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The implementation of sanctions against Rhodesia by the Government was investigated. Findings/Conclusions: The economic and political existence of Rhodesia for the past 11 years is evidence that the United Nations' sanctions have not been completely effective. Certain allegations of violations made against U.S. firms have been referred to the Government for investigation and action. The Government has taken action against some domestic businesses and firms in third countries that have purchased and reexported U.S. products to Rhodesia. The U.S. generally follows the United Nations' sanctions, except in matters where restrictions would be contrary to U.S. law. Under the Executive orders implementing the sanctions, the Departments of Treasury, Commerce, and Transportation are delegated primary responsibility to carry out the purposes of the order. As U.S. laws take precedence over both the United Nations' Resolution and the Executive orders, U.S. firms and individuals are legally not complying with the sanctions in such areas as allowing for the import of strategic materials from Rhodesia and traveling to Rhodesia as tourists. Agencies charged with administering the sanction regulations have not emphasized enforcement of the United Nations' sanctions. (Author/SC)

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REPORT OF THE COMPTROLLER GENERAL OF THE UNITED STATES

Implementation Of Economic Sanctions Against Rhodesia

The economic and political existence of Rhodesia for the past 11 years is evidence that the sanctions have not been completely effective. Rhodesia has been able to obtain commodities, goods and services through international trade channels.

Records of the U.N. Security Council are replete with allegations and charges of suspected violations of the prohibition by companies and individuals in various countries. The U.S. has established mechanisms to enforce the sanctions and has acted against some of its businesses and individuals and against firms in third countries.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-187410

The Honorable Edward M. Kennedy
United States Senate

Dear Senator Kennedy:

This report is in response to your letter of July 27, 1976, requesting an investigation and a report concerning the implementation of Executive Order 11419 of May 29, 1968, relating to trade and other transactions involving Southern Rhodesia.

As your office requested, formal agency comments have not been obtained.

Sincerely yours

A handwritten signature in black ink, appearing to read "Thomas A. Steels".

Comptroller General
of the United States

D I G E S T

The economic and political existence of Rhodesia for the past 11 years is evidence that the United Nations' sanctions have not been completely effective.

Certain allegations of violations made against U.S. firms have been referred to the U.S. Government for investigation and action, and the Government has taken action against some domestic businesses and firms in third countries which have purchased and reexported U.S. products to Rhodesia.

Although the sanctions have not eliminated international trade with Rhodesia, the added complexities and increased economic risks associated with the transactions have limited access to world markets.

The United States--through the Departments of Treasury, Commerce, and Transportation--has not emphasized enforcement of the sanctions against Rhodesia.

IMPLEMENTATION OF SANCTIONS

In November 1965, Rhodesia unilaterally declared independence from the United Kingdom. The United Kingdom declared the action an illegal assumption of independence and initiated action within the United Nations for economic sanctions against Rhodesia. In December 1966, the U.N. Security Council adopted a resolution prohibiting certain trade and the transfer of funds with Rhodesia. Two years later the Security Council adopted a resolution providing for nearly a total economic embargo against Rhodesia.

The Security Council cannot enforce the sanctions. Essentially enforcement depends on the willingness and ability of U.N. member states to enforce the sanctions within their jurisdictions.

Following the U.N. Resolutions in 1966 and 1968 the President of the United States issued Executive Orders defining the U.S. role in the economic sanctions against Rhodesia. The U.S. generally follows the U.N. sanctions, except in matters where restrictions would be contrary to U.S. law. Under the Executive Orders the Departments of Treasury, Commerce, and Transportation are delegated primary responsibility to carry out the purposes of the Order.

EFFECTIVENESS OF SANCTIONS

It is not possible from available information to make a judgment on the extent of compliance by U.S. companies with the sanctions. Official records of the U.N. Security Council are replete with allegations and charges of suspected violations by companies and individuals in the various member states.

As U.S. laws take precedence over the U.N. Resolution and the Executive Order, U.S. firms and individuals are legally not complying with the Security Council sanctions in such areas as

- allowing for the import of strategic materials from Rhodesia pursuant to the Byrd Amendment to the Military Procurement Act of 1972 (PL 92-156)1/ and
- traveling to Rhodesia as tourists.

1/ This information reflects the situation prior to March 18, 1977 (see footnote 1 on page 2).

In addition, facilities in neighboring countries, especially the Republic of South Africa, are available for transshipment of goods and transfer of funds to and from Rhodesia making it extremely difficult if not impossible to establish the degree of compliance of U.S. corporations and individuals with the letter and intent of the Security Council sanctions and the President's Executive Order.

U.N. Security Council Resolution 253 restricts also the entry of Rhodesians into U.N. member countries. Statistical information indicates that entry is allowed only on the basis of specific exceptions provided in the U.N. Security Council Resolution--humanitarian, educational, or medical. Since many white Rhodesians maintain dual citizenship, the entry restriction is difficult to enforce.

Interpretations of the extent of legal jurisdiction possessed by agencies of the U.S. Government over subsidiaries and affiliates abroad is varied. The Office of Foreign Assets Control in Treasury states that it has no legal jurisdiction over an overseas subsidiary of a U.S. company. They do claim jurisdiction over U.S. citizens who are officers or officials in that subsidiary. The Office of Export Administration in Commerce, on the other hand, claims jurisdiction over subsidiaries and affiliates abroad if those entities are involved in the reexport of U.S.-manufactured or foreign-manufactured goods with U.S. components. The Federal Aviation Administration in the Department of Transportation states that it has jurisdiction over all activities of foreign offices of U.S. airline companies.

What does appear to be common among the agencies charged with administering the sanction regulations is the lack of emphasis on fully enforcing the U.N. sanctions.

Among the reasons given are

- the low priority assigned to this activity;
- a lack of sufficient personnel to administer and ensure compliance with the sanctions;

- the inability of the U.S. to impose restrictions in certain areas due to national law;
- the dual citizenship status of many white Rhodesians;
- the difficulty in controlling the reexport of U.S. manufactures or foreign manufactured products with U.S. components;
- the difficulty in determining those products which are, in fact, of Rhodesian origin due to transshipment through South Africa and other neighboring countries; and
- South Africa's "Official Secrecy Act" which prohibits disclosure of destination documents and other information relating to trade with Rhodesia.

The information in this report is based primarily on published documents and interviews. In certain cases, our access to agency documents and records necessary to evaluate the effectiveness of the U.S. Government's administration and enforcement of the sanctions was denied, limited, or received after the completion of our review.

As requested by your office, we did not obtain formal agency comments.

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ABBREVIATIONS

FAA	Federal Aviation Administration
FAC	Office of Foreign Assets Control
INS	Immigration and Naturalization Service
OEA	Office of Export Administration
UDI	Unilateral declaration of independence

CHAPTER 1

INTRODUCTION OF SANCTIONS

In a letter dated July 27, 1976, the Chairman of the Subcommittee on Refugees and Escapees of the Senate Committee on the Judiciary requested the General Accounting Office (GAO) to conduct an investigation, and report on the implementation of the sanctions by the United States Government.

In November 1965, Rhodesia (formerly Southern Rhodesia) unilaterally declared independence (UDI) from the United Kingdom, but made no provisions for the representation of Rhodesia's black majority within the new government. The United Kingdom thus declared the UDI an illegal assumption of independence, and initiated action in the U.N. Security Council to prohibit the import from and export to Rhodesia of certain commodities by U.N. member countries. On December 16, 1966, the U.N. Security Council adopted U.N. Resolution 232 prohibiting

- the import from Rhodesia of asbestos, iron ore, chrome, pig iron, sugar, tobacco, copper, meat and meat products, hides, skins and leather;
- any activities "which promote or are calculated to promote" the export of these commodities from Southern Rhodesia including the transfer of funds;
- transportation in vessels or aircraft of any of the above commodities; and
- the export to Rhodesia of aircraft, all types of military material and equipment, and motor vehicles, oil and oil products.

In May 1968, the Security Council decided that the sanctions in effect were not sufficient and unanimously adopted U.N. Resolution 253, providing a total embargo of trade against Rhodesia except in certain humanitarian, medical and educational cases. Generally stated, this Resolution prohibited

- the import of any commodities or products originating in Rhodesia,

--any activities which "promote or are calculated to promote" the export of Rhodesian products or commodities, including the transportation of these commodities, and the transfer of funds to Rhodesia,

--the entry of Rhodesian citizens into U.N. member countries, and

--the conduct of all consular and trade relations with Rhodesia.

The Resolution prohibits also "airline companies constituted in [U.N. member states'] territories and aircraft of their registration or under charter to their nationals from operating to or linking up with any airline company constituted or aircraft registered in Southern Rhodesia."

The members of the U.N. Security Council hoped that these new restrictions would force the downfall of the Rhodesian government.

Based on the authority granted under the United Nations Participation Act of 1945 [22 U.S.C. 287c], the President in 1967 issued Executive Order 11322, which essentially reiterated U.N. Resolution 232 and gave enforcement responsibilities to various U.S. executive agencies.

Following this, the President issued Executive Order 11419 in 1968 implementing the almost total economic embargo against Rhodesia, and authorized the Secretaries of Treasury, Commerce, and Transportation to "issue regulations, licenses, or other authorizations as necessary to carry out the purposes of his order and U.N. Resolution 253."

In 1971, the Congress passed the Byrd Amendment to the Military Procurement Authorization Act (Public Law 92-156), permitting import of strategic and critical materials from Rhodesia. Since that time, the United States has been importing chrome ore, ferrochrome, nickel, asbestos and other strategic materials from Rhodesia in violation of U.N. sanctions but within the bounds of national law.^{1/}

^{1/} On March 18, 1977, PL 95-12 was enacted amending the U.N. Participation Act of 1945 (22 U.S.C. 287c) providing in part that any Executive Order applying measures against Rhodesia pursuant to U.N. Security Council Resolution, may be enforced notwithstanding provisions of any other law. (This in effect negates the application of the Byrd Amendment to Rhodesia.)

In April 1976, the U.N. Security Council adopted U.N. Resolution 388 providing that member states take appropriate measures to ensure that their nationals and persons in their territories do not (a) insure Rhodesian imports and exports or (b) grant to any undertaking in Rhodesia the right to use their trade name, or to enter into franchising agreements.

SCOPE OF REVIEW

We reviewed published documents and interviewed officials of the (1) Departments of State, Commerce, Transportation, and the Treasury, (2) the Central Intelligence Agency, (3) U.N. delegations from the United States, France, and the United Kingdom, and (4) officials of the United Nations. We also discussed the sanctions against Rhodesia with representatives of domestic banking institutions and public interest groups.

In certain cases, our access to agency documents and records necessary to evaluate the effectiveness of the U.S. Government's administration and enforcement of the sanctions was either denied or limited.

The Department of State did not permit us to review individual files, interagency memorandums, or other data relating to specific visa or passport applications. In Washington, D.C., we were given some information of a summary nature only on the number of applications and approvals or denials.

Treasury selected a sample of cases for us from their licensing files, but denied access to investigative files and certain intraoffice and interagency correspondence. Treasury granted access to information describing enforcement statistics and procedures involved in enforcement matters. It provided us with case summaries on investigations and allowed us to examine selected parts of investigative reports. However, this grant of access only applied to closed cases for which prosecution had been declined. Our request for the case summaries was made in October 1976 and the information was furnished in March 1977.

CHAPTER 2

MECHANISM FOR ADMINISTRATION AND ENFORCEMENT

The U.N. Security Council Committee established by Resolution 253, hereinafter referred to as the Sanctions Committee, monitors the member states' implementation of economic sanctions against Rhodesia, and brings allegations of violations to the attention of member states, but has no actual enforcement powers. Essentially, the enforcement of sanctions depends on the willingness and ability of U.N. member states to enforce the sanctions within their jurisdiction.

DEPARTMENT OF THE TREASURY

Executive Order 11419 delegated partial responsibility for administering and enforcing U.S. sanctions against Rhodesia to the Department of the Treasury. The Secretary of the Treasury established the Office of Foreign Assets Control (FAC), as the successor to the Office of Foreign Funds Control. FAC is under the direction of the Assistant Secretary for Enforcement and is delegated responsibility to perform all authorities, duties, and functions authorized or required of Treasury by Executive Orders 11322 and 11419, as well as those functions required by regulations governing trade with North Korea and the People's Republic of China.

Licensing of imports and funds

Under its regulations, FAC is empowered to issue specific or general licenses for imports from Rhodesia and for the transfer of funds to and from Rhodesia.

Specific licenses are issued for all items of a humanitarian, educational, medical and informational nature, which were exempted by provisions of U.N. Resolution 253 and Executive Order 11419, and for the import of strategic materials from Rhodesia.

Specific licenses are issued by FAC for the import of certain goods from Rhodesia, such as personal belongings of missionaries returning to the United States from Rhodesia, and FAC regulations are presently being revised in this area to permit these individuals to return with all household goods. However, regulations do not permit the import of souvenirs or other products and commodities by U.S. citizens returning from Rhodesia.

From January 1967 through November 1976, FAC processed 3,234 license applications. General and specific licenses are required also for the transfer of funds to and from the United States and Rhodesia. U.S. transfers of funds emanate from free and suspense accounts. According to FAC regulations, suspense accounts are those for which deposits and withdrawals can be made only in accordance with general or specific licenses. Specific licenses generally will be issued to authorize withdrawals from suspense accounts for remittances from persons in Rhodesia to persons in the United States for such purposes as payments of legacies, travel and subsistence in the United States of Rhodesian nationals, and pensions. Free accounts are those in domestic banks for which licensed transfers and withdrawals can be made if the withdrawal is not for a transfer prohibited under FAC regulations.

In September 1976, FAC estimated that funds relating to Rhodesia in suspense and free accounts were about \$2 million. FAC relies heavily on individual banks to ensure compliance with its regulations for these accounts and for the transfer of funds.

Compliance

FAC's investigative division is staffed by three people, one in New York and two in Washington, D.C. Investigative work on imports is done also by the U.S. Customs Service which is also under the Assistant Secretary for Enforcement.

From 1967 through the present, FAC investigated a total of 72 cases of alleged violations of Rhodesian sanction regulations. Of these, 13 cases were investigated during the period of partial sanctions between January 1967 and July 1968. During the first 9 months of 1976, 5 alleged violations were under investigation.

FAC does have use of Customs' laboratory facilities, and its overseas investigative work is handled through Custom attaches or representatives at U.S. embassies.

DEPARTMENT OF COMMERCE

Export control

Under section 2 (a) of Executive Order 11419, the Secretary of Commerce is delegated responsibility for enforcement of sanctions relating to exports of U.S. commodities and products and for their transport in U.S. flag vessels. The Office of Export Administration (OEA) handles exports to Rhodesia under Export Control Regulations 385, Country Group "S." These regulations essentially state that there is an embargo of trade with Rhodesia and trade will therefore be denied, except in humanitarian, medical, and educational cases.

The regulations regarding approval or denial of export applications to Rhodesia were established by the Commerce--chaired Interagency Advisory Committee on Export Policy. The export licensing controls apply to (1) exports of commodities and technical data, (2) reexports of U.S.-originated commodities and technical data from one foreign country to another, (3) U.S.-originated parts and components used in a foreign country to manufacture a foreign end-product for export, and (4) in some instances, the foreign-produced direct product of U.S.-originated technical data. Controls extend to the exports of U.S. subsidiaries, affiliates, or branches in foreign countries if the commodities are of U.S. manufacture, contain U.S. materials, and are based on restricted U.S. technology. Although technology is subject to export controls, generally technical data which is publicly available is exempt from export licensing requirements.

All exporters trading with Rhodesia must submit standard Commerce licensing applications. Approval for these applications is granted on a case-by-case basis, with consideration centered on the end-use and suitability of the commodity for the intended end-use. OEA relies heavily on the exporter to ensure the truth of end-use statements. OEA regulations prohibit the reexport of U.S. products and commodities to Rhodesia.

From November 19, 1968, through December 6, 1976, OEA has approved 2,772 license applications, primarily for medical or educational items, for exports to Rhodesia, valued at

about \$15 million. No record is kept of the number of applications denied, but generally licenses are denied because the requested exports are not for medical, humanitarian, or educational purposes but for such items as aircraft parts, road tractors, and jet fuel.

Compliance

Violations of regulations are reported to the OEA's Compliance Division for investigation. Most reports of violations are received from any one of a number of sources, outside OEA, and investigations are conducted on the basis of an assessment of the validity of the source of the allegations. OEA's principal self-initiated compliance activity is the random, unannounced inspection of shipping facilities, such as air freight terminals, by export administration specialists who compare customs declarations against equipment and destinations. Several violations have been disclosed through these OEA inspections.

At the time of our review, about 57 cases of alleged violations of Rhodesian sanctions had been investigated since 1967, 33 of which were closed for lack of evidence or grounds for continued investigation. Export licenses were subsequently granted in 2 cases, action was taken against either the American exporter or foreign reexporter in 3. The General Counsel's Office was deciding whether to act against a foreign reexporter in one case, and several were still under investigation.

Shipping

Commerce's Maritime Administration is responsible for issuing regulations governing transportation of commodities and products by U.S. vessels to and from Rhodesia. These regulations [15 CFR 11.1-11.6(1976)] state that no U.S. flag vessel or vessel under charter to a person subject to the U.S. jurisdiction may transport any commodity or product to or from Rhodesia, unless the commodity or product is licensed under the Rhodesian Sanction Regulations issued by FAC. Thus, for example, commodities imported under the Byrd Amendment, under general license from FAC, may be transported on U.S. flag vessels.

DEPARTMENT OF STATE

Section 4(a) of Executive Order 11419 delegates to the Secretary of State a consultative role for Rhodesian sanctions.

Liaison with the U.N.

States' Office of U.N. Political Affairs acts as a liaison for all information to and from the United Nations and forwards for response to the agencies concerned all information from the U.N. Sanctions Committee. It provides all information on commodities imported from Rhodesia under the Byrd Amendment and agency responses to allegations of sanctions violations to the U.S. mission, which in turn provides the information to the Sanctions Committee.

The Rhodesian Desk assists FAC and OEA in evaluating license applications involving transactions with Rhodesia.

Passports and visas

The Passport Office issues passports to individuals traveling outside U.S. territory. Special validation is not required for travel to Rhodesia. U.S. citizens living in Rhodesia are permitted to return to the United States at any time for any purpose if they hold valid passports. The Embassy or Counsellor Office in the country where visa application is made, is responsible for determining the eligibility of an individual to enter the United States. Since Rhodesian passports are not valid under the Immigration and Nationality Act [8 USC 1101], passport waivers must be issued to Rhodesian citizens entering the United States under exemptions to the sanctions. If there is some doubt as to the eligibility of a Rhodesian citizen, the Washington visa office of State's Bureau of Security and Consular Affairs makes the final decision.

DEPARTMENT OF JUSTICE

Entry of Rhodesians

Once an individual has arrived at the U.S. port of entry, State furnishes the Immigration and Naturalization Service (INS) of the Department of Justice with documentation including the length of stay. INS places this information in its computer banks, and upon departure, the

transport concerned will endorse departure papers and forward them to INS which is then able to clear its computer. If INS is not notified of departure, it may contact the individual and issue an extension of stay or require departure.

INS is responsible for maintaining information about an individual's stay in this country, but not for investigating the background of an individual or the individual's eligibility for a visa. However, INS does have joint responsibility with State in determining an individual's eligibility for a passport waiver.

When INS is aware that a Rhodesian citizen has entered the country illegally, it has the option of seeking an order of deportation or requiring voluntary departure.

Prosecution of violations

Cases of violations of the sanctions are referred to the Department of Justice by other agencies having enforcement responsibilities. A determination is then made by Justice on whether to prosecute or to decline prosecution of the case.

DEPARTMENT OF TRANSPORTATION

Air-carrier operations

Executive Order 11419 (1968) Section 1 (g) in compliance with the U.N. resolution, prohibits the "operation of any U.S. air-carrier or aircraft owned or chartered by any person subject to the jurisdiction of the U.S. or U.S. registration (1) to or from Southern Rhodesia, or (2) in coordination with any airline company constituted or aircraft registered in Southern Rhodesia." Under Section 2 (b) of Executive Order 11419, the Secretary of Transportation is delegated the function and responsibility of enforcement relating to the operation of air-carriers and aircraft and the carriage in aircraft of any commodities or products, the carriage of which is prohibited by the Executive Orders.

The Federal Aviation Administration (FAA), delegated primary responsibility in this area by the Department of Transportation, issued Special Federal Aviation Regulations (SFAR)-21 governing flights to Rhodesia. Essentially,

these regulations expanded upon the Executive Order by prohibiting the operation of any aircraft

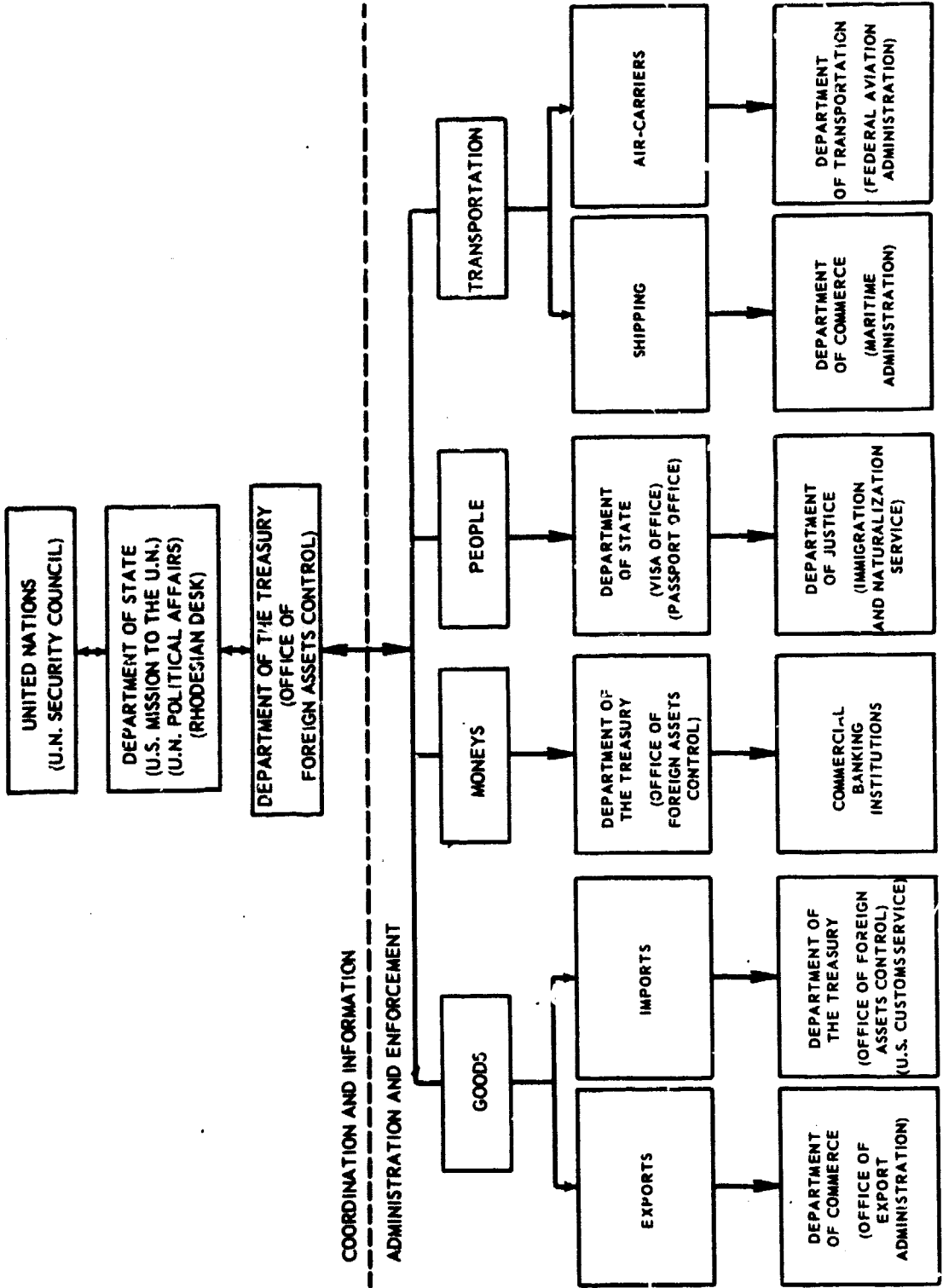
--to or from Rhodesia, or

--in coordination with any airline company constituted, or aircraft registered, in Southern Rhodesia, whether by connecting flight, interline agreement, block booking, ticketing, or any other method of linking up, and

--any carriage or operation the purpose or effect of which is to evade any prohibition of this section.

As in the case of the Maritime Administration, FAA will not permit the transport of any commodity, product, or person to or from Rhodesia unless such transport is licensed under the Rhodesian Sanctions Regulations issued by FAC.

ORGANIZATION OF SANCTIONS EFFORT.



CHAPTER 3

EFFECTIVENESS OF SANCTIONS

Official U.N. Security Council records are replete with allegations and charges of suspected violations of the sanctions against Rhodesia by member states. From December 16, 1975, through December 15, 1976, the Sanctions Committee examined 74 existing suspected violations and 58 new cases. The Security Council, in support of its contention that the sanctions are being violated, analyzed the import and export of specific commodities to and from Rhodesia.

EXPORTS

According to official records of the U.N. Security Council, Rhodesian merchandise exports in 1974 were estimated to be \$600 million (compared with \$625 million for 1973), but only about \$64 million was reported officially as imports by the 70 plus countries reporting such statistics to the United Nations.

<u>Country</u>	<u>Amount Reported</u> (millions)
Malawi	\$ 24.1
United States	19.4
Zambia	12.0
Switzerland	7.4
Other	<u>1.0</u>
Total	<u>\$ 63.9</u>

In addition to this recorded trade, it was estimated that the South Africa Customs Union ^{1/} received about \$250 million in Rhodesian goods. The United Nations estimates, therefore, that almost \$290 million in Rhodesian exports reached world markets via neighboring countries and were reported as imports from the neighboring countries.

^{1/} Composed of South Africa, Lesotho, Botswana, Swaziland, and Namibia.

The most important Rhodesian export commodity was and probably still is tobacco. Based on Security Council statistics, we estimate that in 1974 Rhodesian tobacco exports amounted to about \$30 million. In addition, based on estimates of stocks held by Rhodesia, the U.N. theorizes that as much as \$55.5 million of tobacco could have reached world markets in 1974. Other important exports are chrome, nickel, and asbestos. Shown below are excerpts of the U.N. Sanctions Committee's analysis of the exports of tobacco and asbestos.

Tobacco

U.N. statistics indicate that tobacco imports by reporting neighboring countries of Rhodesia exceed the amounts reported as exports by Rhodesia's neighbors. U.N. statistics show that exports directly from Rhodesia declined from 85.3 thousand metric tons in 1965 to 1.0 thousand metric tons in 1974. Although the sanctions appear to have had an effect on tobacco exports directly from Rhodesia, exports of tobacco from neighboring countries generally increased during the time of the sanctions, as follows:

TOBACCO IMPORTS OF REPORTING COUNTRIES
(THOUSAND METRIC TONS)
IMPORTS OF REPORTING COUNTRIES

<u>Year</u>	<u>Directly from Rhodesia</u>	<u>Via neighboring Countries</u>	<u>Imports of South Africa Customs Union believed to be of Rhodesian Origin</u>	<u>Total</u>
1965	85.3	--	1.7	87.0
1966	36.7	--	11.3	48.0
1967	8.6	10.1	9.1	27.8
1968	4.0	13.1	3.9	21.0
1969	2.3	21.8	3.7	27.8
1970	1.2	22.7	8.9	32.8
1971	1.0	21.3	6.0	28.3
1972	1.0	21.7	10.3	33.0
1973	1.0	25.6	12.9a/	39.5
1974	1.0	9.0	10.0	20.0

a/ estimated

From this information, the Committee concludes that about 230 thousand tons of Rhodesian tobacco may have reached world markets from 1967 through 1974, about 41 percent of Rhodesia's tobacco crop.

Asbestos

Reporting countries received negligible imports of asbestos from Rhodesia from 1969 through 1974. However, an analysis of reported imports and exports of the South Africa Customs Union indicate that substantial quantities of Rhodesian asbestos may be reaching world markets. In 1974, for example, the reported imports exceeded the estimated South Africa Customs Union exports by 196,000 tons.

Since the exports of the South Africa Customs Union appear consistent with the amount of asbestos produced within the Union, the Committee theorizes that the excesses of imports noted above may be exports of Rhodesian asbestos via the South Africa Customs Union.

**ASBESTOS SITUATION IN RHODESIA
(THOUSAND METRIC TONS) ^{a/}
IMPORTS OF REPORTING COUNTRIES**

<u>Year</u>	<u>Directly from Rhodesia</u>	<u>Via South Africa Customs Union</u>	<u>Imports from South Africa Customs Union believed to be of Rhodesian</u>		<u>^{b/} Total</u>
			<u>Origin</u>	<u>Mozambique</u>	
1965	14.6	--	8.6	3.5	126.7
1966	53.7	20.0	11.2	3.7	88.6
1967	14.8	85.0	14.0	2.7	116.5
1968	6.7	84.0	13.1	3.9	107.7
1969	--	103.0	15.4	5.1	123.5
1970	0.2	98.0	17.2	5.5	120.9
1971	--	97.0	11.8	6.1	114.9
1972	0.2	80.0	16.0	8.0	104.2
1973	0.8	117.0	18.4	14.0	150.2
1974	1.7	196.0	30.0	18.9	246.6

a/ Estimated.

b/ Mozambique obtained independence from Portugal on June 25, 1975.

Although direct Rhodesian exports declined, the Sanctions Committee points out that the substantial increases in the imports of reporting countries from the South Africa Customs Union and Mozambique may be accounted for by indirect Rhodesian exports. Based on 1965 Rhodesian production of 160,000 tons and exports of 131,000 tons, the Committee estimates 1974 Rhodesian production could have been as high as 270,000 and exports as high as 247,000 tons.

U.S. importation of
strategic and critical
materials 1/

The import by U.S. companies of strategic and critical materials from Rhodesia violates the sanctions, but is allowed under the Byrd Amendment to the Military Procurement Authorization Act.

From January 1972, when the Amendment went into effect, to October 31, 1976, imports of about \$150 million in strategic materials from Rhodesia were reported, primarily chromite, ferrochrome, and nickel. This amounts to about 5 percent of total Rhodesian exports during the period, according to U.N. estimates.

Following adoption of the Byrd Amendment, the Office of Foreign Assets Control on January 24, 1972, revised the Rhodesian Sanctions Regulations to include a general license authorizing imports of strategic and critical materials of Rhodesian origin and of ferrochrome produced from Rhodesian chrome. The license also authorizes fund transfers in payment for the commodities. These funds are deposited in free accounts in American banks and can be used by the Rhodesian Government to fund the activities of the Rhodesian Information Office (see p. 25 for discussion) in the United States and for other purposes.

The imports of strategic materials are reported quarterly by the U.S. Government to the U.N. Security Council, including origin, destination, and registry of transport vessels.

1/ This information reflects the situation prior to March 16, 1977 (See footnote 1 on page 2).

The Sanctions Committee periodically issues press releases stating that:

"* * * the Committee once again expressed its deep concern at the continued violation by the United States Government of the sanctions provisions * * * by its continuous importation of chrome ore, nickel and other materials from the illegal regime in Southern Rhodesia; and it appealed to the United States Government to take the appropriate and necessary measures and actions to terminate this flagrant violation."

During the 94th Congress, House bill 1287 was introduced in the House to repeal the Byrd Amendment but was defeated following hearings by the House International Relations and Armed Services Committees. A similar bill was introduced in the Senate, but no action was taken after the House bill was defeated. In April 1976, Senate Joint Resolution 191 was introduced in the Senate to prohibit the import of all goods and materials from Rhodesia under the Byrd Amendment. However, the 94th Congress adjourned without taking action.

Enforcement actions on imports from Rhodesia

The U.S. Customs Service Fraud Division has brought charges of conspiring to circumvent customs and sanctions regulations against a U.S. firm and 4 individuals for importing Rhodesian chess sets valued at \$250,000. The firm was fined \$10,000, three of the individuals were sentenced to 3 years probation, and one was sentenced to 2 years probation.

FAC enforcement efforts have led to criminal convictions in two cases involving the illegal importation of chrome and petalite ores. In the chrome ore case, a civil penalty of \$150,000 was also imposed.

TRAVEL

The Security Council Sanctions Committee has been highly concerned about the travel of persons to and from Rhodesia and many allegations of sanction violations relate to such travel.

Visitors to Rhodesia

The Center for Social Action of the United Church of Christ, in a presentation to the Sanctions Committee, estimated that tourism represents the second largest source of foreign exchange to Rhodesia. However, as indicated by U.N. Security Council statistics below, overall tourism to Rhodesia has decreased since 1972.

The American Committee on Africa estimates that U.S. citizens comprise approximately 20 percent of all tourists to Rhodesia, providing it with at least \$16.3 million per year. This group states that not only does tourism provide Rhodesia with foreign exchange but that it fosters "political goodwill" toward the Rhodesian Government. The Sanctions Committee has expressed similar sentiment.

Number of Travelers

<u>Year</u>	<u>In Transit</u>	<u>On Business</u>	<u>For Education</u>	<u>On Holiday</u>	<u>Total</u>
1965	103,816	25,194	5,643	208,725	343,378
1970	59,336	25,951	8,124	270,659	364,070
1971	47,208	22,146	7,175	317,381	393,910
1972	37,354	20,978	7,943	339,210	405,485
1973	15,557	21,105	7,631	243,812	288,105
1974	12,498	22,878	7,758	229,570	272,704
1975	14,668	20,368	5,257	244,404	284,687

U.N. Resolution 253 does not specifically prohibit travel to Rhodesia. However, according to the Sanctions Committee, through the restrictions on transfers of funds, the Resolution implicitly prohibits the travel by citizens of U.N. member states to Rhodesia. Also section 4 of the Resolution prohibits member states from making available to Rhodesia any public utility undertaking, including tourist enterprises. The Sanctions Committee states that such travel must necessarily "entail a transfer, directly or indirectly, of funds to Southern Rhodesia" and that these activities are therefore contrary to the "spirit and letter" of the Resolution. The Committee, however, is powerless to act because the national laws of most member states, including the United States, do not prohibit or restrict the travel of their citizens.

U.S. citizens traveling to Rhodesia must apply to the Office of Foreign Assets Control in the Treasury Department to be licensed for personal maintenance funds while in Rhodesia. Treasury estimated in September 1976, that based on the total number of tourists licensed and the type of expenditure licensed, total expenditures by these tourists in Rhodesia could amount to \$600,000 or more annually.

Nevertheless, FAC has no way to ensure that U.S. visitors to Rhodesia will obtain maintenance licenses. It maintains that such monitoring is not necessary since it contends that Rhodesians will not accept U.S. credit cards or travelers checks unless a valid FAC license is displayed, guaranteeing reimbursement by U.S. companies. However, we noted during our review that a U.S. traveler without a maintenance license used a U.S. credit card in Salisbury, Rhodesia, to buy a ticket on Air Rhodesia for transportation to Johannesburg, South Africa. The credit card billing was transferred to a South African company which then presented the billing to the U.S. credit card company.

We discussed this with FAC officials who stated that, although this action was a "technical violation" of the Rhodesian Sanctions Regulations, FAC would not attempt to take action because, as a tourist, the individual could have been licensed to spend these funds anyway. As long as transfers of funds can be made through South African facilities, either by a Rhodesian company that accepts U.S. traveler's checks, credit cards, or dollars, or by the traveler obtaining Rhodesian currency in South Africa, the issuance of maintenance licenses for funds appears to be merely a formality.

Travel of Rhodesian citizens or residents

U.N. Resolution 253 prohibits the travel of Rhodesian citizens or those "ordinarily resident" in Rhodesia to U.N. member states except in certain humanitarian, educational, and medical cases.

Although Executive Order 11419 and visa office regulations do not specifically include this prohibition, visa applications are studied to make sure that travel by Rhodesians is limited in compliance with the U.N. Resolution.

In the case of U.S. citizens living in Rhodesia, the Department of State passport and visa offices can not prohibit, under U.S. law, the return of U.S. citizens carrying valid U.S. passports.

Immigration and Naturalization Service statistics indicate that, in the year ending June 30, 1975, a total of 425 Rhodesians by last permanent residence, and 602 Rhodesians by region of birth, were admitted into the United States, 11 and 52 of them, respectively, under the "temporary visitors for business" classification. When questioned concerning the legality of the entry of these individuals, INS officials stated that visas or waivers were issued by State and were not under INS jurisdiction.

The major problem in enforcing UN sanctions against travel by Rhodesians is that many white Rhodesians hold dual citizenship and may have British, Australian, or South African passports.

The Sanctions Committee has recorded numerous violations concerning the travel of various athletic groups. It brought to the attention of the U.S. Government in October 1976 a violation involving Rhodesians entering the United States to participate, as representatives of Rhodesia, in a U.S. tennis tournament. The U.S. delegate said the team members had been issued visas by the U.S. Embassy in Johannesburg and were traveling on British, South African, and Dutch passports. The delegate stated that the team had made misrepresentations to the U.S. Government in obtaining visas. Had the real intentions of the team been known, the visas would have been denied.

The INS began to investigate the matter on August 26, 1976, but before further action could be taken, the team members had left the United States.

According to the Department of State, between September 1975 and September 1976 a total of 290 visa or passport waivers were issued to Rhodesian citizens, for entry into the United States on humanitarian, medical, or educational grounds. During this time, 151 visa applications were referred to Washington for decision and 128 visas were granted; 75 percent of them on humanitarian grounds and the remainder on educational and medical grounds. In addition, 134 Rhodesians out of 139 applicants entered the United States on passport waivers which are issued by the Department of State to persons desiring to travel in the United States but who hold only Rhodesians passports. Under the Immigration and Nationality Act [8 USC 1101], a passport is not considered valid unless issued by a competent authority; since the United States does not consider the Rhodesian Government a competent authority, passport waivers are issued to Rhodesian citizens in exemption cases.

According to State, of the 134 waivers approved, 40 percent were for educational reasons. State suspects that most of these waivers are issued to black Rhodesians, who are unlikely to hold dual citizenship and, therefore, non-Rhodesian passports.

Transportation of Persons

FAA claims jurisdiction over all U.S. and foreign ticketing and travel agency activities in the United States and the operations of U.S. subsidiaries in foreign countries. It monitors such activities periodically, but cannot control ticketing of foreign companies operating outside the United States. It maintains that violations of U.N. sanction regulations usually occur outside U.S. jurisdiction, thus it can do little to prevent them.

Since 1974, the Sanctions Committee has discussed in detail interline agreements with Air Rhodesia and direct flights from member states to Rhodesia. In May 1975, the Swedish delegation to the Committee proposed that the Security Council request member states to deny landing rights in their respective territories to flights which had scheduled stopovers in Rhodesia and stated that paragraph 6 of Resolution 253 made any interline agreement for a stop in Rhodesia by any aircraft a violation.

The United Kingdom delegation said it could not accept this proposal, because flights stopping in Salisbury from London were conducted by South African Airways not British Airways; therefore, paragraph 6 was not violated. In addition, as long as passengers experienced no difficulty in getting flights to Rhodesia, it would be pointless to extend sanctions to airlinks and landing rights.

U.S. actions on flights to Rhodesia

In 1974, following indications that U.S. and foreign airlines were booking flights from the United States to Rhodesia, in many instances on Air Rhodesia, the FAA sent letters to all airlines operating in the United States known to be conducting flights to Rhodesia, requesting that interline agreements with Air Rhodesia be cancelled. In response, it was notified that all U.S. airlines had cancelled all bilateral and multilateral interline agreements with Air Rhodesia. FAA officials stated that, in order to prevent

a competitive disadvantage to U.S. airlines, they informed impacted foreign airlines that they would be treated as U.S. carriers and were requested to comply with FAA regulations. According to FAA, the impacted airlines agreed to comply with FAA's request. Simultaneously, the Office of Foreign Assets Control suspended Air Rhodesia's manager's license to operate in the United States resulting in the closing of the Office.

FAA stated that it was perfectly legal under FAA regulations for U.S. airlines to book flights for their passengers on non-Rhodesian airlines for travel to Rhodesia. Section 2(e) of Special Federal Aviation Regulations 21 which prohibits any carriage in any aircraft which has the effect or purpose of evading the regulations, is intended to apply to a case where a U.S. airline ostensibly books an individual on South African Airways when, in fact, the booking is on Air Rhodesia. This would clearly be a violation of FAA regulations.

Thus, FAA has determined that their regulations prohibit the travel of individuals on Air Rhodesia, but do not prohibit travel to Rhodesia on non-Rhodesian airlines. Notwithstanding the FAA position, however, the U.N. Sanctions Committee has stated that by booking flights through other non-sanctioned airlines to Rhodesia, these airlines are violating the "spirit and intent" of the Resolution.

We contacted two major U.S. international airlines and they agreed to make hotel reservations, car rentals, and direct booking on South African Airways or East African Airways to Rhodesia via Rio de Janeiro and Johannesburg, or London to be paid in full on a major credit card. One of the airlines ticketing agent initially indicated that passage to Rhodesia might be difficult to book; however, after checking, the ticketing agent stated that although this airline had not made such reservations for travel to Rhodesia in the past, such arrangements were currently being made.

Subsequently, and contrary to information received from the ticketing agent, an official in the headquarters of one of the airlines stated unequivocally that such travel arrangements would not be made in its ticketing offices, that no booking of flights to Salisbury would be made with any airline, and that it would not make any reservations

for hotels or cars for individuals traveling to Rhodesia. This airline's tour brochure for Africa did not include any information on tours or facilities for tours to Rhodesia.

Despite such limitations, travel to Rhodesia is still a simple matter because a traveler can easily book passage to South Africa, where he can obtain a ticket onward to Rhodesia. Several travel agents in the United States still provide brochures and information on tours to Rhodesia and other South African nations. Sabena and South African Airways describe several tours which stop in Salisbury and Victoria Falls, and some tours include visits to the Chobe and Wankie game reserves. Air Afrique, Varig, and the Ethiopian Airlines are advertised in these brochures.

British Airways advertises tours to Western and Southern Africa. In a published brochure, a map displays the routes of British Airways and destination of its "associated airlines," which include Salisbury, Rhodesia.

IMPORTS

The United Nations estimated Rhodesian imports for 1974 at \$515 million, compared with \$480 million in 1973. The 70 some countries reporting export statistics showed imports by Rhodesia of about \$20 million, as follows.

<u>Country</u>	<u>Amount</u> (<u>millions</u>)
Malawi	\$ 8
Switzerland	5
Federal Republic of Germany	3
United Kingdom	2
United States	1
Other	<u>1</u>
Total	\$ <u>20</u>

It is estimated that the South Africa Customs Union sent Rhodesia \$230 million of goods. Therefore, the remainder, or about \$265 million, of Rhodesian imports are unaccounted for in 1974 export figures of world trade.

Exports by the reporting countries to Rhodesia of motor vehicles and aircraft (including parts), petroleum products, and crude petroleum, are estimated at \$130 thousand in 1974, compared with \$36 million in 1965. Thus, it is concluded that commodities are entering through neighboring countries and are not being reported as exports to Rhodesia. Because of the diversity of Rhodesian imports, the Security Council was not able to make a comprehensive commodity analysis. It did, however, analyze certain commodities, such as petroleum and its products.

Import of petroleum and petroleum products

The United Nations has no evidence that Rhodesia has been receiving petroleum products of any meaningful magnitude from any country, but neither has it received any reports of a petroleum shortage in Rhodesia. Therefore, it believes it reasonable to assume that a steady and sufficient flow of petroleum products has been entering Rhodesia through neighboring countries.

In June 1976, the Center for Social Action of the United Church of Christ issued an investigative report on how multinational oil companies provide for Rhodesian petroleum needs. The report centered on the alleged activities of a large U.S.-based oil company and its South African and Rhodesian affiliates. These allegations were hand delivered to the Office of Foreign Assets Control in June 1976 by the Center, and the Office is investigating this firm's activities. FAC told us that it could not discuss any aspect of the case because it was still under investigation.

However, testimony before the Senate Subcommittee on African Affairs set forth two major problems in effectively enforcing the sanctions.

First, U.S. subsidiaries in South Africa are organized under the incorporation laws of South Africa and therefore are not under the legal jurisdiction of the U.S. Government. FAC maintains that, although a U.S. company's foreign subsidiary cannot be prosecuted under U.S. law, its U.S. managers could if actual intent to violate sanctions regulations could be proved. In this particular case, the U.S. parent corporation maintains that, since the South African subsidiary is incorporated under South African law and is managed by South Africans, the subsidiary had violated no U.S. law and is not subject to U.S. legal jurisdiction.

Secondly, South Africa's "Official Secrecy Act" and South Africa's policy requiring sales to all willing and able buyers, prohibiting use of destination commitments and prohibiting disclosure of information further hinders the United States ability to effectively administer sanctions against Rhodesia. In the case in question, the U.S. parent corporation claims that no data or documentation of the authenticity of the Center's information can be supplied by the South African subsidiary without its personnel being threatened with prosecution under the "Official Secrecy Act." The corporation also maintains that its subsidiary may be required to sell its products to Rhodesia or risk prosecution. For these reasons, the corporation claims that its South African subsidiary is not guilty of violating U.S. regulations regarding sanctions against Rhodesia.

In a concluding statement before the Senate Subcommittee, the Center for Social Action representative stated that,

"the U.S. covertly supports U.S. business in Rhodesia and this allows (U.S. firms) and others * * * to continue business with Rhodesia. Any U.S. company that wants to violate the U.N. resolutions on sanctions or U.S. law only has to create a South African subsidiary * * **"

Actions taken on Rhodesian imports

In 1970, a New York firm was indicted by the Federal grand jury on charges of conspiracy to violate regulations imposing economic sanctions on Rhodesia. In April 1972, a U.S. and a Panamanian firm were charged with conspiring to construct a \$50 million fertilizer plant in Rhodesia. The firms pleaded guilty and were fined \$25,000 and \$100,000, respectively, and their officers were personally fined and given 1-year suspended sentences.

An African firm which imported aircraft from the United States was accused of conspiracy to violate Rhodesian sanctions regulations and the U.N. Resolution. The case involved the sales by a U.S. company of a DC-8 55F Jet Trader which the airline was apparently using in traffic to Rhodesia. The Sanctions Committee, informed of the alleged violations in 1973, brought the allegations to the attention of the U.S. delegate for response. The case was investigated and the U.S. delegate informed the Committee that the U.S. Department of

Commerce, pursuant to section 388.15 of the Export Administration Regulations, had issued an indefinite denial of all U.S. export privileges against the African airline. The denial was based on misrepresentation to U.S. Government officials that the aircraft would not be utilized in any traffic with Rhodesia; and on the fact that the airline had not responded to the allegations without showing good cause. This Commerce order denies trade by U.S. citizens and corporations with any party who has been denied U.S. export privileges.

In a second case involving aircraft, Commerce determined that a Swiss firm had violated its U.S. export license, issued for the export of Boeing 720 aircraft and related equipment and parts, by selling this equipment to Rhodesia. The United States therefore refused to renew the Swiss firm's station license--a license granted to certain foreign firms to purchase and receive U.S. goods. This action prevents the firm from importing U.S. support equipment, but does not prevent the purchase and importation of aircraft. OEA has referred the matter to the Department's Office of General Counsel for a decision on withdrawing the firm's export privileges.

In July 1976, the U.S. delegate to the Sanctions Committee informed it that the U.S. had issued an indefinite denial, for a period not exceeding 10 years, of all export privileges against a South African and Rhodesian firm. The denial of export privileges was made based upon the failure of the company to respond to questions, and their failure to show good cause for not doing so, with regard to a helicopter exported from the U.S. to South Africa and suspected to have been diverted to Rhodesia.

THE RHODESIAN INFORMATION OFFICE

The Rhodesian Information Office in Washington, D.C., has been a continuing source of controversy. Before November 1965, the Office had been part of the British Embassy in Washington and was staffed by two Rhodesian representatives who had British passports and enjoyed diplomatic status as officials of the British Government.

Following Rhodesian independence, the British Government withdrew their diplomatic and official status with the Embassy. Since that time, both have remained in the United States and have continued to perform the functions of the Rhodesian Information Office.

As the Rhodesian Information Office is considered to be engaging in political activities it is registered with the Department of Justice, pursuant to the provisions of the Foreign Agents Registration Act (FARA). The Rhodesian Information Office is funded by the Rhodesian government, although indirectly, through free accounts licensed by FAC. Presently, the individual registered as the Director of the Rhodesian Information Office is on permanent resident status with the Immigration and Naturalization Service. He was granted this status, with State Department approval, on December 27, 1967, prior to the adoption of U.N. Security Council Resolution 253 in May 1968.

The status of the other individual in the Rhodesian Information Office is still undetermined. He applied for permanent resident status in March 1968, but the State Department recommended that his application be denied on grounds that his activities have been a source of embarrassment to the U.S. Government and that his case clearly comes within the scope of article 5(b) of Security Council Resolution 253. However, because the State Department visa office requested that no action be taken to require his departure, INS has deferred decision on the matter. The State Department maintains that, although the granting of permanent resident status would clearly be counter to U.S. obligations under the U.N. Resolution, it is unable to conclude that the resolution requires his deportation; therefore, State believes that continued deferment of action in this case is acceptable.

There has been a great deal of discussion both within the U.N. and by others as to the legality of the existence and operations of the Rhodesian Information Office within the United States. U.N. Resolution 253 prohibits

"any activities by [nationals of U.N. member states] or in [member states] territories which would promote or are calculated to promote the export of any commodities or products from Southern Rhodesia * * * including in particular any transfer of funds to Southern Rhodesia for the purposes of such activities or dealings * * *"

Similarly, Executive Order 11419 prohibits

"any activities by any person subject to the jurisdiction of the United States which promote or are calculated to promote the export from Southern Rhodesia * * * of any commodities or products * * *"

including in particular any transfer of funds. * * *

The Director of the Rhodesian Information Office, in his registration statement with the Department of Justice, explicitly states that

"the activities [of the Office] include the promotion of Rhodesian Government policies in the U.S. with a view to improving relationships between the two governments to the ultimate and that there will be full and free diplomatic and trading exchanges between Rhodesia and the United States."

Executive Order 11419 specifically prohibits the "sale or supply by any person * * * to any person or body for the purposes of any business carried on in or operated from Southern Rhodesia of any commodities or products." The Rhodesian Information Office's registration statement identified as its principal the Department of External Service, Ministry of Information, Government of Rhodesia, and its fees and expenses, including remuneration of its staff, are allocated by the Rhodesian Treasury as part of the Rhodesian Government's annual budget. Some parties contend therefore that it fits the definition of a business operated from Rhodesia and that its activities are calculated to promote trade and investment with Rhodesia. These groups maintain that since the Rhodesian Information Office is an agent of the Rhodesian Government, those individuals and corporations in the United States which supply commodities or products to the Rhodesian Information Office are in violation of the Executive order. The Department of State counters the above contentions by stating that

"the U.S. Government regards the United Kingdom as the lawful sovereign responsible for Rhodesia. We have not recognized either Rhodesian statehood or the so-called government of Rhodesia. It follows then that we recognize no official status for the Rhodesian Information Office or its employees. The Information Office * * * enjoys no privileges and immunities; no relations, official or unofficial, with the Department of State and employees have no diplomatic or other official status in our eyes."

In addition, State contends that the known activities of the Office do not violate U.S. law and do not appear to be in conflict with U.S. obligations under the U.N. Resolutions on Rhodesia.

In this context, State maintains that it bases its interpretation of "promote" as used in the U.N. resolutions and Executive Orders on the British interpretation, which stated that the "promotion of trade" is the "actual sale" of goods. State explained that since the matter of Rhodesian sanctions is essentially a British one, the United States does not feel that it should go beyond the British definition of "promote," even though traditionally the U.S. Government has considered public relations and advertising "promotion of trade."

The U.N. Sanctions Committee believes that these offices are in effect performing quasi-consular activities; thus, under UN Resolution 253, their existence in a member state's territory is a violation of sanctions prohibitions. Additionally, although the Committee has not acted on the matter yet, it is apparently considering an expansion of sanctions prohibitions to include such offices as the Rhodesian Information Office.

FRANCHISING ACTIVITIES

The U.N. Security Council Sanctions Committee had debated the subject of U.S.-related franchises in Rhodesia, alleging they illegally supply Rhodesia with commodities and products and act as agents in Rhodesia for U.S.-based corporations in contravention of U.N. Resolution 253 (1968). The three major companies involved are a major hotel chain and two major car rental agencies.

The U.S. delegate to the Committee, when questioned concerning these franchises, informed the Committee that the franchises were not subsidiaries of the U.S. parent corporations, but were franchised from wholly-owned South African companies, which are franchises of U.S.-based corporations. The U.S. delegate stated also that transfers of goods and services from the U.S. to Rhodesian franchises are prohibited (in accordance with the UN resolution) and no reservations could be made through or by U.S. companies to those subfranchises. However, a public interest group reporting on transactions violating Rhodesian Sanctions Regulations, stated that reservations were in fact made by these firms' international reservations offices, although payment had to be made directly to the Rhodesian companies.

In April 1976, the Security Council adopted U.N. Resolution 388 prohibiting member states from granting to any commercial, industrial or public utility undertaking in Rhodesia the right to use any trade name, or from entering into any franchising agreement involving the use of any trade name, trademark, or registered design in connection with the sale or distribution of any products, commodities, or services of such an undertaking. Following adoption of this resolution, FAC notified the U.S. companies concerned that they would have to terminate the subfranchises held by their South African franchises. Two of the parent corporations informed FAC that the franchising agreements were cancelled in May 1976, while the third indicated that it had cancelled the agreement in July 1974.

We questioned FAC concerning the apparent inconsistency in their policy to first permit these franchising agreements to exist because they were not directly concluded with the U.S. parent; and then to require cancellation of the agreements following U.N. Resolution 388 because the U.S. parent would have had to grant their South African subsidiary the right to conclude these agreements.

FAC officials explained that, their policy relating to regulation of trade with Rhodesia, including the establishment and existence of franchises in Rhodesia, is based upon two factors. First, their interpretation of the meaning of U.N. Resolution 253; and secondly, the activities of other U.N. members relating to U.N. Resolution 253.

In the first case, FAC stated that, in its estimation, U.N. Resolution 253 did not prohibit the existence of the Rhodesian subfranchises because these agreements had been concluded prior to the adoption of the Resolution and no new concessions had been granted to Rhodesia following adoption of the Resolution. FAC stated, however, that these subfranchises could operate in Rhodesia only if U.S. goods, people, capital, and the parent corporation were not involved.

Essentially, this would permit a U.S. subsidiary to trade with Rhodesia as long as that trade was carried out without the involvement of U.S. citizens or parent corporations, and as long as the trade did not include U.S. goods. FAC's policy is also based upon the fact that the Rhodesian Sanctions Regulations apply only to U.S. citizens in managerial positions in overseas subsidiaries and not to subsidiaries incorporated under the laws of the host country, or the

foreign nationals operating those subsidiaries. Secondly, FAC stated that U.S. regulations governing trade with Rhodesia were written and interpreted to conform to activities conducted by other U.N. member states relating to trade with Rhodesia. Essentially, Treasury's policy is not to unilaterally impose sanctions measures which other U.N. members do not themselves impose.

CHAPTER 4

CONCLUSION

The economic and political existence of Rhodesia for the past 11 years is evidence that the United Nations' sanctions have not been completely effective. Rhodesia has been able to obtain and sell commodities, goods, and services through international trade channels. Under the sanctions, however, the added complexities and increased economic risks associated with the transactions have limited access to world markets.

The executive branch of the U.S. Government has established mechanisms and procedures in accordance with Executive Order 11419 to implement economic sanctions against Rhodesia in conformity with U.N. Security Council Resolution No. 253. Certain allegations made against U.S. firms have been referred to the U.S. Government for investigation and action, and the Government has taken action against some domestic businesses and firms in third countries which have purchased and reexported U.S. products to Rhodesia.

However, as U.S. laws take precedence over the U.N. Resolution and the Executive order, U.S. corporations and individuals are legally operating in several areas in violation of the Security Council sanctions.

--The Byrd Amendment to the Military Procurement Act of 1972 allows imports of strategic materials from Rhodesia.^{1/}

--There are no restrictions on U.S. individuals traveling to Rhodesia as tourists.

Also, the availability of facilities in neighboring countries, especially the Republic of South Africa, for transportation of goods and transfer of funds to and from Rhodesia makes it extremely difficult if not impossible to establish the degree of compliance of U.S. corporations and individuals with the letter and intent of the Security Council sanctions and the President's Executive Order.

^{1/} This information reflects the situation prior to March 16, 1977 (See footnote 1 on page 2).

U.N. Resolution 253 provides also for restricting the entry of Rhodesians into U.N. member countries. Summary information furnished to us by the Department of State indicates that entry is allowed only on the basis of specific exceptions provided in the Resolution--humanitarian, educational, or medical. It is difficult to enforce these entry restrictions because many white Rhodesians maintain dual citizenship and have access to valid passports from countries other than Rhodesia.

Interpretations of the extent of legal jurisdiction possessed by U.S. Government agencies over U.S. corporations' subsidiaries and affiliates abroad is varied. The Office of Foreign Assets Control in Treasury states that it has no legal jurisdiction over an overseas subsidiary of a U.S. company, but it does claim jurisdiction over U.S. citizens who are officers or officials in that subsidiary. The Office of Export Administration in Commerce, on the other hand, claims jurisdiction over subsidiaries and affiliates abroad if they are involved in the reexport of U.S.-manufactured goods or foreign-manufactured goods with U.S. components. The Federal Aviation Administration in the Department of Transportation states that it has jurisdiction over all activities of foreign offices of U.S. airline companies and foreign airline offices in the United States.

What does appear common among the agencies charged with administering the sanctions is the lack of emphasis on fully enforcing the U.N. sanctions.

For example, according to an OEA official, compliance activities are limited by the following factors: (1) lack of personnel; (2) Rhodesian sanctions are third in order of priority of workload; (3) mission of the Department of Commerce is to promote rather than control exports; (4) lack of cooperation by allies and other nations who supposedly are supporting the sanctions programs; (5) the inconsistency of allowing the importation of strategic materials from Rhodesia under the provisions of the Byrd Amendment; and (6) lack of authority for cases involving diversions or reexport by foreign firms.

In a letter to Representative Charles C. Diggs from Treasury's Assistant Secretary of Enforcement, Treasury stated that although the U.S. is fully supportive of the U.N. sanctions program, Treasury was unwilling to unilaterally extend its enforcement of the sanctions

program beyond the enforcement measures taken by other U.N. member states. Treasury maintains that such action would be unfair to American business, as well as inequitable to American tourists and missionaries in Rhodesia. For these reasons, FAC will not further restrict the travel of tourists to Rhodesia, claim jurisdiction over U.S. subsidiaries in nations other than Rhodesia, or place additional restrictions on the use of the free account funds.

INS officials stated that enforcement of the Rhodesian sanctions regulations was a very low priority matter with INS.

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United States Senate

PETER M. STOCKETT
 CHIEF COUNSEL AND STAFF DIRECTOR

COMMITTEE ON THE JUDICIARY
 WASHINGTON, D.C. 20510

Jul 27, 1976

The Honorable
 Elmer B. Staats
 Comptroller General of
 the United States
 General Accounting Office
 441 G Street, NW
 Washington, DC 20548

Dear Mr. Staats:

On July 29, 1968, the President issued Executive Order 11419, relating to trade and other transactions involving Southern Rhodesia. This Executive Order was designed to bring US policy into conformity with United Nations Security Council Resolution No. 253 of May 29, 1968.

I would be very much obliged if the General Accounting Office could conduct an investigation, and report to me, as Chairman of the Subcommittee on Refugees, concerning the implementation of this Executive Order. I would then release this report promptly. In particular, are American individuals and corporations, as defined by the Executive Order, in full compliance with mandatory sanctions imposed on Southern Rhodesia?

UN Security Council Resolution 253 also provides for restrictions on entry of Southern Rhodesians into UN member countries (Section 5). Would you please tell me whether the United States is meeting its legal requirements in this regard, under Section 5 of the United Nations Participation Act of 1945?

I look forward to your reply.

Thank you for your attention.

Sincerely,


 Edward M. Kennedy
 Chairman
 Subcommittee on Refugees and Escapees

**U.N. SECURITY COUNCIL
RESOLUTION 253 (1968)**

The Security Council,

Recalling and reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965, 221 (1966) of 9 April 1966, and 232 (1966) of 16 December 1966,

Taking note of resolution 2262 (XXII) adopted by the General Assembly on 3 November 1967,

Noting with great concern that the measures taken so far have failed to bring the rebellion in Southern Rhodesia to an end,

Reaffirming that, to the extent not superseded in this resolution, the measures provided for in resolutions 217 (1965) of 20 November 1965, and 232 (1966) of 16 December 1966, as well as those initiated by Member States in implementation of those resolutions, shall continue in effect.

Gravely concerned that the measures taken by the Security Council have not been complied with by all States and that some States, contrary to resolution 232 (1966) of the Security Council and to their obligations under Article 25 of the Charter, have failed to prevent trade with the illegal régime in Southern Rhodesia,

Condemning the recent inhuman executions carried out by the illegal régime in Southern Rhodesia which have flagrantly affronted the conscience of mankind and have been universally condemned,

Affirming the primary responsibility of the Government of the United Kingdom to enable the people of Southern Rhodesia to achieve self-determination and independence, and in particular their responsibility for dealing with the prevailing situation,

Recognizing the legitimacy of the struggle of the people of Southern Rhodesia to secure the enjoyment of their rights as set forth in the Charter of the United Nations and in conformity with the objectives of General Assembly resolution 1514 (XV),

Reaffirming its determination that the present situation in Southern Rhodesia constitutes a threat to international peace and security,

Acting under Chapter VII of the United Nations Charter,

1. *Condemns* all measures of political repression, including arrests, detentions, trials and executions which violate fundamental freedoms and rights of the people of Southern Rhodesia, and calls upon the Government of the United Kingdom to take all possible measures to put an end to such actions;

2. *Calls upon* the United Kingdom as the administering Power in the discharge of its responsibility to take urgently all effective measures to bring to an end the rebellion in Southern Rhodesia, and enable the people to secure the enjoyment of their rights as set forth in the Charter of the United Nations and in conformity with the objectives of General Assembly resolution 1514 (XV);

3. *Decides* that, in furtherance of the objective of ending the rebellion, all States Members of the United Nations shall prevent:

(a) The import into their territories of all commodities and products originating in Southern Rhodesia and exported therefrom after the date of this resolution (whether or not the commodities or products are for consumption or processing in their territories, whether or not they are imported in bond and whether or not any special legal status with respect to the import of goods is enjoyed by the port or other place where they are imported or stored);

(b) Any activities by their nationals or in their territories which would promote or are calculated to promote the export of any commodities or products from Southern Rhodesia; and any dealings by their nationals or in their territories in any commodities or products originating in Southern Rhodesia and exported therefrom after the date of this resolution, including in particular any transfer of funds to Southern Rhodesia for the purposes of such activities or dealings;

(c) The shipment in vessel or aircraft of their registration or under charter to their nationals, or the carriage (whether or not in bond) by land transport facilities across their territories of any commodities or products originating in Southern Rhodesia and exported therefrom after the date of this resolution;

(d) The sale or supply by their nationals or from their territories of any commodities or products (whether or not originating in their territories, but not including supplies intended strictly for medical purposes, educational equipment and material for use in schools and other educational institutions, publications, news material and, in special humanitarian circumstances, food-stuffs) to any person or body in Southern Rhodesia or to any other person or body for the purposes of any business carried on in or operated from Southern Rhodesia, and any activities by their nationals or in their territories which promote or are calcu-

lated to promote such sale or supply;

(e) The shipment in vessels or aircraft of their registration, or under charter to their nationals, or the carriage (whether or not in bond) by land transport facilities across their territories of any such commodities or products which are consigned to any person or body in Southern Rhodesia, or to any other person or body for the purposes of any business carried on in or operated from Southern Rhodesia;

4. *Decides* that all States Members of the United Nations shall not make available to the illegal régime in Southern Rhodesia or to any commercial, industrial or public utility undertaking, including tourist enterprises, in Southern Rhodesia any funds for investment or any other financial or economic resources and shall prevent their nationals and any persons within their territories from making available to the régime or to any such undertaking any such funds or resources and from remitting any other funds to persons or bodies within Southern Rhodesia except payments exclusively for pensions or for strictly medical, humanitarian or educational purposes or for the provision of news material and in special humanitarian circumstances, food-stuffs;

5. *Decides* that all States Members of the United Nations shall:

(a) Prevent the entry into their territories, save on exceptional humanitarian grounds, of any person travelling on a Southern Rhodesian passport, regardless of its date of issue, or on a purported passport issued by or on behalf of the illegal régime in Southern Rhodesia; and

(b) Take all possible measures to prevent the entry into their territories of persons whom they have reason to believe to be ordinarily resident in Southern Rhodesia and whom they have reason to believe to have furthered or encouraged, or to be likely to further or encourage, the unlawful actions of the illegal régime in Southern Rhodesia or any activities which are calculated to evade any measure decided upon in this resolution or resolution 232 (1966) of 16 December 1966;

6. *Decides* that all States Members of the United Nations shall prevent airline companies constituted in their territories and aircraft of their registration or under charter to their nationals from operating to or from Southern Rhodesia and from linking up with any airline company constituted or aircraft registered in Southern Rhodesia;

7. *Decides* that all States Members of the United Nations shall give effect to the decisions set out in operative paragraphs 3, 4, 5, and 6 of this resolution notwithstanding any contract entered into or license granted before the date of this resolution;

8. *Calls upon* all States Members of the United Nations or of the specialized agencies to take all possible measures to prevent activities by their nationals and persons in their territories promoting, assisting or encouraging emigration to Southern Rhodesia, with a view to stopping such emigration;

9. *Requests* all States Members of the United Nations or of the specialized agencies to take all possible further action under Article 41 of the Charter to deal with the situation in Southern Rhodesia, not excluding any of the measures provided in that Article;

10. *Emphasizes* the need for the withdrawal of all consular and trade representation in Southern Rhodesia, in addition to the provisions of operative paragraph 6 of resolution 217 (1965);

11. *Calls upon* all States Members of the United Nations to carry out these decisions of the Security Council in accordance with Article 25 of the United Nations Charter and reminds them that failure or refusal by any one of them to do so would constitute a violation of that Article;

12. *Deplores* the attitude of States that have not complied with their obligations under Article 25 of the Charter, and censures in particular those States which have persisted in trading with the illegal régime in defiance of the resolutions of the Security Council, and which have given active assistance to the régime;

13. *Urges* all States Members of the United Nations to render moral and material assistance to the people of Southern Rhodesia in their struggle to achieve their freedom and independence;

14. *Urges*, having regard to the principles stated in Article 2 of the United Nations Charter, States not Members of the United Nations to act in accordance with the provisions of the present resolution;

15. *Requests* States Members of the United Nations, the United Nations Organization, the specialized agencies, and other international organizations in the United Nations system to extend assistance to Zambia as a matter of priority with a view to helping her solve such special economic problems as she may be confronted with arising from the carrying out of these decisions of the Security Council;

16. *Calls upon* all States Members of the United Nations, and in particular those with primary responsibility under the Charter for the maintenance of international peace and security, to assist effectively in the implementation of the measures called for by the present resolution;

17. *Considers* that the United Kingdom as the administering Power should ensure that no settlement is reached without taking into account the views of the people of Southern Rhodesia, and

in particular the political parties favouring majority rule, and that it is acceptable to the people of Southern Rhodesia as a whole;

18. *Calls upon* all States Members of the United Nations or of the specialized agencies to report to the Secretary-General by 1 August 1968 on measures taken to implement the present resolution;

19. *Requests* the Secretary-General to report to the Security Council on the progress of the implementation of this resolution, the first report to be made not later than 1 September 1968;

20. *Decides* to establish, in accordance with rule 28 of the provisional rules of procedure of the Security Council, a committee of the Security Council to undertake the following tasks and to report to it with its observations:

(a) To examine such reports on the implementation of the present resolution as are submitted by the Secretary-General;

(b) To seek from any States Members of the United Nations or of the specialized agencies such further information regarding the trade of that State (including information regarding the commodities and products exempted from the prohibition contained in operative paragraph 3(d) above) or regarding any activities by any nationals of that State or in its territories that may constitute an evasion of the measures decided upon in this resolution as it may consider necessary for the proper discharge of its duty to report to the Security Council;

21. *Requests* the United Kingdom, as the administering Power, to give maximum assistance to the committee, and to provide the committee with any information which it may receive in order that the measures envisaged in this resolution and resolution 232 (1966) may be rendered fully effective;

22. *Calls upon* all States Members of the United Nations, or of the specialized agencies, as well as the specialized agencies themselves, to supply such further information as may be sought by the Committee in pursuance of this resolution;

23. *Decides* to maintain this item on its agenda for further action as appropriate in the light of developments.

Title 3—THE PRESIDENT

Executive Order 11419

RELATING TO TRADE AND OTHER TRANSACTIONS INVOLVING SOUTHERN RHODESIA

By virtue of the authority vested in me by the Constitution and laws of the United States, including section 5 of the United Nations Participation Act of 1945 (59 Stat. 620), as amended (22 U.S.C. 287c), and section 301 of Title 3 of the United States Code, and as President of the United States, and considering the measures which the Security Council of the United Nations by Security Council Resolution No. 253 adopted May 29, 1968, has decided upon pursuant to article 41 of the Charter of the United Nations, and which it has called upon all members of the United Nations, including the United States, to apply, it is hereby ordered:

SECTION 1. In addition to the prohibitions of section 1 of Executive Order No. 11322 of January 5, 1967, the following are prohibited effective immediately, notwithstanding any contracts entered into or licenses granted before the date of this Order:

(a) Importation into the United States of any commodities or products originating in Southern Rhodesia and exported therefrom after May 29, 1968.

(b) Any activities by any person subject to the jurisdiction of the United States which promote or are calculated to promote the export from Southern Rhodesia after May 29, 1968, of any commodities or products originating in Southern Rhodesia, and any dealings by any such person in any such commodities or products, including in particular any transfer of funds to Southern Rhodesia for the purposes of such activities or dealings; *Provided*, however, that the prohibition against the dealing in commodities or products exported from Southern Rhodesia shall not apply to any such commodities or products which, prior to the date of this Order, had been lawfully imported into the United States.

(c) Carriage in vessels or aircraft of United States registration or under charter to any person subject to the jurisdiction of the United States of any commodities or products originating in Southern Rhodesia and exported therefrom after May 29, 1968.

(d) Sale or supply by any person subject to the jurisdiction of the United States, or any other activities by any such person which promote or are calculated to promote the sale or supply, to any person or body in Southern Rhodesia or to any person or body for the purposes of any business carried on in or operated from Southern Rhodesia of any commodities or products. Such activities, including carriage in vessels or aircraft, may be authorized with respect to supplies intended strictly for medical purposes, educational equipment and material for use in schools and other educational institutions, publications, news material, and foodstuffs required by special humanitarian circumstances.

(e) Carriage in vessels or aircraft of United States registration or under charter to any person subject to the jurisdiction of the United States of any commodities or products consigned to any person or body in Southern Rhodesia, or to any person or body for the purposes of any business carried on in or operated from Southern Rhodesia.

(f) Transfer by any person subject to the jurisdiction of the United States directly or indirectly to any person or body in Southern Rhodesia of any funds or other financial or economic resources. Payments

exclusively for pensions, for strictly medical, humanitarian or educational purposes, for the provision of news material or for foodstuffs required by special humanitarian circumstances may be authorized.

(g) Operation of any United States air carrier or aircraft owned or chartered by any person subject to the jurisdiction of the United States or of United States registration (i) to or from Southern Rhodesia or (ii) in coordination with any airline company constituted or aircraft registered in Southern Rhodesia.

Sec. 2. The functions and responsibilities for the enforcement of the foregoing prohibitions, and of those prohibitions of Executive Order No. 11322 of January 5, 1967 specified below, are delegated as follows:

(a) To the Secretary of Commerce, the function and responsibility of enforcement relating to—

(i) the exportation from the United States of commodities and products other than those articles referred to in section 2(a) of Executive Order No. 11322 of January 5, 1967; and

(ii) the carriage in vessels of any commodities or products the carriage of which is prohibited by section 1 of this Order or by section 1 of Executive Order No. 11322 of January 5, 1967.

(b) To the Secretary of Transportation, the function and responsibility of enforcement relating to the operation of air carriers and aircraft and the carriage in aircraft of any commodities or products the carriage of which is prohibited by section 1 of this Order or by section 1 of Executive Order No. 11322 of January 5, 1967.

(c) To the Secretary of the Treasury, the function and responsibility of enforcement to the extent not previously delegated in section 2 of Executive Order No. 11322 of January 5, 1967, and not delegated under subsections (a) and (b) of this section.

Sec. 3. The Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Transportation shall exercise any authority which such officer may have apart from the United Nations Participation Act of 1945 or this Order so as to give full effect to this Order and Security Council Resolution No. 253.

Sec. 4. (a) In carrying out their respective functions and responsibilities under this Order, the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Transportation shall consult with the Secretary of State. Each such Secretary shall consult, as appropriate, with other government agencies and private persons.

(b) Each such Secretary shall issue such regulations, licenses or other authorizations as he considers necessary to carry out the purposes of this Order and Security Council Resolution No. 253.

Sec. 5. (a) The term "United States," as used in this Order in a geographical sense, means all territory subject to the jurisdiction of the United States.

(b) The term "person" means an individual, partnership, association or other unincorporated body of individuals, or corporation.

Sec. 6. Executive Order No. 11322 of January 5, 1967, implementing United Nations Security Council Resolution No. 232 of December 16, 1966, shall continue in effect as modified by sections 2, 3, and 4 of this Order.

THE WHITE HOUSE,
July 22, 1968.



[P.R. Doc. 68-2212; Filed, July 22, 1968; 4:07 p.m.]

PRINCIPAL OFFICIALS RESPONSIBLE FOR
ADMINISTRATION OF ACTIVITIES
DISCUSSED IN THIS REPORT

Tenure of office
From To

DEPARTMENT OF TREASURY

SECRETARY OF TREASURY:

W. Michael Blumenthal	Jan. 1977	Present
William E. Simon	May 1974	Jan. 1977
George P. Shultz	June 1972	May 1974
John B. Connally	Feb. 1971	June 1972
David M. Kennedy	Jan. 1969	Feb. 1971

DEPARTMENT OF STATE

SECRETARY OF STATE:

Cyrus R. Vance	Jan. 1977	Present
Henry A. Kissinger	Sept. 1973	Jan. 1977
William P. Rogers	Jan. 1969	Sept. 1973

DEPARTMENT OF COMMERCE

SECRETARY OF COMMERCE:

Juanita M. Kreps	Jan. 1977	Present
Rogers C. B. Morton	May 1975	Jan. 1977
Frederick B. Dent	Feb. 1973	Mar. 1975
Peter G. Peterson	Feb. 1972	Feb. 1973
Maurice H. Stans	Jan. 1969	Feb. 1972

DEPARTMENT OF JUSTICE

ATTORNEY GENERAL:

Griffin B. Bell	Jan. 1977	Present
Edward H. Levi	Feb. 1975	Jan. 1977
William B. Saxbe	Jan. 1974	Feb. 1975
Elliot L. Richardson	May 1973	Oct. 1973
Richard G. Kleindienst	June 1972	May 1973
John N. Mitchell	Jan. 1969	Mar. 1972

Tenure of office
From To

DEPARTMENT OF TRANSPORTATION

SECRETARY OF TRANSPORTATION:

Brock Adams	Jan. 1977	Present
William T. Coleman Jr.	Mar. 1975	Dec. 1976
Claude S. Brinegar	Feb. 1973	Feb. 1975