgings from Chamberlain. Thus the Army's actions assured that the shell forgings for South Africa would be manufactured in the U.S.

Finally, on May 18, 1977 Chamberlain asked ARMCOM to approve another SRC order of 15,000 forgings for the Government of Israel. However, ARMCOM officials indicated to Chamberlain that in their interpretation of the fuzzy policy letter, such requests has to go directly through "international logistics channels" because "previous permission was a onetime deviation". According to an ARMCOM memorandum, Chamberlain then "expressed great concern over this decision because of immediate dismissal of ninety personnel. It may well be that Chamberlain could either contact their Congressman or higher authority or that Space Research will do so". Again the financial benefits of going ahead were calculated: \$200,782 in rentals and reduced overhead. After consultation with AMC, ARMCOM approved the new order on May 24th. Between September 1977 and May 1978, 16,027 additional forgings were shipped to SRC and most were forwarded on to Canada and South Africa.

A further illustration of lax Army procedures facilitating SRC's evasion of the embargo was the odyssey of Gun Barrel #3147. This 155 mm. "Long Tom"

cannon was lent to SRC for six months by Picatinny Arsenal in connection with an SRC contract to design, fabricate, and test experimental artillery shells for the Army. On February 15, 1977, SRC trucks picked up the cannon at Aberdeen Proving Grounds, Maryland and the following day it was exported from the U.S. to the Canadian side of the compound. A February 17th SRC receiving report bears the notation "To be shipped to Antigua". On February 20th SRC sent a shipload of arms to Antigua and Gun Barrel # 3147 was listed on the bill of lading. The entire cargo of this ship was sent from Antigua to South Africa the following May. (SRC representatives later claimed that Gun Barrel #3147 was not shipped to Antigua until December 1977 and stayed there at SRC's test range. But no specific evidence backed up this assertion, and both an April 1978 SRC inventory of guns in Antigua and a Customs inspection that month failed to turn up the errant cannon).

Two years after the original loan, Customs investigators examined Picatinny Arsenal's file on Gun Barrel #3147 and found no paperwork beyond the initial authorization. In February 1979 a Picatinny official told a Customs agent that he had checked with SRC and learned "that the cannon was presently at Antigua, West Indies and would be shipped back to Vermont in the next 6-7 weeks". In August 1979, an official of Aberdeen Proving Grounds told Customs that he had checked with SRC and learned that the weapon would be returned "in approximately 6 weeks". In May 1981, the Defense Contract Administration Services Office noted it had been delegated the responsibility of retrieving the gun barrel and had been trying to accomplish this since March 1980. Three individuals had been contacted --- an SRC-Paragon official, a Barbados clergyman and a Defense Property Officer --- but were unable to help. The SRC-Paragon representative declared that Gun Barrel #3147 was "in possession of the Antigua Government Defense Forces". On August 25,

1981 Defense Department gracefully surrendered, "The property in Antigua is obviously not available for disposal at this time. Therefore above Clearance case has been closed."

#### 4. The Non-System of Enforcing the Arms Embargo

SRC's extensive and long-term violations of the arms embargo were made possible by the absence of a coordinated U.S. Government enforcement system to detect and prevent such violations.

Neither OMC nor any other U.S. foreign policy agency followed up on Frost's report to OMC that, with the cooperation of a U.S. official, he was assisting South African arms dealers in obtaining U.S.- origin weapons. Nor did the CIA or high officials of the interdepartmental Angola Working Group share with other agencies or subordinates information that South Africa was seeking U.S. 155 mm artillery shells. Had these actions taken place, the SRC scheme might well have been uncovered at or near its inception. Other possibilities for preventing and detecting SRC's transgressions went unexplored. No U.S. foreign policy agency monitored the trips of at least 8 South African arms buyers (including top ARMSCOR Officials) to SRC and other companies in 1976-77. No U.S. foreign policy agency was aware of the role of third parties, such as IMI and Aircraft Equipment, in the development of the SRC-ARMSCOR agreements. And no U.S. foreign policy agency followed the frequently multiple visits of approximately 16 technicians and officials of SRC --- a registered munitions exporter --- to South Africa during 1976-78.

As the embargo violation began to be exposed in Antigua in the fall of 1977, neither OMC nor any other foreign policy agency felt responsible for investigating specific allegations which named the ship involved and detailed its movements. Nor did anyone attempt to re-interview Frost who was listed in OMC files as the person who had received SRC's formal registration at

OMC. Even When U.S. State Department officers received information that strongly supported the allegations no investigation was undertaken.

It took a politically explosive situation in

Antigua, involving a boycott of U.S. military transport ships carrying SRC equipment into the country, to produce the Embassy-OMC initiative for a Customs investigation. A day later --- and over 4 months after the initial charges --- SRC shipped over 20,000 artillery shells to Spain for future shipment to South Africa.

Early investigative reports by Customs agents and the U.S. Embassy in Barbados revealed that SRC had shipped shells to Spain and possibly planned additional shipments under Canadian export license, and that these shells originated at Chamberlain in Scranton. Yet neither the Embassy nor Customs nor any other agency assumed a preventive role so the information was not widely shared. Even after July 4 when Customs informed the State Department that the charges against SRC were true, neither OMC nor any other foreign policy agency moved quickly to trace Chamberlain's deliveries to SRC or prevent additional shipments out of Canada and Spain. Near the end of June SRC exported 20,400 shells from Barcelona to Durban, South Africa; near the end of July an additional 12,000 shells were exported from Canada to South Africa via the Canary Islands.

Lastly, when the investigation was done and the guilty pleas submitted, no U.S. foreign-policy agency undertook to rebuke South Africa for obtaining illegally what it has been denied legally, or consulted with friendly governments whose agencies or nationals had assisted SRC's violations of the embargo.

SRC's successful evasions reveal that there is a "non-system" for enforcing the arms embargo within the U.S. Government. U.S. foreign policy agencies did not interrupt this scam because collecting information on the embargo's operation was not high on the list of any agency's priorities, procedures for sharing and centrally-assessing relevant information did not exist, and most fundamentally, there was no clear delineation of organizational responsibilities for obtaining relevant intelligence, evaluating in and acting upon it.

As the SRC-ARMSCOR contacts were developing, OMC received Frost's report that, at official U.S. initiative, he was helping the South African military obtain U.S.-origin arms abroad. OMC officials explained to the Subcommittee staff that they did not pursue Frost's allegations because they viewed their enforcement responsibilities as narrowly focussed on criminal sanctions if individuals, even Americans, in foreign countries arranged ex-ports of U.S.-origin equipment to South Africa. There were no criminal ports of U.S.-origin equipment to South Africa. The OMC officials do claim to have forwarded Frost's report to the Directors of the Intelligence and Research and Politico-Military Affairs Bureaus of the State Department. But there is no written record of such transmissions or any subsequent follow-up by the Department. Perhaps there would have been additional impetus for investigation had the CIA or high officials of the interdepartmental Working Group on Angola let OMC or other offices know that the South Africans were simultaneously seeking U.S. 155 mm. artillery. After all, SRC was a leading exporter of 155 mm and 175 mm. artillery and Jack Frost was listed in OMC files as an SRC contact who had received their accepted registration form. But no such information was communicated.

This failure to probe further may have been critical. By July 1976 Frost had discovered that ARMSCOR representatives had visited SRC and other U.S. companies he recommended, and he fired off two stiff ("How stupid can you

get...you are unreal") warning letters to ARMSCOR officials. First he condemned them for trying "to exploit the leads I have given you...without regard for whom you talk to or the consequences." Secondly, he recalled that at the time of their discussions there was "an approved and proper means for accomplishing your requirements" but that now "you and your people are placing these people in a precarious position which could result in their being barred from future business and a probability of criminal prosecution". Thirdly, he complained and warned that

"Since I have been pre-empted and, at the same time, am responsible for opening the door, I feel I have only one valid option...Before I'll allow these companies to get into trouble, I must force them out of indirect or indirect cooperation, I will be calling each and every one to advise them of the general nature of the consequences. After this, and to prevent further contact, I shall have those known to me... placed on a watch list".

Had Frost been approached by his OMC or CIA contacts, he might have enlisted the help of the Government in establishing his watch list, used U.S. Government interest as a lever to discourage SRC and the South Africans, or at least been encouraged to continue looking into the matter.

Frost's information was quite reliable. In March-April 1976, six South Africans visited SRC. The visitors included Piet Smith, ARMSCOR's Chief of Procurement, Colonel Paul M. Lombard, Director of the South African Artillery School at Potchefstroom, and four other individuals representing Cementation, a defense-related South African firm which produced ammunition. Smith signed the Elana I agreement with SRC at this time. In the same period, two other South Africans including Dennys Zeederberg, Quality Control director of ARMSCOR, met in Pittsburgh with the President of a Teledyne Corporation subsidiary. The South Africans discussed the possibility of obtaining "boring bars", but Teledyne officials soon realized that the South Africans wanted to use their product to make anti-tank shells. Two South African Government representatives were also received at SRC the following Spring.

But no U.S. foreign policy agency took cognizance of these visits. Existing policy generally forbade visits to the U.S. by South African military officers above the rank of brigadier, but ARMSCOR representatives were not covered.

Other possible sources of information on the SRC-ARMSCOR negotiations were Aircraft Equipment International and IMI which were acting as channels of information and intermediaries (IMI was also a subcontractor for the provision of propellant and the filling of the shells until it suddenly pulled out in early 1977). Yet there was no U.S. intelligence on their activities.

According to SRC travel records and an investigation by the Burlington Free Press, approximately 12 SRC military-oriented technicians and 4 top SRC officials traveled to South Africa (code-name "Miami") during 1976-78. The technical team leader and 3 of the 4 high officials travelled multiple times. The technicians helped ARMSCOR instrument a projectile firing range at Schmidts Drift near Kimberly, delivered equipment and consulted on the setting up of indigenous manufacturing facilities. Although SRC was registered with OMC as a munitions exporter, no U.S. foreign policy agency monitored these visits.

The October-November 1977 Nkomo-Antigua Workers Union charges that SRC shipped arms from Canada to Antigua to South Africa via the South African vessel Tugelaland did not cause any U.S. agency to investigate further. In particular, OMC --- which had now accumulated Frost's report, SRC's registration certificate with Frost as the addressee, and correspondence with SRC on the legalities of exporting "nosed" forgings and technology abroad --- did not respond to the charges by reinterviewing Frost, calling in SRC, or asking other agencies to check Lloyds of London records on the Tugelaland's movements and obtain information from port and warehouse personnel in South Africa. Of course, OMC has only 1.6 full-time equivalent "people" to enforce all of its regulations! Possibly the State Department's Bureau of Inter-American Affairs would have pressed harder for information, but the Barbados Embassy was blissfully unaware that SRC was an American rather than a Canadian company. Neither OMC nor CIA which possessed accurate information on this point transmitted it. A Royal Canadian Mounted Police inquiry did slowly start.

By January 1978, the Embassy had become more concerned about possible threats to U.S. interests in the Caribbean. Under its Army contract with Picatinny Arsenal, SRC began delivering equipment to its Antigua testing range via U.S. military-chartered vessels. Local dockworkers, who were boycotting SRC over the alleged South African shipments, appealed to the U.S. Government

to halt its cooperation with SRC. This provoked an Embassy request to the State Department for an explanation of how a "Canadian-based firm" could ship on military-chartered boats, and "any light the Department can shed on SRC and its operations". The Department's response was a narrow reply explaining the purpose and nature of the military-chartered shipments.

Even the Embassy's receipt of information in January and February which strongly supported the allegations that SRC was shipping arms to South Africa, produced no further investigation. These reports were

widely disseminated among U.S. foreign policy agencies, but none seemed to feel responsible for pursuing the matter. It was not until March 1st that the Embassy, seeing a renewal of politically effective criticism of the U.S. military-aided shipments, requested a "thorough investigation of SRC activities." The same day OMC responded and initiated a U.S. Customs inquiry. But the delay had been costly. On the following day SRC shipped 21,624 additional artillery shells from Canada to Barcelona, Spain under a December 1977 Canadian export license for 35,000 shells for the "Government of Spain".

Between March and June 1978 a series of Customs reports tended to confirm the allegations. In early March, an Antiguan official admitted that arms previously exported to Antigua "were worked for South Africa". In May a Customs agent told the Embassy that

the SRC test range in Antigua "was certainly a cover for something" but "a poor cover" as the gun had not been fired for a long time and equipment consigned to the range had never arrived. A May 31st Customs Report of Investigation crisply stated, "Investigation to date supports the allegations". By mid-June, Lloyds of London records confirming that the Tugelaland went to South Africa had been received.

Of immediate importance, in April the Antigua Government published a copy of the SRC Canadian export license for 35,000 shells for the "Government of Spain. At the same time, Embassy and Customs officers learned that SRC had shipped shells to Spain and was possibly contemplating further shipments, and that the shells came from Chamberlain in Scranton. Neither Customs nor the Embassy, however, disseminated these reports to OMC or other offices. neither saw it as their role to undertake preventive action. (Conversely, OMC and other agencies did not try to keep abreast of the Customs findings for preventive reasons). It was not until July 4th that Customs informed the State Department it had received information that SRC had indeed made several shipments of arms to South Africa. The Embassy proudly responded, "As Department aware from our activities and reporting over a span of six months we surmised the possibility that SRC engaged in clandestine arms shipments".

Once again the failure to produce, distribute and act on relevant information had serious consequences. Between January and May 1978, Chamberlain shipped 14,000 shell forgings to SRC. On June 26th, 20,400 SRC artillery shells were moved from Barcelona, Spain to Durban South Africa, where they arrived July 19th. On July 27th, SRC shipped another 12,648 projectiles from Canada to South Africa, under its Canadian license for "Spain". The ship stopped in the Bay of Cadiz on August 16th and bunkered

Las Palmas, Canary Islands on August 14th before pulling into Durban, South Africa on September 10th.

In the end, the U.S. did nothing to protest the South African Government's participation in a conspiracy to violate U.S. law. It did not protest South Africa's course of seeking arms legally from the U.S. Government and then going illegal when it was turned down. It did not rebuke the South African Government-owned South Africa Marine Corporation of New York which gave false information to Customs investigators on the route of the Tugelaland. And it did not initiate consultations with the Canadian, British, Israeli and Belgian Governments on the behavior of their agencies and nationals that weakened the embargo, and U.S. interest in improving international enforcement of the embargo. In brief, here was another failure to take preventive action.

#### 5. A Flawed Prosecution

The efforts of the U.S. Attorney's Office in Vermont and the Department of Justice to prosecute SRC bore only modest fruit. A plea bargain was accepted in which Bull and Gregory pled guilty to a single, condensed count of their major violations and SRC pled guilty to 4 other counts of filing false information. The U.S. Attorney reasserted his "normal" position of not advising on sentencing, and the Judge sentenced Bull and Gregory to six months in jail (a quarter of the maximum for the single count) and fined the corporation \$45,000 (less than a third of its maximum). No other individuals or corporations were indicted.

These results reflected potential weaknesses in the

Government's case stemming from the appearance of U.S. Government authorization of most of the shipments. Acceptance of the plea bargain was also an expression of the passive role of U.S. agencies (especially the Office of Munitions Control) in putting forth the U.S. foreign policy interest in maximum prosecution of embargo violations.

On March 13, 1980, 15 months into the grand jury investigation of SRC, Lawrence Curtis, the U.S. Customs Agent in charge of the Customs investigation, wrote several offices of his agency, "It is anticipated that indictments will be obtained shortly. The present target date is 3/28/80". Among the corporations which "will be indicted" are SRC, SRC-Q, SRC-I, Paragon Holdings Ltd. and the First Pennsylvania Bank. Among the individuals to be indicted were Bull, Gregory, 8 other officers of SRC and its subsidiaries, the head of Paragon, the engineer who led SRC's technical assistance team in South Africa and SRC's London-based attorney.

Other potential targets, such as the First Pennsylvania Bank loan officer who supervised the SRC account, had been given immunity for their grand jury testimony. The two year old Customs investigation had uncovered literally dozens of violations of U.S. law by SRC and its associates. Yet on March 25th the U.S. Attorney and Justice Department accepted a plea bargain wherein Bull and Gregory pleaded guilty to a single count combining the major violations and SRC confessed to 4 counts of falsifying Customs declarations. According to officials of the Justice Department and the U.S. Attorney's Office interviewed by the Subcommittee staff, the leading obstacle to vigorous prosecution of the case

was the OMC letter of April 1976. It was felt that Bull and Gregory--- and even more so those further down in the hierarchy---would cite the company's interpretation of the letter as a legitimization of their non-criminal intentions. (The law requires evidence of a knowing, willful violation for application of its criminal sanctions) Of some, but lesser, concern was the odor of CIA involvement. Yet, as this investigation suggests, the CIA issue might have developed into a fairly imposing, exculpatory defense during a trial. The Government lawyers concluded that if the best outcome one could expect from a trial was convictions of only Bull, Gregory and SRC, a reasonable plea-bargain could at least save the taxpayers the expense of the trial.

Nonetheless, an argument was presented within the Justice Department at this time that, with a few weeks more grand jury investigation including additional grants of immunity, a more viable case might be built against Bull, Gregory, another high SRC officer, the SRC lawyer, SRC and the First Pennsylvania Bank. Presumably there was also a U.S. foreign policy interest in maximum feasible prosecution in order to deter future violators. But the State Department was not closely involved in the decision to accept a plea-bargain, nor did it seek such involvement. As a Justice Department official explained, "We informed the Office of Munitions Control that we were going to accept the plea bargain as a courtesy. You

can't say we consulted them". On the other side OMC did not seek a real consultation either.

#### RECOMMENDATIONS

As the earlier discussion has indicated, the non-system of implementing the arms embargo against South Africa has changed little in the few years since SRC's transgressions. By and large, the U.S. Government has not drawn many lessons from the SRC imbroglio. The CIA has not adequately investigated its own likely role in the breaking of the embargo. OMC struggles on with 50% more license applications for the same number of licensing officers. Only the Army has changed its procedures in part because of the SRC case. Today permission to use Army GOCO plants for commercial sales to foreign countries cannot be granted unless the private contractor presents evidence of an OMC export license or State Department permission to make a sales presentation of the item to the foreign buyer. As for enforcement activity, there is no sign of significant improvements in the focusing of intelligence collection resources, the establishment of communication mechanisms, or the delineation of organizational responsibilities for deterring and preventing violations.

Given the structural rather than accidental causes of the Government's failure to adequately implement the arms embargo against South Africa, the effectiveness of U.S. arms restrictions aimed at other countries is also questionable. The problem would appear less severe with regard to Communist countries because intelligence resources are already targeted on these areas, all U.S. foreign policy agencies are greatly concerned with possible additions

to Communist military power, and arms transactions with Communist countries are considered especially illegitimate in the U.S. and potential transshipment countries. Yet the implementation system may be breaking down in areas of the non-Communist third world just as it did in South Africa. As an example, well researched although not totally confirmed press stories suggest that this may have occurred with regard to Libya. Indeed many of these reports are oddly reminiscent of the Space Research case. Two CIA employees have been fired for assisting a CIA contact, Edwin Wilson, who was selling weapons to Libya. Some questions still remain about the precise relationship of Wilson to certain CIA officials, and about the adequacy of CIA investigations of the matter. Some of the weapons exported from the U.S. to Libya were trans-shipped through Canada and Portugal. It appears that some OMC-mandated export forms were successfully altered by the conspirators as a routine practice. A Navy weapons center permitted an employee to go on leave to militant Libya to help manage an explosives firm. U.S. pilots and mechanics have been recruited by Libya through international companies in Europe and still other offshore companies have transshipped prohibited U.S. C-130 military transport planes to Libya. The federal investigation of various Libya-related cases has been complicated and delayed significantly by serious coordination problems.

In order to strengthen the U.S. arms embargo against South Africa (and arms restrictions aimed at other countries) the following steps are recommended:

1. The Secretary of State should promptly designate a lead office, logically the Bureau of Politico-Military Affairs in the State

Department, to supervise U.S. implementation of the arms embargo against South Africa (and other arms export restrictions). The lead office should have a formal, written mission and authority to represent the Department's concerns in inter-agency discussions. A Deputy Assistant Secretary of State should be made formally responsible for implementing arms export restrictions. At the time of these designations, the Secretary should clearly and vigorously express the rationale for the South African embargo and other arms export restrictions.

2. Under the aegis of the lead office, the Executive branch should reassess the current system for implementing U.S. arms export restrictions. Following this review, the Executive should, in consultation with Congress:
  - delineate formally and in writing organizational responsibilities for implementation, including preventive action
  - re-evaluate existing organizational procedures in light of newly assigned responsibilities
  - take steps to ensure that each organization has the resources to do its job
  - require increased intelligence collection on illegal international arms transfers, and install formal communications procedures to make sure that intelligence is utilized

No relevant agency should be exempt from this reassessment.
3. Pending completion of this reorganization,
  - the Office of Munitions Control should be given adequate resources in staff and technical training to perform its existing functions

---the House and Senate Intelligence Committees should investigate the possible roles of employees, agents and contacts of the CIA in efforts to evade the U.S. embargo against South Africa during the Angolan Civil War of 1975-76 and in the development of the SRC-ARMSCOR relationship

There is little political controversy in the U.S. about the need for a strong arms embargo against South Africa. The existing arms embargo policy underlines U.S. opposition to the apartheid system of white minority rule. It is consistent with American ideals and projects a positive U.S. image to several important audiences for U.S. diplomacy: the majority of people in South Africa, other African countries, the Third World, and the United Nations. The arms embargo is also a sign to the South African Government (in conjunction with the U.N. embargo) that it is internationally isolated and cannot expect assistance in subduing militarily its rising internal opposition. To the contrary, the embargo indicates that repression may produce further international sanctions. And, however mixed its results so far, the embargo does interfere with South Africa's ability to make timely acquisitions of advanced weaponry to fend off rising regional challenges. An apt example of this was the South African Defense Forces' negative experience in Angola due to their lack of long-range artillery which had been denied to them by the West. Although South Africa eventually obtained 155mm. technology through a tortorous and tenuous process, and has begun its own production, military technology marches on and there is no assurance that South Africa will have up-to-date weaponry when it needs it. South Africa's undoubted awareness of this risk is another factor which could encourage a political rather than a military

settlement of the country's serious internal problems. Such a settlement is clearly in America's interest and its possibility constitutes another reason for improved implementation of the arms embargo.

Within the last month, the Administration has eased restrictions on exports of non-military goods and technology to the South African military and police. Many have opposed this move because, in the words of Subcommittee on Africa Chairman Wolpe,

It will be taken by the Afrikaners and the South African regime as a further sign that they can continue to reinforce the repression that has been escalating recently. It will also be taken throughout the African continent as further evidence of abandonment and betrayal of what this nation has historically stood for.

Others, including spokesmen for the Administration, have disagreed, emphasizing that U.S. policy continues to be dedicated to a strong arms embargo, the distancing of our country from "the practice of apartheid", and the promotion of "racial justice in Southern Africa." In this view, the export controls have been altered to "focus...more clearly" on U.S. concerns and to provide South Africa with a "carrot" for continued racial progress in line with the Administration's policy of "constructive engagement".

Yet it would appear that for both sides the arms embargo against South Africa is more central to U.S. policy than before. In the eyes of some, the easing of export controls to the South African military and police makes it all the more important to underline our disassociation from apartheid by strictly enforcing the arms embargo. In the eyes of others, the loosening of export controls makes possible a clearer focus on the arms embargo as the major "stick" among the various "carrots" in the U.S. policy kit for South Africa.