Testimony

of

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Public Hearings Concerning Regulations Governing
State Contracts with Companies Doing Business in
or with South Africa or Namibia
Commonwealth of Massachusetts
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I want to thank you for the opportunity to testify today. My
name is Richard Knight, and I am the staff person at The Africa
Fund with primary responsibility for the Unified List of United
States Companies Doing Business in South Africa and Namibia.

The people of Massachusetts have long been in the lead in
the struggle against apartheid. Massachusetts was the first state
to adopt legislation totally divesting the state pension funds
from companies doing business in South Africa in January 1983.
Shortly after this measure was signed by Governor Dukakis, the
Second Conference on Public Investment and South Africa was held
in Massachusetts. The Executive Order No. 281 again shows
Massachusetts as a leader in the effort to end corporate
collaboration with apartheid.

The Africa Fund, which published the Unified List of United
States Companies Doing Business in South Africa and Namibia, was
founded in 1966 to educate Americans about African issues and
provide humanitarian assistance to the victims of apartheid and
colonialism. For many years, The Africa Fund has conducted
research into the role of U.S. corporations in South Africa. The
Africa Fund is associated with the American Committee on Africa,
which has led the campaign to get U.S. companies to withdraw from
South Africa, including supporting efforts of various city and
state governments.
It is important to realize that South Africa is critically dependent on foreign products and technology. South African business leaders are increasing concerned about the growing sanctions and disinvestment of U.S. and other foreign companies. One noted recently "Those countries that have turned away from the world have remained economic backwaters. South Africa needs the world. It needs markets, it needs skills, it needs technology and above all it needs capital."

There have been some significant changes in U.S. corporate relationships with South Africa over the past five years. Many companies which once had direct investment in South African subsidiaries have sold their South African subsidiaries. However, many of these companies continue to do business in South Africa through licensing, franchising or distribution agreements. For example, IBM still sells its products in South Africa, including mainframe computers, through a company that acts as its local distributor. These licensing, franchising and distribution agreements mean that American products and technology is still available to the apartheid economy.

Executive Order 281 is important because it makes Massachusetts the first state to apply a broad definition of doing business in South Africa, including licensing, franchising and distribution agreements, to a program aimed at steering state purchasing away from companies that continue to do business in South Africa.

As a result of an increasing number of companies withdrawing from South Africa but continuing non-equity ties, five national anti-apartheid organizations issued "Guidelines for Divestment" in January 1987. The purpose of the Guidelines, as explained in an accompanying statement, was to generate awareness "that it is essential to distinguish between those corporations for which withdrawal means the termination of all economic ties to South Africa, and those for which withdrawal merely indicates a restructuring of economic relations." (A copy of the Guidelines for Divestment is attached.)

One important aspect of the Guidelines is that they take an inclusive view, treating all segments and subsidiaries of a corporation as one entity. Thus, a company is considered doing business in South Africa if it, its parent, or any of its parent's other subsidiaries do business in South Africa. It is important for Massachusetts to be clear on this matter in the regulations.

The essence of the Guidelines have been increasingly widely adopted. Perhaps most relevant here is Dade County, Florida, which has a selective purchasing policy similar in many ways to the State of Massachusetts. Dade County has been writing all the companies and creating a list of companies considered as doing business in South Africa. Dade County has also incorporated completion of an affidavit as part of the bidding process. I think Massachusetts should consider adding an affidavit to its
bidding process. Such an affidavit could require companies bidding for state contracts to confirm that they do not do business in South Africa. Any company that could not sign such an affidavit would be added to the Commonwealth's South Africa List.

Since the regulations make specific reference to the Unified List of United States Companies Doing Business in South Africa as one of the sources for the Commonwealth's South Africa List, I would like to make a few comments. As we state in the introduction, "This list should be used as a starting point for further investigation... The information appearing in the Unified List is derived from a wide variety of sources, including secondary sources. While we have striven for accuracy, we cannot guarantee the correctness of information in the list." The regulations set up a reasonable system by which the Commonwealth of Massachusetts can verify and update the information on particular companies and provide the companies with a system to appeal their inclusion on the Commonwealth's South Africa List. We are gratified that the Commonwealth will use the Unified List as one of its sources in compiling its own South Africa List, but would like to emphasize the importance of a process whereby the Commonwealth has its own procedure to verify the information and determine which companies fit the exact criteria of Executive Order 281.

As its name implies, the Unified List was originally compiled from a wide variety of existing lists. The first edition was published in 1985. One of the primary sources at that time was a list published annually by the U.S. Consulate General in Johannesburg. (This list is no longer published.) But a number of other sources were also used including the various reports put out by the Report on the Signatory Companies to the Sullivan Principles (annual), the Directory of American Firms Operating in Foreign Countries, the International Directory of Corporate Affiliations, Who Owns Whom as well as various publications of the Investor Responsibility Research Center. In addition information was obtained from U.S. and South African press sources. Much of the work on the first edition was done by Roger Walke and his colleagues at the Pacific Northwest Research Center.

After the publication of the first edition, the responsibility for research moved to The Africa Fund. Much of the information in the current edition comes from the companies themselves. We have had extensive correspondence with many of the companies. We also sent out questionnaires. Some companies provide significant information, others never respond to our requests for information. In addition, we monitor various company documents such as annual reports, Form 10-Ks filed with the SEC and proxy statements. A major help in producing the list is correspondence the companies have with various cities and states, which have frequently been of great assistance in updating the list.

A number of secondary sources are also used. These include the Report on the Signatory Companies to the Statement of
Principles for South Africa (annual) and South Africa and Fair Labor Standards by the U.S. Department of State (annual). We continue to monitor both the U.S. and South African press. We also get various books and other documents from South Africa. These can sometimes result in a company being added to the Unified List. For example, a South African company has been advertising itself as the exclusive distributor for Borland International. We have added Borland to the Unified List despite the fact that it has never responded to our requests for information. A similar situation exists with several other companies.

The Africa Fund will be happy to cooperate with the Commonwealth in its efforts. In cases where our information differs from that of other information in possession of the State Purchasing Agency, we will try to provide details of our sources.

I would again just like to close by emphasizing how important this kind of action is in ending business ties to South Africa. When Hewlett-Packard Co. announced it was withdrawing from South Africa, it specifically cited selective purchase legislation in the United States. One company spokesman said Hewlett-Packard encountered 50 instances per day in which such policies impeded the company's chances of sales. Massachusetts can make a difference by effectively implementing Executive Order 281.
Guidelines for Divestment

We support an end to all corporate involvement in or with South Africa and Namibia. A corporation is doing business in or with the Republic of South Africa or Namibia if it, its parent, or its subsidiaries:

1) have direct investments in South Africa or Namibia, or have entered into franchise, licensing or management agreements with or for any entity in those countries; or

2) are financial institutions that have not prohibited new investments, loans, credits or related services, or the renewal of existing financial agreements, including those for the purposes of trade, with any entity in those countries; or

3) have more than 5% of their common stock beneficially owned or controlled by a South African entity.

A company with operations in South Africa or Namibia for the sole purpose of reporting the news shall not be considered doing business in those countries.

The Statement and guidelines were issued by the following organizations:

American Committee on Africa
American Friends Service Committee
Interfaith Center on Corporate Responsibility

TransAfrica
Washington Office on Africa

Since the principles were released in January, their importance has been widely recognized and endorsement has already come from:

Morton Bahr,
International President,
Communications Workers of America

Amalgamated Clothing and Textile Workers Union

American Federation of State, County and Municipal Employees, AFL-CIO

Arie R. Brouwer, General Secretary,
National Council of Churches of Christ in the USA

Coalition of Black Trade Unionists, Executive Council

John G. Guffey, Jr.,
Executive Vice President,
Calvert Investment Fund

National Education Association

Rabbi Alexander M. Schindler,
President,
Union of American Hebrew Congregations

Assemblywoman Maxine Waters,
California

William W. Winpisinger
International President
International Association of Machinists and Aerospace Workers
HP severs last South Africa tie

BY J. A. SAVAGE
CW STAFF

PALO ALTO, Calif. — Hewlett-Packard Co. announced last week it was selling its South African sales subsidiary to Siltek Ltd., bowing to anti-apartheid selective procurement policies established by universities and local and state governments.

The move leaves NCR Corp. as the last major U.S. computer manufacturer with direct ties to the country.

"The [selective procurement] problem was measured in millions [of dollars]," an HP spokesman said. He said that HP field personnel encountered about 50 instances per day in which such policies impeded HP's chances of sales, adding that the company was seeing the same selective procurement momentum in Europe.

Critics of apartheid have targeted computer company ties to South Africa's government because, they say, imported technology facilitates repression of blacks through weapons and pass laws.

Withdrawal from South Africa had been an issue in six of the last eight HP shareholders meetings, although the proposals had been voted down. HP decided to go ahead anyway because of procurement policy pressure as well as pending U.S. legislation that would require the elimination of exports of U.S. goods and services to South Africa.

"These companies will come under pressure to end the last of their ties," said Richard Knight, a research associate at The Africa Fund, a New York-based anti-apartheid research and lobbyist group.