



**SWP 55/87 THE IMPACT OF THE EEC CODE OF CONDUCT ON  
THE BEHAVIOUR OF EUROPEAN COPORATIONS IN  
SOUTH AFRICA**

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## ABSTRACT

It is often argued that there is a convergence of interest between business in South Africa and the upholders of apartheid. So of the various measures employed in the international effort to end apartheid, codes of conduct governing companies operating in South Africa represent something of a challenge to this relationship. They attempt, within a strategy of constructive engagement, to dismantle apartheid within individual firms in South Africa and set an example to South African firms and South Africa at large. However, perhaps because of this link between business and apartheid, codes are widely considered ineffective. This paper is a reassessment of the EEC Code of Conduct and the scope for its contribution to the creation of a non-racial, democratic nation of South Africa.

The code's origins, purpose and form are described. It is emphasised that the code is voluntary and largely concerned with employment practices. Views on the code and its effectiveness vary; the paper attempts to identify the perspectives of all the various interested parties: government at national and European level, firms and corporate interest groups, public interest groups, trade unions, and, in South Africa, the perspectives of the government, business and those representing black interests. The code's outcomes - beneficial and adverse - are considered, insofar as they can be established.

Conclusions drawn note that it is unrealistic to expect the EEC code to have a significant impact on apartheid. This situation is unlikely to change unless the code becomes mandatory and its provisions more stringent and wide-ranging, and even then, this assumes constructive engagement is a viable strategy for dismantling apartheid. The reluctance of the EEC to act in such a way with other measures employed against apartheid would suggest the prospects of strengthening the code are remote. However, this largely unsurprising conclusion is tempered by the observation that the code does at least contribute to the international pressure for change in South Africa within a constructive engagement strategy. Its main value lies in its expressive function - as a statement about the morality of apartheid. Moreover, codes *per se* are not necessarily ineffective. Yet if they are to achieve anything they must have substantive provisions and enforceable sanctions against those that fail to meet them. In other words, codes must have teeth!

## A POSITIVE MEASURE

A great variety of sanctions are available to those outside South Africa that wish to encourage the South African government to end apartheid (1). Many have been adopted by trade unions, pension funds, local or state government, public interest groups and individuals, as well as national governments and international bodies such as the UN. The 'encouragement' intended by these sanctions may be in the form of relatively welcome inducements to speed up what is seen as a process of reform in South Africa or it may take the form of less gentle persuasion with a view to convincing the South African authorities of the need to act to dismantle apartheid. Alternatively, more outright coercion may be intended. Such sanctions seek to force the South African government to end apartheid or create the conditions for the government's overthrow and its replacement by majority rule. Hence the manifest intent of sanctions on South Africa may be negative and punitive or it may be positive and as an incentive to change. Clearly a variety of purposes may underlie the use of any particular measure, according to the interests at stake. Ostensibly however, codes of conduct governing multinational corporations (MNCs) operating in South Africa, are a positive measure.

It is often suggested that South Africa's apartheid system has always been a mutually beneficial alliance between a minority government and private business; that there is a convergence of interest between business in South Africa and the upholders of apartheid. The basis for this is apartheid's role in the provision of cheap labor, particularly in establishing a migratory labor system. As Longford puts it: "Behind all the different manifestations of apartheid stands the mighty economic machine of South African capitalism. This machine absorbs cheap black labor, puts it through the wheels of industry, mining and agriculture and then expels it to distant reservations for the unemployed until the system requires more labor" (2). However, Lipton's recent and thorough study, *Capitalism and Apartheid*, suggests a more sophisticated analysis. She shows "Apartheid cannot simply be explained as the outcome of capitalism or of racism. Its origins lie in a complex interaction between class interests (of white labor as well as of sections of capital) and racism/ethnicity, reinforced by ideological and security factors" (3). It is made clear that while South African mining, agricultural and labor interests were generally served by apartheid, often the interests of manufacturing were not. The limits to black advancement have also placed constraints on South African manufacturing industry.

Yet although it might be argued that some 'sections of capital' would wish to see and benefit from an end to apartheid, it does not necessarily follow that they have the power to achieve this. Moreover, short term interests often preside and, perhaps as a consequence of this, the interests of business and the upholders of apartheid frequently seem less than mutually exclusive. Yet if the pronouncements in opposition to apartheid coming from the business community are more than empty rhetoric, what is business doing, within its powers, to end apartheid?

One test of the business community's commitment to fighting apartheid is the extent to which codes of conduct have been adopted and applied. There are a number of codes governing firms operating in South Africa. As well as the EEC Code of Conduct, addressed in this paper, there are (or were) the Sullivan Principles covering American firms, codes for Canadian and Australian firms, and other South African codes such as the government's SACCOLA code (4). Those codes originating from outside South Africa are an attempt to dismantle apartheid within individual firms in South Africa, to set an example to South African firms, and to show, in a wider sense, that apartheid is not necessary. Codes generally, in addition to setting standards, ensure that the individual firm wishing to be socially responsible, is not put at a competitive disadvantage relative to other firms in its industry. They often work through the provision of information which embarrasses recalcitrant firms.

Codes of conduct for firms operating in South Africa have, with the demise of the constructive engagement argument, fallen into general disrepute. Indeed, Leon Sullivan has distanced himself from the code which he developed and organised; he is now advocating disinvolvement as a more appropriate action for American firms (5). The bridge-building and 'reform from within' of constructive engagement has come to be seen as tacit support for apartheid. The upsurge in the unrest in South Africa since 1984 would seem to highlight the failure of this policy to achieve any real change. The contribution of business to constructive engagement is seen, likewise, to have been inadequate. There would then appear to be some support for the argument about the convergence of interest between business in South Africa and the upholders of apartheid. Of course, if this is the case then it is less than surprising that codes of conduct should be ineffective. And yet, already, following the exodus of American and (some) British firms, there are claims that disinvestment as a sanction can backfire (6). It is within such a context that this paper presents a reassessment of the EEC Code of Conduct and

the scope for its contribution to the creation of a non-racial, democratic nation of South Africa.

### **THE EEC CODE: ORIGINS, PURPOSE AND FORM**

The EEC Code of Conduct for Companies with Interests in South Africa has its origins in a 1974 UK Code of Practice for companies operating in South Africa (7). This was recommended by the Trade and Industry Sub-Committee of the House of Commons Select Committee on Expenditure in March 1974 and subsequently accepted by the government. It was in response to the public outcry following newspaper reports of the low wages paid by British firms in South Africa. Articles by Adam Raphael published in the *Guardian* in March 1973 revealed that only three out of a hundred British companies investigated were paying all their employees above the poverty line. Raphael commented, "British companies may wish to behave well and many believe they are doing so ... but in many cases the wish has yet to be put into practice". His articles prompted wage improvements; Courtaulds doubled the wages for some of their workers, with the Courtaulds chairman observing "The tide of publicity has helped us to accelerate along the path on which we were already going ... we try to push things along, not because we are saints, but because we think we owe it to ourselves" (8).

Such statements cut no ice with the Anti-Apartheid movement. Raphael's exposé confirmed the link between low wages in South Africa and high profits for British companies operating there and that there was little evidence of industrialization breaking down apartheid, as documented in the earlier study by First *et al*, *The South African Connection* (9). Accordingly, submissions to the Commons Select Committee by Anti-Apartheid in 1973, advocated disinvestment and were in opposition to the strategy of codes of conduct on the grounds that British companies should not be in South Africa (under apartheid) at all. Similarly, Anti-Apartheid's statement to the UN conference in Lagos, August 1977, rejected the code of conduct and urged trade sanctions when it was mooted that the British code would be adopted by the EEC. Anti-Apartheid believed these measures were timely interventions by the government against pressures for disinvestment (10).

The adoption of the EEC Code was hasty. The British (Labour) government of the day was somewhat embarrassed by reports of progress being made in the United States in

support of the embryo Sullivan Principles. At the time they covered a commitment to improving black living conditions, training and promotion, and more specifically promised non-segregation in cafeterias, washrooms and the workplace; equal and fair employment practices; and equal pay for comparable work. The embarrassment was all the more acute as American firms constituted only 16% of total foreign investment compared to the 57% of the EEC, with Britain the largest investor of all.

The code was drafted by two Foreign office officials, one in London and the other in Pretoria. The rush to get something out perhaps explains its unusual, if not radical wording. The code was adopted at the strong insistence of the British Foreign Secretary, David Owen, at a Brussels meeting in September 1977 of the foreign ministers of the nine member states of the EEC. It met with some criticism from Germany and in Britain, the Confederation of British Industry (CBI) and the Trades Union Congress (TUC). However, the TUC changed their views when their contribution to the code was brought to their attention. The CBI, as later discussed, also came to approve of the code (11).

The code was voluntary. In the guidance provided to British companies it is noted that "the government *urges* United Kingdom companies with interests in South Africa to make every effort to promote the adoption of the policies and practices recommended in the Code of Conduct to the fullest possible extent" (12, emphasis added). Companies are "asked" to provide reports. However, it is emphasised that the guidance does not ask companies to act contrary to South African law (13), in accordance with government policy that UK companies and their affiliates should keep to the laws of the countries in which they operate. Moreover, the guidance makes clear that "It is in the interests of companies themselves that they should maintain the best employment practices in South Africa and be seen to do so". The provisions of the code refer to:

- 1) Relations within the undertaking, particularly the recognition and encouragement of trade unions. The code states: "Companies should ensure that all their employees irrespective of racial or other distinction are allowed to choose freely and without any hindrance the type of organisation to represent them".
- 2) Migrant labor - described as "an instrument of the policy of apartheid" - the effects of which employers "should make it their concern to alleviate".

- 3) Pay, which should initially exceed by at least 50% the minimum level required to satisfy the basic needs of an employee and his family, ie: above the Minimum Effective Level (MEL).
- 4) Wage structure and black advancement, particularly equal pay for equal work and training programs for blacks.
- 5) Fringe benefits; the improvement of employees' living conditions and the use of company funds in providing housing, transport, leisure, education facilities, etc.
- 6) Desegregation at work and equal working conditions.
- 7) Reporting; companies should report annually on these provisions to their national government which should review progress made.

Reporting requirements of companies vary according to the amount of equity held by a (British) company and the number of black employees. The code principally refers to those with more than 50% of the equity of a South African company and employing 20 or more black Africans. Those companies meeting the number of black employees criterion but with a minority shareholding (exceeding 10% of the equity), were "encouraged" rather than "expected" to publish information on their performance against the code and "expected" to use their influence to seek to have the code put into effect. So, for example, the 1984 analysis of companies' reports for 1982-83 is based on 142 reports from companies meeting the former criteria, known as Category A; 9 reports from companies meeting the latter criteria, Category B; and 30 reports from other companies (14). Twelve companies had not submitted reports and were expected to do so. These companies are listed and include John Brown, Gallaher and Trusthouse Forte. (It is noted however that some of these companies have stated it is not their policy to submit a report and inclusion in this list does not necessarily mean failure to comply with the standards suggested in the code.) Moreover, just as reporting is voluntary, so is compliance with the code's provisions for those that do choose to report. Government policy at the time was not to identify firms reporting but failing to conform with the code's provisions, although prior to the Tory administration (commencing in 1979), the Labour government had been less relaxed about the code and "kicked companies quite hard" (15).

The main political purpose of the code, as Robin Smith explains, "was an attempt to counter the view that Europe's vast financial interests in South Africa were blinding it to the fate of the millions of non-whites under apartheid" (16). Until the limited EEC trade sanctions agreed at the end of October 1986, the code was the only economic measure taken against South Africa by the EEC. It was also seen as useful in ensuring fairness of competition as the 1977 code covered other European countries as well as Britain (17). For companies, it provided a means of defending involvement in South Africa. As the extract quoted above indicates, it was in their interests to be seen to be maintaining the best employment practices; though, of course, it also encouraged this and indicated what actions firms might take. In comparison with the Sullivan Principles at the time, the EEC code was largely concerned with employment practices (18).

The code met with many criticisms, as described in more detail below. Some, such as Anti-Apartheid viewed it as the wrong or an inadequate measure. Others criticised its form and operation: the voluntary reporting and compliance requirement, its static nature (unlike the 'ratcheting-up' each year of the targets to which Sullivan signatories should aspire), pay being the only pass or fail criterion, and the vagueness or general specification of most of its provisions. There were also anomalies within the reporting procedures of the various EEC countries. A report by the European Parliament, endorsed by a wide range of political groups, was highly critical. It said "totally inadequate" monitoring had allowed European businesses to wriggle out of the code. It proposed that foreign ministers should submit an annual report on the effectiveness of their country's anti-apartheid efforts (19).

In the light of developments in South Africa and the requirement for clarification of certain parts of the code, the foreign ministers of the ten member states of the European Community (EC) approved a revised code in November 1985. Although reported as "controversial" (20), the code, introduced in the UK in July 1986, remained voluntary and did not ask companies to act contrary to South African law. Principal new provisions were: the encouragement of black businesses, in particular, through sub-contracting and providing assistance to black employees to set up their own companies; to provide greater support for black trade unions; to help migrant workers lead a family life; to pay greater attention to education, training, black career development and wider community projects; and to ensure all EC companies observe identical procedures and reporting requirements. National summary reports were also to be produced (21). On release of the new code, the UK Department of Trade and Industry (DTI) stressed that

most of the 170 British firms with interests in South Africa already followed the new guidelines as normal practice and implementing the code would present them with few, if any, problems (22).

### PERSPECTIVES ON THE CODE

While it is conceded that a lot of the foregoing and following discussion refers to British use of the European code, it should be recognized that not only is there assumed to be many similarities between Britain and its EEC partners, but that Britain has always been the largest foreign investor in South Africa and probably continues to be, though reliable figures on the size of this investment are not currently available (23). The UN figures for countries which have companies operating in South Africa highlight the extent to which the code is principally of relevance to the UK and West Germany. These figures are shown in Table 1.

HOME COUNTRY	TOTAL NO OF COMPANIES*
Belgium	6
Denmark	2
France	20
West Germany	142
Italy	7
Netherlands	17
Portugal	1
Spain	1
UK	360

Table 1: EC Countries with Companies with Interests in South Africa (24)

In the light of the figures given in Table 1 it is probably not surprising that in debates on trade and other sanctions on South Africa the UK and to a lesser extent West Germany are opposed to sanctions, while Denmark, Netherlands, Ireland, Greece and Spain are in favour (other EC countries tend to be ambivalent). The UK and West Germany also have substantial trade interests (25).

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\* Corporations are listed if they hold, either directly or indirectly, more than 10% of the equity of subsidiaries, associates or affiliates in South Africa.

The perspectives of the various interested parties to the code can be grouped into three main categories: those who believe the code is the right action and sufficient; those who consider it inadequate and would wish to see it strengthened, and possibly additional measures taken as well; and those who consider it to be the wrong action and would prefer alternative measures. It need hardly be added that views on the code's appropriateness and effectiveness are closely allied to the interests of the party concerned.

The UK government view, as expressed by the DTI, is that "the code shows British companies are a force for good in South Africa and it has improved conditions for the black community." In terms of any broader role in dismantling apartheid, the code is seen as "a step in the right direction" (26). This view is echoed by business interest groups. The United Kingdom South Africa Trade Association (UKSATA), represent the interests of UK companies with investments or trade with South Africa. In 1982 its position was clearly supportive:

"These codes remain instruments of progress, and their true significance should not be overlooked by their critics. Companies which operate in South Africa know that within that environment the codes have contributed to the improvements and, in some cases, only at the expense of some pain to the corporation" (27).

The CBI is said to confirm this view (28) and has more recently asserted the desirability of a British industrial presence in South Africa to help create wealth there, while at the same time condemned apartheid (29). In January 1986, following discussions between the CBI and UKSATA, a new group representing British South African interests was formed: the British Industry Committee on South Africa (BICSA). This was in response to the rapid changes in South Africa and the need for specific and dedicated attention to the South African scene if British industry's views and interests were to be represented (30). While set up to oppose sanctions (31), a BICSA spokesman said the association welcomed the code and believed it to be useful. He said returns showed significant improvements in pay, conditions and desegregation - which may well have happened anyway but were perhaps encouraged by the code. He added that it is difficult to say whether there was any effect on the wider political scenario, but it was hoped there would be in the long term (32). Michael Ivens, another representative of British industry, uses figures relating to the code's provisions to substantiate his claim that "British companies are playing a prominent part in assisting black development in South

Africa" (33). It is thought likely that similar views would be espoused by the affected governments and representatives of business interests in other countries in the EC. The governments of countries such as Denmark would, given their pro-sanctions stance, probably be more critical of the code.

Support for codes of conduct can also be found in South Africa. While the South African government's initial response to the codes was one of irritation - at an external intervention - it is suggested that they came to be welcomed as a measure to ensure good treatment of South African employees (34). Anti-Apartheid believes they are approved of by the South African government because they reduce the requirement for government action to modernise apartheid, which might alienate conservatives in the National Party. They suggest the government recognizes the need for black managers in the Bantustans (35). Additionally, because the codes attacked some of the constraints on manufacturing firms in securing labor (such as the job bar), many South African businesses saw codes, including those from overseas, as useful (36).

The second group of perspectives on the code comprises the views of those who consider it inadequate and would wish to see it strengthened and possibly additional measures as well. The European Parliament (presumably with the exception of the representatives from the UK and West Germany) would like the code to be mandatory and has passed a resolution to that effect (37). This, however, would be difficult to achieve because of the problem of 'extra-territoriality' - "the argument that no country can assert powers over a legal entity registered in another" (38) - and the legislation which South Africa has to prevent this (as does the UK and most other countries). In South Africa, the opposition politician Helen Suzman has suggested that companies not adhering to the codes should be penalised (39). The socialist group Agenor has made the same suggestion, proposing fines for those companies in breach of the code or failing to provide adequate information. However, they also see a role for additional measures such as the restriction or termination of access for South Africa to International Monetary Fund loans. More stringent measures, they argue, would be forthcoming once non-implementation of the code was fully demonstrated. Hence their support is tactical, though again flawed in its dependence on making the code mandatory (40).

Trade unionists and many public interest groups argue that the code is better than nothing. For UK trade unionists the line is one of recognising its uses in setting standards that have to be met (41). In South Africa, black trade unionists would

acknowledge its role in applying leverage on firms but not consider it particularly important. They are thought to be generally sceptical of external efforts to end apartheid, but appreciate the support and funding of the international trade union movement (42). War on Want suggest it is "a measure against apartheid but not enough" (43) and Counter Information Services suggest codes "are marginally better than nothing", but see more likelihood of success with disinvolvement (44). The latter group has highlighted the case of Consolidated Gold Fields (CGF) and strongly condemned the practices of its subsidiary Gold Fields of South Africa (GFSA). It is reported to have the reputation for paying the lowest wages in the industry, yet CGF does not report under the code because of its affiliate relationship with GFSA, it is implied that this is to get round the code. Accordingly, Counter Information Services would like to see the code improved by extending its coverage to associate companies, as well as making it mandatory and with stiffer provisions (45).

The third group of perspectives on the code comprises the views of those who consider it the wrong action and would prefer alternative measures. Essentially, they want no truck with constructive engagement. Anti-Apartheid see it as a means of alleviating the consequences of apartheid in firms and yet also having the latent role of modernising apartheid. They don't believe it has done anything to dismantle apartheid and would wish to see external pressure applied in the form of trade sanctions and disinvestment (46). Likewise, the African National Congress (ANC) believe it has not achieved very much and that the code "is based on reforming apartheid when the ANC wants to destroy apartheid". They are not very excited about it (47). The views of those who believe it is inadequate, is perhaps best summed-up in the expression: 'it's like rearranging the deck-chairs on the Titanic' (48).

Obviously the parties whose opinions are expressed above represent only a small sample of the many parties with an interest in the issue. However, it is felt that the three main positions identified and the general tendencies revealed would hold if extended to a larger sample (assuming this was practicable).

## **OUTCOMES OF THE CODE**

Outcomes of the code are beneficial and adverse, in terms of its impact on corporate behavior in South Africa. The main beneficial outcomes can be identified by reference

to code of conduct reports, as follows. There are also less obvious outcomes, some of which have been indicated above, and the impact of the code on apartheid outside the firm. These outcomes also need to be considered.

Beneficial outcomes of the code, in terms of corporate compliance with its provisions, are highlighted in the annual DTI report. As this makes comparisons against all previous years when the code has been operating, the latest report will where possible be used here (49). Table 2 shows the number of companies who have reported in each of the twelve month periods since the original code was introduced. The subsequent analysis in the report is based on the data from the Category A companies. The drop in the number of companies not reporting, but believed to have an obligation to do so, reflects increased compliance with the code (and also therefore affects summary statistics as more companies are included), but may also reflect disposals and reductions of South African holdings.

	12 month period up to 30 June in								
	1978	1979	1980	1981	1982	1983	1984	1985	1986
Category A	147	153	142	141	137	142	137	135	126
Category B	16	19	14	13	11	9	13	15	16
Others	21	33	28	36	34	30	21	22	18
	—	—	—	—	—	—	—	—	—
TOTALS	184	205	184	190	182	181	171	172	160
	—	—	—	—	—	—	—	—	—
Companies not reporting	47	19	18	13	13	12	10	3	2
Category A reports received in time for full analysis	109	140	133	127	130	139	137	135	126

**Table 2: Companies Reporting Under the Code**

Changes in the provisions for relations within the undertaking makes comparisons between 1986 and 1985 difficult, so Table 3 uses figures from the 1985 report (50). It shows improvement in the formal recognition of and dealing with black unions, but little improvement in the willingness to recognize such unions with or without conditions. Moreover, only very general indications are sought under this provision.

	12 month period up to 30 June in							
	1978	1979	1980	1981	1982	1983	1984	1985
Number of Category A reports	109	140	133	127	130	139	137	135
In-house liaison or consultative committees, etc	83	102	99	91	99	77	93	76
Formal recognition of independent black trade unions	-		7	9	12	29	41	58
Informal dealings with black trade unions	-		-	7	9	29	28	32
Willingness to recognize such unions with or without conditions	-		-	37	38	55	51	43
Formal recognition of established registered unions	8	9	9	8	13	10	8	11

**Table 3: Relations Within the Undertaking**

Under the migrant labor provisions, the 1986 report shows an increase in the number of companies reporting the use of migrant labor from 27 in 1978 to 48 in 1985. This probably reflects increased reporting. The 1987 report shows 36 companies reporting the use of migrant labor. The total number of migrant workers employed by British subsidiaries remains at about 11,000, 80% of which are employed by one company. The numbers employed by other companies are said to be usually only a small proportion of their total workforce. Various benefits are reportedly provided for migrant workers and some companies have reported that they were trying to phase out the use of their migrant labor force.

On pay and wage structures, almost all Category A companies reported that they applied the principle of equal pay for equal work. Table 4 shows reports filed on pay. Just over 96% of the companies pay above the Minimum Effective Level (equivalent to SLL5). However, it should be noted that there have been many criticisms of the accuracy of the figures reported.

	12 month period up to 30 June in								
	1978	1979	1980	1981	1982	1983	1984	1985	1986
Number of Category A reports	109	140	133	127	130	139	137	135	126
Thousands of black African workers	98	105	118	129	134	113	104	95.8	79.1
Thousands paid above SLL5 (or equivalent)	85	85	102	119	123	102	98.9	88.5	76.1
% of all black African employees paid above SLL5	87	81	81	92	92	90.1	94.8	92.4	96.2
Thousands paid below SLL5	13	20	16	10	11	11	5.5	7.3	3.0
% of all black African employees paid below SLL5	13	19	19	8	8	9.9	5.2	7.6	3.8

**Table 4: Pay Levels**

Most companies report compliance, and figures have increased, under the provisions for training and promotion of black employees and fringe benefits. Donations to community projects, such as the Urban Foundation have also increased. Desegregation improvements are shown in Table 5, showing a marked increase in reported total desegregation. (It should be noted that during the period under review, South African regulations were eased.) A number of companies reported encouragement of black business.

In sum then, the reports under the code would indicate improvements in British businesses in South Africa. Accepting the reports as accurate, it would appear that these companies have gone some way towards black trade union recognition and a long way towards desegregation. Most now pay at an acceptable level and many provide training and promotion opportunities to blacks and support community projects. Of course, these changes may have taken place anyway, but even the strongest critics of codes of conduct accept that they have improved conditions within individual firms in South Africa. Yet to what extent have they contributed to the dismantling of apartheid outside the firm? There is little evidence of any significant impact on this front.

	12 month period up to 30 June in					
	1981	1982	1983	1984	1985	1986
Number of Category A reports	127	130	139	137	135	126
Policy on desegregation stated	97	80	107	111	128	123
Total desegregation	22	27	36	37	40	76
Desegregation at the workplace	N/A	94	110	115	117	117
Desegregation of canteens	N/A	16	17	17	50	88
Desegregation of toilets	N/A	24	43	41	54	82
Desegregation of education and training	N/A	N/A	N/A	N/A	N/A	92
Desegregation of sports facilities	N/A	N/A	N/A	N/A	N/A	90
Constraints of law and Government policy mentioned	40	23	33	32	40	15
Constraints of custom, attitudes and practice mentioned	11	13	6	4	5	9

**Table 5: Desegregation of Places of Work**

Adverse outcomes of the codes should also be acknowledged. These include the problems posed for the companies operating in industries where pay norms are notably low. Quinton Hazell, for example, submitted a report to the DTI in 1984, but noted that its failure to comply with the code was because it is "a labor intensive company operating in a highly competitive market" (51). Pritchard Services Group, in its 1985 submission, reveals that 1,660 of its 2,000 black cleaners and security staff were paid below the poverty line. The company subsequently left South Africa (52). It's widely suggested that firms chose to make their low-paid employees redundant and sub-contract the services they provided to obtain compliance with the code.

Another outcome of the code, and many would argue its real purpose, is to detract from the criticism of the role of companies in maintaining apartheid and provide them with a shield against their critics (53), and, in addition, give tangible support to the government's constructive engagement argument. As a sop to public opinion, it used to be possible to cite the code and refer to improvements under the code in discussions

with bodies such as the TUC and church organisations. However, with the demise of constructive engagement, this is now considered no longer possible (54).

#### **CONCLUSION: A CONTRIBUTION TO THE DISMANTLING OF APARTHEID?**

On balance, while it may be claimed that the code has improved the conditions of workers in EC firms in South Africa, it seems unlikely that it has done much overall to dismantle apartheid. Its failure in this role is related and partly attributable to the failure of the much greater strategy of constructive engagement. If such a strategy is a genuine effort to end apartheid (55) then it may be that, given time, a more stringent and mandatory code would have made a significant contribution to this. However, the code as it stands could never be expected to achieve a great deal. While it could "show it's a lie that British firms are exploiting their South African workers" (56) and, indeed, improve their working situation, it could never really challenge apartheid. If reform through business is possible (and, of course, not just the modernisation of apartheid), then the only real role in this of the EC code is in allowing UK firms to stay in South Africa and make an economic contribution.

Why should businesses take an interest and try to improve conditions in South Africa? Historically, it appears most firms will only do so if it is in their interests, in fear of penalties or adverse publicity. (As the *Economist* commented in explanation of disinvestment: "The reason for the flight from South Africa is that no businessman wants to be caught propping up a government whose social policy leads to the sjamboking and shooting of people on television" (57).) This is even more the case if it is hoped that firms will fight apartheid, for few businesses would wish to identify for themselves such an overtly political role. Accordingly, the EC code could be considerably improved if there were sanctions against firms that didn't report, didn't comply, or didn't show progress. Failure to report has been less of a problem in recent years. Publicity has been focused on the non-reporters rather than those companies which do not comply; this, of course, is partly due to a lack of information on which companies are failing to comply. If the problems in making the code mandatory are insurmountable - though they do not seem to preclude a mandatory reporting requirement for parent companies - there could at least be public exposure of those companies failing to meet the code's provisions. Some of these companies may be susceptible to public pressure. Last, but not least, the code's provisions need to be strengthened and continued improvement

sought from individual firms. This would mean a 'ratcheting-up' mechanism similar to the Sullivan code with a competitive element such that firms were constantly encouraged to improve against rising targets. There would also be a greater number of pass/fail criteria. However, if too stringent and difficult to meet, codes might force unintended disinvestment.

Yet one must not only ask whether business has the will to challenge apartheid but also whether it has the means. Although Lipton highlights the achievements of international pressures on South Africa, she is careful to show that these measures can only have an impact on apartheid if they affect those in a position of power to do anything about it. Business may only be able to do so much. An understanding of how much can be achieved is important if codes and other constructive engagement measures are to be employed.

Finally, there must be clarity of aims (58). Sanctions work through conversion, accommodation or coercion. Is it expected that the South African authorities are going to be converted to a new perspective, coerced into ending apartheid, or not converted but obliged to make some (adequate) changes? Isolation, symbolic action or intervention may be the method in all three cases. Effective codes within a policy of constructive engagement makes sense if conversion or accommodation is sought. Importantly, it should be recognized that even if codes amount to largely symbolic action, they do have a useful expressive function. They are a statement about the morality of apartheid, which is useful in reinforcing international morality as well as contributing to a sense of isolation in South Africa. Disinvestment, even if more token than real (59) is, likewise, a contribution to isolation and also therefore trying to achieve conversion. Yet there are many people, and their number seems to be increasing, who believe the end of apartheid is only likely to be achieved through the coercion of the South African authorities. If this is the case, then the trade and other negative sanctions required make codes of conduct redundant.

## NOTES AND REFERENCES

- 1) A 'Directory of Sanctions', listing more than 50 actions, forms part of Hanlon, Joseph and Roger Omond, The Sanctions Handbook (Harmondsworth, Penguin, 1987).
- 2) Longford, Charles, South Africa: Black Blood on British Hands (London, Junius, 1985), p 12.

- 3) Lipton, Merle, Capitalism and Apartheid: South Africa 1910-1986 (Aldershot, Wildwood House, 1986), p 365.
- 4) See Hanlon and Omond, op cit (note 1); and, particularly for an outline of the South African codes, Centre for Business Studies, A Case Against Disinvolvement in the South African Economy (Johannesburg, University of Witwatersrand, 1980).
- 5) 'Sullivan's retreat', Economist, June 13, 1987.
- 6) See, for example, Holman, Michael, 'Disinvestment can backfire', Financial Times (London), July 10, 1987; Preece, Howard, 'Cynicism Over Pullouts', in South Africa: The Economic Prospects, supplement to Euromoney, March 1987. Sampson writes: "Total disinvestment was like the nuclear deterrent, more effective as a threat than an act" (Sampson, Anthony, Black and Gold (Sevenoaks, Coronet Books, 1987), p 357).
- 7) Her Majesty's Government, Wages and Conditions of African Workers Employed by British Firms in South Africa, Command 5845 (London, HMSO, 1974).
- 8) Sampson, op cit (note 6), pp 163-4.
- 9) First, Ruth, Jonathan Steele and Christabel Gurney, The South African Connection: Western Investment in Apartheid (London, Temple Smith, 1972).
- 10) Mike Terry, Executive Secretary, Anti-Apartheid, London, in telephone interview September 17, 1987.
- 11) Robin Smith, Senior Lecturer, Durham University Business School, UK, in telephone interview September 18, 1987 (Robin Smith has widely researched unionization and employment conditions in South Africa); Sampson, op cit (note 6), pp 169-70.
- 12) Her Majesty's Government, Code of Conduct for Companies with Interests in South Africa, Command 7233 (London, HMSO, 1978).
- 13) This is confirmed in Centre for Business Studies, op cit (note 4). It was also confirmed by Mr J S J Kruger, the South African Commercial Minister at the embassy in London, in interview, February 2, 1984. He did, however, comment that the Group Areas Act might provide some impediment to compliance with strengthened codes which sought to ensure that workers in foreign subsidiaries received the same benefits and treatment as their domestic counterparts (as in the provision of company housing).
- 14) Department of Trade and Industry (DTI), Code of Conduct for Companies with Interests in South Africa: Analysis and Summary of Companies' Reports for the Period 1 July 1982 to 30 June 1983 (London, DTI, 1984).
- 15) Spokesman for the DTI, in interview, March 9, 1984.
- 16) Smith, Robin, 'US leads fight on apartheid at work', Guardian (London), August 13, 1985.
- 17) Spokesman at the DTI, in telephone interview, September 18, 1987.
- 18) The Sullivan code is wider in scope, especially when it was expanded to include the provision that companies should lobby vigorously against apartheid. The six principles are:
  - 1) Non-segregation of the races in all eating, comfort, locker room and work facilities.
  - 2) Equal and fair employment practices for all employees.
  - 3) Equal pay for all employees doing equal or comparable work for the same period of time.

- 4) Initiation and development of training programs that will prepare blacks, coloreds, and Asians in substantial numbers for supervisory, administrative, clerical and technical jobs.
- 5) Increasing the number of blacks, coloreds and Asians in management and supervisory positions.
- 6) Improving the quality of employees' lives outside the work environment in such areas as housing, transportation, schooling, recreation and health facilities.

Additionally, signatories of the Sullivan principles agree to observe minimum-wage rules and acknowledge the right of black unions to organize their workers.

- 19) Smith, Michael, 'EEC hits at 'apartheid' firms', Guardian (London), February 9, 1983.
- 20) Owen, Richard, 'Europe's apartheid code tells firms to fight pass laws', The Times (London), November 21, 1985.
- 21) Her Majesty's Government, Code of Conduct for Companies with Interests in South Africa, Command 9860 (London, HMSO, 1986).
- 22) Pagano, Margareta, 'SA firms urged to encourage blacks', Guardian (London), July 23, 1986.
- 23) Due to disinvestment coupled with the recession in the South African economy and the slump in the rand on the one hand, and the huge rise in share prices on the insulated Johannesburg Stock Exchange on the other; see Preece, op cit (note 6). EEC foreign investment in South Africa was put at 63.7% of total foreign investment by Lloyds Bank in 1986 ('Republic of South Africa: Economic Report 1986'). Figures for total UK investment were generally put at around £10-12 bn in 1986; see Tyler, Christian, 'EEC code for companies in South Africa revised', Financial Times (London), July 19, 1986. However, the British Industry Committee on South Africa (BICSA) 1986 estimates are probably more accurate as they are revised downwards to account for withdrawals and the devaluation of the rand. They put direct investment at £2.7 bn and indirect investment at £3 bn. They suggest British investment accounts for 40% to 45% of total foreign investment in South Africa (source: BICSA pamphlet).
- 24) Adapted from Hanlon and Omond, op cit (note 1), p 286. The other EC countries (Ireland, Greece and Luxembourg) were not listed so it is assumed they do not have companies with interests in South Africa.
- 25) The UK is South Africa's third largest export market (after USA and Japan) and third largest source of imports. West Germany is South Africa's seventh largest export market and the largest source of imports (USA is the second largest source). Data from Economist Intelligence Unit, 'South Africa', Country Report, No 3, 1987.
- 26) DTI spokesman, op cit (note 17). UK government satisfaction with the operation of the code was expressed in the House of Commons, as recorded in Hansard, January 25, 1984.
- 27) UKSATA, British Trade with South Africa: A Question of National Interest (London, United Kingdom South Africa Trade Association Ltd, 1982), p 32.
- 28) Ibid, p 31.
- 29) 'CBI paper condemns apartheid', Guardian (London), December 9, 1985.
- 30) BICSA pamphlet.
- 31) Interestingly, because of this purpose Rowntree Mackintosh was criticised by its second largest shareholder, the Joseph Rowntree Charitable Trust, for joining BICSA. The trust called the connection with BICSA deplorable and sought its withdrawal from the association. See Brasier, Mary, 'Rowntree censured on sanctions', Guardian (London), August 21, 1986.

- 32) BICSA spokesman in a telephone interview, September 17, 1987.
- 33) Ivens, Michael, 'The Corporate Role in Fighting Apartheid: British Style', Business and Society Review, No 58 (Summer 1986). Michael Ivens is executive director of AIMS of Industry in London.
- 34) Kruger, op cit (note 13). Also see Lipton, op cit (note 3), p 60.
- 35) Terry, op cit (note 10).
- 36) Lipton, op cit (note 3), pp 145-9.
- 37) DTI spokesman, op cit (note 17).
- 38) Smith, op cit (note 16).
- 39) Hanlon and Ormond, op cit (note 1), p 61.
- 40) Agenor, EEC: Life-Blood of Apartheid (Brussels, Agenor, 1980).
- 41) So, for example, a spokeswoman for the Birmingham Trade Union Resource Centre (TURC) commented in a telephone interview, September 18, 1987: "there has to be some sorts of standards that have to be met". (The Centre has produced a report which is critical of the code; see Snell, Paul, The Apartheid Connection (Birmingham, TURC, 1986).)
- 42) Smith, op cit (note 11); Terry, op cit (note 10); Longford (op cit (note 2), pp 65-6) notes that in 1979 the underground black South African Congress of Trade Unions criticised the code because the aims behind it were constructive engagement and therefore:
- 1) To put pressure on the white minority regime in South Africa to grant limited reforms to the oppressed people in order to stem the tide of revolution which is sweeping through southern Africa, and thereby to preserve South Africa as a haven for capitalist investment.
  - 2) To diffuse anti-apartheid pressure from African countries and to protect growing European investment.
  - 3) By posing as the genuine friends of liberation in South Africa to confuse and undermine the anti-apartheid struggle in Europe.
- 43) Spokeswoman at War on Want, London, telephone interview, September 18, 1987.
- 44) Ian Lepper of Counter Information Services, London, telephone interview, September 18, 1987.
- 45) Ibid; Pallister, David, 'London controls S African mine in black pay dispute', Guardian (London), September 2, 1985; Tyler, op cit (note 23).
- 46) Terry, op cit (note 10).
- 47) ANC spokesman in telephone interview, September 18, 1987.
- 48) The view expressed by Robin Smith, op cit (note 11).
- 49) However, as this is the first report produced under the modified code, there are some difficulties in making comparisons with earlier years; DTI, Code of Conduct for Companies with Interests in South Africa: Analysis and Summary of Companies' Reports for Period 1 July 1985 to 30 June 1986 (London, DTI, 1987)

- 50) DTI, Code of Conduct for Companies with Interests in South Africa: Analysis and Summary of Companies' Reports for the Period 1 July 1984 to 30 June 1985 (London, DTI, 1986).
- 51) Pallister, David, 'Cash that keeps Pretoria in Profit', Guardian (London), June 1, 1984.
- 52) 'Getting out', The Observer (London), November 23, 1986.
- 53) Companies in the public eye because of their South African interests would refer to their compliance with the code. Barclays Bank, for example, published their code report as a publicity pamphlet.
- 54) Terry, op cit (note 10).
- 55) This issue is discussed in more detail from a UK perspective in Smith, N Craig, 'How the West Gains from Apartheid: The Case of the United Kingdom', in Sethi, S Prakash (ed), The South African Quagmire (New York, Ballinger, 1986).
- 56) DTI spokesman, op cit (note 17).
- 57) 'Flight from South Africa', Economist, September 7, 1985.
- 58) This analysis draws on Sharp, Gene, The Politics of Nonviolent Action (Boston, Porter Sargent, 1973); and Galtung, Johan, 'On the Effects of International Economic Sanctions', World Politics, Vol XIX, No 3 (1967).
- 59) It has been suggested that many disinvestments from South Africa have been token gestures. See, for example, Sampson, op cit (note 6), pp 356-7.