

REPORT TO THE CONGRESS PURSUANT TO SECTION 501 OF THE
COMPREHENSIVE ANTI-APARTHEID ACT OF 1986

Herewith is transmitted to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate the report required by section 501 of the Comprehensive Anti-Apartheid Act of 1986 (the Act) for the period from October 3, 1990, to October 2, 1991.

Background

Executive Order 12571 directed all affected Executive departments and agencies to take all steps necessary, consistent with the Constitution, to implement the requirements of the Act. They have implemented the Act fully and faithfully.

Section 101 of the Act states that it and other actions of the United States are intended to encourage the Government of South Africa to take the following steps:

- Bring about reforms leading to the establishment of a nonracial democracy in South Africa.
- Repeal the present state of emergency and respect the principle of equal justice under law for citizens of all races.
- Release Nelson Mandela, Govan Mbeki, and Walter Sisulu, black trade union leaders, and all political prisoners.
- Permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process.
- Establish a timetable for the elimination of apartheid laws.
- Negotiate with representatives of all racial groups in South Africa the future political system in South Africa.
- End military and paramilitary activities aimed at neighboring states.

This report assesses the extent to which the South African Government has taken steps toward ending the system of apartheid, moving toward a nonracial democracy, and reaching a negotiated settlement of the South African conflict.

The Status of Apartheid: October 1990 to October 1991.

Actions taken by the South African Government in ending the system of apartheid and moving toward a nonracial democracy.

South Africa's reform process, set into motion with the unbanning of the ANC and the release of Nelson Mandela in early 1990, moved rapidly ahead during the past twelve months. During this period, the South African government, the ANC, and other organizations made significant progress in removing obstacles to negotiations. The government took major steps to eliminate the legal underpinnings of the apartheid system. Preparations for multiparty talks on a new constitution are underway. The governing National Party, headed by President F. W. de Klerk, has committed itself irreversibly to the dismantling of apartheid and the establishment of nonracial multiparty democracy.

The remaining legislative pillars of apartheid were repealed by Parliament in 1991. These included the Group Areas Act, which mandated residential segregation; the Land Acts, which prohibited black land ownership outside rural "homelands"; and the Population Registration Act, which assigned a racial classification to each South African at birth. The repeal of the Separate Amenities Act, which permitted segregation of municipal facilities, took effect in October 1990.

Under the terms of an agreement with the ANC, and by unilateral action, the South African government has released well over 1000 prisoners, including all prisoners meeting the CAAA criteria of "persons persecuted for their political beliefs or detained unduly without trial." In October 1990, the State of Emergency, which had been repealed earlier that year except in the province of Natal, was lifted there as well. An amendment to the Internal Security Act prohibited long-term detentions.

Under the current constitution, South Africa's racial groups are separately represented in Parliament under the "own affairs" system. The Parliament contains separate houses for white, "colored," and Indian members. Blacks are not represented, and black "own affairs" are handled by white cabinet ministers. However, with the repeal of apartheid legislation, the "own affairs" system controls an increasingly narrow range of activities. The system was further eroded during the 1991 Parliamentary session, when the ruling National Party opened up its ranks to members of all races and a large number of "colored" parliamentarians joined the National Party caucus. Parliamentary politics as a whole has become less central as the focus of political activity has shifted to the negotiating process. The government does not support the continuation of the "own affairs" concept under a future constitution. Currently, the principal remaining element of "own affairs" is the education system, which with a few exceptions remains segregated.

Progress made in reaching a negotiated settlement to the conflict in South Africa.

The South African government has taken steps to foster a climate conducive to negotiations, including repeal of apartheid legislation and release of over a thousand prisoners. However, the ANC disputes the government's contention that the prisoner release process has been completed. Primarily at issue are prisoners who committed for political ends acts of violence which resulted in deaths or injuries. At the end of September 1991, discussions on this issue continued.

During 1991, the repatriation of exiles -- one of the ANC's preconditions for negotiations -- began. In March, the government agreed in principle to allow the United Nations High Commissioner for Refugees (UNHCR) to assist in exile repatriation, but a final agreement was not reached until August. A non-governmental committee on refugees repatriated a few planeloads of returning exiles early in the year, but later halted large-scale repatriations pending the signing of the UNHCR agreement.

Violence remained the major obstacle to constitutional talks. During 1991, clashes between the ANC and Inkatha, primarily in the Johannesburg area and in Natal, continued. Upsurges of violence alternated with relatively peaceful periods. The ANC and other organizations continued to accuse the security forces of fueling the violence. Nelson Mandela and Inkatha leader Mangosuthu Buthelezi met in February 1991, and again on March 30, in an attempt to reduce tensions between the two organizations. In early September, Buthelezi again called for the two leaders to meet to recommit themselves to ending the violence.

In April, primarily in response to escalating violence, the ANC threatened in an open letter to President de Klerk to break off preparations for constitutional talks if the government did not take certain actions, including firing security ministers Adriaan Vlok and Magnus Malan, punishing members of the security forces implicated in violence, outlawing the public carrying of weapons, and releasing remaining political prisoners. President de Klerk subsequently placed restrictions on the carrying of weapons and pledged to take action on other issues raised in the letter. Although he refused to dismiss the cabinet ministers, both were later demoted in the wake of the "Inkathagate" scandal (see below). The ANC concluded that these actions did not address its concerns sufficiently, and announced its withdrawal from talks on constitutional issues. However, this had little practical effect, since the two sides were primarily engaged in talks on removing obstacles to negotiations, which were not affected by the ANC's action.

In July, news reports revealed that the government had secretly funded two Inkatha political rallies, in addition to covertly channeling money to an Inkatha-affiliated union and to participants in the Namibian elections. In the wake of the

"Inkathagate" revelations, President de Klerk pledged to place strict limits on secret government spending and reassigned to other duties Law and Order Minister Vlok and Defense Minister Malan. The government also agreed to place the issue of transitional government arrangements at the top of the agenda at the planned all-party conference on constitutional principles. President de Klerk has suggested that parties taking part in the negotiations could have a role in the government, perhaps including representation in the cabinet. Some parties, including the Pan-Africanist Congress (PAC) and Inkatha, have indicated they would reject "cooptation" into the present government.

All major parties except the Conservative Party and other right-wing organizations attended a church-sponsored peace conference held in June. At the conference, a standing committee was established to explore peace initiatives. On August 14, the committee produced a draft peace agreement. The draft called for codes of conduct for political parties and for the security forces. It also provided for national, regional, and local bodies to oversee the peace accord process and to begin addressing the socio-economic needs of the areas affected by violence.

A week before the scheduled September 14 signing of the agreement (which was widely seen as a prerequisite for constitutional talks), violence erupted in the Johannesburg townships after unknown attackers opened fire on a group of Inkatha supporters, killing 23. The timing of the attack led many to speculate that it was orchestrated by elements attempting to sabotage the peace process. However, leaders of the major parties to the agreement reiterated their commitment to peace, and the signing took place as scheduled. The PAC and the Azanian People's Organization (AZAPO), which had participated in discussions on the agreement, refused to sign it but agreed to adhere to most of its provisions.

Concurrently with these developments, South Africa's political organizations continued to prepare internally for negotiations. In April, the ANC issued a constitutional proposal which called for multiparty democracy, a bicameral parliament, and a justiciable bill of rights. In July, at its first party conference inside South Africa in 30 years, the ANC gave newly-elected President Nelson Mandela a renewed mandate to move ahead with constitutional negotiations.

The National Party constitutional proposal unveiled in September stressed consensus government, with multiparty collective leadership, strong safeguards for minorities, and a federal system vesting considerable powers in regional and local bodies. While the ANC rejected the proposal as an attempt to maintain a white veto over the country's political life, the two parties' proposals actually share many common features (such as a justiciable bill of rights), albeit in very

different forms. The two proposals are likely to serve as springboards for discussion during the planned all-party conference. Many other organizations, including Inkatha and the Democratic Party, have pledged to participate in constitutional talks. Others on both the left and the right, however, continue to reject participation. The PAC and AZAPO both retain their longstanding opposition to constitutional talks, maintaining that the constitution must be drawn up by a popularly elected constituent assembly following the resignation of the present government. However, the two organizations and the ANC plan to discuss a united approach at a Patriotic Front Conference scheduled for late October. On the right, the Conservative Party continues to support the "grand apartheid" vision of a partitioned South Africa and refuses to participate in talks, equating negotiations with white surrender. Some party members, however, favor participation in negotiations with the aim of obtaining a separate white homeland. Most of the smaller parties on the right, including the far-right Afrikaner Weerstandsbeweging (AWB) led by Eugene Terreblanche, also oppose talks.

The planned all-parties conference on constitutional principles, slated to take place sometime after the Patriotic Front Conference, is expected to be the next major step in negotiations. Although the ANC continues to call for the election of a constituent assembly to negotiate a constitution, there is speculation that the all-parties conference could evolve into a body which would draft a constitution and present it for ratification in a referendum. The unofficial deadline for the completion of negotiations is 1994, when the term of the current Parliament expires.

Section 101(b) Progress or Lack Thereof

Repeal the present state of emergency and respect the principle of equal justice under law for citizens of all races. The State of Emergency was repealed in 1990. The repeal of apartheid legislation, amendments to security legislation, and an increasingly liberal (though still virtually all-white) judiciary have improved the legal status of non-white South Africans. The South African government has endorsed a justiciable bill of rights under a future South African constitution.

Release Nelson Mandela, Govan Mbeki, and Walter Sisulu, black trade union leaders, and all political prisoners. Mandela, Mbeki, and Sisulu have been released. No trade union leaders remain imprisoned for political or union activities. Over 1000 persons were released under an agreement between the South African government and the ANC and by unilateral government action. In July 1991, the President concluded that all persons persecuted for their political beliefs or detained unduly without trial had been released.

Permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process. President de Klerk unbanned all political parties on February 2, 1990. Since then, South Africans of all races have freely exercised the right to form political parties, express political opinions, and participate in the political process, which is currently focused on negotiating a new constitution for a nonracial South Africa.

Establish a timetable for the elimination of apartheid laws. All major remaining apartheid laws were repealed in 1991. These included the Group Areas Act, the Land Acts, and the Population Registration Act (see above). The June 1990 repeal of the Separate Amenities Act, which allowed the segregation of municipal facilities, went into effect in October 1990. Many less well-known apartheid laws were also repealed.

Negotiate with representatives of all racial groups in South Africa the future political system in South Africa. The South African government has irrevocably committed itself to negotiating a new nonracial political system. Since May 1990, it has been holding talks with the ANC aimed at removing obstacles to constitutional talks. A planned all-parties conference (see above) is widely seen as a springboard to full constitutional negotiations. The ANC and the National Party have both released draft constitutional proposals in preparation for these talks.

End military and paramilitary activities aimed at neighboring states. There were no reports of cross-border raids or paramilitary activities by South Africa in the past year. South Africa's relations with neighboring countries improved dramatically during the year, although in August the Mozambican government repeated its charge that South Africa continues to support Renamo insurgents. President de Klerk met with several of his African counterparts during this period, and many African nations resumed or increased trade links with South Africa.