

GAO

Report to the Congress

October 1986

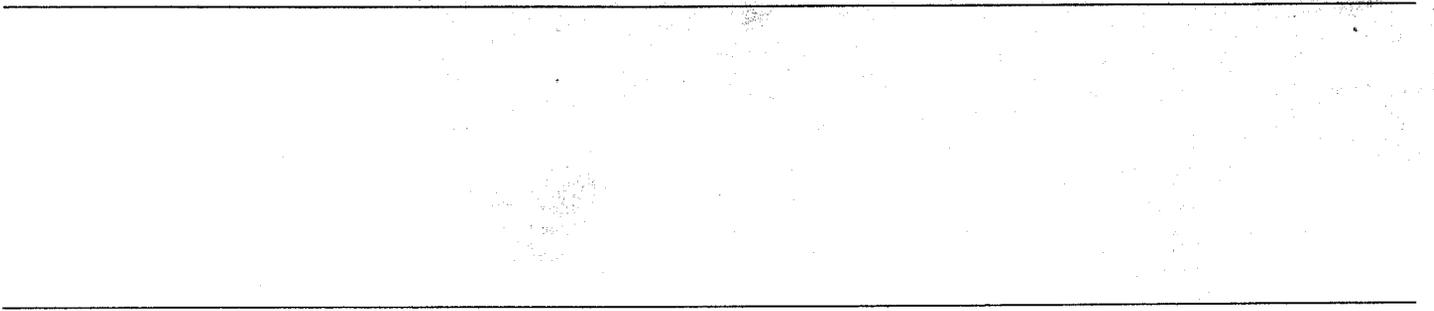
# EXPORT CONTROLS

## Assessment of Commerce Report on Extending Controls for South Africa



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**Comptroller General  
of the United States**

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October 27, 1986

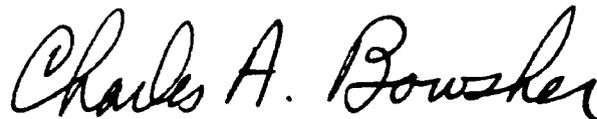
To the President of the Senate and the  
Speaker of the House of Representatives

As required by the Export Administration Amendments Act of 1985, we are providing our assessment of the Secretary of Commerce's July 1986 report to the Congress on extending foreign policy controls on exports to South Africa. We are required to assess the Secretary's report to ensure that it has fully complied with the statutory reporting requirements.

We found the Secretary's July 1986 report to be in compliance with the statutory reporting requirements of the 1985 Act. It also takes into account the recommendations made in an earlier GAO assessment.

Appendix I presents the details of our assessment as well as the objectives, scope, and methodology of our review.

We are providing copies of this report to appropriate House and Senate Committees; the Secretaries of Commerce and State; the Director, Office of Management and Budget; and other interested parties.



Charles A. Bowsher  
Comptroller General  
of the United States

# Assessment of Commerce Report on Extending Controls for South Africa

The Export Administration Act of 1979, as amended (the 1979 Act), authorizes the President to establish export controls for economic, national security, and foreign policy reasons. With respect to foreign policy controls, the 1979 Act provides that the President, through the Secretary of Commerce, may prohibit or curtail exports to the extent necessary to support the foreign policy objectives of the United States. The 1979 Act was most recently amended by Public Law 99-64, The Export Administration Amendments Act of 1985 (the 1985 Act) to, among other things, limit the President's use of foreign policy controls. For example, the 1985 Act states that the Secretary may impose, expand, or extend export controls only if he first (1) consults with Congress, (2) makes certain determinations regarding the impact, significance, and effectiveness of proposed controls, and (3) reports to Congress. The 1985 Act also requires the GAO to assess the Secretary's report to Congress to ensure that it has fully complied with the statutory reporting requirements. The GAO assessment is not a review of the policy, administration, or scope of the controls themselves.

The Secretary's July 1986 report to the Congress on extending foreign policy controls on exports to South Africa addresses nine subjects for each of the controls being extended: (1) the control's purpose, (2) probability that the control will achieve its intended purpose, (3) compatibility of the control with U.S. foreign policy objectives, (4) reaction of other countries to the control, (5) economic impact of the control, (6) ability of the United States to enforce the control, (7) consequences of modifying the control, (8) alternative means for achieving the control's purpose, and (9) foreign availability of the controlled item. The report recognizes that foreign sources clearly exist for many of the controlled items. It further states that notwithstanding the existence of foreign availability, the effectiveness of the control is not diminished in that the purpose of these controls is symbolic in that they demonstrate continued U.S. opposition to the apartheid policies of the South African government, particularly the actions of the military and police in South Africa in supporting that policy.

Our review showed that the Secretary's July 1986 report meets the requirements of the 1985 Act. The report also largely addresses the recommendations we made in our assessment of the Secretary's January 1986 report extending foreign policy controls (GAO/NSIAD-86-172, Aug. 19, 1986). We had recommended that the Secretary's future reports provide a fuller discussion of alternative means available to achieve the purpose of the controls, the difficulties in enforcing them, and the limitations in assessing their economic impact. An area in which

we felt it would have been desirable for the Secretary to provide more complete information concerned U.S. efforts to secure the cooperation of foreign governments in controlling the import of the embargoed products by South Africa. Additional information on enforcement efforts would also have been desirable.

## Enforcement Limitations

The 1985 Act requires that the Secretary's report address whether "the United States has the ability to enforce the proposed controls effectively." The enforcement section of the report provides examples of the special emphasis placed on verifying whether exports to South Africa have been diverted to agencies that enforce apartheid, the target of these controls. However, in discussing re-exports, the report states only that "re-exports to proscribed South African end users through third countries are somewhat more difficult to detect than direct exports from the United States; however, they are no more difficult to detect than re-exports to other countries." Although the section on enforcement discusses the difficulties of enforcement efforts, we believe that Commerce's report should have more fully described (1) the enforcement difficulties posed by re-exports and (2) the extent of its enforcement efforts in relation to the volume of transactions involved. For example, as noted in our assessment of the Secretary's January 1986 report, re-exports are particularly difficult to control when other countries have not imposed similar controls and re-exports of controlled items do not violate their laws. Also the full extent of re-exports is not known due to the difficulty in detecting them. Nonetheless, when the Department of Commerce receives information on illegal re-exports it takes enforcement action.

The Secretary's July 1986 report stated that Commerce's Office of Export Enforcement conducted more post-shipment verifications in South Africa than in any other country. However, the Secretary's report does not disclose that only a very small percentage of the exports made to South African companies receive post-shipment verifications to determine whether the items have been diverted to an agency that enforces apartheid. As of August 29, 1986, 38 post-shipment verifications, mostly for computer equipment, had been conducted for fiscal year 1986. While post-shipment verifications have increased over the last fiscal year, only three or four individuals are assigned part-time to conduct the inspections, which are made on-site and mostly involve verifying the computer serial numbers and interviewing the computer operators.

Beginning in fiscal year 1986, the Office of Export Enforcement initiated a program to require U.S. exporters of computers and goods to service these computers to certify that their consignees in South Africa are not organizations that enforce apartheid. U.S. exporters are to obtain confirmation letters from their consignees to confirm that they still have the computers and that they are not organizations that enforce apartheid. It is estimated that the U.S. exporters will obtain about 100 such confirmation letters annually.

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### **Views of Agency Officials**

We discussed this report with senior officials of the Commerce Department responsible for trade administration, who concurred with its contents.

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### **Objectives, Scope, and Methodology**

To assess the Secretary of Commerce's July 1986 report, we (1) reviewed the 1985 Act and its background to identify the requirements the report must meet, (2) examined the report for compliance with these requirements, (3) discussed the report's development with the Commerce and State Department officials who prepared it, and (4) examined the documentation, analysis, and methodology supporting it. We also discussed the details of export enforcement and the significance of the economic impact of the export controls with appropriate Commerce officials.

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