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Letter dated 22 April 1985 from the Chargé d'affaires a.i. of the Permanent Mission of Australia to the United Nations addressed to the Secretary-General

I have the honour to transmit to you the text of a statement by the Australian Foreign Minister, Mr. Bill Hayden, M.P., in the House of Representatives on 18 April 1985 in which he introduced an Australian Code of Conduct for Australian companies with commercial interests in South Africa.

I should be grateful if you could circulate this statement as an official document of the General Assembly, under item 35 of the preliminary list, and of the Security Council.

(Signed) Cavan O. HOGUE
Acting Permanent Representative

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ANNEX

Statement by the Australian Foreign Minister, Mr. Bill Hayden, in the House of Representatives on 18 April 1985 in introducing an Australian Code of Conduct for Australian Companies with commercial interests in South Africa

Mr Speaker,

Successive governments have expressed in this House on many occasions their abhorrence of, and indignation at, the lethal and unjust system of apartheid practised in South Africa. Honourable Members will recall that, as recently as March 22, I vented the Government's outrage at the killing of at least seventeen black South Africans by police the day before the 25th anniversary of the infamous massacre at Sharpeville. My remarks then were wholeheartedly endorsed, I am pleased to say, by the Honourable Member for Goldstein who speaks for foreign policy for the Opposition.

The Uitenhage killings were the culmination of a series of violent clashes between black people and police in South Africa. At least 200 people were killed last year during demonstrations against apartheid. Before the Uitenhage incident, 18 people had been killed and more than 200 injured in the crossroads disturbances. Indeed, more than 100 people have been killed by the South African authorities so far this year. Many non-white leaders have been detained. Unrest and resistance among non-white South Africans continue to grow, despite the official force arrayed against them.

South Africa is unique in the most melancholy sense: it has built its very constitution on the cornerstone of racism: it has organised its very society on the basis of racism: it is defending racism by the most repressive security laws and apparatus. The South African Government's defence of this racist system has been combative and brutal. It has responded to dissent, however peaceful, with systematic repression. Instead of analysing the causes and effects of its problems, it has continued to delude itself by blaming so-called revolutionary elements, allegedly funded and directed from outside the country. In fact, there are signs that it is preparing to bear down even more energeticcally on non-parliamentary opposition. Church leaders and their congregations have been arrested so as to prevent them demonstrating against Government actions. A three-month ban on all meetings by twenty nine specified organisations, including the United Democratic Front, has been imposed by the Minister of Law and Order. Fifteen black leaders and trade unionists who have been charged with treason have already been placed in detention. It is understood that a number of others are being held without charge.

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These actions reveal in all its ugly detail the South African Government's determination to stifle the expression of public dissent from its policies, however peaceably that dissent may be expressed. They demonstrate the emptiness of the South African Government's promises to enter into genuine and constructive dialogue with black leaders.

The South African Government has now decided to abandon its immorality legislation which created so much personal tragedy inside South Africa and so much ridicule outside it. The change is welcome and it should be acknowledged. But it must also be recognised as an advance that is slight so long as the other, fundamental parts of the apparatus of racial repression remain. I am referring to such legislation as the Group Areas Act and the pass laws and the whole workaday machinery of apartheid.

For Australians, the continuing violence and loss of life and diminution of freedom in South Africa are matters of profound concern. We have urged South Africa in the strongest possible terms to ease racial tensions and establish dialogue with representative leaders of those who oppose its policies. Certainly, the Austalian Government cannot, in present circumstances, accept the credibility of South Africa's professions of intent to reform the social system which is causing such division. It is this system - this fundamental denial of human rights - which is the root cause of the violence and confrontation which is tearing South Africa apart. It is apartheid which has created and is aggravating so much tension and unrest in Southern Africa as a whole. For all these reasons, the present Australian Government, like its predecessor, continues to take action in a number of areas in an effort to induce the South African Government to abandon apartheid.

With this policy of inducement in view, the Government conducted a broad-ranging review of all our relations with South Africa in May 1983. One result was a tightening in the conditions applied to civil aviation and sporting links between Australia and South Africa. Included in the relations examined in the review were normal commercial activities in South Africa by Australian companies. In the absence of comprehensive ecoomic sanctions adopted by the United Nations Security Council and implemented by South Africa's major trading partners, the review led the Government to decide to permit these activities to continue but without avoidable official assistance. In this context it was decided also that the question should be investigated whether or not a formal, voluntary code of conduct should be observed by Australian companies with commercial interests in South Africa. I wish to announce to Honourable Members that, as a consequence of this investigation, the Government has decided that such a scheme should be introduced.

It is clearly unacceptable for any Australian company to pursue commercial activities in South Africa which might exploit the peculiar employment conditions which arise because of apartheid. Several major developed countries have voluntary, official or private, codes of conduct for the activities of their national companies operating in South Africa, for example, the EC and Canadian codes and the Sullivan principles in the United States of America. It has been accepted that these codes have had a moderating influence on South Africa's labour situation. The Australian code of conduct will bring standards for Australian companies in South Africa into line with the standards for companies operating there under the provision of other codes.

The proposed Australian code takes account of recent developments in industrial relations in South Africa. Since 1979, following the acceptance by the South African Government of many recommendations by the Wiehahn Commission of Inquiry into labour relations, black trade unions have developed significantly, as has the industrial relations system in which they operate. Labour law has been rid of provisions that discriminated on the basis of race, and protection from intimidation and unfair dismissal by employers is now assured by law. Despite these statutory provisions, there are still extensive restrictions on black workers. The right to strike is still restricted, for example, and black workers are restricted by laws which fall outside the strict scope of industrial relations: influx control laws such as the Black Urban Areas Act and the Group Areas Act. There are also provisions which disadvantage black workers in other areas, including job mobility, training, workers' compensation and safety. A number of prominent trade union leaders are among those detained by the South African authorities.

I must acknowledge the scepticism of some black South African activists and others about the efficacy of codes of conduct. It has been claimed that such action has, at best, an ameliorative effect on apartheid while leaving its fundamental nature and effects unchanged. These people argue that fundamental changes in South Africa can be brought about only by strong external economic pressure, such as comprehensive sanctions or disinvestment. They argue that, while such drastic action will cause short-term economic difficulties for black South Africans, it is the only way to strike directly at apartheid. The Government's 1983 decision does not put Australia in a position to take such unilateral action. I must emphasise that there is no general movement by other countries to implement disinvestment or more comprehensive economic sanctions nor has the United Nations Security Council taken such action.

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It should be borne in mind that, were Australia to act unilaterally in this area (as some have strongly recommended), we would only penalise ourselves with no evident impact on South Africa. Othe suppliers would move into our place. To be effective, sanctions would (I repeat) have to be applied by all of South Africa's major suppliers. We believe that effective economic sanctions should be instituted by the world community including South Africa's major trading partners and we would implement an embargo of this nature.

I am confident that the introduction of an Australian code of conduct will be a positive and productive action. There is some evidence that black economic power, which has been both a cause and effect of the development of black trade unions, is still growing. Ultimately, this will have an important impact on the process of change and reform in South Africa, particularly as it affects black people. There are a number of reasons for this prospective growth in black economic power: the absolute and proportional increase in the number of blacks in the economically active population: the predominance of blacks in the work force: their upward movement to more specialised jobs: their growing consumer strength: their continuing industrial organisation. I am sure that all Australians welcome these trends.

Successive Australian Governments have vigorously pursued policies to demonstrate Australian opposition to apartheid: restriction of sporting contacts, observance of an arms embargo and strict control of government-to-government contacts such as official trade promotion and airline services. There is, however, no Australian requirement of Australian companies to apply any particular practices or employment standards in their business dealings with or in South Africa, although some companies may be covered by the scope of other business codes of conduct. This code of conduct is designed to remedy this omission and is in line with action taken by other major trading nations. An Australian code of conduct, attuned to the current labour situation in South Africa, will provide support for reformist political change in South Africa.

The development of a distinctly Australian code of conduct has been a complex and lengthy process. We have tried to produce a document reflecting the Government's policy on economic relations with South Africa, the attitude of the Australian community toward South Africa, Australia's own human rights policies and legislation and recent developments in South Africa. At the same time, the Government has observed the legitimate commercial interests of Australian companies with interests in South Africa.

The Australian code of conduct will be a voluntary undertaking to apply to Australian companies or their subsidiaries, branches or affiliates, operating in, investing in or having representation in South Africa and which employ non-white personnel. The code incorporates, in its reporting format, a requirement for companies adhering to it to report annually to the Australian Government on their compliance, which will be monitored. The Code's requirements relate to all non-white employees of Australian companies with operations in South Africa, reflecting the Government's concern about discrimination against all non-white people, of whatever racial or ethnic background. Its provisions are based on widely accepted international and domestic principles and are consistent with the basic human rights conventions of the International Labour Organisation and Australia's Racial Discrimination Act.

The Government appreciates that there are those who will expect and argue that the Code should not be a voluntary but a mandatory one. However, successive Australian Governments have subscribed to the principle that no other country should exercise extra territorial legal authority extending to the operations of commercial entities functioning within Australia. All political parties have supported this position. I cite the steadfastness with which this country oposed the extension of United States anti-trust legislation to the activities of commercial entities operating in Australia. In these circumstances to insist that the Code of Conduct now proposed should be mandatory and with penalties, in the absence of mandatory sanctions adopted by the Security Council, would be inconsistent with this basic principle.

Companies adhering to the Code would behave in a manner and apply standards fundamentally consistent with their legal obligations and accepted standards of social responsibility in Australia. The Code does not require companies to take action outside what can reasonably be considered normal commercial activities or industrial relations practices, nor are companies expected to breach South African laws. For these reasons the Government expects and hopes that the maximum number of companies would agree to adhere to the Code.

The "Objectives of the Code" make it clear that the application of these principles to the operations of Australian companies with interests in South Africa is to ensure that Australian companies should not exploit the peculiar employment conditions generated by apartheid.

The operative paragraphs of the Code itself are self-contained and cover the significant aspects of apartheid which can affect companies in their commercial activities. The

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provisions are comparable with those of other Codes while taking into account subsequent developments in South Africa, such as the acceptance of black trade unions.

In outline, the Code's provisions cover the following matters :

(a) General : the Code is introduced by a brief statement of the basic principle of equality of treatment irrespective of race.

(b) Desegregation at place of work : rejects segregation which is a particularly offensive form of racial discrimination.

(c) Employment and industrial relations practices : applies the principle of equality of treatment to recruitment, employment and industrial relations practices.

Particular attention is given to the development of trade unions and comparable organisations.

(d) Remuneration : applies the fundamental principle of equal pay for equal work.

The provision recognises, however, that staged programs may be necessary to achieve this but insists that minimum wages must be at appropriate levels.

(e) Training and Management : extends the general principle of equality of treatment to the training and development of employees to facilitate the advancement of non-whites, who may be educationally disadvantaged because of apartheid, to senior positions.

(f) Labour Restrictions : provides guidance to companies for appropriate action to alleviate the deleterious effects of both restrictions on the free movement and residence rights of non-white South Africans and migrant labour which result from such restrictions. Because the restrictions occur outside the workplace (but have direct consequences for the workforce) recommended action is limited to providing advice and aid relating to legal matters.

(g) Quality of Life : takes into account the social and economic hardships imposed on non-whites in South Africa, and proposes fringe benefits and other measures which are consistent with those which a socially responsible employer in Australia would provide.

(h) Monitoring : companies' adherence to, and compliance, with the code plus the reporting of these matters will be major factors in the Code's success.

My Department will administer the Code, including the reporting format, the annual replies to which will provide the basis for effective monitoring. The form of the reporting format questionnaire seeks to balance the need for detailed information on the major operative aspects of the Code with the requirements for brevity, simplicity and avoidance of intrusion into the commercial activities of companies.

As the Code will be a voluntary undertaking it is desirable that there be consulttions with relevant Australian interest groups, prior to the Code's finalisation, in order to obtain maximum domestic support for it. This process of consultation will be undertaken by my Department which will shortly be writing to major industry organisations, the Australian Council of Trade Unions and the Campaign Against Racial Exploitation to seek their views on refinements which might be introduced into the Code. Following the consultative process, the Code will be widely publicised and I shall issue both general and individual invitations to Australian companies to adhere to it.

Mr Speaker, the Government expects that all Australian companies with interests in South Africa will comply with the Code. It will encourage companies to pledge publicly their adherence to the Code. It believes that full aderence to the provisions of the Australian Code of Conduct will provide better living conditions for all employees of Australian companies with interests in South Africa. The Code will enhance the reputation of those companies and reinforce the effectiveness of Australian and international opposition to apartheid.

The Government also intends to monitor the operation of the Code and evaluate its effectiveness as a basis for Australia exploring the possibility of bringing about worldwide adherence to its principles in a multilateral mechanism. We would look for opportunities in the United Nations, including as a member of the Security Council, to advance this policy.

Finally, the Government has decided to take a further decisive step to express its abhorrence of apartheid. As a member of the Security Council, Australia may be presented with a proposal for mandatory economic sanctions against South Africa. Honourable Members should know that Australia would vote in favour of such a proposal. Its motive for this policy is to try to induce the South African Government to abandon a vile and pernicious doctrine which (by forming the basis for all its actions) is leading ineluctably to national suicide and international instability.

Mr Speaker, I want to conclude by dealing with a separate but related matter about which I feel very strongly : the suggestion that some Australians would be playing cricket there. Many of our prominent athletes have announced that they

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would not compete against South Africa : Mark Ella in rugby and Tom Carroll and Tom Current in surfing are honourable examples. A number of sports associations have made the same stand such as the Australian Cricket Board and the Surf Life Saving, the Women's Bowls and the Australian Squash Racquets Associations. The Government welcomes the position of these individual athletes and organisations and respects them for it. Those who may be considering offers to play cricket in South Africa should follow their example and reject the offer.

However, they may try to rationalise it, their playing as Australian representatives in South Africa would be understood around the world and used by the South African authorities as an Australian endorsement of apartheid. Such terrible things have happened in South Africa in recent days, their pay for playing there would nothing less than blood money. No material reward would compensate for the irreparable damage which association with apartheid would inflict on their honour and public respect.

I agree with the sentiments of the editorial in The Age last Tuesday and with its suggestion that any cricketers who accepted such blood money should incur severe penalties from the Australian Cricket Board. What they are thinking of doing would be unworthy of any athlete representing Australia. They would be willing to trade their standing as representatives of their country to be exploited by the South African Government as propagandist symbols for all that apartheid represents. Their presence would be used by the South African Government to give some sort of respectability to a way of living based on, and thriving on, a barbarous, violent racism. The higher their pay for this, the more ashamed they should be. I personally could never be proud of an Australian team that included players who had so little respect for the reputation of their country.