

103^D CONGRESS
1ST SESSION

S. 1493

To support the transition to nonracial democracy in South Africa.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24 (legislative day, SEPTEMBER 7), 1993

Mrs. KASSEBAUM (for herself, Mr. SIMON, Mr. LUGAR, Mr. MITCHELL, Mr. DOLE, Mr. KENNEDY, Mr. PELL, Mr. HELMS, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, Mr. LEVIN, Mr. FEINGOLD, Mr. SARBANES, Mr. ROBB, Mr. MOYNIHAN, Mr. COVERDELL, Mr. STEVENS, Mr. SPECTER, and Mr. WARNER) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To support the transition to nonracial democracy in South Africa.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “South African Demo-
5 cratic Transition Support Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) After decades of apartheid, South Africa
9 has entered a new era which presents a historic op-

1 portunity for a transition to a peaceful, stable, and
2 democratic future.

3 (2) Through broad and open negotiations, the
4 parties in South Africa have reached a landmark
5 agreement on the future of their country. This
6 agreement includes the establishment of a Transi-
7 tional Executive Council and the setting of a date
8 for nonracial elections.

9 (3) The international community has a vital in-
10 terest in supporting the transition from apartheid
11 toward nonracial democracy.

12 (4) The success of the transition in South Afri-
13 ca is crucial to the stability and economic develop-
14 ment of the southern African region.

15 (5) Representative leaders in South Africa, in-
16 cluding Nelson Mandela of the African National
17 Congress, have called for an end to all remaining
18 measures limiting economic contacts with South
19 Africa.

20 (6) In light of recent developments, the continu-
21 ation of such measures is detrimental to persons dis-
22 advantaged by apartheid.

23 **SEC. 3. UNITED STATES POLICY.**

24 It is the sense of the Congress that—

25 (1) the United States should—

1 (A) strongly support the Transitional Ex-
2 ecutive Council in South Africa,

3 (B) encourage rapid progress toward the
4 establishment of a nonracial democratic govern-
5 ment in South Africa, and

6 (C) support a consolidation of democracy
7 in South Africa through democratic elections
8 for an interim government and a new nonracial
9 constitution;

10 (2) the United States should continue to pro-
11 vide assistance to support the transition to a
12 nonracial democracy in South Africa, and should
13 urge international financial institutions and other
14 donors to also provide such assistance;

15 (3) to the maximum extent practicable, the
16 United States should consult closely with inter-
17 national financial institutions, other donors, and
18 South African entities on a coordinated strategy to
19 support the transition to a nonracial democracy in
20 South Africa;

21 (4) in order to provide ownership and manage-
22 rial opportunities, professional advancement, train-
23 ing, and employment for disadvantaged South Afri-
24 cans and to respond to the historical inequities cre-
25 ated under apartheid, the United States should—

1 (A) promote the expansion of private en-
2 terprise and free markets in South Africa,

3 (B) encourage the South African private
4 sector to take a special responsibility and inter-
5 est in providing such opportunities, advance-
6 ment, training, and employment for disadvan-
7 taged South Africans, and

8 (C) encourage United States private sector
9 investment in and trade with South Africa;

10 (5) the United States should urge the Govern-
11 ment of South Africa to liberalize its trade and in-
12 vestment policies to facilitate the expansion of the
13 economy, and to shift resources to meet the needs of
14 disadvantaged South Africans;

15 (6) the United States should promote coopera-
16 tion between South Africa and other countries in the
17 region to foster regional stability and economic
18 growth; and

19 (7) the United States should demonstrate its
20 support for an expedited transition to, and should
21 adopt a long term policy beneficial to the establish-
22 ment and perpetuation of, a nonracial democracy in
23 South Africa.

1 **SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND**
2 **OTHER PROVISIONS DIRECTED AT SOUTH**
3 **AFRICA.**

4 (a) COMPREHENSIVE ANTI-APARTHEID ACT.—

5 (1) IN GENERAL.—All provisions of the Com-
6 prehensive Anti-Apartheid Act of 1986 (22 U.S.C.
7 5001 and following) are repealed as of the date of
8 enactment of this Act, except for the sections speci-
9 fied in paragraph (2).

10 (2) EFFECTIVE DATE OF REPEAL OF CODE OF
11 CONDUCT REQUIREMENTS.—Sections 1, 3, 203(a),
12 203(b), 205, 207, 208, 601, 603, and 604 of the
13 Comprehensive Anti-Apartheid Act of 1986 are re-
14 pealed as of the date on which the President certifies
15 to the Congress that an interim government that
16 was elected on a nonracial basis through free and
17 fair elections has taken office in South Africa.

18 (3) CONFORMING AMENDMENTS.—(A) Section
19 3 of the Comprehensive Anti-Apartheid Act of 1986
20 is amended by striking paragraphs (2) through (4)
21 and paragraphs (7) through (9), by inserting “and”
22 at the end of paragraph (5), and by striking “; and”
23 at the end of paragraph (6) and inserting a period.

24 (B) The following provisions of the Foreign As-
25 sistance Act of 1961 that were enacted by the Com-
26 prehensive Anti-Apartheid Act of 1986 are repealed:

1 subsections (e)(2), (f), and (g) of section 116 (22
2 U.S.C. 2151n); section 117 (22 U.S.C. 2151o), re-
3 lating to assistance for disadvantaged South Afri-
4 cans; and section 535 (22 U.S.C. 2346d). Section
5 116(e)(1) of the Foreign Assistance Act of 1961 is
6 amended by striking “(1)”.

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

9 (1) Subsections (c) and (d) of section 802 of
10 the International Security and Development Co-
11 operation Act of 1985 (99 Stat. 261) is repealed.

12 (2) Section 211 of the Foreign Relations Au-
13 thorization Act, Fiscal Years 1986 and 1987 (99
14 Stat. 432) is repealed, and section 1(b) of that Act
15 is amended by striking the item in the table of con-
16 tents relating to section 211.

17 (3) Sections 1223 and 1224 of the Foreign Re-
18 lations Authorization Act, Fiscal Years 1988 and
19 1989 (101 Stat. 1415) is repealed, and section 1(b)
20 of that Act is amended by striking the items in the
21 table of contents relating to sections 1223 and 1224.

22 (4) Section 362 of the Foreign Relations Au-
23 thorization Act, Fiscal Years 1992 and 1993 (105
24 Stat. 716) is repealed, and section 2 of that Act is

1 amended by striking the item in the table of con-
2 tents relating to section 362.

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

5 (6) Section 43 of the Bretton Woods Agree-
6 ments Act (22 U.S.C. 286aa) is amended by repeal-
7 ing subsection (b) and by striking “(a)”.

8 (7) Section 330 of H.R. 5205 of the 99th Con-
9 gress (Department of Transportation and Related
10 Agencies Appropriations Act, 1987) (22 U.S.C.
11 5056a) as incorporated by reference in section
12 101(l) of Public Law 99–500 and Public Law 99–
13 591, and made effective as if enacted into law by
14 section 106 of Public Law 100–202, is repealed.

15 (c) SANCTIONS MEASURES ADOPTED BY STATE OR
16 LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—The Con-
17 gress urges all State or local governments and all private
18 entities in the United States that have adopted any re-
19 striction on economic interactions with South Africa, or
20 any policy discouraging such interaction, to rescind such
21 restriction or policy.

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

24 (a) IN GENERAL.—The President is authorized and
25 encouraged to provide assistance under chapter 10 of part

1 I of the Foreign Assistance Act of 1961 (relating to the
2 Development Fund for Africa) or chapter 4 of part II of
3 that Act (relating to the Economic Support Fund) to sup-
4 port the transition to nonracial democracy in South
5 Africa. Such assistance shall—

6 (1) focus on building the capacity of disadvan-
7 taged South Africans to take their rightful place in
8 the political, social, and economic systems of their
9 country;

10 (2) give priority to working with and through
11 South African nongovernmental organizations whose
12 leadership and staff represent the majority popu-
13 lation and which have the support of the disadvan-
14 taged communities being served by such organiza-
15 tions;

16 (3) in the case of education programs—

17 (A) be used to increase the capacity of
18 South African institutions to better serve the
19 needs of individuals disadvantaged by apart-
20 heid;

21 (B) emphasize education within South Af-
22 rica to the extent that assistance takes the form
23 of scholarships for disadvantaged South African
24 students; and

25 (C) fund nontraditional training activities;

1 (4) support activities to prepare South Africa
2 for elections, including voter and civic education pro-
3 grams, political party building, and technical elec-
4 toral assistance;

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

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

10 (b) GOVERNMENT OF SOUTH AFRICA.—

11 (1) LIMITATION ON ASSISTANCE.—Except as
12 provided in paragraph (2), assistance provided in ac-
13 cordance with this section may not be made available
14 to the Government of South Africa, or organizations
15 financed and substantially controlled by that govern-
16 ment, unless the President certifies to the Congress
17 that an interim government that was elected on a
18 nonracial basis through free and fair elections has
19 taken office in South Africa.

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

22 (A) the Transitional Executive Council;

23 (B) South African higher education insti-
24 tutions, particularly those traditionally dis-
25 advantaged by apartheid policies; and

1 (C) any other organization, entity, or activ-
2 ity if the President determines that the assist-
3 ance would promote the transition to nonracial
4 democracy in South Africa.

5 Any determination under subparagraph (C) shall be
6 based on consultations with South African individ-
7 uals and organizations representative of the majority
8 population in South Africa (particularly consulta-
9 tions through the Transitional Executive Council)
10 and consultations with the appropriate congressional
11 committees.

12 **SEC. 6. UNITED STATES INVESTMENT AND TRADE.**

13 (a) TAX TREATY.—The President should begin im-
14 mediately to negotiate a tax treaty with South Africa to
15 facilitate United States investment in that country.

16 (b) OPIC.—The President should immediately initi-
17 ate negotiations with the Government of South Africa for
18 an agreement authorizing the Overseas Private Invest-
19 ment Corporation to carry out programs with respect to
20 South Africa in order to expand United States investment
21 in that country.

22 (c) TRADE AND DEVELOPMENT AGENCY.—In carry-
23 ing out section 661 of the Foreign Assistance Act of 1961,
24 the Director of the Trade and Development Agency should

1 provide additional funds for activities related to projects
2 in South Africa.

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

6 (e) PROMOTING DISADVANTAGED ENTERPRISES.—

7 (1) INVESTMENT AND TRADE PROGRAMS.—

8 Each of the agencies referred to in subsections (b)
9 through (d) should take active steps to encourage
10 the use of its programs to promote business enter-
11 prises in South Africa that are majority-owned by
12 South Africans disadvantaged by apartheid.

13 (2) UNITED STATES GOVERNMENT PROCURE-
14 MENT.—Notwithstanding any law relating to the
15 making or performance of, or the expenditure of
16 funds for, United States Government contracts, the
17 Secretary of State and the head of any other depart-
18 ment or agency of the United States carrying out
19 activities in South Africa shall, to the maximum ex-
20 tent practicable, in procuring goods or services,
21 make affirmative efforts to assist business enter-
22 prises having more than 50 percent beneficial owner-
23 ship by South African blacks or other nonwhite
24 South Africans.

1 **SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PRO-**
2 **GRAMS.**

3 The Director of the United States Information Agen-
4 cy should use the authorities of the United States Infor-
5 mation and Educational Exchange Act of 1948 to promote
6 the development of a nonracial democracy in South Africa.

7 **SEC. 8. OTHER COOPERATIVE AGREEMENTS.**

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

12 **SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND**
13 **OTHER DONORS.**

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

18 (b) **INTERNATIONAL FINANCIAL INSTITUTIONS.**—
19 The Secretary of the Treasury shall instruct the United
20 States Executive Director of each relevant international
21 financial institution, including the International Bank for
22 Reconstruction and Development and the International
23 Development Association, to urge that institution to initi-
24 ate or expand its lending and other financial assistance
25 activities to South Africa in order to support the transition
26 to nonracial democracy in South Africa.

1 **SEC. 10. CONSULTATION WITH SOUTH AFRICANS.**

2 In carrying out this Act, the President shall consult
3 closely with South African individuals and organizations
4 representative of the majority population in South Africa
5 (particularly consultations through the Transitional Exec-
6 utive Council) and others committed to abolishing the
7 remnants of apartheid.

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