

Public Law 103-149
103d Congress

An Act

To support the transition to nonracial democracy in South Africa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "South African Democratic Transition Support Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) After decades of apartheid, South Africa has entered a new era which presents a historic opportunity for a transition to a peaceful, stable, and democratic future.

(2) The United States policy of economic sanctions toward the apartheid government of South Africa, as expressed in the Comprehensive Anti-Apartheid Act of 1986, helped bring about reforms in that system of government and has facilitated the establishment of a nonracial government.

(3) Through broad and open negotiations, the parties in South Africa have reached a landmark agreement on the future of their country. This agreement includes the establishment of a Transitional Executive Council and the setting of a date for nonracial elections.

(4) The international community has a vital interest in supporting the transition from apartheid toward nonracial democracy.

(5) The success of the transition in South Africa is crucial to the stability and economic development of the southern African region.

(6) Nelson Mandela of the African National Congress and other representative leaders in South Africa have declared that the time has come when the international community should lift all economic sanctions against South Africa.

(7) In light of recent developments, the continuation of these economic sanctions is detrimental to persons disadvantaged by apartheid.

(8) Those calling for the lifting of economic sanctions against South Africa have made clear that they do not seek the immediate termination of the United Nations-sponsored special sanctions relating to arms transfers, nuclear cooperation, and exports of oil. The Ad Hoc Committee on Southern Africa of the Organization of African Unity, for example, has urged that the oil embargo established pursuant to a 1986 General Assembly resolution be lifted after the establishment

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SEC. 3. UNITED STATES POLICY.

It is the sense of the Congress that—

- (1) the United States should—
 - (A) strongly support the Transitional Executive Council in South Africa,
 - (B) encourage rapid progress toward the establishment of a nonracial democratic government in South Africa, and
 - (C) support a consolidation of democracy in South Africa through democratic elections for an interim government and a new nonracial constitution;
- (2) the United States should continue to provide assistance to support the transition to a nonracial democracy in South Africa, and should urge international financial institutions and other donors to also provide such assistance;
- (3) to the maximum extent practicable, the United States should consult closely with international financial institutions, other donors, and South African entities on a coordinated strategy to support the transition to a nonracial democracy in South Africa;
- (4) in order to provide ownership and managerial opportunities, professional advancement, training, and employment for disadvantaged South Africans and to respond to the historical inequities created under apartheid, the United States should—
 - (A) promote the expansion of private enterprise and free markets in South Africa,
 - (B) encourage the South African private sector to take a special responsibility and interest in providing such opportunities, advancement, training, and employment for disadvantaged South Africans,
 - (C) encourage United States private sector investment in and trade with South Africa,
 - (D) urge United States investors to develop a working partnership with representative organs of South African civil society, particularly churches and trade unions, in promoting responsible codes of corporate conduct and other measures to address the historical inequities created under apartheid;
- (5) the United States should urge the Government of South Africa to liberalize its trade and investment policies to facilitate the expansion of the economy, and to shift resources to meet the needs of disadvantaged South Africans;
- (6) the United States should promote cooperation between South Africa and other countries in the region to foster regional stability and economic growth; and
- (7) the United States should demonstrate its support for an expedited transition to, and should adopt a long term policy beneficial to the establishment and perpetuation of, a nonracial democracy in South Africa.

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SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND OTHER MEASURES DIRECTED AT SOUTH AFRICA.

(a) **COMPREHENSIVE ANTI-APARTHEID ACT.**—

- (1) **IN GENERAL.**—All provisions of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5001 and following) are

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repealed as of the date of enactment of this Act, except for the sections specified in paragraph (2).

(2) EFFECTIVE DATE OF REPEAL OF CODE OF CONDUCT REQUIREMENTS.—Sections 1, 3, 203(a), 203(b), 205, 207, 208, 601, 603, and 604 of the Comprehensive Anti-Apartheid Act of 1986 are repealed as of the date on which the President certifies to the Congress that an interim government, elected on a nonracial basis through free and fair elections, has taken office in South Africa.

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5032, 5034, 5035,
5111, 5113, 5114.

(3) CONFORMING AMENDMENTS.—(A) Section 3 of the Comprehensive Anti-Apartheid Act of 1986 is amended by striking paragraphs (2) through (4) and paragraphs (7) through (9), by inserting “and” at the end of paragraph (5), and by striking “; and” at the end of paragraph (6) and inserting a period.

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(B) The following provisions of the Foreign Assistance Act of 1961 that were enacted by the Comprehensive Anti-Apartheid Act of 1986 are repealed: subsections (e)(2), (f), and (g) of section 116 (22 U.S.C. 2151n); section 117 (22 U.S.C. 2151o), relating to assistance for disadvantaged South Africans; and section 535 (22 U.S.C. 2346d). Section 116(e)(1) of the Foreign Assistance Act of 1961 is amended by striking “(1)”.

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(b) OTHER PROVISIONS.—The following provisions are repealed or amended as follows:

(1) Subsections (c) and (d) of section 802 of the International Security and Development Cooperation Act of 1985 (99 Stat. 261) is repealed.

(2) Section 211 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 432) is repealed, and section 1(b) of that Act is amended by striking the item in the table of contents relating to section 211.

(3) Sections 1223 and 1224 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (101 Stat. 1415) is repealed, and section 1(b) of that Act is amended by striking the items in the table of contents relating to sections 1223 and 1224.

(4) Section 362 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (105 Stat. 716) is repealed, and section 2 of that Act is amended by striking the item in the table of contents relating to section 362.

(5) Section 2(b)(9) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)) is repealed.

(6) Section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa) is amended by repealing subsection (b) and by striking “(a)”.

(7) Section 330 of H.R. 5205 of the 99th Congress (Department of Transportation and Related Agencies Appropriations Act, 1987) (22 U.S.C. 5056a) as incorporated by reference in section 101(l) of Public Law 99-500 and Public Law 99-591, and made effective as if enacted into law by section 106 of Public Law 100-202, is repealed.

(8)(A) Section 901(j)(2)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 901(j)(2)(C)) is repealed.

(B) Subparagraph (A) shall not be construed as affecting any of the transitional rules contained in Revenue Ruling 92-62 which apply by reason of the termination of the period for which section 901(j) of the Internal Revenue Code of 1986 was applicable to South Africa.

(9) The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking "Republic of South Africa".

(c) SANCTIONS MEASURES ADOPTED BY STATE OR LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—

(1) **POLICY REGARDING RESCISSION.**—The Congress urges all State or local governments and all private entities in the United States that have adopted any restriction on economic interactions with South Africa, or any policy discouraging such interaction, to rescind such restriction or policy.

(2) **REPEAL OF PROVISIONS RELATING TO WITHHOLDING FEDERAL FUNDS.**—Effective October 1, 1995, the following provisions are repealed:

(A) The undesignated paragraph entitled "STATE AND LOCAL ANTI-APARTHEID POLICIES" in chapter IX of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (22 U.S.C. 5117).

(B) Section 210 of the Urgent Supplemental Appropriations Act, 1986 (100 Stat. 749).

(d) **CONTINUATION OF UN SPECIAL SANCTIONS.**—It is the sense of the Congress that the United States should continue to respect United Nations Security Council resolutions on South Africa, including the resolution providing for a mandatory embargo on arms sales to South Africa and the resolutions relating to the import of arms, restricting exports to the South African military and police, and urging states to refrain from nuclear cooperation that would contribute to the manufacture and development by South Africa of nuclear weapons or nuclear devices.

SEC. 5. UNITED STATES ASSISTANCE FOR THE TRANSITION TO A NONRACIAL DEMOCRACY.

(a) **IN GENERAL.**—The President is authorized and encouraged to provide assistance under chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa) or chapter 4 of part II of that Act (relating to the Economic Support Fund) to support the transition to nonracial democracy in South Africa. Such assistance shall—

(1) focus on building the capacity of disadvantaged South Africans to take their rightful place in the political, social, and economic systems of their country;

(2) give priority to working with and through South African nongovernmental organizations whose leadership and staff represent the majority population and which have the support of the disadvantaged communities being served by such organizations;

(3) in the case of education programs—

(A) be used to increase the capacity of South African institutions to better serve the needs of individuals disadvantaged by apartheid;

(B) emphasize education within South Africa to the extent that assistance takes the form of scholarships for disadvantaged South African students; and

(C) fund nontraditional training activities;

(4) support activities to prepare South Africa for elections, including voter and civic education programs, political party building, and technical electoral assistance;

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(5) support activities and entities, such as the Peace Accord structures, which are working to end the violence in South Africa; and

(6) support activities to promote human rights, democratization, and a civil society.

(b) GOVERNMENT OF SOUTH AFRICA.—

(1) **LIMITATION ON ASSISTANCE.**—Except as provided in paragraph (2), assistance provided in accordance with this section may not be made available to the Government of South Africa, or organizations financed and substantially controlled by that government, unless the President certifies to the Congress that an interim government that was elected on a nonracial basis through free and fair elections has taken office in South Africa.

(2) **EXCEPTIONS.**—Notwithstanding paragraph (1), assistance may be provided for—

(A) the Transitional Executive Council;

(B) South African higher education institutions, particularly those traditionally disadvantaged by apartheid policies; and

(C) any other organization, entity, or activity if the President determines that the assistance would promote the transition to nonracial democracy in South Africa.

Any determination under subparagraph (C) should be based on consultations with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and consultations with the appropriate congressional committees.

(c) INELIGIBLE ORGANIZATIONS.—

(1) **ACTS OF VIOLENCE.**—An organization that has engaged in armed struggle or other acts of violence shall not be eligible for assistance provided in accordance with this section unless that organization is committed to a suspension of violence in the context of progress toward nonracial democracy.

(2) **VIEWS INCONSISTENT WITH DEMOCRACY AND FREE ENTERPRISE.**—Assistance provided in accordance with this section may not be made available to any organization that has espoused views inconsistent with democracy and free enterprise unless such organization is engaged actively and positively in the process of transition to a nonracial democracy and such assistance would advance the United States objective of promoting democracy and free enterprise in South Africa.

SEC. 6. UNITED STATES INVESTMENT AND TRADE.

(a) **TAX TREATY.**—The President should begin immediately to negotiate a tax treaty with South Africa to facilitate United States investment in that country.

(b) **OPIC.**—The President should immediately initiate negotiations with the Government of South Africa for an agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to South Africa in order to expand United States investment in that country.

(c) **TRADE AND DEVELOPMENT AGENCY.**—In carrying out section 661 of the Foreign Assistance Act of 1961, the Director of the Trade and Development Agency should provide additional funds for activities related to projects in South Africa.

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(d) **EXPORT-IMPORT BANK.**—The Export-Import Bank of the United States should expand its activities in connection with exports to South Africa.

(e) **PROMOTING DISADVANTAGED ENTERPRISES.**—

(1) **INVESTMENT AND TRADE PROGRAMS.**—Each of the agencies referred to in subsections (b) through (d) should take active steps to encourage the use of its programs to promote business enterprises in South Africa that are majority-owned by South Africans disadvantaged by apartheid.

(2) **UNITED STATES GOVERNMENT PROCUREMENT.**—To the extent not inconsistent with the obligations of the United States under any international agreement, the Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans, notwithstanding any law relating to the making or performance of, or the expenditure of funds for, United States Government contracts.

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SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS.

The Director of the United States Information Agency should use the authorities of the United States Information and Educational Exchange Act of 1948 to promote the development of a nonracial democracy in South Africa.

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SEC. 8. OTHER COOPERATIVE AGREEMENTS.

In addition to the actions specified in the preceding sections of this Act, the President should seek to conclude cooperative agreements with South Africa on a range of issues, including cultural and scientific issues.

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SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND OTHER DONORS.

(a) **IN GENERAL.**—The President should encourage other donors, particularly Japan and the European Community countries, to expand their activities in support of the transition to nonracial democracy in South Africa.

(b) **INTERNATIONAL FINANCIAL INSTITUTIONS.**—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution, including the International Bank for Reconstruction and Development and the International Development Association, to urge that institution to initiate or expand its lending and other financial assistance activities to South Africa in order to support the transition to nonracial democracy in South Africa.

(c) **TECHNICAL ASSISTANCE.**—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution to urge that institution to fund programs to initiate or expand technical assistance to South Africa for the purpose of training the people of South Africa in government management techniques.

SEC. 10. CONSULTATION WITH SOUTH AFRICANS.22 USC 5001
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In carrying out this Act, the President should consult closely with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and others committed to abolishing the remnants of apartheid.

Approved November 23, 1993.

LEGISLATIVE HISTORY—H.R. 3225 (S. 1493):

HOUSE REPORTS: No. 103-296, Pt. 1 (Comm. on Foreign Affairs), Pt. 2 (Comm. on Public Works and Transportation), Pt. 3 (Comm. on Banking, Finance and Urban Affairs), and Pt. 4 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 139 (1993):

Sept. 24, S. 1493 considered and passed Senate.

Nov. 19, H.R. 3225 considered and passed House.

Nov. 20, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 29 (1993):

Nov. 23, Presidential remarks.