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**Analýza efektivnosti privátních a veřejných sankcí  
na přímé zahraniční investice: případové studie  
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The Analysis of the Effectiveness of Public and Private Sanctions on  
Foreign Direct Investment: The Case Studies of Sudan and South  
Africa

**Diplomová práce**

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Prohlašuji, že jsem tuto diplomovou práci vypracovala samostatně na základě uvedených pramenů a literatury.

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# Contents

<b><u>INTRODUCTION</u></b>	<b>5</b>
<b><u>1. THEORY OF INTERNATIONAL ECONOMIC SANCTIONS</u></b>	<b>16</b>
<b>1.1 CONTEXTUALIZING ECONOMIC SANCTIONS</b>	<b>16</b>
1.1.1. HISTORICAL CONTEXT	16
1.1.2. INSTRUMENTAL MOTIVES OF SENDERS	20
1.1.3. EXPRESSIVE MOTIVES OF SENDERS	23
<b>1.2 INTRODUCTION TO SANCTIONS ON FOREIGN DIRECT INVESTMENT</b>	<b>27</b>
1.2.1 ROLE OF FOREIGN DIRECT INVESTMENT IN THE ECONOMY	27
1.2.2. CHANNELS TO INDUCE CORPORATE DIVESTITURE: PRIVATE AND PUBLIC AVENUES	30
1.2.3. FORMS AND METHODS OF CORPORATE DISINVESTMENT	37
<b><u>2. DIVESTMENT CAMPAIGN AGAINST SOUTH AFRICA</u></b>	<b>44</b>
2.1 ORIGINS AND COURSE OF THE DIVESTMENT CAMPAIGN	44
2.2 SOUTH AFRICAN ECONOMY AND ITS VULNERABILITY SANCTIONS ON FOREIGN DIRECT INVESTMENT	54
2.3 ECONOMIC AND POLITICAL EFFECTS OF DISINVESTMENT	61
2.4 DISINVESTMENT DECISION AND THE IMPACT OF EXTERNAL PRESSURES	76
<b><u>3. DIVESTMENT CAMPAIGN AGAINST SUDAN</u></b>	<b>88</b>
3.1 ORIGINS AND COURSE OF THE DIVESTMENT CAMPAIGN	88
3.2 SUDAN'S ECONOMY AND ITS VULNERABILITY TO SANCTIONS ON FOREIGN DIRECT INVESTMENT	98
3.3 OUTCOMES OF THE DIVESTMENT MOVEMENT	107
3.4 INTERPRETATION OF THE CAMPAIGN RESULTS	115
<b><u>CONCLUSION</u></b>	<b>121</b>
<b><u>ABSTRACT</u></b>	<b>129</b>

<b>BIBLIOGRAPHY</b>	<b>131</b>
SOURCES	131
LITERATURE	134
<b>APPENDIX</b>	<b>156</b>
LIST	156

# Introduction

## The nature and purpose of the study

Economic sanctions have been used by nations as a foreign policy tool for centuries. Since the times of the ancient Greece, states have imposed economic blockades, trade embargoes, restrictions on foreign assistance and other nonmilitary measures to advance their political objectives. The latter part of the 20<sup>th</sup> century witnessed an expansion of the repertoire of tools available to governments to punish or coerce a nation into altering its behavior. One of the most important of the new instruments have been sanctions on foreign direct investment, which are designed to deprive the target country<sup>1</sup> of the economic benefits generally associated with foreign direct investment (FDI). After being tested in the fight against the apartheid regime in South Africa, this type of sanctions have been employed against other countries, including Myanmar and, most recently, Sudan and Iran.

What is essential to note is that governments have not been the only entities to apply FDI sanctions with the view of bringing about policy changes in foreign nations. Challenging the central premise of the realist approach to international relations, which is that only states are capable of directly influencing world politics, nongovernmental actors have taken up the “weapon” of divestment to discourage foreign investment in pariah countries. The term “divestment” first came into widespread use in the 1960s, when a wide range of social activists in the United States initiated a divestment campaign calling on universities, state and local municipalities and other institutional investors to rid their investment portfolios of stock in companies with business operations in South Africa. Since the end of the apartheid era, private actors have launched a number of similar divestment campaigns whose targets have included Northern Ireland, Myanmar, and, most lately, Sudan, Israel and Iran.

The present paper is motivated by the attempt to shed some light on the effectiveness of international sanctions on foreign direct investment. Given

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<sup>1</sup> Consistent with the terminology used in the literature on economic sanctions, the study refers to the sanctioned countries as targets and sanctioning states as senders.

the increasing frequency with which FDI sanctions have been pursued by both public and private actors, it is desirable to examine whether they have been successful in achieving the required objectives. This analysis is particularly timely in the light of the revived and currently intensifying divestment campaign against Israel, which is intended to peacefully resolve the Arab-Israeli conflict.

A further motivation for this paper comes from the lack of comprehensive comparative studies of this type of sanctions. While the literature abounds with academic studies about the economic and political effects of FDI sanctions on South Africa and there exist a handful of studies on the other divestment movements, so far as the author is aware, no multiple-case study has been carried out to evaluate the effectiveness of this sort of economic measure. This paper is an initial attempt to fill the gap by considering two cases of sanctions on foreign direct investment: South Africa and Sudan.

These two African countries have been selected because they represent the two most visible instances of social activism in investment policies designed to exert pressure on a foreign policymaking organization to date. The choice of South Africa is particularly important given that the divestment phenomenon has its origins in the anti-apartheid movement, and that the campaign has been cited as the main inspiration for all those that followed. The selection of the Sudan divestment movement was also influenced by its remarkable size and speed of formation, both of which stand in contrast to the previous and ongoing divestment campaigns. The scope of the present study is limited to South Africa and Sudan, and the study covers neither the other instances of social activism campaigns nor the additional types of economic sanctions levied against the two nations.

The period chosen for this study is two time intervals, one from 1965 to early 1990s and the other from 2004 till the present. The years 1965 and 2003 mark the beginning of the divestment campaigns against South Africa and Sudan respectively. The other two time points denote the termination of the anti-apartheid divestment movement and reflect the ongoing nature of the campaign for Darfur. To situate the movements in historical, political and economic context, several sections of the paper go beyond the

designated time frame but these exceptions are confined to relatively small parts of the study.

The present work defines effectiveness as the extent to which sanctions achieve or contribute to the achievement of the stated long-term goals of the sender(s). In the case of South Africa, private and state actors were aiming to bring about a regime change (compel the Pretoria government to abandon the system of apartheid); the long-term objective of the actors involved in the sanctioning effort against Sudan has been to induce a policy change (force Khartoum into ending the conflict in Darfur). While the effectiveness is primarily defined in terms of meeting publicly stated long-run aims, the study also reflects the growing body of literature that argues that sanctions often serve multiple purposes, each of which needs to be assessed when evaluating the success of sanctions.

Following the terminology of William H. Kaempfer, James A. Lehman, and Anton D. Lowenberg, divestment is defined as an economic activity undertaken by private wealth owners (be it individuals or, more importantly, institutional investors), which involves the sale of stock in companies operating in the target countries in order to bring to bear pressure on the business entities to disinvest. Disinvestment or corporate divestiture, in turn, is the 'process of eliminating private corporations' ownership of physical assets' in the target states. Marginal disinvestment represents a type of government prohibition on new investment in the problematic countries.<sup>2</sup> An additional term used throughout the text is "economic disengagement", which encompasses all the three above activities.

The basic hypothesis underlying the study is as follows: *private and public sanctions on foreign direct investment are not an effective policy tool*. The author presumes that the potential of this type of sanctions to achieve instrumental objectives is hindered by the efficiency of international capital markets and the substitutability of capital.

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<sup>2</sup> KAEMPFER, William H. – LEHMAN, James A. – LOWENBERG, Anton D.: *Divestment, Investment Sanctions and, Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments*. International Organization, Vol. 41, 1987, No. 3, pp. 457-473. ([www.ebscohost.com](http://www.ebscohost.com))

The primary purpose of the present study is to analyze the effectiveness of international sanctions on foreign direct investment levied against a foreign policymaking organization by state and non-state actors. The secondary goal is to demonstrate that economic sanctions cases often exhibit a mixture of objectives sought by the sender, and that publicly stated motives might sometimes not be the principal reasons for sanctions' imposition.

### **The structure and methodology of the study**

The present paper is organized into three main chapters that are in turn divided into several sections. The first chapter is a theoretical introduction to the subject of economic sanctions, with the main focus being on sanctions on foreign direct investment. Building on the theory presented in the first chapter, the hypothesis is examined in the subsequent two chapters, which are case studies of South Africa and Sudan. These chapters follow the same structure, beginning with an overview of the development of the divestment movement, followed by placing the sanctions in economic context, proceeding to the results of the sanctioning efforts, and concluding with an analysis of the outcomes.

The theoretical chapter is divided into two basic sections, one covering the concept of economic sanctions in general and the other discussing the subject of the examined type of economic measure. The opening part of the first of the two sections sets economic sanctions within a historical framework, providing information on the evolution of the phenomenon. The remaining part of the section is devoted to the outline of the motives underlying the use of economic sanctions, the objectives being grouped into two broad categories – “instrumental” and “expressive”. While the purposes for the imposition of sanctions may overlap, the classification is an important foundation for the later evaluation of the policy tool.

The second of the two main parts of the chapter zeroes in on the theory of sanctions on foreign direct investment. Given that these measures are undertaken with the view of depriving the target of benefits accruing from the engagement of foreign actors with its economy, the section first discusses the role played by the inward direct investment in the host country economy.



This is followed by the introduction to the two possible channels (private and public) through which the main vehicles of foreign direct investment – multinational corporations – can be pressured into disinvestment. The first chapter concludes with a presentation of the available methods of corporate divestiture and an overview of political risks companies often face when operating internationally.

As has been outlined above, the second chapter of the study on South Africa is organized into four parts. The first one traces back the roots of the anti-apartheid divestment campaign as well as looks at the actions taken by the world governments to induce foreign disinvestment from South Africa. This part also delineates the course of the movement in the United States, following its many shifts and turns. The ensuing section assesses the degree of South Africa's dependence on foreign capital inflows, with the main attention being paid to the essential role played by foreign direct investment in the country's economic growth. Further discussed are the key external actors involved in the economy and the size and nature of their business activities. The groundwork for the subsequent section is also laid by analyzing the Achilles' heels of the South African economy.

The main objective of the third section is to evaluate the economic and political effects of disinvestment. The opening part gives figures as to how many foreign multinational corporations had pulled out of South Africa by the end of the campaign in the early 1990s, breaking the data down by nationality of the companies. This is succeeded by the discussion of the most popular form of corporate divestiture and the consequences of its usage for economic outcomes of the movement. Based on the theory introduced in the first chapter, the third segment of this chapter also explores the potential of the sanctions to induce policy changes in South Africa without necessarily inflicting heavy damage on the economy. The section on the effects of corporate withdrawals concludes with an appraisal of the success of FDI sanctions in achieving other than publicly stated objectives.

The final section of the chapter on South Africa assesses the contribution of privately directed pressures and government-imposed investment sanctions to the corporate decision to disinvest. After looking at the role of these exogenous political risks, the section continues with the

overview of additional political threats that transnational corporations operating in the country were confronted with. In parallel with the examination of political factors, the concluding part also briefly outlines factors of economic character that may have weighed in the corporate decision-making process.

To facilitate the analysis of the results of the two case studies, the organization of the chapter on Sudan mirrors the structure of the preceding one. The chapter begins by providing an insight into the motives behind the formation of the Sudan divestment campaign in 2004 and follows its evolution over the last few years. A great deal of attention is paid to the presentation of the targeted divestment model, which was developed by the Sudan Divestment Task Force, the coordinating entity for the movement. After the various elements of the model are elaborated on, the selective divestment campaign is contrasted with its South African predecessor to establish differences and similarities between the two movements. Subsequently, the section covers the actions taken by the United States – the only major country to impose investment sanctions – to stimulate withdrawal of business enterprises from Sudan.

The second section situates the Darfur divestment campaign into economic context, scrutinizing the role of inward direct investment in the Sudanese economy. The primary focus here is on the country's petroleum sector, which occupies the central position in the economy and is the top receiver of FDI inflows. After giving a brief overview of the development of the oil industry, the study introduces its key players, as well as the chief drivers for their economic engagement.

The aim of the third and fourth sections is to evaluate and explain the results of the use of FDI sanctions against Sudan. Just like in the previous chapter, the third part will provide information as to how many problematic companies have made the decision to leave the country and will attempt to determine the impact of the divestitures on Sudan's economy. Likewise, it considers the potential of investment sanctions to produce changes in Khartoum's conduct without hurting the entire economy and looks for the existence of other than instrumental motives driving the adoption of the

sanctions. The chapter is concluded with the fourth section, which interprets the outcomes of the movement.

The present paper uses a qualitative, multiple-case study design to examine the effectiveness of the use of sanctions on foreign direct investment against South Africa and Sudan. The study adopts an empirical-analytical approach and tests the hypothesis by applying the analytical, comparative and descriptive method. The descriptive method is the predominant method employed in the first chapter, which lays the theoretical groundwork for the following chapters. To place the anti-apartheid and Sudan divestment movements into the historical, economic and political context, this method is also applied in the first two sections of the second and third chapters.

Given the design of the study, comparative method is used throughout the case chapters. This method has allowed the author to establish differences and similarities between the divestment movements in term of scope, time frame, objectives and results. While descriptive method is prevalent in the first two sections of the chapters on Sudan and South Africa, the subsequent two parts primarily use analytical method, which serves to account for and evaluate the results of the imposition of the sanctions. Analytical method is also applied in the opening parts of the second and third chapters to determine the motives behind the employment of the policy tool.

## Literature Review

The subject of international sanctions on foreign direct investment has received virtually no attention from the Czech academic community. So far as the author is aware, no study on the subject matter has been undertaken by Czech scholars to date. Neither is there any work that has been translated to Czech language. The dearth of literature could be largely accounted for by the fact that both the anti-apartheid and Sudan divestment campaign has been almost entirely limited to the United States. An additional factor may be the lack of investment culture in the Czech Republic as compared to the United States.

Considering the non-existence of domestic literature on the given subject, the present study draws exclusively upon foreign academic sources. Perhaps because the United States has been the heart of both campaigns, the greatest body of literature covering both the current movement and its predecessor comes from the pen of American scholars. In the case of the divestment campaign against South Africa, a number of studies that have advanced our understanding of the subject have been also written by academicians of South African origin. The same cannot be said about scholars from Sudan in the case of the Darfur divestment movement who have largely stayed away from the debate on the investment sanctions.

Among the most essential sources for this study feature the works by South African economist Carolyn M. Jenkins, namely *The Economic Implications of Disinvestment for South Africa* and *Assessing the Damage: the Effects of Sanctions on South Africa*. The former, which was published by the South African Institute of International Affairs in 1986, represents the first academic attempt to evaluate in great detail the repercussions of the investment sanctions for the South African economy. Besides being a pioneer work, the major contributions of the study are that it identifies the Achilles' heels of the country's economy and provides a deep insight into the historical importance of both direct and indirect investment inflows to the country's economic development.

Other important sources on the anti-apartheid divestment movement include reports and publications of the Washington-based Investor Responsibility Research Center or scholars associated with the institute. At the height of the campaign, the research organization, which is widely considered to be one of the most authoritative sources of information on the subject, provided data and analysis on various elements of the divestment movement. These included the effects of the withdrawal of American corporations from the country (*Leaving South Africa: The Impact of U.S. Corporate Disinvestment* by Jennifer Kibbe and David Hauck), actions taken on South Africa-related investments by U.S. institutional investors (*The Domestic Debate over South Africa* by Kenneth Propp), and the student divestment campaign in the United States (*Divestment on Campus: Issues and Implementation* by Jennifer Kibbe).

The present study has been further enriched by the valuable contributions from two American professors of economics, William H. Kaempfer and Anton D. Lowenberg, who have written extensively on the subject of sanctions on foreign direct investment through the lens of public choice approach. In addition to a number of journal articles of the scholars, the author has drawn significantly on their study *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, which represents one of the most successful attempts to date to evaluate the role of foreign sanctions in precipitating the fall of apartheid. Given that the public choice approach pays a great deal of attention to interest groups and private actors, the works of Kaempfer and Lowenberg have proved particularly useful for the purposes of the study.

Largely because of the relative recency of the Sudan divestment movement, there are no academic works other than a handful of journal articles that are exclusively devoted to the current campaign. Perhaps the most informative and well-researched article on the subject has come from the pen of Luke A. Patey, a research fellow at the Danish Institute for International Studies. His 2009 essay, called *Against the Asian Tide: The Sudan Divestment Campaign* has given a good overview of the origins and development of the movement and has aptly depicted the inherent flaws in the design of the campaign. The only weakness of the study is that Patey, just like other contemporary scholars dealing with the theme of FDI sanctions, bases his analysis on the assumption that the divestment campaign against South Africa played a major factor in the abolishment of apartheid.

The author's understanding of the centrality of oil in the Sudanese economy and the crucial role played by Asian countries in Sudan's petroleum industry has been advanced through a number of reports published by nongovernmental organizations and research institutes. Perhaps the most useful in this regard has been the comprehensive report *Sudan, Oil, and Human Rights*, which was prepared by the Human Rights Watch in 2003. The several-hundred-page-long study provides a great insight into the evolution of the country's oil sector, detailed information on the involvement of external actors in the industry, and establishes a clear link between oil

development and human rights abuses committed by the Khartoum government in the southern part of Sudan.

Further information related to the Sudanese oil industry has been derived from a variety of journals (including *Third World Quarterly*, *Middle East Policy*, *Society for International Development* and *World Politics*) and articles that appeared in the *Sudan Tribune* and other newspapers. Data about Sudan's economy has been primarily taken from the Central Bank of Sudan, the World Bank and the International Monetary Fund reports. The full list of sources used is available at the end of the study.

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# 1. Theory of International Economic Sanctions

The objective of this chapter is to lay a theoretical foundation that will be built upon in the remaining part of the study. The chapter is organized into two main sections; the first one introduces the theory of international economic sanctions and the second section zeroes in on the theory of sanctions on foreign direct investment. The first of the two basic parts begins by providing a historical context for economic sanctions. It follows with an examination of the reasons behind the imposition of economic sanctions, which are grouped here into two categories: “instrumental” and “expressive”. The discussion is included to demonstrate that publicly stated motives, which to a large extent correspond to “instrumental” objectives, are not the only ones at work in the use of sanctions.

The section devoted to sanctions on foreign direct investment first gives an overview of the main contributions of FDI to the country where invested in order to demonstrate the potential dangers of foreign disinvestment for the stability of the host country economy. This is followed by a presentation of the two available avenues (private and public) through which pressure can be exerted on transnational corporations to coerce them into disinvestment. The first chapter concludes with an introduction to the possible forms of corporate withdrawal from the target country and an overview of political and economic risk factors that may induce disinvestment.

## 1.1 Contextualizing Economic Sanctions

### 1.1.1 Historical Context

Historical sources indicate that economic sanctions<sup>3</sup> have always been employed by competing or warring states as foreign policy instruments in

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<sup>3</sup> This study uses the definition put forward by Daoudi and Dajani:

'Economic sanctions (coercion) are actions initiated by one or more international actors (the 'senders') against one or more others (the 'targets') with either or both of



order to achieve political aims.<sup>4</sup> Since economic ties generally represent the most visible element of inter-state relations, countries aiming to punish their opponents typically target the adversary's economic links with the world.<sup>5</sup> Dating back to the fifth century B.C. and the enactment of the Megarian Decree by Pericles against the ancient Greek city of Megara, economic measures have often foreshadowed or accompanied warfare with the objective to hasten the downfall of the enemy by curtailing or eliminating its capacity to wage war.<sup>6</sup> Despite the frequent resort to economic sanctions for political and military leverage in the past centuries, it was only in the beginning of the 20<sup>th</sup> century that the notion of economic sanctions gained wider attention and prominence in international relations.

The horrors of the First World War significantly altered the understanding of the use of force and the consequent search for possible substitutes for armed hostilities and containment of aggression brought economic sanctions to the focus of the international community. The founders of the League of Nations and its successor organization the United Nations (UN)<sup>7</sup> attempted to put in place a universal system of order that would encourage the peaceful settlement of disputes and limit the use of force through the systematic employment of economic measures as an effective coercive weapon.<sup>8</sup> The followers of the Genevan School of Thought, who came to embody the chief proponents of the use of international economic sanctions as an alternative to the armed warfare, believed that the new tool in the diplomatic repertoire of the international society could

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two purposes; to punish the targets by depriving them of some value and/or to make the 'targets' comply with certain norms the senders deem important'.

See DAOUDI, M. S. – DAJANI, M. S.: *Economic Sanctions: Ideals and Experience*. London 1983, p. 7.

<sup>4</sup> VENTER, D. J.: *South Africa, Sanctions and the Multinationals*. Chichester 1989, p. 55.

<sup>5</sup> GELDENHUYS, Deon: *Isolated States: A Comparative Analysis*. Johannesburg 1990, p. 282.

<sup>6</sup> For a historical overview of economic sanctions see e.g. SIMONS, Geoff: *Imposing Economic Sanctions: Legal Remedy or Genocidal Tool?* London and Sterling 1999, pp. 11-37;

<sup>7</sup> The *doyenne* of economic sanctions Margaret P. Doxey suggests to distinguish between 'economic measures used as techniques of warfare, either in conjunction with military measures or independently, and economic sanctions employed by an international organization as part of a constitutionally authorized enforcement process'. See DOXEY, Margaret P.: *Economic Sanctions and International Enforcement*. London and Basingstoke 1980, p. 9; DOXEY, Margaret P.: *International Sanctions in Contemporary Perspective*. London and Basingstoke 1987, p. 4.

<sup>8</sup> SIMONS, G.: c.d., pp. 4-5. Neither the Charter of the League of Nations nor the Charter of the United Nations discarded the option of the use of military force under conditions stipulated in the founding treaties; in contrast to the past attention was diverted towards the peaceful settlement of international conflicts. See *Ibid*, p. 42.

prevent wars since states are rational actors and having 'the economic threat hanging over their heads, they will not find it worthwhile to deliberately wage wars of aggression'.<sup>9</sup>

Despite the high hopes held by intellectuals, scholars and statesmen for the employment of economic measures to forestall outbreak of armed hostilities, their intentions did not translate into political reality; the reputation for the "economic weapon" suffered a major setback with the reluctance of the League of Nations to implement economic measures during the Italian invasion of Ethiopia in 1935.<sup>10</sup> Other major cases of economic sanctions employed during the Cold War era, either within or outside the framework of the United Nations<sup>11</sup> to influence the behavior of a target country, also proved to be failures; examples most often quoted include the UN sanctions against Rhodesia that were authorized in 1966, the Organization of Petroleum Exporting Countries oil embargo during the years 1973-4, the boycott of Israel by Arab countries, the United States (US) boycott of Cuba, and the US grain embargo of the Soviet Union.<sup>12</sup>

The onset of the Cold War witnessed a changing pattern in the application of economic sanctions; during the 1990s the number of sanctions episodes dramatically increased and in all the major cases unilateralism gave way to multilateralism, usually under the auspices of the United Nations.<sup>13</sup> The new trend stands in contrast to the old one not only by the multitude of economic sanctions imposed but also by the wide array of purposes the punitive measures serve and actors they target. Economic measures have been primarily undertaken to deter states from aggression, restore democracy, prevent human rights abuses, and to punish regimes for

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<sup>9</sup> DAOUDI, M. S. – DAJANI, M. S.: c. d., pp. 18-19.

<sup>10</sup> HUFBAUER, Gary C. – SCHOTT, Jeffrey J. – ELLIOTT, Kimberly A.: *Economic Sanctions Reconsidered: History and Current Policy*. Washington 2007, p. 8.

<sup>11</sup> Economic sanctions come in many forms; they can be unilateral (employed by one country against one state or a group of state) or multilateral (imposed by the Security Council of the United Nations, a regional organization such as the European Union or a loose grouping of states acting in pursuit of a common objective).

<sup>12</sup> DAOUDI, M. S. – DAJANI, M. S.: c.d., p. 159.

<sup>13</sup> CORTRIGHT, David – LOPEZ, George A.: *Economic Sanctions in Contemporary Global Relations*. In: CORTRIGHT, D. – LOPEZ, G. A. (Eds.): *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?* Oxford 1995, p. 5. While in 45 years the UN Security Council authorized economic sanctions only in two instances (a trade embargo against Rhodesia in 1966 and an arms embargo against South Africa in 1977), during the 1990s sanctions were applied in sixteen cases. TOSTENSEN, Arne – BULL, Beate: *Are Smart Sanctions Feasible?* World Politics, Vol. 54, 2002, No. 3, p. 373. (www.jstor.org)

providing safe havens to terrorists and international war criminals.<sup>14</sup> In addition to states, non-state actors have been at the receiving as well as the dispensing end of economic sanctions.<sup>15</sup>

In spite of being an increasingly popular tool during the 1990s, long existing questions surrounding the efficacy and humanity of economic sanctions for foreign policy purposes multiplied.<sup>16</sup> As Thomas G. Weiss points out, while taking into account the different yardsticks used for measuring the efficacy of economic sanctions, 'success with sanctions is rare' and 'a review of multilateral sanctions against South Africa, Iraq, former Yugoslavia, and Haiti suggests that sanctions in and of themselves failed to bring desired changes'.<sup>17</sup> The humanitarian consequences of the broad United Nations sanctions against Iraq and Haiti have drawn attention to the negative and disproportionate humanitarian impact economic sanctions often have on the civilian population of the target state. In the words of economic sanctions experts David Cortright and George A. Lopez, 'often imposed to advance human rights and sometimes considered a humane alternative to military force, sanctions may cause economic and social effects that in some cases are as harmful as war itself'.<sup>18</sup>

In response to the growing concerns about the collateral damage resulting from comprehensive sanctions and the meager results they achieved, various think tanks, UN agencies, and nongovernmental organizations immersed in a policy process to develop more specific and creative sanctions. The result of the lengthy process was the creation of the so-called "smart" or "targeted" sanctions that are devised to put maximum pressure on culpable elites while sparing the general population.<sup>19</sup> While

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<sup>14</sup> WEISS, Thomas G.: *Sanctions as a Foreign Policy Tool: Weighing Humanitarian Impulses*. Journal of Peace Research, Vol. 36, 1999, No. 5, p. 499. (www.jstor.org)

<sup>15</sup> See e.g. HUFBAUER, Gary C. – OEGG, Barbara: *Beyond the Nation-State: Privatization of Economic Sanctions*. Middle East Policy, Vol. 10, 2003, No. 2, pp. 126-134. (www.jstor.org)

<sup>16</sup> PORTEOUS, Samuel D.: *Targeted Financial Sanctions*. In: BERDAL, Mats R. – MALONE, David M. (Eds.): *Greed and Grievance: Economic Agendas in Civil Wars*. Colorado and London 2000, p. 173.

<sup>17</sup> WEISS, T. G.: c. d., pp. 500-501.

<sup>18</sup> CORTRIGHT, David. – LOPEZ, George A.: *Financial Sanctions: The Key to a 'Smart' Sanctions Strategy* In: Fourth Freedom Forum,

[http://www.fourthfreedom.org/Applications/cms.php?page\\_id=38](http://www.fourthfreedom.org/Applications/cms.php?page_id=38) (20. 4. 2010)

<sup>19</sup> TOSTENSEN, A. – BULL, B.: c. d., p. 373. On "smart" sanctions see more e.g. CORTRIGHT, David – LOPEZ, George A. (Eds.): *Smart Sanctions: Targeting Economic Statecraft*. Lanham and Oxford 2002; DOXEY, Margaret P.: *Sanctions Through the Looking Glass: The Spectrum of Goals and Achievements*. International Journal, Vol. 55, 2000, No. 2, pp. 221-223. (www.jstor.org)

representing a step forward in the maximization of the effectiveness of economic sanctions, however, “smart” sanctions are not a panacea since they face an array of operational problems including legal loopholes, technical weaknesses, staff and budgetary shortages as well as political inhibitions.<sup>20</sup>

### 1.1.2 Instrumental Motives of Senders

The traditional or “instrumental” view of economic sanctions hold that the primary rationale behind the employment of punitive economic measures lie in the desire of the sender to punish or coerce the receiver to modify its behavior. The comprehensive study on economic sanctions *Economic Sanctions Considered* written by Gary C. Hufbauer, Jeffrey J. Schott and Kimberly A. Elliot suggest five broad foreign policy goals generally sought by the sender country (or coalition) from the target: a minor (for example halting human rights violations) or major (addressing illegal occupation of territory) change in the target’s policies; disruption of a military adventure; impairment of the target country’s military potential and a regime change.<sup>21</sup>

As suggested above, senders would generally impose comprehensive sanctions to achieve these foreign policy objectives. The common assumption behind broad economic measures is that the degree of political success of sanctions is positively correlated with the amount of economic damage they inflict on the target country.<sup>22</sup> The reasoning follows that general economic damage produced by sanctions will translate into political disintegration; suffering inflicted on the general public will lead to social unrest and grassroots political pressure on the governing elites to modify their objectionable conduct.

While the evidence indicates there is some empirical link between high economic costs imposed on the target country and sanctions’ success,<sup>23</sup> the

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<sup>20</sup> TOSTENSEN, A. – BULL, B.: c. d., p. 402.

<sup>21</sup> HUFBAUER, G. C. – SCHOTT, J. J. – ELLIOTT, K. A.: c. d., pp. 52-53.

<sup>22</sup> KAEMPFER, William H. – LOWENBERG, Anton D.: *The Problems and Promise of Sanctions*. In: CORTRIGHT, D. – LOPEZ, G. A. (Eds.): *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?*, p. 62.

<sup>23</sup> The study by Hufbauer, Schott and Elliott *Economic Sanctions Reconsidered: History and Current Policy*, which covered 204 sanctions episodes up to year 2000, concluded that political success of sanctions is positively correlated with economic damage; while the average cost to the target country

effect of sanctions on the ground in, among others, Iraq, Haiti and former Yugoslavia<sup>24</sup> suggests that studies questioning the existence of transmission mechanism between economic costs and the political effects of sanctions might also be essential to the understanding of the workings of economic sanctions.<sup>25</sup> Even though it may be the case, it should not be taken as a given that economic pain resulting from comprehensive economic sanctions will translate into political gain and sanctions' success.

As mentioned above, the poor outcomes achieved during the "sanctions decade"<sup>26</sup> and the concerns over the humanitarian effects of the "economic weapon" compelled the international community to turn toward the use of "smart" or "targeted" sanctions. The logic behind them is consistent with the public choice theory of economic sanctions,<sup>27</sup> which postulates that international economic sanctions may induce policy change by targeting domestic interest groups within the sanctioned country.<sup>28</sup> Public choice theory rejects the notion that states are single rational actors and posits that both foreign and domestic policies should be perceived as the result of a political process, in which a number of specific interest groups vie for influence to obtain certain desired outcomes.<sup>29</sup>

Accepting the assumption that domestic policy is determined endogenously by an interest group (or a number of interest groups) capable

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for all cases of success was 3.3. percent of GNP, average GNP loss was 1.6 per cent in failed episodes. HUFBAUER, G. C. – SCHOTT, J. J. – ELLIOTT, K. A.: c. d., p. 168.

<sup>24</sup> See e.g. WEISS, Thomas G. et al (Eds.): *Civilian Pain and Political Gain: Humanitarian Impacts of Economic Sanctions*. Lanham and Oxford 1997.

<sup>25</sup> The first scholar to point to the tenuous relationship between economic pain and political gain was Johan Galtung who called the pain-gain notion as "naïve". GALTUNG, Johan: *On the Effects of International Economic Sanctions: With Examples from the Case of Rhodesia*. World Politics, Vol. 19, 1967, no. 3, p. 388. (www.jstor.org) For other studies see. e.g. PAPE, Robert A.: *Why Economic Sanctions Do Not Work*. International Security, Vol. 22, 1997, No. 2, pp. 90-136. (www.jstor.org); TOSTENSEN, A. – BULL, B.: c. d., pp. 373-403.

<sup>26</sup> CORTRIGHT, David – LOPEZ, George A. (Eds.): *The Sanctions Decade: Assessing UN Strategies in the 1990s*. Lanham and Oxford 2000.

<sup>27</sup> It should be noted that the positive relation between carefully targeted sanctions to impact selected interest groups in the target country and sanctions' success have also been emphasized by scholars who do not belong to the public choice school of thought.

<sup>28</sup> KAEMPFER, William H. – LOWENBERG, Anton D.: *Targeted Sanctions: Motivating Policy Change*. Harvard International Review, Vol. 29, 2007, Fall, p. 70. (www.proquest.umi.com)

<sup>29</sup> KAEMPFER, William H. – LOWENBERG, Anton D.: *Unilateral Versus Multilateral International Sanctions: A Public Choice Perspective*. International Studies Quarterly, Vol. 43, 1999, No. 1, p. 38 (www.proquest.umi.com); KAEMPFER, William H. – LEHMAN, James A. – LOWENBERG, Anton D.: *Divestment, Investment Sanctions and, Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments*. International Organization, Vol. 41, 1987, No. 3, p. 457. (www.ebscohost.com)

of maximizing its influence on the policy outcome, sanctions ought to be crafted to have a selective impact: hurt those groups that gain from the objectionable policies of the target country and benefit the potential opposition to the given policy.<sup>30</sup> As William H. Kaempfer and Anton D. Lowenberg argue, 'the purely economic effects of sanctions are not necessarily conducive to achieving the desired political results and in general will only do so if they can be designed to selectively affect some interest groups in the target nation more than others.<sup>31</sup> Should the costs of pursuing the prevailing policy rise or the incomes of the groups benefiting from the objectionable behavior be negatively affected, supporters of the undesired behavior may opt to induce pressure for less of it.<sup>32</sup>

Public choice approach offers an additional indirect channel through which selective economic sanctions may stimulate policy change in the target country despite having little or no impact on the state's economic performance aggregate. According to this school of thought sanctions can also communicate signals or threats to members of interest groups within the sanctioned polity.<sup>33</sup> Signals conveyed through sanctions originating in foreign state entities can potentially enhance the political effectiveness of the opposition groups in the target state since their members might interpret the employment of economic pressure as a gesture of foreign support for their struggle against the more influential groups and the objectionable conduct.<sup>34</sup>

Pressure on the part of exogenous actors can serve as a catalyst for a change in the political effectiveness of domestic interest groups in three different manners. As a result of discovering that foreigners publicly endorse certain policy objectives, individuals within the target country might alter their personally held beliefs and preferences. Further, domestic opposition groups could interpret the show of foreign support as raising the likelihood of an eventual success in achieving the objectives they seek, which in turn

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<sup>30</sup> KAEMPFER, W. H. – LOWENBERG, A.D.: *Targeted Sanctions: Motivating Policy Change*, pp. 70-71.

<sup>31</sup> KAEMPFER, William H. – LOWENBERG, Anton D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*. Ann Arbor 1998, p. 84.

<sup>32</sup> KAEMPFER, W. H. – LOWENBERG, A.D.: *Targeted Sanctions: Motivating Policy Change*, p. 70.

<sup>33</sup> KAEMPFER, William H. – LOWENBERG, Anton D.: *The Theory of International Economic Sanctions: A Public Choice Approach*. The American Economic Review, Vol. 78, 1988, No. 4, p. 786. ([www.jstor.org](http://www.jstor.org))

<sup>34</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Problems and Promise of Sanctions*, p. 67.

could strengthen their efforts to work even harder. Finally, citizens in the target country may perceive international economic sanctions as a signal that foreign actors and entities regard the policy pursued by their governing elite reprehensible.<sup>35</sup> In all the three instances, 'pressures, policies or events emanating from abroad serve to strengthen the political effectiveness of certain domestic interest groups and diminish the effectiveness of others'.<sup>36</sup>

As Kaempfer and Lowenger point out, however, a positive impact of international economic sanctions on internal policy-making process hinges on the existence of 'a reasonably well-organized opposition group' whose effectiveness in political mobilization could be increased through the signaling aspect of sanctions. If the domestic opposition is weak and divided, however, the imposition of economic sanctions may produce contradictory effects; instead of debilitating the target country's ruling regime, the sanctions could generate a "rally-around-the-flag" phenomenon and strengthen it.<sup>37</sup>

Ivan Eland argues that in addition to the existence of a strong domestic opposition, which would join forces with the sanctioning foreign state and put pressure on the governing elite, the likelihood of a beneficial outcome of selective sanctions used as symbols is enhanced with publicity. The psychological impact of sanctions is maximized when future economic measures are threatened and knowledge of the potential threat permeates the society of the target country.<sup>38</sup> Likewise, sanctions imposed by a country with close cultural, historical, political and economic relations with the target nation will have greater chances for success.<sup>39</sup>

### 1.1.3 Expressive Motives of Senders

The question whether economic sanctions are useful foreign policy tools to promote change in other countries has been central to the sanctions

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<sup>35</sup> *Ibid*, p. 68.

<sup>36</sup> *Ibid*.

<sup>37</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *Unilateral Versus Multilateral International Sanctions: A Public Choice Perspective*, p. 51.

<sup>38</sup> ELAND, Ivan: *Economic Sanctions as Tools of Foreign Policy*. In: CORTRIGHT, D. – LOPEZ, G. A. (Eds.): *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?*, p. 36-37.

<sup>39</sup> *Ibid*, p. 35.

literature for decades. While some scholars have expressed moderate optimism about the utility of sanctions to achieve target-related goals,<sup>40</sup> the great majority of academicians conclude that sanctions are failed policy instruments in the vast majority of cases.<sup>41</sup> Given such widespread skepticism regarding the efficacy of sanctions, the issue remains why the last two decades have seen the increased tendency to select the “economic weapon” from the diplomatic repertoire of foreign policy tools. One plausible explanation for such a contradictory finding may lie in the fact that the primary objective of economic sanctions is not to affect political change in foreign nations but to satisfy a domestic audience.

Building on the work of Johan Galtung on pacifism,<sup>42</sup> in his study *The Economics of Export Embargoes: The Case of the US-Soviet grain suspension* Per Lundborg made a distinction between the “instrumental” and “expressive” purposes of sanctions. The former term constitutes actions aiming at 'solving a conflict in which the receiver is involved' and the latter refers to 'the domestic conditions of the sender'.<sup>43</sup> According to Lundborg, the application of economic sanctions is generally driven by “instrumental” motives and these are, with very few exceptions, also the official justification for sanctions. Whereas purposes of “instrumental” character are to compel the target country to change its policy or to diminish the nation’s military potential through economic pressure, sanctions emanating from “expressive” motives are imposed irrespective of their potential to succeed on the ground. Such means are undertaken 'since the sender feels obliged to act, for moral reasons or domestic political considerations'.<sup>44</sup>

Likewise, James Barber divided the motives underlying the use of economic sanctions into three broad categories: “primary”, “secondary” and

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<sup>40</sup> HUFBAUER, G. C. – SCHOTT, J. J. – ELLIOTT, K. A.: c.d.

<sup>41</sup> GALTUNG, J.: *On the Effects of International Economic Sanctions: With Examples from the Case of Rhodesia*, pp. 378-416; DOXEY, M. P.: *Economic Sanctions and International Enforcement*; DOXEY, M. P.: *International Sanctions in Contemporary Perspective*; WALLENSTEEN, Peter: *Characteristics of Economic Sanctions*. *Journal of Peace Research*, Vol. 5, 1968, No. 3, pp. 248-67 ([www.jstor.org](http://www.jstor.org)); SCHREIBER, Anna P.: *Economic Coercion as an Instrument of Foreign Policy: U.S. Economic Measures Against Cuba and the Dominican Republic*. *World Politics*, Vol. 25, 1973, No. 3, pp. 387-413 ([www.jstor.org](http://www.jstor.org)); PAPE, Robert A.: c. d, pp. 90-136.

<sup>42</sup> GALTUNG, Johan: *Pacifism from a Sociological Point of View*. *Journal of Conflict Resolution*, Vol. 3, 1957, No. 1, pp. 67-84. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>43</sup> LUNDBORG, Per: *The Economics of Export Embargoes: The Case of the US-Soviet Grain Suspension*. New York 1987, p. 5.

<sup>44</sup> *Ibid.*



“tertiary” objectives.<sup>45</sup> He classified “primary objectives” as motives related to the target country, and similarly to Lundborg concluded that these ‘tend to be given the most emphasis in the imposing state’.<sup>46</sup> Nevertheless, Barber demonstrated that cases of economic sanctions often exhibit a mixture of “primary objectives” with “secondary” and “tertiary” goals, which relate to the sanctioning country and the international community in a broad sense respectively.<sup>47</sup>

Positively, the “secondary objectives”, corresponding to Lundborg’s “expressive” motives, are intended to demonstrate the imposing country’s commitment to a certain position and willingness to act on it; negatively, a nation might initiate economic sanctions to deflect domestic criticism for not doing enough to address the situation in the target state. Moreover, an additional function of objectives relating to the imposing state may consist in the signaling power of sanctions; symbols can, for example, ‘express a sense of morality’.<sup>48</sup> Writing on the theme of economic sanctions, Anna Schreiber reasoned that sanctions may not have any tangible results in the target country but ‘as long as economic coercion can serve such primarily symbolic functions, governments will no doubt continue to use it as a tool of foreign policy’.<sup>49</sup>

The “expressive” dimension of international economic sanctions also emerges when sanctions are viewed through the lens of public choice theory. In the opinion of Kaempfer and Lowenberg, sanctions serve entirely different motives when the traditional “instrumental” perspective of sanctions is rejected: the primary purpose of the “economic weapon” is to further interests of domestic groups within the sanctioning nation.<sup>50</sup> While some interest groups seek the imposition of sanctions for pecuniary gains (for instance a ban on imports of goods is likely to be requested by

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<sup>45</sup> BARBER, James.: *Economic Sanctions As a Policy Instrument*. International Affairs, Vol. 55, 1979, No. 3, pp. 367-384. (www.jstor.org)

<sup>46</sup> *Ibid*, p. 373.

<sup>47</sup> *Ibid*, p. 372. James Lindsay provided an economic sanctions framework that categorized objectives pursued through sanctions into five categories: compliance, subversion, deterrence, international symbolism and domestic symbolism. The last two groups correspond to Barber’s “secondary” and “tertiary objectives”. LINDSAY, James M.: *Trade Sanctions As Policy Instruments: A Re-examination*. International Studies Quarterly, Vol. 30, 1986, Vol. 2, pp. 155-56. (www.jstor.org)

<sup>48</sup> *Ibid*, p. 380.

<sup>49</sup> SCHREIBER, A. P.: c. d., p. 413.

<sup>50</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Theory of International Economic Sanctions: A Public Choice Approach*, p. 786.

manufacturers of import-competing goods), other lobby for sanctions in order to 'enhance the psychic welfare of their members'.<sup>51</sup>

The latter argument is premised on a presumption that an individual's utility is conditioned by consumption, and that preservation of certain moral principles and beliefs represents one of the various consumption alternatives citizens have at their disposal. By spending their own time and resources on lobbying for sanctions, individuals not only achieve to uphold the ideological positions they adhere to but also to expand the effect of these attitudes by harnessing support among fellow citizens whom they convince to embrace their stance.<sup>52</sup> And as Kaempfer and Lowenberg emphasize, a failure to produce a positive change in the target nation does not preclude individuals from obtaining utility gained from consumption alternatives that advance their ideological positions; 'to consume a moral stance does not require individuals' ideological preferences to be realized in actual policy changes'.<sup>53</sup>

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<sup>51</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Problems and Promise of Sanctions*, p. 63.

<sup>52</sup> KAEMPFER, William H. – LOWENBERG, A. D.: *The Economics of the Call for Anti-Apartheid Investment Sanctions*. *Social Science Quarterly*, Vol. 68, 1987, No. 3, p. 529. ([www.jstor.org](http://www.jstor.org))

<sup>53</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 82.

## 1.2 Introduction to Sanctions on Foreign Direct Investment

### 1.2.1 Role of Foreign Direct Investment in the Economy

Just like other types of economic sanctions, restrictions on foreign direct investment are imposed to deprive the target country of benefits accruing from the engagement of foreign actors with its economy. Therefore, before proceeding to discuss the two channels through which sanctions on FDI can be applied, it is appropriate to consider the function of inward direct investment in the host country economy. Given that the scope of this study is limited to sanctions on direct investment, the advantages accompanying the other type of foreign capital inflows - indirect investment – will not be considered in great detail here.<sup>54</sup>

It has been long held by development economists that since there is a positive correlation between capital and economic growth and development, the rate of economic expansion is significantly contingent upon the level of domestic investment, and hence of domestic savings.<sup>55</sup> Given that capital is scarce especially in developing countries, any such nation is dependent on inflow of direct and indirect foreign investment in order to finance its domestic investment and current account deficits.<sup>56</sup>

Following the definition by Ricky W. Griffin, foreign direct investment takes place 'when a firm headquartered in one country builds or purchases operating facilities or subsidiaries in a foreign country'.<sup>57</sup> The incentives to acquire an ownership claim are diverse but the bottom-line motive behind direct investment flows is to take advantage of an investment opportunity.<sup>58</sup> FDI allows a parent company to benefit from lower labor costs in developing countries; avoid trade restrictions or exchange rate movements; gain better

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<sup>54</sup> The literature on financial flows makes a distinction between direct and indirect investment, the former referring to flows of capital representing physical assets (real estate, factories, businesses, transportation facilities etc.) and the latter to flows of financial assets representing paper assets (stocks, bonds, loans etc.).

<sup>55</sup> JENKINS, Carolyn M.: *The Economic Implications of Disinvestment for South Africa*. Braanfontein 1986, p. 48.

<sup>56</sup> MANGALISO, Mzamo P.: *Disinvestment by Multinational Corporations*. In: CRAWFORD, Neta C – KLOTZ, Audie (Eds.): *How Sanctions Work: Lessons from South Africa*. Basingstoke and London 1999, p. 146.

<sup>57</sup> GRIFFIN, Ricky W.: *Management*. Boston 2006, p. 122.

<sup>58</sup> JENKINS, Carolyn M.: *The Economic Implications of Disinvestment for South Africa*, p. 18.

access to foreign markets; and improve the efficacy of their subsidiaries through production rationalization and exploitation of economies of scale and scope.<sup>59</sup>

While the empirical evidence on the link between foreign direct investment and economic growth remains inconclusive, there is a general agreement that FDI has the potential to stimulate economic growth in host countries through several mechanisms. The first channel via which FDI can positively affect the host economy can be found in the net contribution of FDI to the recipient country's savings and investment.<sup>60</sup> Given that multinational corporations (MNCs) generally have superior access to financial resources (either internal funds or external sources such as capital markets and financial institutions) than do indigenous enterprises, direct investment through MNCs increases the level of domestic investment and, in turn, produces economic growth.<sup>61</sup>

Technology transfer represents another and one of the most important avenues through which multinational corporations might generate positive externalities in the host economy.<sup>62</sup> Since MNCs are the most essential sources of corporate research and development activity and they generally hold a higher degree of technology than do states outside of the major advanced countries, presence of multinational corporations in the host country has the potential to transfer their superior technology and skills to the local economy and, hence, to have a positive effect on economic growth.<sup>63</sup>

This can be accomplished largely through vertical linkages established between MNCs and suppliers or purchasers in the host country; local suppliers are often assisted with training, technical advice, upgrading manufacturing facilities and other information that would enable them to deliver better quality products. Alternatively, technology can be diffused through horizontal linkages with companies within the same industry;

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<sup>59</sup> See e.g. GRIFFIN, R. W.: c. d., p. 122.

<sup>60</sup> FORTANIER, Fabienne: *Foreign Direct Investment and Host Country Economic Growth: Does the Investor's Country of Origin Play a Role?* Transnational Corporations, Vol. 16, 2007, No. 2, p. 43.

<sup>61</sup> JENKINS, Carolyn M.: *The Economic Implications of Disinvestment for South Africa*, p. 54.

<sup>62</sup> FORTANIER, F.: c. d., p. 43.

<sup>63</sup> *Foreign Direct Investment for Development: Maximizing Benefits, Minimizing Costs (Overview)*. In: OECD, [www.oecd.org/dataoecd/47/51/1959815.pdf](http://www.oecd.org/dataoecd/47/51/1959815.pdf) (26. 5. 2010).

despite efforts on the part of multinational companies to prevent technology leakage to local competing businesses, these often acquire superior technology that allows them to increase their productivity.<sup>64</sup> Nevertheless, it needs to be stressed that the technology transfer may not necessarily be advantageous to host economies if 'the techniques of production are inappropriate to the factor endowments/the size of the market of the receiving country'<sup>65</sup> or when the level of technological sophistication available in the host country is too low to enable local enterprises to absorb foreign technologies<sup>66</sup>

Moreover, foreign direct investment can positively contribute to economic development by enhancing human capital in the recipient country. This occurs either indirectly, when developing countries' governments allocate financial resources to education to attract foreign investment, or directly through training and on-the-job learning of local personnel.<sup>67</sup> As in the case of technology transfer, the presence of foreign corporations may also lead to a diffusion of advanced management skills and techniques acquired through training to host country firms.<sup>68</sup>

In addition, foreign direct investment might indirectly promote economic development by stimulating domestic competition and improving the allocation of resources;<sup>69</sup> enabling local businesses to offer high quality products and services to other buyers in the host economy; contributing to develop and expand export opportunities for local suppliers whose products and services are demanded by buyers in the international economy.<sup>70</sup>

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<sup>64</sup> *Ibid*, p. 13.

<sup>65</sup> JENKINS, Carolyn M.: *The Economic Implications of Disinvestment for South Africa*, p. 57.

<sup>66</sup> FORTANIER, F.: c. d., p. 48.

<sup>67</sup> *Foreign Direct Investment for Development: Maximizing Benefits, Minimizing Costs (Overview)*.

<sup>68</sup> MORAN, Theodore H.: *How Does FDI Affect Host Country Development? Using Industry Case Studies to Make Reliable Generalizations*. In: MORAN, Theodore H. – GRAHAM, Edward M. – BLOMSTRÖM, Magnus: *Does Foreign Direct Investment Promote Development?* Washington 2005, p. 301.

<sup>69</sup> FORTANIER, F.: c. d., p. 44.

<sup>70</sup> MORAN, T. H.: c. d., p. 301.

### 1.2.2 Channels to Induce Corporate Divestiture: Private and Public Avenues

Given that foreign direct investment largely occurs through multinational corporations, interest groups that seek to change the policies of a foreign nation through FDI sanctions direct their efforts at eliminating private corporations' ownership of physical assets in the country. Attempts at compelling multinational corporations to cease their business operations in the target country can be made through two channels. The first one represent nongovernmental actors (civil society organizations, faith-based organizations, associations etc.) who engage in activities intended to circumvent states and put direct pressure on the corporations. The second avenue involves state governments who, often as a result of pressure from domestic interest groups, pass laws prohibiting their companies from holding direct assets in the target country.

Efforts of non-state actors to regulate the behavior of multinational corporations are not a recent phenomenon. The origins of socially responsible investment can be traced back to the beginning of the last century when religious investors refused to make investments in companies producing morally questionable goods such as alcohol or tobacco. This long tradition carried through the years surrounding the Vietnam War, during which anti-war demonstrators withdrew investments from companies supplying military weapons.<sup>71</sup> In the following years came the divestment campaign against South Africa and other movements that used moral suasion and market pressure with the view of taming multinational corporations.

Capital markets that allow large corporations to raise capital to fund their operations and long-term investment also provide means for guiding and regulating their behavior. While corporate managers of publicly traded firms hold a fiduciary responsibility toward shareholders to maximize their

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<sup>71</sup> KLINGER, Scott W.: *Social Investing in a Changing World*. Best's Review, Vol. 10, 1994, No. 2, p. 68. ([www.proquest.umi.com](http://www.proquest.umi.com))

wealth, owners of stocks have 'the right, responsibility and power to define the nature of their expected return as well as operational guidelines for how the company conducts its business'.<sup>72</sup> Since the majority of shares that trade on major stock exchanges is owned by large institutional investors such as life insurance companies and pension funds, it is these institutions that represent the most effective avenue through which to exert pressure on MNCs.<sup>73</sup>

There are a number of tools available for investors to make multinational enterprises more ethically responsible. One of the most frequently utilized is shareholder activism (or shareholder advocacy), which is premised on the belief that shareholders should actively engage in discussions with corporations on issues of their concern and employ voting shares to support proxy resolutions aiming to influence corporate behavior towards greater corporate social responsibility.<sup>74</sup> A further mechanism of the SRI movement is provided in the form of socially responsible mutual funds, which are managed investment schemes that use targeted “positive” or “negative” screens to create an investment portfolio. Socially responsible investment portfolios contain securities of companies with superior social or environmental performance and exclude stocks and bonds of corporations engaged in morally questionable behavior.<sup>75</sup>

Last but not least, shareholders attempt to effect changes in the corporate policies of foreign firms operating in host countries by selling their shares in these companies. The logic behind divestment lies in the supposition that disposal of shares will reduce total demand for boycotted stock, and this will consequently depress the prices of these stocks. The reasoning follows that the decreased share prices will motivate the culpable corporations to modify their conduct, being it withdrawal from a host country, increased engagement in corporate social responsibility or other measures.

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<sup>72</sup> KLINE, John M.: *Ethics for International Business: Decision Making in a Global Political Economy*. Abingdon and New York 2005, pp. 226-27.

<sup>73</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 123.

<sup>74</sup> MITCHELL, Charles: *A Short Course in International Business Ethics: Combining Ethics and Profits in Global Business*. California 2003, pp. 64-5.

<sup>75</sup> HAIGH, Matthew – HAZELTON, James: *Financial Markets: A Tool for Social Responsibility?* Journal of Business Ethics, Vol. 52, 2004, No. 1, pp. 60-61. ([www.ebscohost.com](http://www.ebscohost.com))

Divestment efforts have encountered a great deal of criticism on many fronts. Leaving aside the argument that there is a direct conflict between divestment and fiduciary responsibility,<sup>76</sup> the thrust of the debate over divestment centers on its effectiveness to achieve set goals. Calling divestment a 'one-shot conscience relief', J. Parker Hall contended that the act of selling shares is 'a very selective and indirect action' and that 'there are a great many more direct and effective ways to pressure companies and politicians to mend their ways'.<sup>77</sup> According to many, the appropriate manner to do so is through shareholder activism and the choice of divestment instrument eliminates an alternative conduit to express social concerns in the corporate structure because any investor 'gives up its leverage to influence a company's policy the moment it sells its stock'.<sup>78</sup>

The effectiveness of divestment as a strategy to exert pressure on multinational firms is also questioned if the mechanics of divestment are examined in detail. The reasoning behind divestment presupposes a positive correlation between reduced demand for companies' shares as a consequence of divestment and depressed prices of these stocks. However, theoretical evidence runs counter to this view, suggesting that the link is rather tenuous.

The finance literature has offered two, respective three alternative hypotheses as to the relationship between market demand for stocks and their price. The first and the least accepted view is the imperfect substitutes hypothesis (ISH),<sup>79</sup> which postulates that since shares are not close substitutes for each other, the long-term demand curve is less than perfectly elastic. According to this assumption, the market equilibrium price will adjust to eliminate excess demand or supply of shares and the new price will remain constant since it reflects a new equilibrium distribution of

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<sup>76</sup> See more e.g. GROSSMAN, Blake R. – SHARPE, William F.: *Financial Implications of South African Divestment*. Financial Analysts Journal, Vol. 42, 1986, No. 4, pp. 15-29 ([www.jstor.org](http://www.jstor.org)); REGAN, Patrick J.: *Pension Fund Perspective: On South Africa*. Financial Analysts Journal, Vol. 41, 1985, No. 3, pp. 14-16 ([www.jstor.org](http://www.jstor.org)).

<sup>77</sup> HALL, Parker J.: *Ethics in Investment Divestment*. Financial Analysts Journal, Vol. 42, 1986, No. 4, p. 10. ([www.jstor.org](http://www.jstor.org))

<sup>78</sup> *Divestment Strategy is Unwise, Ineffective: A Response by Barbara Wheeler*. In: Jewish Action Force, [http://home.comcast.net/~jat.action/PCUSA\\_Wheeler.htm](http://home.comcast.net/~jat.action/PCUSA_Wheeler.htm) (25. 6. 2010)

<sup>79</sup> The hypothesis is also known as the distribution effect hypothesis and one of its main proponents in the United States is the United States Securities and Exchange Commission.



shareholders.<sup>80</sup> As Matthew Haigh and James Hazelton point out, however, the hypothesis of long-term price declines does not stand up to scrutiny. They emphasize that any permanent effects of acts of social responsibility such as divestment would only occur in conditions of relatively inelastic capital supply, which are not those of well-developed stock markets in most of the major industrial economies, where arbitrage opportunities are exploited as they arise.<sup>81</sup>

In contrast to the ISH stands the substitution hypothesis (SH), also known as the efficient market hypothesis (EMH), which posits that securities are near perfect substitutes for each other (for a given stock there are other stocks that share its risk and return traits), and therefore a change in demand or supply for a given share will not affect its price.<sup>82</sup> The EMH further assumes that investors take advantage of arbitrage opportunities to generate profits and the competition among them to increase their returns or avoid a loss will eliminate any systematic price effects beyond those attributable to transaction costs. Given that the information about new issues is made public in advance to the issue day, no price movement will occur when the new securities are issued.<sup>83</sup> Hence, if a corporation decides to increase the shares outstanding, the additional securities will be purchased at the current market price for similar income streams.<sup>84</sup> Along the same logic, shares divested by socially responsible investors will change their owners without a drop in price.

The SH appears valid when it is stressed that the value of a security's price is regarded to be the present value of a company's future cash flows, divided by the number of outstanding shares. In as much as the act of divestment does not affect the anticipated sales and income or, in other

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<sup>80</sup> HARRIS, Lawrence – GUREL, Eitan: *Price and Volume Effects Associated with Changes in the S & P 500 List: New Evidence for the Existence of Price Pressure*. The Journal of Finance, Vol. 41, 1986, No. 4, p. 815. (www.jstor.org)

<sup>81</sup> HAIGH, M. – HAZELTON, J.: c. d., p. 64.

<sup>82</sup> KUMAR, Raman – LAMB, William B. – WOKUTCH, Richard E.: *The End of the South African Sanctions, Institutional Ownership, and the Stock Price Performance of Boycotted Firms: Evidence on the Impact of Social/Ethical Investing*. Business and Society, Vol. 41, 2002, No. 2, p. 140. (www.proquest.umi.com) See also STATMAN, Meir: *Socially Responsible Mutual Funds*. Financial Analysts Journal, Vol. 56, 2000, No. 3, pp. 30-39. (www.jstor.org)

<sup>83</sup> HESS, Alan C. – FROST, Peter A.: *Tests for Price Effects of New Issues of Seasoned Securities*. The Journal of Finance, Vol. 36, 1982, No. 1, p. 12. (www.jstor.org)

<sup>84</sup> SCHOLLES, Myron S.: *The Market for Securities: Substitution Versus Price Pressure and the Effects of Information on Share Prices*. Journal of Business, Vol. 45, 1972, No. 2, p. 179. (www.jstor.org)

words, the cash-flow-producing capability of the company, the price of the stock should be expected to remain constant.<sup>85</sup> This perspective is consistent with the view of Samuel O. Sheargren, who underlined that 'the stock market is earnings oriented; a stock's price rises because the market anticipates higher earnings and the price goes down if the company's earnings drop and the stock is less valued by the market'.<sup>86</sup>

The third and the last perspective on the relationship between market demand for shares and their prices is the price-pressure hypothesis (PPH). Similarly to the ISH, the PPH posits that there are only finite and imperfect substitutes for stocks with the same characteristics, and therefore an increased (decreased) demand or an increased (decreased) supply of stock will result in an increase (decrease) of their price.<sup>87</sup> However, unlike the ISH, the PPH assumes that the long-term demand curve is perfectly elastic at the full-information price and it is only the short-term demand that is downward sloping.

A key assumption of the price-pressure hypothesis is that when the amount of new issues or divested shares is large, the price of the stock must drop in order to encourage investors to acquire the additional securities.<sup>88</sup> As Lawrence Harris and Eitan Gurel point out, investors who 'agree to immediately buy or sell securities which they otherwise would not trade' are 'compensated for their liquidity service when prices rise (drop) to their full-information levels' and when they earn extra profits.<sup>89</sup> Hence, conventional investors lured by profits will stand ready to purchase securities divested by their ethically concerned counterparts and will return the shares to the previous equilibrium price.

Taking into account that the imperfect substitutes hypothesis has a relatively limited number of adherents among scholars, the remaining two theories offered by the finance literature would suggest that divestment

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<sup>85</sup> DAVIDSON III, Wallace N. – WORRELL, Dan L. – EL JELLY, Abuzar: *Influencing Managers to Change Unpopular Corporate Behavior Through Boycotts and Divestitures: A Stock Market Test*. Business and Society, Vol. 34, 1995, No. 34, p. 180. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>86</sup> SHEARGREN, Samuel O.: *Divestment: From Our Readers*. In: The Harvard Crimson, <http://crimson-wsl.hcs.harvard.edu/article/1986/5/19/divestment-pbto-the-editors-of-the/> (28. 4. 2010)

<sup>87</sup> KUMAR, R. – LAMB, W. B. – WOKUTCH, R. E.: c. d., p. 140.

<sup>88</sup> SCHOLLES, M. S.: c. d., p. 180.

<sup>89</sup> HARRIS, L. – GUREL, E.: c. d., p. 815.

efforts undertaken by socially responsible citizens do not have the potential to exert pressure on multinational corporations. While the debate whether an increased supply of stock will temporarily weigh on prices remains inconclusive,<sup>90</sup> both the substitution and price-pressure hypotheses assume that the long-run demand is perfectly elastic and, thus, divestment merely leads to a short-term decline in price or does not affect price at all.

There are two additional caveats that should be considered when evaluating the likelihood of divestment efforts translating into pressure exerted on MNCs. First, it should be noted that substantial divestiture undertakings are usually spread out over two-to-five year time periods to prevent incurring unnecessary financial costs. Hence, even if institutional investors dispose of a large part of their shareholding, the potential impact on the company's stock is significantly watered down.<sup>91</sup> Second, divestment as a strategy to induce change in corporate behavior does not have any impact on privately held (not publicly traded) companies.<sup>92</sup>

Apart from actions taken by non-state actors, attempts at compelling multinational corporation entities to alter their conduct and depart from countries violating human rights can be made through a public channel – investment sanctions enacted by states. Frequently mandated as a result of pressure from domestic interest groups, legislated investment sanctions ban companies from holding direct physical ownership interests in the given countries.<sup>93</sup>

Considering the rather feeble link between divestiture and disinvestment, investment sanctions decreed at the state level are by some considered to be more effective at inducing corporations to withdraw. Similarly to Kaempfer and Lowenberg, who perceive legislated investment

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<sup>90</sup> The proponents of the substitution hypothesis include e.g. SCHOLE, M.: c. d. pp. 179-211; HESS, A. C. – FROST, P. A.: c. d., pp. 11-25; FAMA, Eugene F.: *Efficient Capital Markets: A Review of Theory and Empirical Work*. Journal of Finance, Vol. 25, 1970, No. 2, pp. 383-417 ([www.jstor.org](http://www.jstor.org)); studies by HARRIS, L. – Gurel, E.: c. d., pp. 815-829; KUMAR, R. – LAMB, W. B. – WOKUTCH, R. E.: c. d., pp. 133-165; SHLEIFER, Andrei: *Do Demand Curves for Stocks Slope Down?* Journal of Finance, Vol. 41, 1986, No. 3, pp. 579-590 ([www.jstor.org](http://www.jstor.org)) are more consistent with the price-pressure hypothesis.

<sup>91</sup> COONS, Christopher: *Divestment Steamroller Seeks to Bury Apartheid*. Business and Society, Vol. 57, 1986, No. 1, p. 94. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>92</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 127.

<sup>93</sup> KAEMPFER, W. H. – LEHMAN, J. A. – LOWENBERG, A. D.: *Divestment, Investment Sanctions and, Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments*, p. 459.

sanctions as 'a much more direct way to achieve disinvestment',<sup>94</sup> Daniel Vogel is convinced that only states have the capability to coerce companies to forsake profit opportunities for moral considerations; he reasoned that 'whatever success [non-state actors] have had in changing corporate decisions is due almost entirely to the exercise of public authority'.<sup>95</sup> Likewise, commenting on the strategic behavior of oil corporations operating in conflict-affected countries such as Angola, Chad or Sudan, Luke A. Patey concluded that state actors are the prominent force in guiding their practice.<sup>96</sup>

Of a different opinion is Kenneth A. Rodman, who contends that the growth in scope and importance of multinational corporations has restricted the potential of governments to exercise direct control over a business sector and to harness it to achieve political objectives.<sup>97</sup> When analyzing the ability of the United States government to use overseas subsidiaries of American firms to serve foreign policy goals, Rodman came to a conclusion that since the 1970s the US administrations have struggled to enlist the cooperation of foreign affiliates in employing economic coercion due to the hegemonic decline of the United States and the growth of MNCs.<sup>98</sup> In as much as the evolution of modern multinational corporation and the spread of globalization have put a significant part of financial and commercial activities of states beyond their direct jurisdiction, home governments of transnational corporations have faced an uphill struggle to exercise extraterritorial jurisdiction over violations by business enterprises abroad.

An additional weakness of legislation prohibiting foreign investment is that it generally only prohibits new investment in the target country (the so-called marginal disinvestment) without ordering elimination of ownership of

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<sup>94</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 124.

<sup>95</sup> Cited in RODMAN, Kenneth A.: *Public and Private Sanctions against South Africa*. Political Science Quarterly, Vol. 109, 1994, No. 2, p. 333. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>96</sup> PATEY, Luke A.: *State Rules: Oil Companies and Armed Conflict in Sudan*. Third World Quarterly, Vol. 28, 2007, No. 5, p. 1013. ([www.ebscohost.com](http://www.ebscohost.com))

<sup>97</sup> RODMAN, K. A.: *Public and Private Sanctions against South Africa*, p. 313.

<sup>98</sup> RODMAN, Kenneth A.: *Sanctions at Bay? Hegemonic Decline, Multinational Corporations, and U.S. Economic Sanctions Since the Pipeline Case*. International Organization, Vol. 49, 1995, No. 1, pp. 105-37. ([www.journals.cambridge.org](http://www.journals.cambridge.org))

physical assets.<sup>99</sup> This is understandable if one considers the high costs associated with investment sanctions. Whereas socially responsible shareholders implicitly accept to carry all the expenses involved with divestment undertakings, mandated investment sanctions impose costs on corporations and domestic interest groups unwilling to bear the brunt of financial losses. Consequently, these actors exert counter pressure to water down legislation designed to mandate disinvestment to the extent possible.<sup>100</sup>

### 1.2.3 Forms and Methods of Corporate Disinvestment

If pressure exerted on business entities through the two channels is high enough, the companies may choose to change their behavior and disinvest. Before moving on to discuss the ways they can do so, a brief comment will be made on the difference between market-determined withdrawal (companies disinvest voluntarily to maximize the value of invested assets) and forced disinvestment (companies leave foreign markets against their will). It is desirable to draw attention to the difference between the two types in order to demonstrate that decisions to disinvest can be determined by factors other than political pressure. For similar reasons, a short remark will be made on political risks that companies often face in host countries; as will be shown divestment pressures and state sanctions are only two out of the many political threats that can induce corporate divestitures.

Market-determined type of withdrawal, which has received the most attention from business scholars examining corporate withdrawals from foreign markets, has been by some likened to divorce: 'something painful, however necessary it may be'.<sup>101</sup> Multinational corporations generally behave according to the logic of capital accumulation and when faced with financial losses, declining or stagnant markets, or a lack of economic incentives in the

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<sup>99</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 125.

<sup>100</sup> *Ibid*, pp. 124-5.

<sup>101</sup> BODDEWYN, Jean J.: *Foreign and Domestic Divestment and Investment Decisions: Like or Unlike?* *Journal of International Business Studies*, Vol. 14, 1983, No. 3, p. 27. ([www.jstor.org](http://www.jstor.org))

host country, they might resort to disinvestment and transfer the recovered assets to some new form of investment.

There exists an array of factors that motivate foreign disinvestment decisions. At the top of the hierarchy are financial considerations; a review of the literature indicates that weak economic performance of a foreign affiliate is a primary reason for corporate disinvestment of the business unit.<sup>102</sup> If a parent company's subsidiaries suffer prolonged losses with little likelihood to improve their net profits within a short time horizon and the parent cannot afford further losses, the headquarters might come to a conclusion that capital invested in the affiliates could be more wisely employed somewhere else.<sup>103</sup>

Moreover, the process of corporate rationalization has led to a better allocation of capital; a corporation's executive management is aware of the fact that the firm's financial and managerial resources are finite, which results in selective divestiture of units that do not fit the company's profile and of affiliates the management cannot efficiently administer.<sup>104</sup> Last but not least, corporate divestiture is often an outcome of structural and organizational factors such as poor communication between the parent and its subsidiaries about objectives, policies and operating provisions.<sup>105</sup>

As noted above, forced withdrawal differs from market-determined corporate divestiture in that transnational companies retreat from foreign markets involuntarily after being subjected to external pressures. In view of the fact that socioeconomic and political environments of both home and host countries are in constant flux, actions and events affecting the distribution of power to the disadvantage of multinational corporations may compel them to exit.<sup>106</sup> Emphasizing the continual change in domestic power structure of the host country, Raymond Vernon stated that '... almost from the moment that the signatures have dried on the document, powerful forces

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<sup>102</sup> CHO, Myeong-Hyeon – COHEN, Mark A.: *The Economic Causes and Consequences of Corporate Divestiture*. Managerial and Decision Economics, Vol. 18, 1997, No. 5, p. 368. (www3.interscience.wiley.com)

<sup>103</sup> BODDEWYN, Jean J.: *Foreign Divestment: Magnitude and Factors*. Journal of International Business Studies, Vol. No, 1979, No. 1, p. 22. (www.jstor.org)

<sup>104</sup> *Ibid*, pp. 24-5.

<sup>105</sup> *Ibid*, p. 25.

<sup>106</sup> AKHTER, Syed H. – CHOUDHRY, Yusuf A.: *Forced Withdrawal from a Country Market: Managing Political Risk*. Business Horizons, Vol. 36, 1993, No. 3, p. 47. (www.palgrave-journals.com)

go to work that quickly render the agreements obsolete in the eyes of the government'.<sup>107</sup>

Multinational corporations operating facilities or subsidiaries in foreign countries are thus significantly vulnerable to political risks. Following the widely accepted definition of Jeffrey D. Simon, these comprise 'any governmental or societal actions and policies, originating either within or outside the host country, and negatively affecting either a select group of, or the majority of, foreign business operations and investments'.<sup>108</sup> Building on the work of Stefan H. Robock on political risk assessment,<sup>109</sup> Simon differentiated between "macro" and "micro" political risks, the former denoting actions and policies that are designed to target all transnational firms operating in a particular country, and the latter to processes impacting only a specific segment of foreign commerce. As is clear from the definition, Simon also underlined the importance to distinguish between actions and policies of exogenous and endogenous origin,<sup>110</sup> as well as between societal and governmental-related events.<sup>111</sup>

The various combinations of the three variables result in eight possible types of political risk that MNCs might encounter. Societal-related macro risks originating in the host country include revolutions, union activism, civil wars or nationwide strikes; examples of exogenous societal-related macro risks are disinvestment pressures and world public opinion. Macro political risks stemming from internally-oriented actions on the governmental level include expropriation of foreign property and imposition of restrictions on the repatriation of profits and capital, especially in situations of balance-of-

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<sup>107</sup> Cited in KOBRIN, Stephen J.: *Foreign Enterprise and Forced Divestment in LDCs*. International Organization, Vol. 34, 1980, No. 1, p. 70. ([www.jstor.org](http://www.jstor.org))

<sup>108</sup> SIMON, Jeffrey D.: *Political Risk Assessment: Past Trends and Future Prospects*. Columbia Journal of World Business, Vol. 17, 1982, No. 3, p. 68. ([www.ebscohost.com](http://www.ebscohost.com))

<sup>109</sup> ROBOCK, Stefan H.: *Political Risk: Identification and Assessment*. Columbia Journal of World Business, Vol. 6, 1971, No. 4, pp. 6-20. ([www.jstor.org](http://www.jstor.org))

<sup>110</sup> In his subsequent work, Simon added two additional environments in which MNCs must operate when investing abroad; apart from environments of host and home countries, foreign corporations are influenced by developments in global (e.g. policies of global organizations such as the United Nations) and international environment (e.g. foreign policies of third states and regional organizations). See SIMON, Jeffrey D.: *A Theoretical Perspective on Political Risk*. Journal of International Business Studies, Vol. 15, 1984, No. 3, pp. 123-143. ([www.jstor.org](http://www.jstor.org))

<sup>111</sup> SIMON, J. D.: *A Political Risk Assessment: Past Trends and Future Prospects*, p. 66.

payments deficits; wars and international boycotts/embargoes represent instances of governmental-related exogenous macro risks.<sup>112</sup>

Societal- and governmental-related endogenous political risks belonging to the category of “micro” risks comprise targeted terrorist attacks, and selective discriminatory practices against foreign-owned enterprises such as pressures on MNCs to create joint ventures with local public or private businesses respectively. The last two forms of micro risks are presented by externally-based events, be it international boycott of companies, competition posed by other multinational corporations or constraints on imports/exports.<sup>113</sup>

It is evident from the above that any transnational corporation operating in a foreign country is confronted with a broad spectrum of political risks that need to be weighed against the future benefits the company may receive in the given market. Corporations will probably be spared from making tough decisions if the attractiveness of a market is low and political risks high or, alternatively, in cases when the market attractiveness is high and withdrawal threats are low. However, at times MNCs will have to handle the worst-scenarios, which occur when both the market appeal and political risks are high. International businesses facing such circumstances will then need to determine whether the benefits of staying will outweigh the political risks involved.

In case that a corporation resolves that its interests will be better served by exiting foreign markets, the disinvestment process can be carried out in a number of ways. In their works, Kaempfer and Lowenberg identify three distinct forms of withdrawal that multinational companies have at their disposal when contemplating severing financial ties with foreign countries: physical, financial and human capital disinvestment.<sup>114</sup>

The ideal situation would be represented by corporations’ physical withdrawals, which could be achieved by dismantling or liquidation of previously invested capital. Under this form of corporate divestiture, entire

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<sup>112</sup> SIMON, J. D.: *Political Risk: Identification and Assessment*, pp. 66-8.

<sup>113</sup> *Ibid*, pp. 67-8.

<sup>114</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 122; KAEMPFER, W. H. – LEHMAN, J. A. – LOWENBERG, A. D.: *Divestment, Investment Sanctions and, Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments*, p. 467.



factories and machinery would be removed from the target state and relocated to other countries.<sup>115</sup> Nevertheless, such scenario is rather hypothetical in nature since the high losses associated with this type of disinvestment would be likely to elicit strong opposition from business circles.<sup>116</sup> The resistance would be especially fierce from corporations with large assets in the market and, therefore, it is perceivable that only corporations with little involvement in the host countries' economies would fully disengage.<sup>117</sup> Keeping these facts in mind, one should expect that disinvestment is more likely to take the form of marginal withdrawal (unwillingness to engage in future investments in the target country) or financial disinvestment.

Nevertheless, while financial withdrawal is the most probable type of disinvestment to occur, it has the least potential to cause severe economic damage to the ostracized country.<sup>118</sup> In as much as this method of corporate divestiture involves the sale of physical assets to other foreign-based companies or indigenous businesses, the financial withdrawal of MNCs amounts to a mere change of ownership, leaving the manufacturing facilities intact.<sup>119</sup> This is due to the efficiency of international capital markets and the substitutability of capital; similarly to trade sanctions, the effectiveness of financial disinvestment hinges on the absence of alternative investors willing to purchase the disinvested assets, which is a condition difficult to achieve considering the efficiency of global markets. Even if all multinational corporations with operations located in the target state formed a political cartel<sup>120</sup> to maximize the effectiveness of investment sanctions, the cohesion of the political alliance is likely to be tested by countries outside the

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<sup>115</sup> As point out by Haider Ali. Khan, one of the best-known instances of physical divestment is the dismantlement of German-owned plants in the post-WW2 period and their shipment to the USSR. KHAN, Haider A.: *The Political Economy of Sanctions Against Apartheid*. Boulder and London 1989, p. 71.

<sup>116</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 122.

<sup>117</sup> *Ibid*, p. 127.

<sup>118</sup> KAEMPFER, W. H. – LEHMAN, J. A. – LOWENBERG, A. D.: *Divestment, Investment Sanctions and, Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments*, p. 467.

<sup>119</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 122.

<sup>120</sup> On the notion of political cartel see more BAYARD, Thomas O. – PELZMAN, Joseph – PEREZ-LOPEZ, Jorge: *Stakes and Risks in Economic Sanctions*. World Economy, Vol. 6, 1983, No. 1, pp. 76-85. (www.jstor.org)

agreement as well as by some of the cartel members that may have financial incentives to violate the contract.<sup>121</sup>

In addition to the removal of physical and financial assets, transnational companies contemplating to terminate their involvement in the target country may opt for withdrawal of their personnel with scientific, managerial and entrepreneurial skills. In view of the importance of experienced human capital for the economic growth and development, which has been established earlier in this chapter, the repatriation of employees to their home country may pose a serious challenge for achieving economic prosperity. However, the effectiveness of human capital disinvestment might be hindered by a number of constraints, including the difficulty to legislate such kind of withdrawal as well as the possibility that the removed personnel will be replaced by employees from other countries.<sup>122</sup>

To conclude, the objective of this chapter was to provide a theoretical background for the following two chapters on South Africa and Sudan. After giving a historical overview of the development of the concept of international economic sanctions, the study pointed out the existence of two types of motives for the use of economic sanctions: “instrumental” and “expressive”. It was explained that the former aim to bring about policy changes in the target country, and that these usually are also the official justifications for the use of sanctions. In contrast, sanctions imposed to achieve “expressive” objectives hope not so much to punish or coerce the target but rather to serve the internal interests of senders.

The opening part of the second section of the chapter outlined several mechanisms through which foreign direct investment has the potential to stimulate economic growth in the host country economy. Among them featured capital provision, technology transfer, human capital enhancement as well as stimulation of exports. The following part of the section discussed the two potential channels for exerting influence on multinational corporations: private and public avenues. It was pointed out that divestment and other socially responsible behaviors are unlikely to put downward

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<sup>121</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: *The Origins and Demise of South African Apartheid: A Public Choice Analysis*, p. 138.

<sup>122</sup> KAEMPFER, W. H. – LEHMAN, J. A. – LOWENBERG, A. D.: *Divestment, Investment Sanctions and, Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments*, p. 469.

pressure on share prices if these activities take place in efficient capital markets and do not affect the anticipated sales and incomes of the issuing companies.

The concluding section shed some light on the differences between market-determined and forced withdrawal, the former being largely driven by economic factors and the latter by political risks. It was also pointed out that divestment pressures and government-imposed investment sanctions are only two out of the many political risks that may prompt multinational corporations to pull out of the target countries. An additional important point made was that due to economic considerations, companies that decide to withdraw tend to favor the financial method of disinvestment, which has little potential to cause economic dislocation in the ostracized country due to the substitutability of global capital.

## 2. Divestment Campaign against South Africa

The overall goal of this chapter is to evaluate the results of the use of private and public foreign direct investment sanctions against apartheid South Africa. The chapter is organized as follows. The first section details the origins and evolution of the anti-apartheid divestment campaign in the United States. Also examined are the steps taken by the world governments to encourage or mandate corporate divestitures from South Africa. The subsequent second section situates the divestment movement into economic context by assessing the dependence of the apartheid regime on foreign capital inflows.

The economic and political effects of the sanctions campaign are analyzed in the third section of the chapter. After investigating the overall economic consequences of the FDI sanctions for the South African economy, the study explores the capability of the policy tool to stimulate policy change through its signaling and targeting function. This is followed by an appraisal of the success or failure of sanctions on FDI in achieving “expressive” purposes. The first case chapter concludes with an interpretation of the contribution of the external public and private pressures to the corporate divestitures.

### 2.1 Origins and the Course of the Divestment Campaign

When the Afrikaner-based National Party took power from the English-speaking white minority in the 1948 elections, it delivered on its campaign promises and commenced to strengthen the nascent system of racial discrimination.<sup>123</sup> Striving to maintain white political dominance, which was

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<sup>123</sup> The foundations of the apartheid were laid by, among others, the Native Labour Regulations Act of 1911 (made it a criminal offense for Africans to break a labor contract), the Native Land Act of 1913 (allocated 13 percent of the land of South Africa to Africans and prohibited them from purchasing any land outside of the specified areas), and the Native (Urban Areas) Act of 1923 (segregated urban areas and introduced influx controls limiting Africans’ access to cities). For apartheid legislation enacted after 1948 see for example DAVIS, Jennifer – CASON, James – HOVEY, Gail: *Economic Disengagement and South Africa: The Effectiveness and Feasibility of Implementing Sanctions and Divestment*. Law and Policy in International Business, Vol. 15, 1983, No. 2, pp. 532-45. (www.aluka.org)

being threatened by a growing presence and entrenchment of black African labor in urban areas, the new ruling government embarked upon implementing the regime of apartheid.<sup>124</sup>

Under the apartheid policy of separate development of races, black Africans, constituting nearly three-quarters of the South African population, were stripped of their economic, political and social rights and were allowed to live only in ten designated underdeveloped and barren areas comprising 13 percent of the land. The ideal of total separation of black and white South Africans was never attained, however, due to the historical economic dependence of the white minority on cheap and unskilled black labor that was required to work in urban areas. In order to guarantee that only those Africans essential to the smooth running of the economy would be present in urban areas, the National Party expanded the country's "influx control" laws. These were enforced with the assistance of an elaborate "pass" system requiring all Africans over 16 to carry an identity document confirming their right to work, travel and reside in an a given area.<sup>125</sup>

Even though apartheid was condemned worldwide as unjust and racial after both the 1960 Sharpeville and 1976 Soweto massacres, until the 1980s all major Western governments discarded the possibility of imposing sanctions on Pretoria.<sup>126</sup> Elaborating on the factors that determined Western foreign policies towards South Africa, Alex Thomson observed that 'in many respects, the South African government appeared to be an ideal partner'.<sup>127</sup> During the Cold War conflict, South Africa was regarded by the United States and other Western powers as an ally of strategic and economic importance due to the country's vast supplies of a number of critical non-fuel minerals, its strategic location on the maritime trade routes, Pretoria's

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<sup>124</sup> LITVAK, Lawrence – DeGrasse, Robert – McTigue, Kathleen: *South Africa: Foreign Investment and Apartheid*. Washington 1978, pp. 17-18.

<sup>125</sup> SCHMIDT, Elizabeth: *Decoding Corporate Camouflage: U.S. Business Support for Apartheid*. Washington 1980, pp. 103.

<sup>126</sup> KLOTZ, Audie: *Norms in International Relations: The Struggle Against Apartheid*. Ithaca and London 1995, p. 5. In 1977 the UN Security Council authorized a mandatory arms embargo against South Africa but was unable to consent to more potent economic sanctions.

<sup>127</sup> THOMSON, Alex: *Balancing Interests Beyond the Water's Edge: Identifying the Key Interests that Determined US Foreign Policy Towards Apartheid South Africa*. *Politikon*, Vol. 32, 2005, No. 1, p. 123. (www.ebscohost.com)

strong anti-communist stance and the fact that it was home to a vast array of transnational corporations.<sup>128</sup>

Confronted with images of suffering and violence in South Africa on one hand, and refusal of their governments to stop providing economic and diplomatic support to the apartheid regime on the other, citizens of many Western countries took up the issue of abolishing the system of racial discrimination. Individuals and civil society groups in North America, Europe and elsewhere in the world launched a widespread international movement to sever financial and economic relations with the white minority government.<sup>129</sup> According to the report prepared for the Commonwealth Committee on Foreign Ministers on Southern Africa in 1989, it was the “people’s sanctions” that were the driving force behind all the punitive measures imposed by governments during the 1980s.<sup>130</sup>

Apart from consumer boycotts of South African products and withdrawal of deposits from banks providing loans to the South African public and private sector, nongovernmental actors challenged the apartheid regime by divestment of shares in companies and banks having either direct or indirect investments in South Africa. Divestment campaign, which took place almost exclusively in the United States from the mid-1960 until the late 1980s, was waged by student activists, labor unions, church groups, black organizations and other civil society actors who put pressure on private and institutional investors to dispose of their holdings in the targeted businesses.

Divestment was a tactic generally employed by activists who demanded an end to strategic sales to the apartheid regime and withdrawal of U.S. multinational companies from South Africa.<sup>131</sup> The argument voiced by proponents of corporate disinvestment was based on the belief that operating in a country that established racial segregation as a fundamental

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<sup>128</sup> *Ibid*, pp. 123-137. For Western interests in South Africa see also e.g. MYERS III, Desaix et al: *U.S. Business in South Africa: The Economic, Political and Moral Issues*. Bloomington 1980, pp. 135-7.

<sup>129</sup> CORTRIGHT, David – LOPEZ, George A.: *Sanctions and the Search for Security: Challenges to UN Action*. Boulder and London 2002, p. 95.

<sup>130</sup> *South Africa: The Sanctions Report: Prepared for the Commonwealth Committee of Foreign Ministers on Southern Africa*. London and New York 1989, p. 68.

<sup>131</sup> HAUCK, David – VOORHES, Meg – GOLDBERG, Glenn: *Two Decades of Debate: The Controversy over U.S. Companies in South Africa*. Washington 1983, p. 16.

principle of social organization was not morally defensible.<sup>132</sup> They also pointed out that corporate presence in South Africa provided economic and moral support to the white population and hence it perpetuated the system of oppression.<sup>133</sup> The core of their argument was summarized by Stanford University's public affairs office that concluded that the very existence of U.S. corporations in South Africa protected Pretoria from democratic change; American subsidiaries 'pay taxes, enhance economic stability and lend credibility to the racist government in South Africa, and thus they strengthen the system of apartheid'.<sup>134</sup>

Protagonists of disinvestment who argued their case on economic grounds believed that withdrawal of U.S. businesses from South Africa would have an instrumental value in terms of contributing to the dismantlement of apartheid. Highlighting the strategic role of American lending and investment in the country, civil society activists were convinced that corporate divestiture would 'greatly affect the South African economic and political system',<sup>135</sup> which would consequently force the government in Pretoria to 'bow to economic and political pressure and consent to change'.<sup>136</sup> There were also more radical elements such as the United Nations Center Against Apartheid, which viewed disinvestment as a method to precipitate confrontation between the white and black population, and to facilitate the revolutionary overthrow of the government.<sup>137</sup>

Additionally, the debate on disinvestment suggested that the main function of private investment sanctions was to communicate a strong message of international condemnation, which would provide moral support for the opponents of apartheid and would bring Pretoria to the negotiating

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<sup>132</sup> MALONE, David – GOODIN, Susanna: *An Analysis of U.S. Disinvestment from South Africa: Unity, Rights, and Justice*. Journal of Business Ethics, Vol. 16, 1997, December, p. 1690. (www.proquest.umi.com)

<sup>133</sup> RODMAN, K. A.: *Public and Private Sanctions against South Africa*, p. 320.

<sup>134</sup> Cited in VOORHES, Meg: *The U.S. Divestment Movement*. In: CRAWFORD, Neta C. – KLOTZ, Audie (Eds.): *How Sanctions Work: Lessons from South Africa*. Basingstoke and London, p. 134.

<sup>135</sup> HAUCK, D. – VOORHES, M. – GOLDBERG, G.: c. d., p. 17.

<sup>136</sup> MALONE, D. – GOODIN, S.: c. d., p. 1694.

<sup>137</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, p. 4. John Schingler similarly made a distinction between activists who supported "disinvestment for peaceful reform" and those who believed in "disinvestment for revolution". See GELDENHUYS, D.: c. d., p. 392.

table.<sup>138</sup> The reasoning was based on the assumption that for cultural, historical, political and economic reasons, white South Africans regarded the United Kingdom and the United States as role models. Therefore, economic disengagement by one of the two major role models could have been interpreted as a condemnation of the racial practices and a desire on the part of the American public and businesses to sever 'the Western emotional and psychic "umbilical cord"'.<sup>139</sup> As emphasized by Karen Paul and Dominic A. Aquila, direct economic impact of corporate withdrawal may be insignificant, but 'it intensifies the feeling of vulnerability and isolation'.<sup>140</sup>

Throughout the course of the divestment campaign, the act of selling shares in companies involved with the South African regime was valued by some as primarily an educational tool to heighten public awareness of the system of apartheid. The debate carried on by the various groups of activists was to create well-informed voters who would pressure the legislative and executive branch of the United States to impose federal sanctions on South Africa.<sup>141</sup> Others highlighted the importance of divestment as an organizing strategy for anti-apartheid activity. Jerry Herman working with the American Friends Service Committee maintained that divestment is 'an extremely effective tool to get people moving. People need and want to do something on South Africa, and divestment provides them with such an opportunity'.<sup>142</sup> Some activists justified divestment from companies implicated in the apartheid on moral grounds alone, arguing that it is unethical for investors to profit from other people's distress.<sup>143</sup>

At the onset of the campaign, there was also a large group of people who were convinced that divestment also had the potential to produce tangible economic results. To demonstrate that divestment is an effective tool to bring about corporate withdrawal from South Africa, they pointed to

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<sup>138</sup> *U.S. Investments in South Africa*. In: African Activist Archive Project [http://africanactivist.msu.edu/document\\_metadata.php?objectid=839](http://africanactivist.msu.edu/document_metadata.php?objectid=839) (3. 5. 2010); JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, pp. 4-5.

<sup>139</sup> BEATY, David – HARARI, Oren: *Divestment and Disinvestment from South Africa: A Reappraisal*. California Management Review, Vol. 29, 1987, No. 4, p. 41. ([www.ebscohost.com](http://www.ebscohost.com))

<sup>140</sup> PAUL, Karen – ACQUILA, Dominic A.: *Political Consequences of Ethical Investing: The Case of South Africa*. Journal of Business Ethics, Vol. 7, 1988, No. 9, p. 696. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>141</sup> See e.g. DAVIS, J. – CASON, J. – HOVEY, G.: c. d., pp. 560-561; DAVIS, Jennifer: *Sanctions and Apartheid: The Economic Challenge to Discrimination*. In: CORTRIGHT, D. – LOPEZ, G. A.: *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?*, p. 177.

<sup>142</sup> Cited in VOORHES, M.: c. d., p. 134.

<sup>143</sup> HAUCK, D. – VOORHES, M. – GOLDBERG, G.: c. d., p. 19.



'the corporate permeation of U.S. life', which 'provided so many levers with which to exert pressure on the corporations'.<sup>144</sup>

Some student groups and labor unions involved in the apartheid movement argued that divestment of holdings in corporations operating in South Africa would raise the general awareness of the U.S. corporate role in propping up the apartheid state. Increased political risks resulting from such publicity would in turn alter corporate attitudes towards continued economic engagement.<sup>145</sup> A group of activists also speculated that to the extent that a sufficient number of institutional investors purged their portfolios of South Africa-active firms, share prices of the targeted corporations would drop significantly. In consequence, corporations would face difficulties in financing new stock issues and deflecting hostile takeovers.<sup>146</sup>

The campaign for divestment from financial ties with South Africa had a rather slow start. When students and other civil rights groups began to push institutional investors to sell their South African holdings throughout the late 1960s and early 1970s, they encountered strong resistance to their efforts. Such opposition can be accounted for by considering the general attitudes towards the role of American corporations in South Africa that were prevalent at that time.

The majority of institutional investors sided with the argument made by U.S. businesses, which claimed that their continued economic involvement would bring about a peaceful and gradual change.<sup>147</sup> At the core of the so-called “progressive force” position is the notion that the economic growth ensuing from sustained foreign investment would weaken the system and would eventually lead to the dismantlement of systematic racial segregation.<sup>148</sup> Advocates of this stance assumed that the benefits of economic development would inevitably “trickle down” to the entire population; new job opportunities would be created, wages would rise, 'and on the heels of economic growth would come political and social

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<sup>144</sup> DAVIS, J.: c. d., pp. 177-8.

<sup>145</sup> PROPP, Kenneth: *The Domestic Debate over South Africa*. Washington 1979, pp. 4-5.

<sup>146</sup> VOORHES, M.: c. d., pp. 134-5.

<sup>147</sup> PROPP, K.: c. d., p. 4.

<sup>148</sup> LITVAK, L. – DeGrasse, R. – McTigue, K.: c. d., p. 11.

transformation'.<sup>149</sup> American businesses would assist the process of change from within the country by creating job opportunities for black South Africans and setting a positive example for local employers.<sup>150</sup> Hence, at that time period institutional investors preferred to develop guidelines for ethical investing and to submit shareholder resolutions calling on corporations to improve their labor and human rights practices.

An important shift in the attitude towards corporate divestiture occurred in the wake of the brutal suppression of the Soweto uprising and police murder of Steve Biko in the latter part of the 1970s. The harshness with which Pretoria responded to the peaceful student demonstration shocked many Americans and made them seriously question whether foreign corporate presence in South Africa could undermine the apartheid regime from within.<sup>151</sup> In response to widespread outcry from civil society groups, several churches, colleges and universities voted on shareholder resolutions demanding that the corporations withdrew from the country and set to get rid of South African-related shares.<sup>152</sup> Broadly speaking, however, most institutional investors dismissed the calls for divestment, reasoning that it was possible to modify the companies' behavior through correspondence and shareholder resolutions, and that by divesting they would lose their voice in the firms' operations.<sup>153</sup>

Their position gained significant support in the form of the so-called Sullivan Principles, a voluntary code of conduct conceptualized by black civil rights activist and board member of General Motors (GM) Reverend Leon H. Sullivan.<sup>154</sup> Released in 1977, the Sullivan Principles represented an endeavor to exert moral pressure on American MNCs with affiliates in South Africa to improve their labor practices, and to introduce affirmative action measures for better working and living conditions, higher wages, and an

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<sup>149</sup> SCHMIDT, E.: c. d., p. 5.

<sup>150</sup> PROPP, K.: c. d., p. 4.

<sup>151</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, p. 9.

<sup>152</sup> HAUCK, D. – VOORHES, M. – GOLDBERG, G.: c. d., p. 4.

<sup>153</sup> VOORHES, M.: c. d., p. 132.

<sup>154</sup> Reverend Sullivan originally called for the withdrawal of GM and other corporations from South Africa but leaned towards continued business involvement after failing to persuade not even a single company to divest.

improved access to skilled jobs for their black employees.<sup>155</sup> Provided with a set of criteria for investing in South Africa-related securities, institutional investors divested only from those companies that either did not become signatories to the Sullivan Principles or received a low performance rating during a reporting period.<sup>156</sup> Given that the Sullivan Principles were quickly embraced by American businesses striving to polish their corporate image in the face of growing divestment movement on the home front,<sup>157</sup> the voluntary code of conduct guaranteed that U.S. investments in South Africa remained largely intact for nearly a decade.

The turning point of the divestment campaign came in mid-1980s, when a significant number of institutional investors responded to the growing repression in South Africa by adopting total divestment policies.<sup>158</sup> Among the reasons why so many university endowments, state and local pension funds, and other investors abandoned the strategy of partial divestment was the situation on the ground in South Africa.<sup>159</sup> Perhaps most importantly, because the notion that foreign corporations could be a positive force change proved false. As Harry M. de Lange point out, the colossal economic growth the country was experiencing in the 1960s and early 1970s was accompanied by an intensification of political repression and a strengthening of discriminatory legislation.<sup>160</sup>

The rejection of the “progressive force” argument was reflected in the extensive criticism of the Sullivan Principles. Critics of the code of conduct highlighted that it failed to address directly the question of apartheid; as originally conceived,<sup>161</sup> the principles merely called for workplace reforms

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<sup>155</sup> BERNASEK, Alexandra – PORTER, Richard C.: *Private Pressure for Social Change in South Africa: The Impact of the Sullivan Principles*. Review of Social Economy, Vol. 55, 1997, No. 2, p. 173. (www.ebscohost.com) For a precise run-down of the Sullivan Principles see e.g. MOSES, William F. – VOORHES, Meg: *Corporate Responsibility in a Changing South Africa*. Washington 1991, pp. 87-9.

<sup>156</sup> The Sullivan signatories hired the consulting firm Arthur D. Little to prepare yearly reports on signatory performance of their South African subsidiaries. The company used a grading system with three categories: I, “Making Good Progress;” II, “Making Progress;” and III, “Needs to Become More Active.”

<sup>157</sup> By the end of 1978, the Sullivan Principles had 105 signatories. The number went up by 30 to 135 over the following year. SCHMIDT, E.: c. d., p. 17.

<sup>158</sup> VOORHES, M.: c. d., pp. 133-5.

<sup>159</sup> *Ibid*, p. 136.

<sup>160</sup> DE LANGE, Harry M.: *Foreign Investments in Southern Africa: The Beginning of a Dialogue*. Ecumenical Review, Vol. 29, 1977, October, p. 389. (www.ebscohost.com)

<sup>161</sup> In 1984 the Sullivan Principles were extended to include an additional principle requiring companies to actively oppose apartheid.

affecting 1 percent of the country's work force without addressing the broader issues of civil and political rights for the non-white population.<sup>162</sup> Criticism also focused on the flaws in the design of the code of conduct; the principles' rating system encouraged companies to finance projects that would 'yield fast results and headlines' instead of 'pooling funds and focusing on long-term, politically difficult programs aimed at breaking down the structures of apartheid'.<sup>163</sup>

Convinced that there were more drawbacks than advantages to continued foreign investment in South Africa, institutional investors purged their portfolios of South Africa-related stocks in droves (see Figure 1). By the end of 1992, 25 of the top US colleges and universities (ranked by endowment size) adopted partial divestment policies and 15 disposed of all South Africa-related securities.<sup>164</sup> As for state and local investment funds, at least 28 states, 24 counties, and 92 cities had economic action against companies with investments in the country, allegedly causing some \$20 billion of divestment.<sup>165</sup>

As noted in the first chapter of the paper, the second and more direct way to achieve corporate divestiture is the public avenue. The study has also drawn attention to the fact that a government-mandated disinvestment is rather rare and legislated investment sanctions generally impose only constraints on new investment in the target country (marginal disinvestment). The pattern was confirmed in the Comprehensive Anti-Apartheid Act (CAAA), an extensive sanctions package passed by the U.S. Congress over the veto of President Ronald Reagan in 1986. In addition to provisions that restricted imports/exports of certain commodities and strategic sales to the South African police and military, the CAAA banned new U.S. investment<sup>166</sup> in the country and prohibited further bank loans to

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<sup>162</sup> DAVIS, J. – CASON, J. – HOVEY, G.: c. d., p. 551.

<sup>163</sup> THUROW, Roger: *Bitter Legacy: Leaving South Africa, U.S. Companies Anger and Disappoint Blacks – Critics Say Firms Didn't Try to Eradicate Apartheid; Do-Good Projects Are Hit – A No-Win Tale of Capitalism*. Wall Street Journal, 23 December 1986, p. 1. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>164</sup> VOORHES, M.: p. 135.

<sup>165</sup> DAVIS, J.: c. d., p. 178.

<sup>166</sup> The impact of the provision was significantly reduced by the definition of "new investment". It did not include the reinvestment of profits generated by a South African entity controlled by an American corporation or financial contributions to enable a U.S.-owned South African affiliate to 'operate in an economically sound manner without expanding its operations'. See McDOUGALL,

the South African government.<sup>167</sup> In the latter part of 1988 the House of Representatives did approve a new sanctions bill including a provision mandating a total disinvestment of all companies that had a presence in South Africa but the “Dellums Bill” did not even reach the Senate floor for debate.<sup>168</sup>

More significant consequences for American corporations in South Africa had a little noticed amendment of the Budget Reconciliation Act of 1987 sponsored by Republican Charles Rangel, which ended the ability of U.S. companies to claim tax credits for taxes paid in South Africa. The U.S. Chamber of Commerce in South Africa estimated that the rate of taxation for American corporations increased from 57.5 percent to 72 percent of profits generated in South Africa.<sup>169</sup> Of similar importance were selective purchasing laws enacted by a number of non-federal (state and local) actors that gave preference in bidding on contracts for goods and services to businesses without South African ties.<sup>170</sup>

Even though divestment campaign against South Africa took place almost exclusively in the United States, legislative acts intended to limit foreign investment were enacted in countries other than the United States. Throughout the 1970s, and especially the 1980s, states and intergovernmental organizations ranging from India and the Commonwealth (excluding the United Kingdom) to the European Community and the Nordic countries undertook economic measures to induce withdrawal of foreign corporations from South Africa (see Figure 2).<sup>171</sup> Likewise in the case of the

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Gay: *Implementation of the Anti-Apartheid Act of 1986*. In: EDGAR, Robert E. (Ed.): *Sanctioning Apartheid*. Trenton 1990, p. 23.

<sup>167</sup> For more information on the specific content of the CAAA see e.g. *Comprehensive Anti-apartheid Act of 1986*. In: The Library of Congress,

<http://thomas.loc.gov/cgi-bin/bdquery/z?d099:HR04868:/bss/d099query.html> (10. 5. 2010);

CLARIZIO, Lynda M. – CLEMENTS, Bradley – GEETTER, Erika: *United States Policy toward South Africa*. Vol. 11, 1989, No. 2, pp. 249-294. ([www.jstor.org](http://www.jstor.org))

<sup>168</sup> KNIGHT, Richard: *Sanctions, Disinvestment, and U.S. Corporations in South Africa*. In:

EDGAR, R. E. (Ed.): c. d., p. 70. For details on the legislation see e.g. NICKEL, Herman: *We'll Blow Your House Down*. In: MURRAY, Hugh (Ed.): *Sanctions*. Cape Town 1988, p. 34.

<sup>169</sup> *Ibid*, pp. 69-70.

<sup>170</sup> On non-federal investment legislation regarding South Africa see e.g. SPIRO, Peter J.: *State and Local Anti-South Africa Actions as an Intrusion upon the Federal Power in Foreign Affairs*. *Virginia Law Review*, Vol. 72, 1986, No. 4, pp. 813-850. ([www.jstor.org](http://www.jstor.org))

<sup>171</sup> For an overview see e.g. JENKINS, Carolyn M.: *Assessing the Damage: The Effects of Sanctions on South Africa*. Durban 1992, p. 6.

United States, the statutes did not demand disinvestment of emplaced assets and only imposed voluntary or mandatory restrictions on new investment.

## 2.2 South African Economy and Its Vulnerability to Sanctions on Foreign Direct Investment

Beginning with the discovery of gold in the region of Johannesburg in 1886, an inflow of foreign capital has been a major driving force behind the economic development of South Africa.<sup>172</sup> The importance of foreign investment was recognized by South African economist Hobart Houghton, who believed that the massive foreign investment 'greatly accelerated the economic development of the country and enabled a rate of growth which would otherwise have been quite impossible'.<sup>173</sup> Estimates made by other South African economists suggested that foreign capital alone accounted for about one third of the country's gross domestic product growth.<sup>174</sup>

Historically, South Africa's reliance on foreign capital investment has been reflected in the area of domestic investment.<sup>175</sup> Before the discovery of precious metals in the latter part of the 19<sup>th</sup> century, South Africa was an undeveloped country heavily reliant on agricultural production, with bleak prospects for economic development. A major shift occurred with the influx of British capital into the new mining sector and other industries connected with gold.<sup>176</sup> The importance of foreign investment for the development of the country's economy is evident when one considers figures provided by S. H. Frankel. The South African economist estimated that between 1887 and 1932, foreign countries supplied three-fifths of the approximately £200 million of capital invested into the booming gold mining industry.<sup>177</sup>

The crucial role of foreign investment in South Africa's economic development was again apparent during the period of economic expansion

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<sup>172</sup> MYERS III, Desaix – HECHT, Robert – LIFF, David: *U.S. Business and South Africa: The Withdrawal Issue*. Washington 1977, p. 3.

<sup>173</sup> Cited in GELDENHUYS, D.: c. d., p. 388.

<sup>174</sup> MYERS III, Desaix et al: c. d., p. 39.

<sup>175</sup> JENKINS, C. M.: *Assessing the Damage: The Effects of Sanctions on South Africa*, p. 7.

<sup>176</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, p. 22.

<sup>177</sup> *Ibid.*

after World War II. Over the four-year period from 1946 to 1950, the average net inflow of foreign capital accounted for around 40 percent of gross domestic investment. During the period of particularly rapid economic growth that the country was experiencing between 1965 and 1969, foreign investors provided about 10 percent of gross domestic investment. The contribution of foreign capital to total capital formation was even more significant between the years 1970 and 1976; average net inflows of around \$1 billion per year accounted for 13 percent of gross domestic investment.<sup>178</sup> Moreover, it is essential to note that the figures would be even higher if they included the part of profits earned by foreign subsidiaries in the country, which were plowed back into the South African economy.<sup>179</sup>

Besides the area of domestic investment, South Africa's reliance on a constant inflow of foreign capital was reflected in the country's balance of payment situation.<sup>180</sup> After WWII, South Africa developed its manufacturing industry by pursuing import substitution policies, which required continuous imports of capital equipment and processed intermediate goods.<sup>181</sup> Since the country's research and development capabilities were limited, South Africa had to increasingly rely on external sources to supply its industries with sophisticated manufactured products; in the years before the investment sanctions began to take effect, capital equipment and intermediate goods accounted for approximately 80 percent of the value of all South Africa's imported goods.<sup>182</sup>

The increased import dependence accompanying import substitution industrialization caused severe balance of payments problems for the South African economy. To cover the costs of the goods it imported, the country needed to generate an adequate amount of foreign exchange, which can generally be obtained through exports, direct/indirect investment and selling gold reserves.<sup>183</sup> Since import costs exceeded export revenues in

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<sup>178</sup> LITVAK, L. – DeGrasse, R. – McTigue, K.: c. d., p. 40.

<sup>179</sup> In many years the re-invested earnings equaled or exceeded the amount of new foreign investment. In such cases the numbers cited above would be twice as high. See *Ibid.*

<sup>180</sup> LITVAK, L. – DeGrasse, R. – McTigue, K.: c. d., p. 41.

<sup>181</sup> LOWENBERG, Anton D.: *Why South Africa's apartheid economy failed?* Contemporary Economic Policy, Vol. 15, 1997, No. 3, p. 65. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>182</sup> HIRSCH, A.: c. d., p. 280.

<sup>183</sup> LITVAK, L. – DeGrasse, R. – McTigue, K.: c. d., p. 41.

nearly every year from 1962 through 1984,<sup>184</sup> the government had to increasingly rely on foreign capital inflows to provide the foreign exchange needed to fund the import requirements of the economy.<sup>185</sup>

As can be concluded from the above, the decades preceding the peak in the twin divestment-disinvestment offensives witnessed a steady rise in the country's international indebtedness. While foreign investment in South Africa stood at just over R3 billion in 1961 and 1962, external investment totaled R22.8 billion by the end of the 1970s, and reached an estimated R40 billion in the mid-1980s.<sup>186</sup> South Africa's net international indebtedness had increased from around R2 billion at the end of 1956 to over R28 by the end of 1983.<sup>187</sup>

To better understand the potential impact of disinvestment on the South African economy, it is of vital importance to point to the shift in the nature of foreign investment that accompanied the buildup in debt (see Figure 3). Before the change took place during the 1970s, foreign direct investment made up more than half of total foreign liabilities and indirect capital flows were of lesser significance.<sup>188</sup> In the 1970s, however, FDI as a percentage of total capital flows began to drop off, first to 54 percent in 1973 to only 34 percent in 1985.<sup>189</sup>

There were several economic and political factors that contributed to the trend away from direct towards indirect investment. During the 1970s, the political instability prevalent in South Africa after the Soweto uprising, combined with slower economic growth, started to discourage foreign investors.<sup>190</sup> In 1973, foreign direct investment inflows to South Africa turned negative,<sup>191</sup> and ten years later the country's economy was hit by massive capital outflows as multinational corporations rushed to recover

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<sup>184</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, p. 32.

<sup>185</sup> The deficit on the current account was also financed by changes in SDR allocations and gross gold and foreign reserves.

<sup>186</sup> GELDENHUYS, D.: c. d., p. 389.

<sup>187</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, p. 23.

<sup>188</sup> JENKINS, C. M.: *Assessing the Damage: The Effects of Sanctions on South Africa*, p. 7.

<sup>189</sup> GELDENHUYS, D.: c. d., p. 390.

<sup>190</sup> HIRSCH, Alan: *Sanctions, Loans and the South African economy*. In: ORKIN, Mark (Ed.): *Sanctions Against Apartheid*. Claremont 1989, p. 271.

<sup>191</sup> JENKINS, C. M.: *Assessing the Damage: The Effects of Sanctions on South Africa*, p. 7.



their investments (see Figure 4).<sup>192</sup> However, during the same time period, the South African government and its state-owned corporations such as the Electricity Supply Commission needed capital to finance an extensive \$20 billion development program launched in the early 1970s. Since not only foreign direct investment but also domestic savings had dropped in those years, the government was forced to resort to foreign borrowing to bridge the gap between investment and savings.<sup>193</sup>

Whereas during the early and mid-1970s the government managed to secure long-term loans with maturities over one year, concerns about the country's economic and political future significantly reduced South Africa's chances of obtaining further long-term loans in the late-1970s and early-1980s. Consequently, South Africa had to offset the shortage of long-term funding by increased reliance on short-term borrowing with all the potential risks involved with high volatility investments.<sup>194</sup> Hence, when the repercussions of disinvestment for the South African economy are evaluated later in the chapter, it is necessary to keep in mind the declining trend in FDI flows and the increasing dependence of South Africa's economy on foreign short-term borrowing.<sup>195</sup>

When considering the distribution of foreign investment by country of origin, it is difficult to understate the importance of British investment for South Africa's economic development. As mentioned above, the gold and diamond mining industries were developed with the assistance of British capital, and during the following decades the UK remained the main provider of foreign capital. In the post-WWII period, South Africa started to attract also Western European and United States capital, which was channeled mainly into the booming manufacturing sector.<sup>196</sup> Notwithstanding the consequent increase in the percentage of non-British investment in the South African economy, the UK continued to play a pivotal

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<sup>192</sup> HIRSCH, A.: c. d., p. 271. The reason why many foreign corporations disinvested between years 1983 and 1984 was the combined result of a downturn in the South African economy, and the temporary relaxation of exchange controls by the South African government in February 1983.

<sup>193</sup> *Ibid.*

<sup>194</sup> MYERS III, Desaix et al: c. d., pp. 42-3.

<sup>195</sup> By the mid-1980s, short-term loans made up two-thirds of South Africa's external debt. See LEVY, Philip I.: *Sanctions on South Africa: What Did They Do?* American Economic Review, Vol. 89, 1999, No. 2, p. 416. ([www.jstor.org](http://www.jstor.org))

<sup>196</sup> LITVAK, L. – DeGrasse, R. – McTigue, K.: c. d., p. 40.

role in supplying the country with both direct and indirect capital investments; on the eve of the beginning of serious international investment and financial sanctions against South Africa, it was estimated that British investment represented 40 percent of the country's foreign liabilities. West Germany and the United States followed with a share of some 20 percent of overall foreign investment each.<sup>197</sup>

A similar picture emerges when the data are broken down by type of investment to see the extent of foreign direct investment in South Africa prior to the onset of the sanctions in question. The United Kingdom-South Africa Trade Association (UKSATA)<sup>198</sup> estimated that the Great Britain was the most significant foreign investor with some £6 billion in indirect and £5 billion in direct assets in January 1982. This involved around 400 UK corporations with approximately 1 000 South African affiliates.<sup>199</sup> It is important to note that UK investments in South Africa represented almost 10 percent of British direct overseas investments in the mid-1980s,<sup>200</sup> and that this fact was likely to negatively influence the decisions of British corporations to disinvest.

Throughout the 1970s, the value of American direct investment in South Africa nearly tripled, reaching an estimated \$2.63 billion at the end of 1981 and \$2.8 billion a year later.<sup>201</sup> In the mid-1980s, the number of corporations responsible for U.S. direct investment in the country was put at 250 and higher, depending on the criteria used when compiling lists of the companies.<sup>202</sup> Of significance is the fact that unlike in the case of the United Kingdom, direct American investment in South Africa accounted for less than 1 percent of the total U.S. overseas investments. Hence, given that estimates credited the United States with some 20 percent of total FDI in the country, South Africa was relatively vulnerable to the investment policy decisions of the U.S. government and multinational corporations.<sup>203</sup>

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<sup>197</sup> GELDENHUYS, D.: c. d., p. 390.

<sup>198</sup> Since South Africa published relevant official records only until 1960, unofficial estimates must be used for following years.

<sup>199</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, p. 41.

<sup>200</sup> SETHI, Prakesh S.: *How The United States Can Fight Apartheid*. Business & Society Review, Vol. 58, 1986, No. 4, p. 59. (www.ebscohost.com)

<sup>201</sup> DAVIS, J. – CASON, J. – HOVEY, G.: c. d., pp. 545-6.

<sup>202</sup> GELDENHUYS, D.: c. d., p. 390.

<sup>203</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, pp. 41-2.

By the beginning of the year 1982, South Africa had also attracted an estimated £240 million in direct investment from West Germany, the country's third most important foreign investor.<sup>204</sup> In the mid-1980s, approximately 300 West German subsidiaries were reported to operate within the economy.<sup>205</sup> Other states that had considerable direct investment stakes in South Africa at that time included Switzerland (32 companies), Australia (24), Canada (21), France (20), Sweden (18) and the Netherlands (17).<sup>206</sup>

The first part of the study outlined a number of mechanisms (including capital supply, technology transfer and provision of entrepreneurial and management skills) via which foreign direct investment has the potential to enhance the long-term growth prospects of the host economy. In order to appraise the impact of FDI outflows on the South African economy, it is desirable to examine the contribution of the individual channels to the South Africa's economic development prior to disinvestment.

As has been demonstrated above, the apartheid economy was dependent on foreign investment to compensate for the scarcity of domestic capital and redress balance of payments deficits. At the same time, it has also been established that the ratio of FDI to total capital inflows dramatically declined throughout the 1970s and early 1980s, which significantly reduced the exposure of the economy to corporate divestiture. What also needs to be highlighted is the fact that especially from the 1970s, South African affiliates of multinational corporations were not responsible for inducing consistent and substantial injections of new capital into the apartheid economy. As Carolyn M. Jenkins pointed out, expansion of the subsidiaries 'occurred by reinvesting profits earned in South Africa, with between 30-76 percent of gross profits being retained over the years from 1960'.<sup>207</sup>

A closer examination of practices of MNCs operating in apartheid South Africa suggests that the presence of foreign companies produced mixed results in terms of human capital enhancement. Drawing on data from a survey of foreign subsidiaries engaged in business activities in South Africa,

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<sup>204</sup> *Ibid.*

<sup>205</sup> GELDENHUYS, D.: c. d., p. 391.

<sup>206</sup> *Ibid.*

<sup>207</sup> JENKINS, C. M.: *Assessing the Damage: The Effects of Sanctions on South Africa*, p. 8.

Carolyn M. Jenkins concluded that while all corporations interviewed employed South Africans at lower and middle management positions, a large percentage of management positions at the most senior level was held by people of foreign descent. The companies acknowledged that even though they publicly promoted the training and use of local management personnel, in practice they refrained from filling the highest posts with South Africans due to their lack of executive management skills.<sup>208</sup>

In view of the fact that the consumer market in apartheid South Africa was too small to warrant research and development of high-technology products, it seem appropriate to conclude that the principal benefit of foreign corporate presence consisted in transfer of technology. This assumption has also been adopted by Ann Seidman who believes that 'more important than the new capital they invested, the transnationals transferred to South Africa increasingly sophisticated, capital-intensive technologies'.<sup>209</sup> Likewise, British economist John Suckling is of opinion that technology transfer and know-how was 'the most important contribution of foreign investment to the South African economy – accounting for 40 percent of the growth in South Africa's GDP between 1957 and 1972'.<sup>210</sup>

During the 1960s and 1970s, sophisticated technology was of crucial significance to some of the fastest growing sectors of the South African economy. These included the manufacturing industry, into which foreign corporations heavily invested in the post-WWII period.<sup>211</sup> A survey of the manufacturing sector conducted by researchers of the University of Natal (South Africa) in 1973 revealed that nearly three-quarters of the companies interviewed used at least 90 percent of foreign technology in the production process; and over 60 percent of the respondents claimed to depend entirely on foreign technology.<sup>212</sup> One of the branches of the manufacturing sector that experienced technology transfer on a particularly large scale was the motor vehicles industry. In the 1960s the government of South Africa

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<sup>208</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, p. 60. For details of the survey see *Ibid*, pp. 48-9.

<sup>209</sup> SEIDMAN, Ann: *Transnational Manufacturing-Finance Links*. In: EDGAR, R. E. (Ed.): c. d., p. 143.

<sup>210</sup> SCHMIDT, E.: c. d., p. 59.

<sup>211</sup> It was estimated that at the end of the 1960s, foreign corporations controlled 40 percent of South Africa's manufacturing sector. LITVAK, L. – DeGrasse, R. – McTigue, K.: c. d., p. 41.

<sup>212</sup> JENKINS, C. M.: *The Economic Implications of Disinvestment for South Africa*, pp. 57-58.

introduced a local content program, which encouraged manufacturers such as Ford and General Motors to provide a steadily increasing percentage of the vehicles by mass (weight) to be sourced within the country.<sup>213</sup>

The range and extent of technology imported from abroad through multinational corporations can be further demonstrated by examining the involvement of U.S. firms in South Africa's economy. The bulk of U.S. investment was located in strategic sectors of the economy that required high technology or access to materials not readily available in the country.<sup>214</sup> These included petroleum (American corporations provided an estimated 45 percent of South Africa's oil supplies), computers (controlled over 70 percent of the South African market) and motor vehicles industry (controlled around one-third of the market).<sup>215</sup> As such, South African subsidiaries of American corporations supplied local producers with essential intermediate capital goods.<sup>216</sup> Last but not least, some of them also provided indispensable machinery and expertise to carry out a number of major public and private works projects.<sup>217</sup>

## 2.3 Economic and Political Effects of Disinvestment

It is a rather complex task to evaluate the outcomes of the disinvestment movement in terms of capital and corporate withdrawals from South Africa. Ideally, disinvestment would be measured by the value of the assets or the output of South African operations that were terminated as a result of corporate divestiture. But movements in exchange rates and the problem of accounting for inflation led to the tendency to assess the extent of disinvestment by counting the number of disinvested companies.<sup>218</sup> This method of calculation offered a more accurate picture of the corporate pullouts but it did not prevent the accumulation of a confusing mass of data

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<sup>213</sup> GELDENHUYS, D.: c. d., p. 410.

<sup>214</sup> DAVIS, J. – CASON, J. – HOVEY, G.: c. d., p. 547.

<sup>215</sup> MANGALISO, M. P.: c. d., pp. 147-9.

<sup>216</sup> GELDENHUYS, D.: c. d., p. 410.

<sup>217</sup> GELDENHUYS, D.: c. d., p. 410.

<sup>218</sup> See more *Banking on Apartheid: The Financial Links Report*. London 1989, p. 64.

that one needs to navigate through when appraising the extent of disinvestment.

Perhaps the most authoritative source of information on disinvestment is the Investor Responsibility Research Center (IRRC) based in Washington.<sup>219</sup> The IRRC reported that in 1985, the first year when American companies began to leave the country in large numbers, 40 U.S. corporations ceased their direct investments. In 1986 departed 50 firms and another 54 in the year that followed. Beginning with the year 1988, the rate of corporate divestiture slowed down; only 28 companies disinvested from South Africa in 1988 and by July 1989, 10 MNCs announced their plans to leave.<sup>220</sup> The companies that decided to withdraw included corporate giants like Coca-Cola, Exxon, Ford, General Electric, General Motors, International Business Machines and Johnson Controls.<sup>221</sup>

As for non-American multinationals, the IRRC estimated that some 115 corporations made public their plans to dispose of their operations in South Africa in the period from January 1984 through June 1988. Most prominent were the British; Barclays, Standard Chartered, Rank Xerox, the P & O Steam Navigation Company and another 45 United Kingdom companies opted for disinvestment. The rest featured 12 Canadian, eight French, seven West German and seven Australian firms.<sup>222</sup> Data provided by Robert M. Price, which are consistent with the findings of the IRRC, indicated that between 1984 and 1989 approximately 125 non-United States-based companies pulled out of South Africa.<sup>223</sup>

At first sight, one could have the impression that the wave of disinvestment was quite damaging. A rather different image emerges when three important points are taken into account. First, the glass appears to be half empty when the number of companies that continued to operate in

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<sup>219</sup> Alternative sources of data on disinvestment include the International Confederation of Free Trade Unions (ICFTU), the United Nations Economics and Social Council and the United Nations Center on Transnational Corporations.

<sup>220</sup> Cited in DAVIS, STEPHEN P.: *Economic Pressure on South Africa: Does It Work?* In: SHEPHERD, George W.: *Effective Sanctions on South Africa: The Cutting Edge of Economic Intervention*. West Port 1991, p. 70.

<sup>221</sup> For disinvestment profiles of the eight companies see KIBBE, Jennifer – HAUCK, David: *Leaving South Africa: The Impact of U.S. Corporate Divestiture*. Washington 1988, pp. 35-46.

<sup>222</sup> Cited in GELDENUYS, D.: c. d., p. 397; INNES, Duncan: *Pack Up Your Troubles*. In: MURRAY, H. (Ed.): c. d., p. 21.

<sup>223</sup> PRICE, Robert M.: *The Apartheid State in Crisis: Political Transformations in South Africa, 1975-1990*. New York and Oxford 1991, p. 225.

South Africa is considered. An IRRC report published in the latter part of 1988 estimated that over 600 foreign corporations had been reluctant to dispose of their equity interests in the country. Of these, 195 were British, 150 American, 137 West German, 29 Swiss, 24 French, 14 Dutch, 12 Australian, eight Italian and six Swedish.<sup>224</sup> The tendency to hold onto the South African market was confirmed in a study conducted by the United Nations Center on Transnational Corporations (UNCTC) during the last phase of the disinvestment movement. The report discovered that as of 1990, over 400 companies<sup>225</sup> from 15 different countries held equity interests in South Africa. The most represented country was the United Kingdom (172 companies), followed by the United States (94), West Germany (73) and Switzerland (23).<sup>226</sup>

Second, only a negligible proportion of the companies that disinvested fully terminated their operations and shut down. In the vast majority of cases, there was no closure or demolition of the physical assets. The IRRC calculated that of the 229 multinational corporations that withdrew direct investments in the period between 1 January 1984 and mid-April 1989, only 36, or 16 percent, chose the form of physical disinvestment. In view of the fact that these firms generally had few physical assets to sell,<sup>227</sup> their withdrawals affected South Africa's productivity performance even less than the 16 percent figure would suggest.<sup>228</sup> Moreover, given that the vast majority of the affiliates whose parents pulled out remained operational under new ownership as a result of financial disinvestment, the corporate departures did not cause serious damage to the economy in terms of production, employment or tax revenues.<sup>229</sup>

From the above, it can be deduced that financial disinvestments proved to be the most popular form of disinvestment. Perhaps the most detailed information regarding the financial withdrawals from South Africa is

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<sup>224</sup> Cited in INNES, D.: *Pack Up Your Troubles*, p. 21.

<sup>225</sup> Only companies with more than a 10 percent holding in a South African subsidiary were considered.

<sup>226</sup> *Transnational Corporations in South Africa: List of Companies with Investments and Disinvestments 1990*. New York 1991, pp. 238-274.

<sup>227</sup> One significant exception to this general rule was the U.S. company Kodak, which closed its South African subsidiary completely in November 1986.

<sup>228</sup> *Transnational Corporations in South Africa: Second United Nations Hearings, 1989, Vol. 2*. New York 1990, p. 39.

<sup>229</sup> *Ibid*,

provided in the study on United States disinvestment, *Leaving South Africa: The Impact of U.S. Corporate Disinvestment*, which was carried out by the IRRC in 1988. Since the American pattern of disinvestment broadly corresponds to those observed in other countries,<sup>230</sup> the findings in the 1988 report could also be safely applied to countries beyond the United States.

Of the 114 American corporations that disinvested between the beginning of 1986 and the end of April 1988, 45 sold their assets to local South African companies. This type of withdrawal was the most frequent choice because it allowed the departing companies to maximize the sale price and to conclude contracts with the new owners for continuing non-equity links such as franchising and distribution agreements. The main disadvantage of this option was that the proceeds had to be repatriated through the much lower financial rand exchange rate,<sup>231</sup> thereby imposing significant losses on the MNCs (see Figure 5).<sup>232</sup>

Companies whose primary objective was to maintain a foothold in the South African market and to receive profits even after disinvestment from non-equity and supply agreements preferred sales to local management. The so-called management buyout, which was undertaken by 27 corporations, also increased the scope for the parent to include a buy-back clause facilitating a return to a post-apartheid South Africa.<sup>233</sup>

The third most popular form of financial withdrawal, sales of assets to foreign multinationals, was chosen by 13 firms examined. This option had the major disadvantage that the price obtained was depressed by the reduced number of business entities willing to make investments in the country. Besides, the parent was not in a position to dictate the terms of non-equity

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<sup>230</sup> *South Africa: The Sanctions Report: Prepared for the Commonwealth Committee of Foreign Ministers on Southern Africa*, p. 67.

<sup>231</sup> To reduce the large capital outflows from South Africa, which were triggered by the political turmoil of the mid-1980s, in September 1985, Pretoria reintroduced the two-tier exchange rate system that had been in operation between the years 1961 and 1983. The commercial rand exchange rate was used for foreign trade (both import and export), dividend payments to foreign shareholders of South African companies, payment of royalties and license fees to foreign firms for non-equity arrangements, and tourism. The lower tier of the exchange rate, the financial rand, applied to investments in South Africa by non-residents, capital imported by immigrants, the proceeds from sales of South African equity investments and securities when transferred abroad by non-residents, and capital exports by immigrants. For information on the dual exchange rate system see e.g. OVENDEN, Keith – COLE, Tony: *Apartheid and International Finance: A Program for Change*. Victoria 1989, pp. 108-126.

<sup>232</sup> KIBBE, J. – HAUCK, D.: c. d., pp. 7-8.

<sup>233</sup> *Ibid*, p. 8.



agreements, if arranged, as in the case of management buyout. The chief benefit of such a sale was that at least some part of the payment was made in foreign currencies. This substantially reduced the losses incurred by the departing companies since the given proceeds did not have to be brought out through the artificially depressed financial rand exchange rate.<sup>234</sup>

Apart from the facts that the disinvestment movement was not as widespread as first glance would suggest, and that it caused little disruption for South Africa in terms of production, employment or tax revenues, there was an additional reason why its results were rather disappointing. As has been implied above, some enterprises that disinvested established non-equity agreements with the new, mainly South African, owners of the businesses. These links took the form of licensing, franchise, royalty or distribution agreements, which supplied the country with foreign products, technology, and designs as well as with technical and managerial services.<sup>235</sup>

The 1991 UNCTC study estimated that despite the large number of companies that disinvested, 43 percent of the United States-based companies, 33 percent of the West Germany-based firms, 9 percent of the United Kingdom-based firms, and 23 percent of the multinationals based in other countries did not sever all their economic ties to South Africa.<sup>236</sup> An alternative set of figures provided by the IRRC claimed that at least 83, or 53 percent, of the 155 American companies that disinvested between the beginning of 1984 and mid-April 1989 retained non-equity ties with the new holders. As for data on non-U.S. companies, the IRRC estimated that of the 122 firms that pulled out from South Africa within the designated time period, no less than 24 (20 percent) preserved non-equity ties.<sup>237</sup> It may be appropriate to add here that the figure for non-U.S. parents would have

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<sup>234</sup> *Ibid*, p. 9. As for the remainder of the disinvestment cases, 15 companies shut down; seven corporations sold or donated their assets to some form of trust; five sold to other American enterprises; one moved its production facilities to a neighboring country; and one donated their assets to church.

<sup>235</sup> INNES, D.: *Pack Up Your Troubles*, p. 22.

<sup>236</sup> *Transnational Corporations in South Africa: List of Companies with Investments and Disinvestments 1990*, p. 2.

<sup>237</sup> *Transnational Corporations in South Africa: Second United Nations Hearings, 1989, Vol. II*, p. 39.

probably been higher if more complete information on their activities had been available at the time of the study.<sup>238</sup>

The most suitable explanation for the extensive preservation of non-equity ties lies in the pecuniary interests of the international corporations.<sup>239</sup> Multinationals operated in South Africa not to dismantle apartheid or to strengthen it; they were there to earn the highest profits possible. Similarly, when the companies decided to disinvest, they did not choose the form of withdrawal that hurt the country's economy most but the one that served their corporate balance sheets best. And as Kenneth A. Rodman pointed out, the maintenance of non-equity ties allowed 'the MNC to maximize the income it earned from South Africa after withdrawal'.<sup>240</sup>

Continuing his argument, Rodman reasoned that it was not economically attractive for the disinvesting companies to just sell off their plants and leave the immense market without any "sweeteners". Not only the price obtained for the assets left behind would be greatly depressed, but also all of the proceeds would need to be repatriated through the discounted financial rand exchange rate. On the other hand, licensing and other non-equity agreements maintained a degree of technological cooperation and input supplies vital for output and profit maximization, and hence allowed the former parent to request a higher "package price". Besides, since payments for services and technology (unlike the asset sales) took place at the higher commercial rand exchange rate, the departing companies were able to repatriate at least a portion of this "package price" without any financial restrictions.<sup>241</sup>

Considering that one of the Achilles heels of the South African economy was its dependence on Western technology, the preservation of non-equity links significantly reduced the costs which corporate disinvestment could have imposed on the economy. As noted in a 1989 study prepared for the Commonwealth Committee of Foreign Ministers on Southern Africa, if the

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<sup>238</sup> While only eight percent of the 155 American companies failed to disclose whether they established new agreements with the new ownership, a full 40 percent of the 122 non-United States enterprises did not make the information available.

<sup>239</sup> Understandably, there were exceptions to this generalization. One of them was the case of Mobil Corporation, which was prohibited by the South African government to disinvest unless it entered into non-equity agreements.

<sup>240</sup> RODMAN, K. A.: *Public and Private Sanctions against South Africa*, p. 330.

<sup>241</sup> *Ibid.*

technology transfer stopped completely, 'then disinvested assets (even if sold to South Africans as going concerns) would gradually fall behind best Western performance standards'.<sup>242</sup> But this never fully materialized because the non-equity ties guaranteed that the new owners of the assets would have continued access to world-class technology.

Likewise, the impact of disinvestment on the balance of payments situation was not as severe as proponents of corporate withdrawal had expected (see Figure 4). To some extent, this was because more often than not the assets were sold well below market value. But more importantly, the impact was mitigated by the reintroduction of exchange controls and the dual rand system in September 1985.<sup>243</sup> As a result of the two-tier exchange rate system, proceeds of disinvestment had to be kept in a financial rand pool until a sufficient amount of new foreign investment came in to replace them. Therefore, the sharp rise in disinvestment activity in 1986 and 1987 could neither put pressure on South Africa's current account surplus nor on foreign exchange reserves; it could only drive down the exchange rate of the financial rand.<sup>244</sup> Some would point out that the non-equity arrangements must have put some pressure on the balance of payments because the generally very high royalty and license fees could be remitted at the higher commercial rand exchange rate. But it needs to be remembered that the non-equity links were 'substitutes for the earlier equity links which themselves yielded outflows of profits and dividends to foreign investors'.<sup>245</sup>

It is relevant to note here that of greater concern for the South African economy were the so-called "bankers' sanctions", which practically cut the country off from international capital markets.<sup>246</sup> As has been established earlier in the chapter, the 1970s witnessed an increasing dependence of South Africa on highly volatile short-term borrowings to finance both domestic investment and current-account deficits (see Figure 6). Hence, when international bankers seeking to reduce their South African exposure

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<sup>242</sup> *South Africa: The Sanctions Report: Prepared for the Commonwealth Committee of Foreign Ministers on Southern Africa*, pp. 33-43.

<sup>243</sup> RIDDEL, Roger C.: *The Impact of New Sanctions Against South Africa*. In: EDGAR, R. E. (Ed.): c. d., p. 119.

<sup>244</sup> *South Africa: The Sanctions Report: Prepared for the Commonwealth Committee of Foreign Ministers on Southern Africa*, p. 70.

<sup>245</sup> *Ibid*, p. 71.

<sup>246</sup> JENKINS, C. M.: *Assessing the Damage: The Effects of Sanctions on South Africa*, p. 8.

refused to roll-over the country's maturing short-term loans in mid-1985, the subsequent massive capital flight posed much more serious balance of payments difficulties than was the case of disinvestment (see Figure 4).<sup>247</sup>

To reverse the heavy drain on foreign exchange reserves, the government in Pretoria declared a partial moratorium on debt repayments and imposed the aforementioned exchange controls. In consequence to the debt crisis, South Africa was confronted with continuous foreign exchange shortages, which threatened its ability to achieve economic growth and political stability.<sup>248</sup>

Perhaps the most significant economic effect of disinvestment consisted in that it discouraged foreign investors to invest their money in South Africa.<sup>249</sup> As the 1989 Commonwealth study concluded, corporate withdrawals 'certainly contributed to an overall atmosphere of uncertainty which has been damaging to the confidence required for earnings and investment to flourish'.<sup>250</sup> While there is no doubt that investors' confidence in the South African market had already been lowered by the country's political turmoil and economic recession of the 1980s, the departure of the large number of corporate giants such as Coca-Cola and General Motors was likely to represent an additional strong factor deterring new direct investment. Moreover, even though the disinvesting companies left the production facilities intact and a significant portion of them maintained the flow of technology through non-equity arrangements, the MNCs refrained from putting in place new plants and machinery, and ensuring that their former subsidiaries were in a position to play a leading role in the South African market.<sup>251</sup>

So far, the study has demonstrated that investment sanctions against South Africa failed to cause an economic dislocation as envisioned by the proponents of economic disengagement. If the results are considered from the traditional perspective of economic sanctions, which assumes that the

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<sup>247</sup> This was the case because debt repayments took place at the commercial rand exchange rate.

<sup>248</sup> RODMAN, K. A.: *Public and Private Sanctions against South Africa*. For more information on the course and outcomes of the "bankers' sanctions" see e.g. CARIM, Xavier – KLOTZ, Audie – LEBLEU, Olivier: *The Political Economy of Financial Sanctions*. In: CRAWFORD, N. C. – KLOTZ, A.: c. d., pp. 159-177; GELDENHUYS, D: c. d., pp. 402-409; OVEDEN, K. – COLE, T.: c. d., pp. 75-107.

<sup>249</sup> OVEDEN, K. – COLE, T.: c. d., p. 160.

<sup>250</sup> *South Africa: The Sanctions Report: Prepared for the Commonwealth Committee of Foreign Ministers on Southern Africa*, p. 71.

<sup>251</sup> OVEDEN, K. – COLE, T.: c. d., pp. 160-161.

degree of political success of sanctions is positively correlated with the amount of economic damage they inflict on the target country, then one may conclude that disinvestment could not have played any significant role in abolishing apartheid. Since the withdrawal of direct investment capital had no, or very little, negative impact on the country's aggregate economic performance, the South African government lacked incentives to introduce political reforms.

It was pointed out in the theoretical part of the paper that there has been a shift away from the traditional understanding of economic sanctions and a tendency to put more emphasis on selective targeting of sanctions. Proponents of targeted measures maintain that to induce political changes in a targeted country, sanctions do not need to devastate the country's whole economy; they should hurt those groups that gain from the target country's objectionable behavior, and they should benefit the losers from the policies. Keeping this perspective in mind, the following section will investigate whether investment sanctions promoted the interests of the main losers of the apartheid system, black South Africans, while negatively affecting the white population.

A closer examination of the selective effects of disinvestment reveals that corporate withdrawals produced some ironical and unintended consequences. First and foremost, disinvestments by multinational corporations gave the opportunity to white South Africans to acquire new business assets, often at "fire-sale" prices.<sup>252</sup> Out of the 229 companies reported by the IRRC to disinvest between 1984 and 1989, 145, or 63 percent, were purchased by either South African companies or local managements, which were overwhelmingly white-controlled.<sup>253</sup> Moreover, the main buyers were large South African conglomerates such as Anglo American Group, which were subsequently able to exercise an even tighter grip on South Africa's economy than before.<sup>254</sup>

In contrast, corporate withdrawals left black business community empty-handed. When Western companies started to announce their plans to

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<sup>252</sup> INNES, D.: *Multinational Companies and Disinvestment*, p. 233.

<sup>253</sup> *Transnational Corporations in South Africa: Second United Nations Hearings, 1989, Vol. II*, p. 40.

<sup>254</sup> COWELL, Alan: *The Ambiguity of South African Divestment*. New York Times, 31 December 1986, p. 1. ([www.proquest.umi.com](http://www.proquest.umi.com))

pull out, black entrepreneurs held high hopes that they would be given a chance to participate in the buy-outs. But the only significant black takeover that took place was the acquisition of Pepsi Cola Africa by the Soweto Investment Trust Company.<sup>255</sup> According to Duncan Innes, the then Associate Professor in sociology at the University of the Witwatersrand, the only positive benefit that black South Africans received from disinvestment was the establishment of employee share ownership schemes by a number of departing companies.<sup>256</sup> But as Innes added, these actions were of a limited character and hardly constituted a major wealth transfer.<sup>257</sup>

Commenting on the effects of the South African disinvestment, William H. Kaempfer and Anton D. Lowenberg suggested that Western economic disengagement not only failed to advance the economic interests of the black community, but it actually may have reinforced the apartheid system. They pointed out that the acquisition of new assets at well below market prices allowed white South Africans to substantially increase the rate of return on their wealth. And since this income was subject to taxation, the government could 'extract more revenue from the private sector in order to finance its administration and enforcement of the apartheid policies'.<sup>258</sup>

A further negative consequence of corporate withdrawals for black South Africans was the post-disinvestment cutback in funding for community development programs and organizations involved in combating apartheid policies.<sup>259</sup> Unlike their Western counterparts with "deep pockets", the new South African owners were not in a position to afford or willing to maintain the previous level of funding.<sup>260</sup> Companies whose social responsibility budgets were cut or cancelled as a result of disinvestment included Johnson Control's former South African subsidiary (stopped providing funds after its parent pulled out in November 1986) and IBM's

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<sup>255</sup> INNES, D.: *Pack Up Your Troubles*, p. 22.

<sup>256</sup> *Ibid*, p. 23. One of the companies that attempted to promote black ownership of the disinvested assets was the American Ford Motor Corporation, which offered 24 percent of South African Motor Corporations' shares (Ford originally held 42 percent in the company) to its mainly black labor force.

<sup>257</sup> INNES, D.: *Pack Up Your Troubles*, p. 23.

<sup>258</sup> KAEMPFER, W. H. - LOWENBERG, A. D.: *Divestment, Investment Sanctions, and Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments*, p. 471.

<sup>259</sup> *Transnational Corporations in South Africa: Second United Nations Hearings, 1989, Vol. II*, p. 40.

<sup>260</sup> KIBBE, J. - HAUCK, D.: c. d., p. 19.

former South African affiliate (its annual social responsibility budget supposedly fell from R2.5 million to R800,000).<sup>261</sup>

What is important to note is that besides the amount allotted for social responsibility projects, disinvestment also had an impact on the character of the organizations selected to receive funding. In comparison to U.S. companies, South African businessmen were reluctant to provide financial support to anti-apartheid organizations.<sup>262</sup> One of the groups affected by the departure of American companies was the Get Ahead Foundation, whose main objectives were to assist small black entrepreneurs to obtain funding for their businesses and to encourage South Africans to fight apartheid through the tactic of civil disobedience. Speaking to the Investor Responsibility Research Center, the Foundation's managing director asserted that in an overwhelming number of cases, a change in ownership led to 'a complete and immediate change in attitude toward supporting community projects'.<sup>263</sup>

Related to the point above, disinvestment might have been counterproductive because it was 'selective of the very firms that were most active in promoting social justice, human rights, and democratic values in South Africa'.<sup>264</sup> An empirical study on the causes and outcomes of South African disinvestment conducted by Bernard Feigenbaum and Anton D. Lowenberg revealed that the signatory companies to the Sullivan Principles were substantially more likely to pull out from South Africa than their less socially responsible American counterparts.<sup>265</sup> And since, as has been demonstrated, the new holders were less prone to engage in corporate social responsibility, disinvestment effectively reduced the number of firms active in advancing political, social and economic rights of black South Africans.

As Kaempfer and Lowenberg pointed out, the repercussions resulting from 'culling the most progressive firms were not something to be taken

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<sup>261</sup> KIBBE, J. – HAUCK, D.: c. d., p. 19.

<sup>262</sup> *Ibid.*

<sup>263</sup> *Ibid.*

<sup>264</sup> KAEMPFER, W. H. - LOWENBERG, A. D: *The Origins and Demise of South Africa: A Public Choice Analysis*, p. 137.

<sup>265</sup> FEIGENBAUM, Bernard – LOWENBERG, Anton D.: *South African Disinvestment: Causes and Effects*. Contemporary Policy Issues, Vol. 6, 1988, No. 4, pp. 105-117. (www3.interscience.wiley.com)

lightly'.<sup>266</sup> Notwithstanding all the shortcomings of the Sullivan code of conduct, the U.S. business presence in South Africa provided a channel to press for better economic and political conditions for the black population.<sup>267</sup> The positive influence of U.S. firms was highlighted by the then Chairman of Anglo American Corporation, Gavin Relly, who stated that 'although they are not breaking the law in South Africa ... American companies are nevertheless finding ways of challenging existing apartheid legislation that sometimes catalyze the slow process of reform'.<sup>268</sup>

Perhaps one of the few ways in which the investment sanctions may have contributed towards the end of apartheid was by signaling support for black South Africans. According to public choice theory, signals conveyed through sanctions have the potential to strengthen the political effectiveness of opposition groups in the target state since their members might interpret international economic pressure as a gesture of support for their cause. As the backing of foreign governments and interest groups is perceived to raise the probability of eventual success, an increasing number of individuals within the target entity might become politically involved and engage in resistance activities.

Upon examining the domestic anti-apartheid movement in the latter part of the 1980s, it seems that the investment sanctions did encourage the black population to join the fight against the apartheid system. The peak in the divestment/disinvestment pressures on South Africa coincided with a sharp rise in the level of black political activity, as evidenced by the growth of the black trade union movement and a number of significant political organizations.<sup>269</sup> Among the most important developments in this respect were the dramatic strengthening of the United Democratic Front (the first nationally organized mass movement of black opposition since the banning of the African National Congress and Pan Africanist Congress in 1960) and

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<sup>266</sup> KAEMPFER, W. H. - LOWENBERG, A. D: *The Origins and Demise of South Africa: A Public Choice Analysis*, p. 136.

<sup>267</sup> One of the activities undertaken to challenge the structure of apartheid included the creation of a \$10 million fund by the Coca-Cola Company, which was to be used to finance education of black South Africans. Another example was the Task Force on Education of the Sullivan Code Signatory Companies, which heavily lobbied for increased funding of black education and teacher training.

<sup>268</sup> KAEMPFER, W. H. - LOWENBERG, A. D: *The Origins and Demise of South Africa: A Public Choice Analysis*, p. 136.

<sup>269</sup> KAEMPFER, W. H. - LEHMAN, J. A. - LOWENBERG, A. D.: c. d., p. 536.



the development of the Congress of South African Trade Unions (COSATU) into a major “extra-parliamentary” organization lobbying for political change.<sup>270</sup>

The impact of external support was recognized both by the South African government and several prominent South African anti-apartheid activists and organizations.<sup>271</sup> For instance, Pretoria banned foreign newspaper and television reporters from covering incidents of internal political unrest as well as the government’s responses to these events.<sup>272</sup> As for the latter, they perceived the growing divestment movement in the United States, which was followed closely by the South African media,<sup>273</sup> as support for their cause and they increased their agitation for further economic disengagement from the country despite the very ambiguous results of disinvestment.<sup>274</sup>

Considering that the heightened political activity within South Africa was met by increased policing costs,<sup>275</sup> the investment sanctions may have, to some extent, weakened apartheid by accelerating a build-up of expenditures associated with the system.<sup>276</sup> However, in view of the previously stated negative outcomes of investment sanctions, it is reasonable to conclude that this potentially positive contribution towards the end of apartheid did not justify their use. While investment sanctions may have contributed indirectly towards the termination of apartheid by making it more costly to sustain, the very same economic measures reinforced it by expanding the tax base available to the government. At the same time, disinvestment left the white business community better off and the black

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<sup>270</sup> KAEMPFER, W. H. - LOWENBERG, A. D: *Divestment, Investment Sanctions, and Disinvestment: An Evaluation of Anti-Apartheid Policy Instruments*, pp. 472-3.

<sup>271</sup> The advocates of disinvestment included church leaders (e.g. Archbishop Desmond Tutu and Dr Allan Boesak), church bodies (such as the South African Council of Churches); black trade unions (such as COSATU,); and exiled organizations (like the African National Congress).

<sup>272</sup> KAEMPFER, W. H. – LEHMAN, J. A. – LOWENBERG, A. D.: c. d., p. 536.

<sup>273</sup> One American, who toured South Africa around the mid-1980s, recalled that 'every grunt, whisper and sneeze of the U.S. anti-apartheid movement was covered breathlessly – and derisively – by the South African media'. Cited in VOORHES, M: c. d., p. 140.

<sup>274</sup> COONS, Ch.: c. d., p. 95.

<sup>275</sup> During the period between 1984 and 1988, the police budget almost doubled, from R795.64 (\$541.01) million in the 1984-5 budget to R1,530 (\$688.50) million in the 1987-88 budget. See *Testimony of Jennifer Davis, Executive Director of American Committee on Africa*. In: Richard Knight, <http://richardknight.homestead.com/files/tax.htm> (25. 5. 2010)

<sup>276</sup> KAEMPFER, W. H. – LEHMAN, J. A. – LOWENBERG, A. D.: c. d., p. 536.

South Africans with less socially responsible employers as well as diminished funding for development projects and anti-apartheid activities.

If we juxtapose the goals that the proponents of economic disengagement set out to achieve with the outcomes, it is apparent that the investment sanctions proved ineffective. There is no clear evidence to suggest that the corporate divestitures succeeded to greatly affect the South African economic and political system and that the 'government became more reformist or less repressive (or the reverse, for that matter) under the pressure of disinvestment.<sup>277</sup> Even less plausible is to argue that economic disengagement from South Africa facilitated the revolutionary overthrow of the government, as had been envisioned by some more radical elements.

A final word should be said here regarding the effectiveness of the anti-apartheid investment sanctions. The study has demonstrated that they were unsuccessful in terms of compelling the South African government to change its policies. Notwithstanding this failure, the economic measures could be viewed as successful in achieving other objectives. The previous chapter drew attention to the fact that sanctions are hardly ever imposed to accomplish one goal only; cases of economic sanctions usually exhibit a mixture of “primary”, “secondary” and “tertiary” objectives. Instrumental motives may be given to explain senders’ behavior but these are not likely to be the only driving force behind sanctions. If economic measures are also or primarily imposed to serve expressive or symbolic purposes, the absence of compliance is not a proof that sanctions also failed to achieve the other aims.

Quite the contrary, if the sender’s intention is to express disapproval with the target’s conduct without expectation that compliant behavior will follow, the sanctions automatically translate into success; if the message is received and understood, sanctions worked. Hence, to establish that investment sanctions against South Africa were effective in terms of achieving expressive motives, it is sufficient to show that senders intended to accomplish other than instrumental goals. The Comprehensive Anti-Apartheid Act and divestment are used as examples to demonstrate the point

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<sup>277</sup> GELDENHUYS, D.: c. d. p. 399.

but the findings can be extended to other sanctions efforts discussed in this paper.<sup>278</sup>

When one takes into account the investment and other restrictions contained in the CAAA, it seems appropriate to infer that the main intent of the law was not to bring about policy change in South Africa but to express moral condemnation of the apartheid regime. The Act did not mandate American corporate withdrawal from the country, nor did it impose a comprehensive ban on trade or required a halt to all financial transactions between the U.S. and South Africa. It could be claimed that this was the case because of the lobbying of various business interest groups against tough sanctions legislation. Pressure exerted by interest groups was undoubtedly an important factor at play but one could see the weakness of the Act from a different perspective; if its overriding goal was to send a message of disapproval to the white South African population, it was not imperative to give the legislation teeth.

Robert E. Edgar, who also believed that 'the primary intent of the Anti-Apartheid Act was to express American outrage over the apartheid system and not to put undue economic pressure on South Africa', offered a somewhat similar explanation.<sup>279</sup> According to Edgar, there was a broad consensus among members of Congress that they had to act in order to express a strong popular sentiment against the apartheid policies of the South African government. However, the consensus did not extend to how tough the legislation should be. Therefore, given that the sanctions package had to appeal to the widest number of legislators to override an anticipated Presidential veto, the Act had to be watered down to the lowest denominator.<sup>280</sup> In other words, to send a clear and strong message was more important than attempting to induce policy change by imposing economic costs on the target country.

The expressive dimension of the anti-apartheid investment sanctions is also visible when the activities of private actors are considered. As Kaempfer and Lowenberg pointed out, institutional investors continued to dispose of

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<sup>278</sup> On the expressive dimension of non-federal investment sanction see e.g. SHAPIRO, P. J.: c. d., p. 822; ADDIS, Adeno: *Economic Sanctions and the Problem of Evil*. Human Rights Quarterly, Vol. 25, 2003, No. 3, pp. 589-590. (www.jstor.org)

<sup>279</sup> EDGAR, Robert E.: *Introduction*. In: EDGAR, R. E. (Ed.): c. d., p. 8.

<sup>280</sup> *Ibid*, p. 1.

South Africa-related stocks despite the vast amount of evidence that investment sanctions would not be able to sway the policies of the regime. In attempting to explain the reasons for the contradiction, the scholars suggested that divestment constituted a consumption alternative through which the actors could prove their utility, irrespective of the actual results in South Africa.<sup>281</sup>

This notion was also expressed in the following two comments. Jerry Herman of the American Friends Service Committee, the author of the first comment, stated that 'people need and want to do something on South Africa, and divestment provides them with such an opportunity'.<sup>282</sup> The other comment was made by Reverend Ray Parks, rector of the American Trinity Church. 'The divestment movement all over the U.S. has long since moved beyond simple economics. It is a primary way for individuals and institutions to make a moral statement with the commitment of their resources.'<sup>283</sup>

## 2.4 Disinvestment Decision and the Impact of External Pressures

As the previous section demonstrated, disinvestment did not have instrumental value in terms of bringing about policy change in South Africa and it produced several unintended and ambiguous consequences. The fact remains, however, that during a relatively short period of time, a sheer number of multinational corporations ceased their operations in South Africa, often after a long history of economic involvement. Taking into account that the companies' rush to leave the country coincided with the existence of the broad divestment movement in the United States and the worldwide enactment of laws restricting investment in South Africa, one may infer that the firms pulled out in the light of the public and private

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<sup>281</sup> KAEMPFER, W. H. – LOWENBERG, A. D.: c. d., p. 535.

<sup>282</sup> Cited in VOORHES, M.: c. d., p. 134.

<sup>283</sup> HUME, Ellen: *Continuing Anti-Apartheid Protests Hasten Pace of Exits by U.S. Companies From South Africa*. Wall Street Journal, 27 February 1986, p. 1. ([www.proquest.umi.com](http://www.proquest.umi.com))

pressures. But before this conclusion can be accepted, it is necessary to examine the available evidence to see if it stands up to scrutiny.

As has been noted before, the United States and other countries passed laws regulating investment activities in South Africa. Also mentioned was the fact that rather than mandating disinvestment of emplaced assets, the statutes only imposed voluntary or mandatory constraints on new investment in the country. Therefore, foreign companies were not required by the law to leave the South African market; they were only banned from making new investment commitments in the country. And given that the expansion of South African subsidiaries mainly occurred by reinvesting profits earned in the country, the direct impact of the regulations was considerably limited.

Other problems associated with such statutes can be illustrated by examining the Comprehensive Anti-Apartheid Act, the first major United States anti-apartheid legislation. Besides the fact that the CAAA allowed American companies to reinvest their profits earned in South Africa, the Act's immediate effect was modest because foreign investment in the country was already in a substantial decline by the time it came into force.<sup>284</sup> Perhaps even more importantly, the CAAA did not have extraterritorial application. Hence, the U.S. government lacked the capacity to prevent American corporations from channeling new investments into South Africa through their subsidiaries in non-boycotting countries.<sup>285</sup>

Staying with U.S. sanctions against South Africa, we find that they did, to some extent, influence decisions of American companies to withdraw from the country. 'Even though U.S. government actions were limited in their ability directly to command corporate behavior', public 'sanctions, actual and potential, indirectly influenced corporate behavior by increasing private perceptions of risk'.<sup>286</sup> Business managers operating in South Africa throughout the latter part of the 1980s were in a delicate situation. With the situation on the ground rapidly deteriorating, they faced a serious possibility of more restrictive economic sanctions. If these had included mandated

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<sup>284</sup> McDOUGALL, G.: c. d., p. 21.

<sup>285</sup> RODMAN, K. A.: *Sanctions At Bay? Hegemonic Decline, Multinational Corporations, and U.S. Economic Sanctions Since the Pipeline Case*, p. 127.

<sup>286</sup> RODMAN, K. A.: *Public and Private Sanctions against South Africa*, p. 326.

disinvestment, as was the case of the “Dellums Bill”, U.S. companies would have been placed in the position of forced sellers to South Africans, who would have had little reason to pay more than a fraction of the market price. In the light of this scenario, a voluntary withdrawal might have been perceived as a more attractive option.<sup>287</sup>

U.S. government sanctions also affected the calculations made by foreign direct investors. For instance, the 1987 Rangel Amendment, which ended the ability of U.S. companies to claim tax credits for taxes paid in South Africa, prompted a number of American firms to pull out.<sup>288</sup> In the year 1989 alone, companies such as Mobil Oil, Hewlett-Packard, NCR, St. Paul Companies, and Goodyear Tire and Rubber withdrew from South Africa, citing higher taxes as the reason for their disinvestment.<sup>289</sup>

Of greater significance than U.S. sanctions adopted at the federal level were selective purchasing laws enacted by over 140 states and local governments; according to the IRRC, the ordinances were one of the top reasons cited by U.S. corporations for disinvestment.<sup>290</sup> This is understandable in view of the fact that many U.S. companies generated much more revenue from non-federal contracts than they did from all their South Africa-related businesses.<sup>291</sup> Hence, the passage and existence of the regulations made disinvestment an 'unpleasant, but economically rational decision'.<sup>292</sup>

Private interest groups represented the second channel through which pressure was exerted on foreign companies with South African operations. The widespread U.S. divestment movement, which culminated in the mid-1980s with the adoption of total divestment policies by a great number of institutional investors, struggled to persuade major U.S. corporations to improve or reduce their involvement in the South African economy. The following section will compare the actors' specific objectives with the results

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<sup>287</sup> *Ibid*, pp. 326-8.

<sup>288</sup> RODMAN, K. A.: *Public and Private Sanctions against South Africa*, p. 327.

<sup>289</sup> EDGAR, R. E.: c. d., pp. 8-9.

<sup>290</sup> KIBBE, J. – HAUCK, D.: c. d., p. 2.

<sup>291</sup> One example of such companies was Bell and Howell Co., a maker of educational products. After the company disinvested, its president stated told *Business Week* that \$12 million in annual sale to South Africa did not justify 'the potential negative impact...on other Bell and Howell businesses'. Cited in MASSIE, Robert K.: *Loosing the Bonds: The United States and South Africa in the Apartheid Years*. New York 1997, p. 626.

<sup>292</sup> RODMAN, K. A.: *Public and Private Sanctions against South Africa*, p. 326.

achieved as well as examine to what extent their actions influenced the companies' decisions regarding disinvestment.

If divestment is primarily understood as an educational tool to heighten public awareness of the apartheid system in order to create a political environment conducive to passage of public sanctions, then the act of selling shares fulfilled its function. The divestment campaign stimulated a national debate over the question of United States investment in South Africa, the outcome of which was the dramatic shift in the public opinion toward broad economic sanctions against Pretoria. Having the support of the American people, the Congress could more easily justify the enactment of the Comprehensive Anti-Apartheid Act, which was passed after overriding a presidential veto.<sup>293</sup> Moreover, it is inconceivable to imagine that politicians at state and local level would have enacted the selective purchasing laws without pressure from their constituencies.

However, one should be cautious when assessing the impact of divestment, intended to serve chiefly as an educational tool, on the American companies' decision-making process. While it is possible to establish a clear link between the state/local procurement restrictions and corporate disinvestment, it is rather futile to seek direct linkages between disinvestment and federal sanctions. The divestment campaign contributed only indirectly to U.S. government sanctions, which themselves fell short of directly influencing corporate behavior. In specific reference to the CAAA, the movement may have been essential to its enactment but, given the Act's little direct impact on most companies operating in South Africa, the divestment campaign itself played a very limited role in inducing disinvestment.

Divestment policies primarily adopted to depress share prices of U.S. corporations with South African affiliates produced no tangible results in terms of leveraging pressure on the companies. As Marcy Murningham, president of Boston-based Lighthouse Investment Group, pointed out, 'most of the companies did not care about the divestment laws that were passed because they did not feel the pinch'. 'They knew if someone sold their stock,

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<sup>293</sup> VOORHES, M.: c. d., pp. 139-140.

someone else would buy it.'<sup>294</sup> The same conclusion was reached by New York Times op-ed columnist Nicholas Kristof, who maintained that targeted companies did not see divestment as 'a major worry'.<sup>295</sup> Likewise, none of the companies interviewed by the IRRC throughout the years of the U.S. anti-apartheid movement cited declining stock price as a cause of apprehension.<sup>296</sup>

The main reason for the lack of concern on the part of corporate managers can be found in the mechanics of divestment. As was noted in the previous chapter, most of the finance literature assumes that the long-term demand for stocks is perfectly elastic and, thus, divestment can cause a short-term decline in share prices at the most. If divestment undertakings take place in well-developed stock markets, as is the case of the United States, the disposed shares are purchased by less socially responsible investors willing to exploit arbitrage opportunities.

This theory is supported by the findings of two major studies examining the financial effects of divestment on share prices of U.S. firms and banks with operations in South Africa. The first of them, which was conducted by Davidson III et al. in 1995, examined investors' reactions to announcements of stock divestitures and boycotts of products covered in a number of U.S. newspapers over the period 1969-1991. The study revealed that, unlike in the case of product boycotts, divestiture announcements were not associated with significant negative market responses. Accordingly, out of the 35 companies hit by divestment, only four firms (or 11 percent) announced changes in behavior after the divestiture.<sup>297</sup>

The other study, carried out by Siew Hong Teoh, Ivo Welch and C. Paul Wazzan four years later, investigated the impact of divestiture announcements and legislative events tightening U.S. government sanctions on the share price of 17 United States corporations with extensive ties to South Africa. Like the authors of the previous study, Teoh et al. found little

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<sup>294</sup> Cited in WHITE, James A.: *Divestment Proves Costly and Hard – Anti-Apartheid Rules Vex Pension Funds*. Wall Street Journal, 22 February 1989, p. 1. (www.proquest.umi.com)

<sup>295</sup> KRISTOF, Nicholas: *Phibro To Pull Out of South Africa*. New York Times, 22 August 1985, p. 1. (www.proquest.umi.com)

<sup>296</sup> VOORHES, M.: c. d., pp. 143-4.

<sup>297</sup> DAVIDSON III, W. N. – WORRELL, D. L. – EL-JELLY, A.: c. d., pp. 171-196.



negative effect of the shareholder pressure on the firms or on the South African economy.<sup>298</sup>

An additional reason why targeted American companies 'did not feel the pinch' of divestment was that substantial divestiture actions are usually spread out over a few years period to prevent incurring losses in the stock trading market. Therefore, even if institutional investors dispose of a significant part of their shareholding, the potential impact on the company's stock is greatly diluted.<sup>299</sup> As Meg Voorhes, former director of the South Africa Service at the IRRC, pointed out, 'targeted companies could count on the self-interest of institutions to lead them to divest incrementally, precisely to avoid depressing the sale price'.<sup>300</sup>

Some proponents of divestment also argued that sale of securities in business entities involved in the South African economy would heighten the general awareness of the U.S. corporate role in underpinning apartheid, and that such publicity would alter corporate attitudes towards continued economic engagement. Considering the strength and breadth of the divestment movement, it is reasonable to argue that its accompanying publicity had an adverse effect on the companies' public image, which in turn might have motivated some corporate managers to disinvest.

The findings cited by Christopher Coons suggest that the divestment campaign did, to a limited extent, affect investment policy decisions of the U.S. corporations. Whilst all of the American firms that pulled out in 1985 indicated the weak South African economy as their reason for disinvestment, some also mentioned the South African political turmoil and a deteriorating corporate image in the United States. Increasingly in the 1980s, corporations with South African connections were deluged with letters from institutional investors demanding an end to their South African businesses. Further pressure was applied by the companies' shareholders who persistently voted on apartheid-related resolutions at annual meetings.<sup>301</sup>

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<sup>298</sup> TEOH, Siew H. – WELCH, Ivo – WAZZAN, Paul C.: *The Effect of Socially Activist Investment Policies on the Financial Markets: Evidence from the South African Boycott*. *Journal of Business*, Vol. 72, 1999, No. 1, pp. 35-89. ([www.jstor.org](http://www.jstor.org))

<sup>299</sup> COONS, Ch.: c. d., p. 94.

<sup>300</sup> VOORHES, M.: c. d., p. 138.

<sup>301</sup> COONS, Ch.: c. d., p. 95.

These unrelenting efforts contributed to what some U.S. business executives called the “hassle factor”. The majority of American companies generated only a small percentage of their revenues from commercial activities in South Africa. At the same time, they had to spend an increasing amount of time at board and shareholders’ meeting defending their continued investment in the politically and economically volatile market. 'At some point, the opportunity cost in terms of energy diverted from more lucrative endeavors or more serious threats was no longer worth it.'<sup>302</sup>

However, one needs to be aware that the “hassle factor” was high because of the divestment movement, and not the act of divestment itself. The level of “hassle” was positively correlated with the amount of executive and board time that U.S. businesses managers had to expend on addressing shareholder concerns at annual meetings and engaging in public relations campaigns to fix their corporate image. It is reasonable to claim that had institutional investors divested South Africa-related stocks without dragging their feet and introducing shareholder resolutions demanding disinvestment, the “hassle factor” would have been much lower and the firms would have had less incentive to pull out.

From the analysis above, we can conclude that exogenous societal-related and governmental-related macro risks (disinvestment pressures and investment sanctions imposed by state actors) contributed to the decisions of multinational corporations to disinvest from South Africa. Perhaps the most important factor in this respect were the selective purchasing laws enacted by U.S. state and local governments, which had a direct impact on the corporate balance sheets. However, it would be a mistake to assume that the external pressure was the main determinant for corporate withdrawals. Upon a closer examination of the anti-apartheid disinvestment phenomenon, it becomes clear that other political and, most importantly, economic factors were at play.

It was noted earlier that prior to the post-1985 disinvestment wave, the South African economy experienced a trend away from direct towards indirect investment as well as a significant drop in FDI inflows. The

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<sup>302</sup> RODMAN, K. A.: *Public and Private Sanctions against South Africa*, p. 326.

country's sluggish economic growth (see Figure 7) combined with the political turmoil of the Soweto uprising made foreign investors reluctant to set up business ventures in South Africa. They were also discouraged by restrictions imposed by Pretoria on the repatriation of profits and capital, which were designed to prevent balance of payment difficulties.<sup>303</sup>

Around the mid-1980s, the investment environment deteriorated even further. Besides the fact that South Africa was undergoing a severe economic and financial crisis, foreign corporations were facing industrial unrest as well as sustained guerilla attacks from black insurgent forces (see Figures 8 and 9).<sup>304</sup> The situation foreign companies were finding themselves in was aptly summed up by Martin Holland, senior lecturer in politics at the University of Canterbury.

'From being one of the world's most attractive markets for investment, continuing inflation, industrial unrest, civil disturbances, the collapse of the Rand ... and the South African Government's seven month moratorium on foreign loan repayments, all served to persuade many foreign companies that more stable and more profitable markets existed elsewhere.'<sup>305</sup>

Considering public statements made by companies that withdrew from the South African market, it is apparent that economic considerations played a major role in decisions regarding disinvestment. As has been mentioned earlier, all of the U.S. companies that pulled out in 1985 indicated the worsening South African economy as their rationale for leaving.<sup>306</sup> Similar results were found by the IRRC, which interviewed American corporations that withdrew before mid-1988; two most frequently cited reasons for disinvestment were the selective contracting policies and the weak South African economy.<sup>307</sup> Likewise, Richard W. Stevenson, writing for the New York Times, pointed out that the majority of the multinationals that left South Africa insisted that they were 'not bowing to

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<sup>303</sup> SIMON, J. D.: *A Theoretical Perspective on Political Risk*, p. 135.

<sup>304</sup> *Ibid*, pp. 135-8.

<sup>305</sup> HOLLAND, Martin: *Disinvestment, Sanctions and the European Community's Code of Conduct in South Africa*. African Affairs, Vol. 88, 1989, No. 353, p. 532. (www.jstor.org)

<sup>306</sup> COONS, Ch.: c. d., p. 95.

<sup>307</sup> KIBBE, J. – HAUCK, D.: c. d, p. 2.

the pressure exerted by opponents of that country's racial policies' and defined their actions 'as purely business decisions'.<sup>308</sup>

The significance of economic factors is also evident when two additional issues are considered. The first concerns the timing of the beginning of the wave of disinvestment. Foreign companies started to leave South Africa in significant numbers before the resurgence of the sanctions movement in late 1984; they used the window of opportunity provided by the 1983 loosening of exchange controls to move their capital out. Given that the firms' withdrawals well preceded the peak in the divestment campaign and the worldwide enactment of laws restricting investment in South Africa, it can be argued that their decisions were overwhelmingly based on economic considerations.

Second issue relates to the fact that 'for most firms, the process of disinvestment was heavily influenced by the structural problems of the industry'.<sup>309</sup> This was especially pertinent to the motoring industry, which had been facing a severe slump from 1983. In the early 1980s, foreign auto manufacturers with plants in South Africa were finding themselves in a precarious situation. The white South African market was saturated and its small size did not allow for economies of scale. At the same time, rapid inflation and the depreciating value of the Rand increased operating costs by more than two-thirds between October 1983 and September 1985.<sup>310</sup>

Large car producers attempted to restore profitability through massive price increases and employee lay-offs. When these efforts failed, some of them entered into merger talks with their competitors.<sup>311</sup> However, their losses kept on mounting year after year, and were estimated to surpass R700 million in 1986.<sup>312</sup> With slim prospects for rapid improvement in the near future and both internal and external risks growing, big multinational corporations such as General Motors and Ford started to move their capital

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<sup>308</sup> STEVENSON, Richard W.: *Pretoria Divestment Quickens*. New York Times, 26 May 1985, p. 1.27. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>309</sup> MASSIE, R. K.: c. d., p. 627.

<sup>310</sup> ADLER, Glenn: *What's Good for General Motors?: Black Workers' Response to Disinvestment*. Journal of Southern African Studies, Vol. 15, 1989, No. 3, p. 419. ([www.jstor.org](http://www.jstor.org))

<sup>311</sup> The first major merger took place in late 1984 when American Ford combined its operations with Amcar to form the South African Motor Corporation.

<sup>312</sup> ADLER, G.: c. d., p. 420.

out of the country. They were joined by similarly situated firms, which were operating in other sectors of the South African economy.<sup>313</sup>

Companies whose South African subsidiaries had been suffering financial losses or shrinking profit margins for a few years did not have to make a hard decision regarding disinvestment. They did not find the South African market particularly attractive at that point of time and their withdrawals could be more appropriately described as market-determined. Moreover, disinvestment brought with it a number of benefits. It provided a way to deflect popular criticism and 'avoid the headaches of selling in South Africa'<sup>314</sup> while allowing the companies to receive profits through non-equity ties.

In explaining corporate divestitures from South Africa, one therefore has to take account of what Merle Lipton called a 'mixture of domestic and international pressures and economic and political factors'.<sup>315</sup> But it would be unwise to give the same weight to each of the factors. As the case of the United States demonstrated, investment sanctions imposed by governments influenced corporate behavior only indirectly by increasing private perceptions of risk. Also the U.S. divestment movement had more of an indirect effect in inducing corporate managers to disinvest from South Africa.

In contrast, it is possible to establish a direct link between disinvestments and the actions taken by U.S. state and local actors; the selective purchasing laws had a direct quantifiable impact on balance sheets of companies that generated more revenue from non-federal contracts than from South Africa-related activities. Likewise, a direct link can be drawn between economic factors and corporate decisions to withdraw from the country; the weak performance of the South African economy, combined with political instability, significantly reduced the profitability of direct investment and motivated foreign companies to look for more lucrative markets elsewhere.

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<sup>313</sup> This was particularly true of companies with activities in the electronics industry.

<sup>314</sup> LEWIN, Tamar: *Gauging the Real Impact of Leaving South Africa*. New York Times, 24 October 1986, p. D.1. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>315</sup> Cited in GELDENHUYS, D.: c. d., p. 393.

To sum up this chapter, there seems to be a fair amount of evidence to indicate that sanctions on foreign direct investment imposed on South Africa fell short of achieving the publicly stated goal of bringing about or contributing to the end of apartheid. The divestment/disinvestment movement resulted in a withdrawal of a considerable number of foreign multinational corporations from South Africa. But the study pointed out that the majority of foreign business entities remained in the country, refusing to bow to internal/external economic and political pressures.

It was also demonstrated that corporate divestitures generally took the form of financial disinvestment, thus causing little disruption for South Africa in terms of production, employment or tax revenues. Moreover, due to economic considerations, a very high number of the disinvested firms kept non-equity ties with the new South African owners of the physical assets, which ensured continued technology transfer to the local companies. Concluding that the sanctions inflicted little or no damage on the economy, the author examined whether the tool had the potential to induce policy change through its targeting and signaling dimension. The finding was negative: disinvestment hurt black South Africans more than it did the targeted white minority population and the signaling aspect was insignificant.

The chapter also demonstrated that divestment did not put downward pressure on share prices; it took place in the highly efficient U.S. capital markets and the institutional investors divested incrementally to avoid depressing the sale price. Hence, the “weapon” posed no direct risk to the problematic companies, and thus played negligible role in the decision of foreign firms to pull out of South Africa. In contrast, it was established that the selective purchasing laws passed by U.S. state and local governments weighed in the corporative decision-making process because they had direct impact on corporate balance sheets. The chapter also drew attention to the economic factors that significantly spurred the flight of companies out of South Africa, including smaller rates of return on investments, structural market problems, and government-imposed restrictions on repatriation of capital and profits.

The second chapter was concluded with the acknowledgement that the sanctions was a failure in terms of achieving the “instrumental” purpose of regime change but the author pointed out that the policy tool was successful in attaining “expressive” goals. It was shown that the Comprehensive Anti-Apartheid Act was designed in a way to not cause harm to the South African economy, but instead to send a strong message of moral condemnation and placate domestic U.S. public opinion. Likewise, divestment was suggested to serve a consumption function and a means for investors to absolve themselves of complicity in apartheid.

### 3. Divestment Campaign against Sudan

Following the structure of the previous chapter, the author will first situate the Sudan divestment movement in historical and political context. The first section will also give an overview of the development of the campaign, covering the activities of both public and private actors. The subsequent part of the chapter will discuss the role of foreign capital in the Sudanese economy, with the main focus being on the country's most important industry – petroleum sector. In the third section the outcomes of the divestment movement are examined. The fourth and concluding part of the chapter analyzes the factors behind these results.

#### 3.1 Origins and the Course of the Divestment Campaign

Since it declared independence from Britain in 1956, Sudan has been marked by armed conflict and chronic political instability.<sup>316</sup> The first north-south civil war erupted in late 1955, when the central governmental reneged on its pre-independence promise to provide political representation to the south of the country through a federal system of government. The conflict was resolved with the 1972 Addis Ababa Accord, which granted the south considerable autonomy. But the civil war resumed in 1983 after Khartoum abrogated the peace agreement and imposed Sharia law on the entire country. The ensuing conflict lasted for over two decades until the government of Sudan and southern rebels represented by the Sudan People's Liberation Movement/Army (SPLM/A) signed the Comprehensive Peace Agreement in January 2005.<sup>317</sup>

The north-south peace talks were still under way when the armed rebellion in the Darfur region of western Sudan broke out in 2003. Just like the previous two civil wars, the conflict in Darfur has its origins in decades of

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<sup>316</sup> *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General*. In: United Nations, [http://www.un.org/News/dh/sudan/com\\_inq\\_darfur.pdf](http://www.un.org/News/dh/sudan/com_inq_darfur.pdf) (5. 6. 2010)

<sup>317</sup> ATEEM, Eltigani Seisi M.: *The Root Causes of Conflicts in Sudan and the Making of the Darfur Tragedy*. Working paper presented at the Wilton Park Conference, Sussex 2007. Accessible from [http://www.operationspaix.net/IMG/pdf/UNDP\\_conflict\\_prevention\\_2007-11-11\\_.pdf](http://www.operationspaix.net/IMG/pdf/UNDP_conflict_prevention_2007-11-11_.pdf) (5. 6. 2010)



economic and political marginalisation of the region, and Khartoum's tendency to address local conflicts by using divide-and-rule tactics along ethnic lines.<sup>318</sup> It was further exacerbated by environmental degradation leading to water depletion as well as wider regional conflicts.<sup>319</sup> When Darfuri rebel groups took notice that Khartoum agreed to a power-sharing deal with the SPLM/A, they decided to agitate for a similar arrangement. Seeing the government entirely focused on peace negotiations in Kenya and its military deployed in the South, the rebels launched a surprise attack on government outposts in February 2003, leaving dozens of dead uniformed personnel.<sup>320</sup>

The response of the government was 'both ham-fisted and ruthless'.<sup>321</sup> To put down the rebellion, Khartoum enlisted the help of Arab ethnic militias known as the Janjaweed that, together with the Sudanese military, carried out a scorched-earth campaign of ethnic cleansing against the non-Arab population of Darfur. The result has been the displacement of hundreds of thousands of civilians within the region and to neighboring states, rampant famine, and an overall death toll reportedly exceeding 200,000.<sup>322</sup>

Shortly after the outbreak of violence, the tragic events unfolding in Darfur grabbed the headlines and the attention of people across the world. The critical situation in Darfur was widely discussed within the United Nations, the African Union as well as in other international and regional organizations. In response to pressure from the Congress and advocacy groups, the government of the United States went one step further and in September 2004 declared that 'genocide has occurred and may still be occurring in Darfur'.<sup>323</sup>

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<sup>318</sup> DE WAAL, Alex: *Darfur and the Failure of the Responsibility to Protect*. International Affairs, Vol. 83, 2007, No. 6, p. 1040. (www.ebscohost.com)

<sup>319</sup> YOUNG, Helen: *Livelihoods, Migration and Remittance Flows in Times of Crisis and Conflict: Case Studies for Darfur, Sudan*. In: Overseas Development Institute, <http://www.odi.org.uk/resources/download/295.pdf> (5. 6. 2010)

<sup>320</sup> BECHTOLD, Peter K.: *Darfur, the ICC and American Politics*. Middle East Policy, Vol. 16, 2009, No. 2, pp. 152-154. (www.ebscohost.com)

<sup>321</sup> DE WAAL, Alex: c. d., p. 1039.

<sup>322</sup> *Ibid.* There is a disagreement as to how many lives have been lost in the conflict; while some reports place the number as high as 450,000, Sudan government's estimates put the figure of civilian casualties at less than 9,000.

<sup>323</sup> *President and Secretary of State Characterize Events in Darfur as Genocide*. American Journal of International Law, vol. 99, 2005, No. 1, pp. 266-7. (www.jstor.org)

As Perry S. Bechky, assistant professor at the University of Connecticut School of Law, pointed out, 'the very word genocide is a call to action'.<sup>324</sup> Given that the 1948 Convention on the Prevention and Punishment of the Crime of Genocide stipulates that contracting states are obliged to “prevent” genocide and not merely “punish” it after it has occurred, political leaders have carefully refrained from using the word to describe ongoing atrocities.<sup>325</sup> Therefore, when the U.S. government classified the tragic events in Darfur as genocide, the eyes of the world were on Washington and the administration was expected to use military force to put a halt to the violence. When the White House failed to back up its rhetoric with concrete actions,<sup>326</sup> public frustration with the U.S. and other governments fueled an incipient grassroots movement of citizens demanding that key international actors play a more assertive role in solving the situation in Darfur.<sup>327</sup>

While the Darfur advocacy movement has been active in various parts of the world, the loudest voice calling for an end to the atrocities committed by the al-Bashir regime has come from the United States.<sup>328</sup> Since the Darfur conflict first gained international attention, a diverse set of international organizations and individuals in the United States have joined in an effort to address the crisis. In summer 2004, the various faith-based advocacy and human rights groups were brought together under the banner of the Save Darfur Coalition,<sup>329</sup> which has, in an unprecedented short period of time, 'achieved much in instilling a clear image of the conflict and its perpetrators into the minds of the American public'.<sup>330</sup>

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<sup>324</sup> BECHKY, Perry S.: *Darfur, Divestment, and Dialogue*. University of Pennsylvania Journal of International Law, Vol. 30, 2009, No. 3, p. 832.

<sup>325</sup> BECHKY, P. S: c. d., pp. 831-32.

<sup>326</sup> On reasons why the United States did not respond to the events in Darfur more resolutely see e.g. MAYROZ, Eyal: *Ever Again? The United States, Genocide Suppression, and the Crisis in Darfur*. Journal of Genocide Research, Vol. 10, 2008, No. 10, pp. 359-388. ([www.esbcohost.com](http://www.esbcohost.com))

<sup>327</sup> THOMAS-JENSEN, Colin – SPIEGEL, Julia: *Activism and Darfur: Slowly Driving Policy Change*. Fordham International Law Journal, Vol. 31, 2008, No. 4, p. 205. Accessible from [http://www.enoughproject.org/files/press\\_kit/Activism-and-Darfur-Slowly-Driving-Policy-Change.pdf](http://www.enoughproject.org/files/press_kit/Activism-and-Darfur-Slowly-Driving-Policy-Change.pdf) (6. 6. 2010)

<sup>328</sup> This can be explained in large part by America's long tradition of political activism and the fact that it was the U.S. government that designated Darfur as genocide.

<sup>329</sup> The most visible organizational members include Amnesty International USA, ENOUGH! The Project to Abolish Genocide and Mass Atrocities, Investors Against Genocide, Genocide Intervention Network, and STAND: A Student Anti-Genocide Coalition.

<sup>330</sup> PATEY, Luke A.: *Against the Asian Tide: The Sudan Divestment Campaign*. The Journal of Modern African Studies, Vol. 47, 2009, No. 4, p. 555. ([www.journals.cambridge.org](http://www.journals.cambridge.org))

Part of this success can be attributed to the Sudan divestment campaign, which has formed an integral part of the Save Darfur movement. Divestment efforts have been initiated in at least 18 other countries,<sup>331</sup> but in none of them have they received a similar level of support as in the U.S. The idea of targeting multinational corporations that conduct business operations in Sudan hatched in the minds of two Harvard students in autumn of 2004, after discovering that their university invested heavily in a Chinese oil company that has been for years a significant source of revenue for the Sudanese government. Within a few months, a campus wide coalition made up of students and faculty persuaded the board of trustees to divest its holdings from the company. After Harvard, successful divestment campaigns at Stanford, Yale, Brown and other universities and colleges followed.<sup>332</sup>

During the same period of time, divestment legislation was proposed and debated in several states and local municipalities. The first victory for the anti-genocide movement came in June 2005, when the Governor of Illinois signed into law a divestment bill prohibiting state investment in the Sudanese government and all non-humanitarian companies doing business in or with Sudan.<sup>333</sup> By the end of the following year, similar divestment laws had been passed in Oregon, Maine, California and New Jersey.<sup>334</sup>

In late 2005, the Sudan divestment campaign was given a major boost by the formation of the Sudan Divestment Task Force (SDTF or Task Force), which was later incorporated as a project of the non-profit Genocide Intervention Network. Until its transformation into the Conflict Risk Network (CRN) at the beginning of 2009, the SDTF acted as the coordinating entity for the burgeoning divestment movement and provided 'free research, policy and advocacy support to individuals and institutions dealing with Sudan divestment'.<sup>335</sup> With analytical support from the Calvert Group, a social investment fund, the Task Force developed a unique selective

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<sup>331</sup> *Sudan Divestment Resource Guide: A Report by The Sudan Divestment Task Force, 2008.* In: Responsible Investor, [http://www.responsible-investor.com/images/uploads/resources/research/11209664579Resource\\_Guide.pdf](http://www.responsible-investor.com/images/uploads/resources/research/11209664579Resource_Guide.pdf) (6. 6. 2010)

<sup>332</sup> GRAHAM-FELSEN, Sam: *Divestment and Sudan.* Nation, 8 May 2006, <http://www.thenation.com/article/divestment-and-sudan> (6. 6. 2010)

<sup>333</sup> DHOOGHE, Lucien J.: *Condemning Khartoum: The Illinois Divestment Act and Foreign Relations.* American Business Law Journal, Vol. 43, 2006, No. 2, pp. 245-6. ([www.esbcohost.com](http://www.esbcohost.com))

<sup>334</sup> MILLESON, Daniel: *How Institutional Investors Can Make the Sudanese Regime Reconsider Its Genocide in Darfur.* Blueprint Magazine, Vol. 2006, No. 4, p. 35. ([www.esbcohost.com](http://www.esbcohost.com))

<sup>335</sup> *Sudan Divestment Resource Guide: A Report by The Sudan Divestment Task Force, 2008.*

divestment model, which is at present used by an overwhelming majority of organizations that have adopted Sudan divestment policies.

As the executive director of the SDTF, Adam Sterling, pointed out, the first universities that chose to divest adopted ad-hoc policies targeting a select few companies at a time, while states initially passed blanket divestment statutes covering nearly all companies with business connections to Sudan.<sup>336</sup> The selective divestment model designed by the Task Force intended to strike the balance between the two approaches and, at the same time, to maximize pressure on the Khartoum government while minimizing potential harm to both Sudan's citizens and investment returns.<sup>337</sup>

Such targeted divestment from Sudan implicitly excludes companies involved in the production and distribution of general consumer goods, and firms engaged in the supply of products and services 'intended to relieve human suffering or to promote welfare, health, religious and spiritual activities, and education'.<sup>338</sup> The fact that the agriculture sector is not included in divestment is particularly important given that up to 80 percent of the population lives on farming.<sup>339</sup> On the other hand, the Task Force urged institutional investors to divest from foreign businesses that provide a significant amount of revenue to the Sudanese government and have refused or failed to improve their corporate responsibility performance in the country.<sup>340</sup>

Applying these criteria to the approximately 800 companies with Sudan-linked operations, the SDTF identified about two dozen "highest offenders" that were recommended for divestment.<sup>341</sup> While the targets also

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<sup>336</sup> STERLING, Adam: *Corporate Responsibility and the Goals and Tactics of the Sudan Divestment Campaign*. In: Social Science Research Council, <http://blogs.ssrc.org/sudan/2009/05/03/corporate-responsibility-and-the-goals-and-tactics-of-the-sudan-divestment-campaign/> (6. 6. 2010)

<sup>337</sup> *Sudan Divestment Resource Guide: A Report by The Sudan Divestment Task Force, 2008.*

<sup>338</sup> *Arguments for the Efficacy of Targeted Divestment from Sudan: A Report by The Sudan Divestment Task Force, 2006.* In: InoSphere, [http://www.inosphere.com/sudan/docs/effectiveness\\_of\\_divestment\\_report.pdf](http://www.inosphere.com/sudan/docs/effectiveness_of_divestment_report.pdf) (6. 6. 2010)

<sup>339</sup> *Ibid.*

<sup>340</sup> *Ibid.*

<sup>341</sup> Before the SDTF transformed into the CRN in 2009, the Task Force offered on its website a quarterly updated *Sudan Company Report* containing data on the activities of foreign companies operating in Sudan. Besides the category "highest offenders", the report identified companies falling in the category of "ongoing engagement" (firms have engaged shareholders and are in the process of remedying past problematic actions) and "no publicly traded equity" (the companies' shares are not traded on stock exchanges, and therefore they are unsuitable for divestment). The quarterly company reports and other financial data related to Sudan divestment provided at present by the CRN are subject to a fee.

comprised firms engaged in the mineral extraction, large-scale power/energy and defense sectors, the highest number of companies on the list has been active in Sudan's booming oil industry.<sup>342</sup> The inclusion of so many oil companies is understandable in the light of the fact that up to 70 percent of oil revenues, which account for about 90 percent of Sudan's total export earnings, is funneled into Sudan's military, and by extension the Janjaweed militia.<sup>343</sup> Moreover, besides supplying the Khartoum government with vast revenues, the oil industry has also protected Sudan from tougher UN Security Council action since China is the main developer and purchaser of Sudanese oil.

What is important to note in relation to the SDTF's selective divestment model is that it considers shareholder activism to be complementary to a divestment approach. After a problematic company is listed as a "highest offender", its shareholders are required to conduct a three-month-long period of shareholder engagement to encourage the firm to either take substantial humanitarian action for the benefit of the country's marginalized populations or agree to withdraw from Sudan within one year. Only when the "highest offending" company declines to change its behavior after the engagement process is completed are investors expected to exclude the corporation from their portfolios.<sup>344</sup>

Comparing the Sudan divestment movement with that in South Africa, a number of differences stand out. The first issue relates to the question of whether conflicts are better resolved through economic engagement or disengagement. In the case of the anti-apartheid divestment campaign, it took about two decades for institutional investors to adopt total divestment policies, largely because they accepted the argument that multinational corporations could do more good by staying in South Africa than by leaving it. The Sudan targeted divestment strategy 'attempts to overcome the objections that supported the constructive engagement movement as a

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<sup>342</sup> *Sudan Company Profiles: A Report by The Sudan Divestment Task Force, 2008.*

<sup>343</sup> *Fact Sheet: Divestment from Certain Multinational Companies Doing Business in Sudan.* In: Save Darfur, <http://www.savedarfur.org/> (20. 4. 2008)

<sup>344</sup> *Sudan Divestment Resource Guide: A Report by The Sudan Divestment Task Force, 2008.*

counterweight to the divestment movement'.<sup>345</sup> As has been explained above, the Task Force's targeted model uses engagement and divestment simultaneously; companies are given an opportunity to alter the situation on the ground within a limited period of time before the ultimate "stick" of divestment is employed.

The two movements also vary in scope and time frame. Unlike the anti-apartheid divestment campaign, which targeted all companies irrespective of their nature of business, the Sudan divestment movement targets only a couple of dozen problematic firms out of the approximately 800 multinationals with Sudan-linked operations. The latter movement has also followed a different time course. Whereas it took over twenty years for the divestment campaign against South Africa to gain momentum, the Sudan movement was at its height only three years after it was launched. After its peak in 2007-2008, the campaign slowed down considerably due to factors discussed below but the following figures testify to its popularity in the United States: by May 2009, over 60 colleges, 29 states, and 16 local municipalities had adopted targeted divestment policies.<sup>346</sup> This remarkable achievement has been made possible by the technological advances such as the Internet, which have facilitated the spread of the movement.

But perhaps the most significant difference between the two campaigns is the nature of the sender-receiver relationship. In the case of South Africa, U.S. civil society groups were agitating for divestment from American multinational corporations, which operated in the country without legal restrictions for most of the duration of the apartheid regime, and thus were directly susceptible to the activist pressure.<sup>347</sup> In sharp contrast, the Sudan divestment movement targets European and Asian companies working in Sudan whose shares are listed on U.S. stock exchanges and are held by American investors.<sup>348</sup> The explanation for this is simple: U.S. individuals

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<sup>345</sup> WESTERMANN-BEHAYLO, Michelle: *Institutionalizing Peace through Commerce: Engagement or Divestment in South African and Sudan*. *Journal of Business Ethics*, Vol. 89, 2010, No. 2, p. 428. ([www.springerlink.com](http://www.springerlink.com))

<sup>346</sup> STERLING, Adam: c. d. Due to the termination of the SDTF project in 2009, more up-to-date figures are not available.

<sup>347</sup> FUNK, Kevin – FAKE, Steve: *Divestment: Solution or Diversion?* In: *Foreign Policy In Focus*, [http://www.fpif.org/articles/divestment\\_solution\\_or\\_diversion](http://www.fpif.org/articles/divestment_solution_or_diversion) (6. 6. 2010)

<sup>348</sup> *Professor Recommends Targeting Sudan Through Economic Means*. In: PBS, [http://www.pbs.org/newshour/bb/africa/july-dec06/darfur\\_11-23.html](http://www.pbs.org/newshour/bb/africa/july-dec06/darfur_11-23.html) (6. 6. 2010)

and institutional investors divest from third country companies because U.S. firms have been prohibited from doing business in Sudan since 1997.<sup>349</sup> Therefore, given 'the extended degrees of separation of influence between perpetrators and activists',<sup>350</sup> the potential of the Sudan divestment campaign to succeed in exerting significant influence on Sudan-related companies was limited from the beginning.

All of the institutional investors that have adopted divestment policies agreed that there is a clear link between foreign direct investment and Sudan's ability to wage war in Darfur, both materially and politically. As has been mentioned earlier, the presence of foreign companies in general and oil companies in particular has shielded Khartoum from international sanctions and has enabled it to dramatically increase its military spending. The investors differed, however, in their arguments for divestment. They would make their case on one or more of the following points.

The first argument relates to the moral standpoint, which takes the view that profiting from companies that consciously fund genocide is unethical. An example of this attitude can be found in a statement made by Louis Putterman, professor in economics at Brown University. 'There is a plain moral dimension [to divestment] ... it seems morally unacceptable for a university to obtain funds for its operations by profits from certain kinds of activities'.<sup>351</sup> The moral argument implicitly implies that divestment is justifiable irrespective of its effect in reducing violence on the ground.

The second reason cited for divestment centers on gaining attention for Darfur. The logic follows that divestment of Sudan-related holdings by prominent institutional investors draws attention to the situation in Darfur, which, in turn, increases electoral pressure on political actors to take more assertive action against Sudan.<sup>352</sup> This argument is contained, for instance, in the following statement, which was made by a college student engaged in

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<sup>349</sup> Under the Executive Order 13067 issue by President Clinton in 1997, U.S. companies are banned from Sudan but it is not illegal for American firms, individuals and institutions to own shares in foreign companies doing business there.

<sup>350</sup> FUNK, K. – FAKE, S.: c. d.

<sup>351</sup> SIEGEL, Steven: *Fiscal Ties to Sudan Persist*. Yale Daily News, 27 February 2007, <http://www.yaledailynews.com/news/university-news/2007/02/26/fiscal-ties-to-sudan-persist/> (7. 6. 2010)

<sup>352</sup> *An analysis of Select Companies' Operations in Sudan: A Resource for Divestment in Darfur*. In: Yale Law School, <http://www.law.yale.edu/intellecualife/4898.htm> (7. 6. 2010)

the Sudan divestment campaign: 'I thought [divestment] was a great way to make a splash in the media ... and send the message that [the genocide] needs to be addressed more than it has been'.<sup>353</sup>

The third and final argument is based on economic considerations. The reasoning is that since Khartoum's ability to wage war is contingent upon the generous revenues it receives from the oil sector, the atrocities in Darfur can be stopped by forcing the "highest offenders" to suspend or cease all of their business and commercial activities in Sudan pending the end of the war.<sup>354</sup> The argument follows that divestment has the potential to exert pressure sufficient to persuade the problematic companies to change their conduct; '[divestment] pressure creates financial and public relations problems for the offending companies, including declines in share prices, political costs, and uncertainty about future profitability'.<sup>355</sup>

What is interesting to note here is the wide acceptance of the notion that divestment puts downward pressure on share prices of the targeted companies. This particularly stands out in comparison with the anti-apartheid divestment campaign, during which this attitude was not as prevalent. Advocates of the notion point to the case of the Canadian oil company Talisman Energy Corporation Limited (Talisman), which withdrew from Sudan in 2003 after being a target of a divestment campaign launched in the face of crimes against humanity committed by Khartoum during the second north-south civil war. One of the most visible proponents is Eric Reeves, professor of English language and literature at Smith College, who was also actively engaged in the movement against Talisman. Commenting on the risks of doing business in Sudan, Reeves said, 'The real argument to the companies is that this divestment campaign will crater you share price'. 'They can be skeptical; Talisman was, then they saw a 33 percent decline in share value.'<sup>356</sup>

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<sup>353</sup> *Penn Bars Future Investment in Sudan*. Pennsylvania Gazette, <http://www.upenn.edu:9000/gazette/0906/gaz01.html> (7. 7. 2010)

<sup>354</sup> REEVES, Eric: *Sudan, and the Moral Imperative of (Equity) Divestment*. Sudan Tribune, 14 September 2004, <http://www.sudantribune.com/spip.php?article5421> (8. 6. 2010)

<sup>355</sup> *Divestment Basics*. In: Save Darfur, [http://www.savedarfur.org/page/content/Div\\_4\\_Dar-Div\\_Basics/](http://www.savedarfur.org/page/content/Div_4_Dar-Div_Basics/) (7. 6. 2010)

<sup>356</sup> BAUE, William: *Divesting From Genocide: A Conversation with Eric Reeves of the Divest Sudan Campaign*. In: Social Funds, <http://www.socialfunds.com/news/article.cgi/article1587.html> (7. 6. 2010)



Looking at the second channel through which pressure can be brought to bear on offending companies to effect desired changes in behavior (public sanctions), one can identify a number of differences between the two divestment movements. While in the case of South Africa a wide range of countries adopted some kind of restrictions on investment in South Africa, at present the United States is the only major country that has imposed substantial sanctions on foreign direct investment in Sudan. Other governments either pursue a policy of “constructive engagement” (especially European countries) or have developed warm business relationships with Khartoum (particularly Asian and Arab countries).

As mentioned above, American firms have been prohibited from doing business in and with Sudan since 1997, when the Clinton administration imposed comprehensive economic, trade, and financial sanctions against the Sudanese government.<sup>357</sup> This situation stands in stark contrast to the apartheid era, when the United States did not mandate corporate withdrawal and only endorsed restrictions on new investments. Moreover, as has been pointed out earlier in this paper, government-mandated disinvestment is relatively rare, which implies that the U.S. government’s decision to sever economic ties with Sudan was driven by a unique set of factors.

As highlighted by Luke A. Patey, Washington felt very much at unease with both Sudan’s internal situation (the imposition of sharia law) and its external projections. Before the sanctions were introduced, Khartoum provided a safe haven to various Islamic militant groups, including Osama bin Laden; supported Iraq during the Persian Gulf War; and had ties to both the 1993 World Trade Center bombing and the 1995 assassination attempt of Egyptian President Mubarak. These factors combined have contributed to Washington’s decision to place Sudan on the list of states sponsoring terrorism and to impose the comprehensive sanctions against the regime.<sup>358</sup>

Since it is beyond the reach of the United States to mandate disinvestment of European and Asian companies active in Sudan, the federal legislative and executive branches have attempted to induce their withdrawal

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<sup>357</sup> Due to numerous loopholes and exemptions in the sanctions package, there are several small to mid-sized U.S. firms operating in Sudan. But for the most part, large American companies have steered clear of the country.

<sup>358</sup> PATEY, L. A.: *State Rules: Oil Companies and Armed Conflict In Sudan*, pp. 1003-4.

indirectly.<sup>359</sup> Their main effort has been the passage of the Sudan Accountability and Divestment Act (SADA), which was signed into law by President Bush in December 2007. The legislation allows U.S. state and local governments as well as assets managers to divest assets in companies that conduct business operations in Sudan, and prohibits federal contracts with such companies.<sup>360</sup>

In the light of the historical controversy regarding the involvement of state and local governments in foreign affairs, the SADA is an unprecedented break from past practices. However, its potential to apply pressure on the companies is rather small. The SADA does not prescribe that institutional investors divest from the firms – it only guarantees legal protection of the federal government if they do so. Likewise, the ban on federal contracts, which forces companies to choose between doing business with the United States or with the government of Sudan, may encourage divestment of companies for whom Sudan represents a small part of their worldwide operations. But it is extremely unlikely that it would influence decisions of the big national oil companies, which generate vast revenues from their business in Sudan.

### 3.2 Sudan's Economy and Its Vulnerability to Sanctions on Foreign Direct Investment

Just like in the case of South Africa, foreign capital inflows have been essential to the functioning of the Sudanese economy. However, there are major differences between the two cases in terms of the course and pattern of foreign investment. The apartheid regime had a long history of attracting foreign direct and indirect investment, which was directed towards various sectors of the South African economy. In contrast, large-scale investment in

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<sup>359</sup> A number of scholars have suggested that the United States has primarily pushed the Darfur issue to deflect attention from Israel, and the wars in Iraq and Afghanistan. See e.g. DE ROOIJ, Paul: *Humanitarian Wars and Associated Illusion*. In: Global Policy Forum, <http://www.globalpolicy.org/component/content/article/154/26065.html> (7. 6. 2010)

<sup>360</sup> *Text of S. 2271 [110th]: Sudan Accountability and Divestment Act of 2007*. In: GovTrack, <http://www.govtrack.us/congress/billtext.xpd?bill=s110-2271> (7. 6. 2010)

Sudan is a relatively recent phenomenon, dating back to the mid-1990s.<sup>361</sup> Moreover, an overwhelming majority of foreign capital inflows have taken the form of direct investment and have been channeled mainly to the oil industry.

Sudan is one of the least developed countries in the world, ranking 150<sup>th</sup> out of 182 countries in the 2009 UNDP Human Development Report.<sup>362</sup> Over the last few decades, the country has suffered from civil wars, corruption, economic volatility, and political instability, all of which have negatively affected the country's economic development.<sup>363</sup> The Sudanese economy is still predominantly agrarian, with agriculture employing 80 percent of the work force and accounting for about 36 percent of GDP in 2007 and 2008.<sup>364</sup> In the last ten years, however, Sudan's economy has undergone a dramatic change, largely brought about by the influx of foreign direct investment and the subsequent development of untapped oil reserves in the central and south-central regions of the country.

During the period between 1990-1995, net foreign direct investment in Sudan decreased to zero but experienced a steady growth in the following years, reaching \$138.9 million, \$392 million, \$547 million, and \$713 million in the years 1996, 2000, 2001 and 2002 respectively. It jumped to \$1349 million in 2003 (a rate of growth of 89.2 percent in 2002-2003) and scored a record high of \$2304 million two years later.<sup>365</sup> The year 2006 registered an even higher peak of \$3534, while the subsequent two years saw a moderate decline in net direct investment to \$2511 in 2008.<sup>366</sup> Such a dramatic increase in foreign direct capital inflows has made Sudan one of the most

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<sup>361</sup> In the decades following its independence from Great Britain in 1956, Sudan managed to obtain public sector loans for development projects from an array of international organizations and individual governments but it received very little private investment due to the economic and political instability in the country.

<sup>362</sup> *Human Development Report 2009: Overcoming Barriers: Human Mobility and Development*. In: Human Development Reports, [http://hdr.undp.org/en/media/HDR\\_2009\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2009_EN_Complete.pdf) (10. 6. 2010)

<sup>363</sup> In the period between 1960 and 1997, the country's growth in real GDP was negative or close to zero. See ALI, Abdel Gadir Ali: *Explaining Sudan's Economic Growth Performance*. Working paper prepared as a component of the African Economic Research Consortium, 2004. Accessible from <http://www.aercafrica.org/documents/growthpapers/Sudan.pdf> (10. 6. 2010)

<sup>364</sup> *Annual Report 2008*. In: Central Bank of Sudan, <http://www.bankofsudan.org/> (10. 6. 2010)

<sup>365</sup> AHMED, Medani M.: *Global Financial Crisis Discussion Series; Paper 19: Sudan Phase 2*. In: Overseas Development Institute, <http://www.odi.org.uk/resources/download/4739.pdf> (10. 6. 2010)

<sup>366</sup> *Annual Report 2008*.

attractive African countries for investment, the 4<sup>th</sup> after Nigeria, Angola and Mozambique in 2007.<sup>367</sup>

In spite of this growth in FDI inflows, the investments are not spread evenly across the economy, overwhelmingly favoring the oil industry (80 percent), with the remaining portion split among agriculture, construction and transportation sectors.<sup>368</sup> The petroleum sector contributes a relatively small percentage to the national GDP (about 20 percent in 2007 and 2008)<sup>369</sup> but it has been the driving force behind the astonishing growth of the Sudanese economy in the last decade (see Figure 10).<sup>370</sup> After the oil industry came on stream in 1999, Sudan has become an important oil producer and exporter country, with oil exports accounting for two-thirds of government revenues and 95 percent of total export earnings in 2008.<sup>371</sup> This is a dramatic shift considering that before the first barrel of oil was extracted, the agricultural sector contributed over 90 percent of overall export revenues (see Figure 11).

Before moving on to discuss the development of the Sudanese oil industry and its key players, it is important to mention that the tremendous expansion of export opportunities has been the main and perhaps the only positive externality of FDI on the country's economy. Just like South Africa during the apartheid era, Sudan has needed to attract capital from abroad to finance its economic development; without the advent of foreign investment, the oil production would have been impossible. But whereas the presence of foreign investors in South Africa generated leakage of management techniques and, most significantly, technologies from the foreign firms to local companies, Sudan has not benefited from these spillover effects. The reason for this can be explained by the few linkages the petroleum sector has with the rest of the economy, and by the fact that some of its main investors

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<sup>367</sup> DINGLE, Mohamed Ahmed Ali: *Case Study on Sudan*. Working paper prepared for the Expert Meeting of LDCs in Preparation for the 12<sup>th</sup> Session of the United Nations Conference on Trade and Development (UNCTAD XII), 2007. Accessible from [http://www.unctad.org/sections/wcmu/docs/uxii\\_ldcs\\_007-Sudan\\_en.pdf](http://www.unctad.org/sections/wcmu/docs/uxii_ldcs_007-Sudan_en.pdf) (10. 6. 2010)

<sup>368</sup> DINGLE, M. A. A.: c. d.

<sup>369</sup> *Annual Report 2008*.

<sup>370</sup> AHMED, M. M.: c. d.

<sup>371</sup> *Export By Commodities*. In: Central Bank of Sudan, [http://www.cbos.gov.sd/arabic/period/bulletin/q1\\_09/tab\\_9.pdf](http://www.cbos.gov.sd/arabic/period/bulletin/q1_09/tab_9.pdf) (10. 6. 2010); *Sudan: Macroeconomic Policy*. In: African Economic Outlook, <http://www.africaneconomicoutlook.org/en/countries/east-africa/sudan/> (10. 6. 2010)

hire very few local workers. Perfect examples are companies from China, which bring in their own technical staff and workers while employing Sudanese labor to do only the most menial jobs for nominal pay.<sup>372</sup>

According to the Oil and Gas Journal, Sudan's proven oil reserves stood at five billion barrels at the beginning of 2009, with the bulk of these reserves situated in the southern part of the country (the Muglad and Melut basins). However, as a result of the north-south civil war, oil-related activities have been largely limited to Sudan's central and southern-central regions (see Figure 12).<sup>373</sup> While the conditions for oil production and export have improved with the conclusion of the Comprehensive Peace Agreement in early 2005, occasional outbreaks of violence in the south, combined with sporadic rebel attacks on oil installations, have prevented the oil industry from achieving its full potential to date.<sup>374</sup>

Oil exploration in Sudan commenced in the late 1950s when the Italian oil company Agip secured concessions to search for oil off the coast of the Red Sea. After Agip, other Western oil companies moved in to explore, including France's Total and U.S.-based Chevron. But no discoveries were made in the area and the majority of firms renounced their concessions. It was only in the late 1970s that Chevron found the first oil in the southern Muglad Basin, with subsequent major discoveries made also in the south during the early 1980s.<sup>375</sup> Unfortunately for the oil company, its numerous discoveries coincided with the outbreak of hostilities in 1983 and the deteriorating security conditions on the ground. After Chevron's base in Sudan was attacked by the SPLM/A in 1984, the company suspended its operations and eventually left the country in 1992.<sup>376</sup>

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<sup>372</sup> *African Stories: Where the Chinese Put Their Life at Risk To Enrich Beijing*. Asia News, 19 March 2010, <http://www.asianews.it/news-en/African-stories:-where-the-Chinese-put-their-life-at-risk-to-enrich-Beijing-17924.html> (11. 6. 2010)

<sup>373</sup> *Country Analysis Briefs: Sudan*. In: Energy Information Administration, <http://www.eia.doe.gov/cabs/Sudan/Background.html> (11. 6. 2010)

<sup>374</sup> *Ibid.*

<sup>375</sup> *Sudan: Whose Oil? Sudan's Oil Industry: Facts and Analysis*. In: European Coalition on Oil in Sudan (ECOS), <http://www.ecosonline.org/reports/2008/%5Eindex.html/dossier%20final%20groot%20web.pdf.html> (11. 6. 2010)

<sup>376</sup> Apart from the civil war, Chevron's withdrawal was prompted by its serious disagreements with the al-Bashir government, cost considerations, the already mentioned worsening relations between Washington and Khartoum, as well as more lucrative opportunities in the Caspian Sea Region. See e.g. PATEY, L. A.: *State Rules: Oil Companies and Armed Conflict In Sudan*, pp. 1003-4;

Chevron's concessions in the Muglad and Melut basins were purchased by a small private Sudanese company ConCorp, which sold its rights shortly afterwards due to the lack of sufficient financial resources to develop the industry. The new owner of the concessions was a Canada-based oil company called the State Petroleum Corporation, which was taken over by Arakis Energy Corporation (Arakis) of Canada in 1994. However, just like its predecessors, Arakis did not have the financial clout necessary to bring Sudan's oil industry on line, and continually failed to raise sufficient capital to fund the project. This situation changed in 1996, when Arakis inked a partnership deal with state-owned oil companies from China, Malaysia and Sudan, creating a consortium called the Greater Nile Petroleum Operating Company (GNPOC) in Blocks 1, 2 and 4.<sup>377</sup>

The influx of Asian capital, in conjunction with technical expertise provided by Talisman (a Canadian oil company that took over Arakis in 1998), gave a major boost to the development of the oil industry, which became fully operational in 1999. The engagement of Talisman in Sudan petroleum sector and the beginning of the oil production attracted a number of Western energy juniors, which were eager to invest in natural resources-rich countries that were out of bounds for the oil giants.<sup>378</sup> The two most important of them were the Austrian OMV and the Swedish Lundin Petroleum, which, together with Malaysia's Petronas and the Sudanese Sudapet, formed a consortium later known as the White Nile Petroleum Operating Company (WNPOC) in Blocks 5A and 5B.<sup>379</sup>

Their involvement in the Sudanese economy was short-lived, though; the Western junior-sized oil companies left the country after being subjected to substantial political pressures in relation to the government-orchestrated campaign of forcible displacement of civilians from petroleum-producing areas.<sup>380</sup> Talisman Energy ceased its operations in Sudan in 2003 after selling its 25 percent stake in the GNPOC to the Oil and Natural Gas

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D'AGOÛT, Majak: *Energy Politics and the South Sudan Referendum: Anatomy of a Resource Curse*. Middle East Policy, Vol. 16, 2009, No. 4, pp. 118-130. ([www3.interscience.wiley.com](http://www3.interscience.wiley.com))

<sup>377</sup> D'AGOÛT, M.: c. d., p. 125.

<sup>378</sup> *Ibid.*

<sup>379</sup> PATEY, L. A.: *State Rules: Oil Companies and Armed Conflict In Sudan*, p. 1007.

<sup>380</sup> The pressure came from both the private (U.S. and European advocacy groups) and public (primarily Washington) sectors. An additional factor was the dismal security situation in the south of the country during the civil war.

Company (ONGC) Videsh Limited of India.<sup>381</sup> OMV pulled out of the country one year later, selling its 24.5 percent share in exploration Blocks 5A and 5B to the Indian company.<sup>382</sup> The Swedish operator of these blocks sold its rights to Block 5A to Petroliam Nasional Berhard (Petronas) of Malaysia in 2003, keeping its 24.5 percent interest in Block 5B.<sup>383</sup>

When the Western juniors started to abandon their operations in Sudan, state-owned or state-controlled National Oil Companies (NOCs) from China, Malaysia and India quickly moved in to fill the vacuum. As latecomers to the global oil game, the cash-rich but technically inexperienced Asian national firms have focused on oil-bearing regions where Western oil majors are generally reluctant to invest. Their greater willingness to take high political risks in unstable areas was not the only difference between the Asian NOCs and their Western forerunners. Whereas the previous multinational corporations were primarily guided by economic considerations, profit maximization was not the dominant factor determining the behavior of the Eastern NOCs (Malaysia being an exception here). Rather, their overall goal was to gain vital technological experience, and to secure overseas energy supplies to satisfy skyrocketing demand fuelled by the growth of their respective domestic economies.<sup>384</sup>

Nearly a decade into the withdrawal of the Western juniors, the Asian NOCs continue to dominate Sudan's oil industry.<sup>385</sup> More than 90 percent of the country's total output is produced by three Eastern parastatals, namely the Indian ONGC, the Malaysian Petronas and the Chinese China National Petroleum Corporation (CNPC). These companies are clearly essential to the Sudanese economy, but also the reverse holds true: in 2007, Sudan was the

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<sup>381</sup> *Talisman Pulls out of Sudan*. In: BBC News, <http://news.bbc.co.uk/2/hi/business/2835713.stm> (11. 6. 2010)

<sup>382</sup> *ONGC Videsh Concludes Transaction with OMV Aktiengesellschaft, Austria for Buying Its Interests in Sudan Exploration Blocks 5A and 5B*. In: ONGC Videsh Ltd., <http://www.ongcvidesh.com/NewsContent.aspx?ID=77> (11. 6. 2010)

<sup>383</sup> *Sudan Oil Sector's Background*. In: Ecosonline, [http://www.ecosonline.org/news/2008/sudan\\_oil\\_sectors\\_background.doc/](http://www.ecosonline.org/news/2008/sudan_oil_sectors_background.doc/) (11. 6. 2010)

<sup>384</sup> PATEY, Luke A.: *Understanding Multinational Corporations in War-Torn Societies: Sudan in Focus*. In: Business & Human Rights Resource Center, [http://www.dhhs.dk/graphics/Publications/Briefs2006/lpa\\_multinational\\_corporations\\_sudaninfocus1.pdf](http://www.dhhs.dk/graphics/Publications/Briefs2006/lpa_multinational_corporations_sudaninfocus1.pdf) (11. 6. 2010)

<sup>385</sup> Other countries with oil equity investments include France, Jordan, the Netherlands, Saudi Arabia, South Africa, Yemen and Kuwait.

largest overseas operation for all the three corporations, considerably so for Petronas and ONGC.<sup>386</sup>

As can be deduced from above, Sudan's three biggest investors are China, Malaysia and India in this order.<sup>387</sup> China is not only the largest source of foreign direct investment for Sudan, but it was also the first out of the three Asian countries that established its presence in Sudan's petroleum industry. After being invited by the Khartoum government to take part in the development of the oil sector in 1994, the state-owned CNPC commenced operations in Block B6, which straddles the border between Western Kordofan and South Darfur states. Two years later, the company broadened its involvement in the onshore oil sector by taking a 40 percent shareholding in the GNPOC consortium.<sup>388</sup>

In the years that followed, the CNPC was joined by another state-owned Chinese oil major, China Petroleum & Chemical Corporation (Sinopec). But Sinopec's activities in the Sudanese oil sector are rather small (8 percent in Blocks 3 and 7 east of the White Nile) and it has never threatened the dominant position of the CNPC in the industry. Over the decade, the CNPC has substantially expanded its operations to include four upstream projects of Block 1/2/4, Block 3/7, Block 6 and Block 15 (holding 40, 41, 95 and 35 percent respectively), three major refineries and three crude oil pipelines.<sup>389</sup> The Financial Times estimated that total investment by the CNPC in Sudan's oil sector reached \$8 billion in 2008.<sup>390</sup>

The main factor driving Beijing's push towards increased overseas investment is the country's rapidly growing demand for energy. During the last few years, China has experienced double-digit economic growth and accompanying rise in energy demand; the country alone accounted for almost half of the world's total increase in energy consumption in the period

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<sup>386</sup> *Sudan: Whose Oil? Sudan's Oil Industry: Facts and Analysis.*

<sup>387</sup> *Ibid.*

<sup>388</sup> LARGE, Daniel: *China & the Contradiction of "Non-interference in Sudan.* Review of African Political Economy, Vol. 35, 2008, No. 115, p. 97. ([www.informaworld.com](http://www.informaworld.com))

<sup>389</sup> *CNPC in Sudan.* In: CNPC, [http://www.cnpc.com.cn/NR/exeres/5A53BDC2-D493-4BE7-BE27-8693BA6213AA.htm?NRMODE=Unpublished&wbc\\_purpose=Basic&WBCMODE=PresentationUn](http://www.cnpc.com.cn/NR/exeres/5A53BDC2-D493-4BE7-BE27-8693BA6213AA.htm?NRMODE=Unpublished&wbc_purpose=Basic&WBCMODE=PresentationUn) published (11. 6. 2010)

<sup>390</sup> Cited in AUSTIN, Angelica – BOCHKAREV, Danila – VAN DER GEEST, Willem: *Energy Interests and Alliances: China, America and Africa.* In: EastWest Institute, <http://www.ewi.info/energy-interests-and-alliances-china-america-and-africa> (11. 6. 2010)



2003-2008.<sup>391</sup> At present, China imports nearly 50 percent of the oil it uses, and the share is expected to increase even further as domestic supply is steadily falling.<sup>392</sup>

In the light of these circumstances, the government determined that guaranteed access to energy is an issue of national security, and subsequently directed the state-owned oil companies to pursue a “go out” strategy to acquire overseas equity in oil and energy-related businesses.<sup>393</sup> China has underpinned the strategy through a variety of instruments, including low-interest loans, development assistance, arms sales and diplomatic backing to governments of oil-producing countries. By fostering good relations with these regimes, Beijing has facilitated the entry of its national oil companies to lucrative natural resource markets.<sup>394</sup>

Sudan is not an exception to this rule. China has been a major supplier of arms to the Khartoum government since the late 1980s and has assisted in the development of Sudan’s arms-manufacturing industry.<sup>395</sup> In accordance with its principle of non-interference in the internal affairs of other countries, China has acted as Sudan’s key international patron, using its veto at the UN Security Council to block efforts to sanction Sudan over Darfur crisis. Moreover, through the Export-Import Bank, Beijing has also provided Khartoum with low or no-interest loans, totaling over \$1 billion in 2008.<sup>396</sup> Last but not least, China has engaged in the infrastructure and construction sectors in Sudan, building dams, bridges, highways and other large-scale projects.<sup>397</sup>

Malaysia is the second most important foreign investor in the Sudanese economy, with Malaysia’s largest state-owned oil and gas company Petronas

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<sup>391</sup> AUSTIN, A. – BOCHKAREV, D. – VAN DER GEEST, W.

<sup>392</sup> *China’s Thirst for Oil*. In: International Crisis Group, [http://www.crisisgroup.org/~media/Files/asia/north-east-asia/153\\_china\\_s\\_thirst\\_for\\_oil.ashx](http://www.crisisgroup.org/~media/Files/asia/north-east-asia/153_china_s_thirst_for_oil.ashx) (11. 6. 2010)

<sup>393</sup> AUSTIN, A. – BOCHKAREV, D. – VAN DER GEEST, W.

<sup>394</sup> TULL, Denis M.: *China’s Engagement in Africa: Scope, Significance and Consequences*. Journal of Modern African Studies, Vol. 44, 2006, No. 3, p. 469. ([www.journals.cambridge.org](http://www.journals.cambridge.org))

<sup>395</sup> *Arms, Oil, and Darfur: The Evolution of Relations between China and Sudan*. In: Small Arms Survey, <http://www.smallarmssurvey.org/files/sas/home/newsletter092007.html> (16. 6. 2010)

<sup>396</sup> CHELALA, Cesar: *Chinese Arms Fueling Sudanese Conflict*. Japan Times Online, 24 March 2008, <http://search.japantimes.co.jp/cgi-bin/eo20080324cc.html> (16. 6. 2010)

<sup>397</sup> LARGE, Daniel: *Sudan’s Foreign Relations with Asia: China and the Politics of “Looking East”*. In: Institute for Security Studies, <http://www.iss.co.za/pgcontent.php?UID=7079> (15. 6. 2010)

alone having investments valued at \$1,45 billion in 2008.<sup>398</sup> The company's business involvement in the country began in 1997 following its acquisition of a 30 percent shareholding in the GNPOC through a wholly owned subsidiary Petronas Carigali Nile Ltd. Since then, Petronas' presence in Sudan's petroleum industry has expanded in both the upstream and downstream sectors. It holds major stakes in Sudan's two largest producing fields (Blocks 1/2/4 and Blocks 3/7) as well as interests in Blocks 8 and 15. Petronas' downstream activities include sea terminals, service station and the construction of a \$1 billion oil refinery.<sup>399</sup>

In contrast to the case of CNPC, energy security did not figure on the list of main drivers for Petronas' investments in Sudan; as a net exporter of oil and gas, Malaysia does not consider it to be an issue of national strategic importance. Rather, the primary objectives were to pave the way for the entry of other smaller Malaysian oil-related companies and exploitation of core business opportunities.<sup>400</sup> On the other hand, just like its Chinese counterpart, Petronas has managed to build such a strong position in the industry largely thanks to the positive relations existing between Khartoum and its government. These have been significantly strengthened by Kuala Lumpur's diplomatic support for Sudan's government over the conflict in Darfur, provision of arms, and investments in sectors other than hydrocarbons (examples being construction and agriculture sectors).<sup>401</sup>

ONGC, India's largest state-owned oil explorer, joined the ranks of foreign energy companies in Sudan after acquiring a 25 percent stake in the GNCOP from Talisman Energy. One year later, in 2004, ONGC purchased interests from OMV in Blocks 5A and 5B through its subsidiary ONGC Videsh Limited (OVL). The Indian state firm has also undertaken a major downstream project, a multi-product pipeline from Khartoum refinery to Port Sudan.<sup>402</sup>

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<sup>398</sup> *Sudan: Whose Oil? Sudan's Oil Industry: Facts and Analysis.*

<sup>399</sup> *Operations Map.* In: Petronas, [http://www.petronas.com.my/our\\_business/op\\_map.aspx](http://www.petronas.com.my/our_business/op_map.aspx) (15. 6. 2010)

<sup>400</sup> KEUN-WOOK, Paik et al.: *Trends in Asian NOC Investment Abroad.* In: Chatham House, [http://www.chathamhouse.org.uk/files/6427\\_r0307anoc.pdf](http://www.chathamhouse.org.uk/files/6427_r0307anoc.pdf) (15. 6. 2010)

<sup>401</sup> LARGE, D.: *Sudan's Foreign Relations with Asia: China and the Politics of "Looking East".*

<sup>402</sup> *Assets.* In: ONGC Videsh Ltd, <http://www.ongcvidesh.com/Assets.aspx> (15. 6. 2010)

India's primary rationale for investing in Sudan was identical to that of China: to secure overseas energy supplies in order to meet energy demands of its flourishing economy.<sup>403</sup> The country is heavily reliant on oil imports and the dependence is expected to increase from more than 75 percent in 2008-2009 to nearly 95 percent by 2024-25.<sup>404</sup> Having these figures in mind, the Indian government has set the goal of ensuring stable supplies by diversifying oil sources and doubling its reserves by 2020.<sup>405</sup> To fulfill the objective, New Delhi has encouraged the ONGC and other state oil firms to establish strong footholds in energy-rich countries, propping them up with financial and political support. Along the same lines as China and Malaysia, India has developed a plural relationship with Khartoum, cultivating it by providing Sudan with cheap lines of credit, diplomatic support at the United Nations and by carrying out infrastructure projects in the country.<sup>406</sup>

### 3.3 Outcomes of the Divestment Movement

Before passing on to discuss the results of the Sudan divestment movement, one caveat needs to be mentioned. Currently, there is no publicly available up-to-date list of companies that have taken the decision to cease their commercial activities in Sudan. Prior to the transformation of the Sudan Divestment Task Force into the Conflict Risk Network in May 2009, the SDTF published on its website a free-of-charge quarterly *Sudan Company Report*, a detailed listing of companies with problematic business operations linked to the country. The report included a section containing the names of companies that joined the ranks of "highest offenders", committed themselves to undertaking corporate social responsibilities or were taken off the list following their disinvestment.

The Conflict Risk Network, which remains under the auspices of Genocide Intervention Network, has followed up on the work of the SDTF,

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<sup>403</sup> KEUN-WOOK, Paik et al.: *Trends in Asian NOC Investment Abroad*.

<sup>404</sup> SAWHNEY, Ashok: *Indian Naval Effectiveness for National Growth*. Working Paper No. 197, 2010 In: S. Rajaratnam School of International Studies, [http://www.rsis.edu.sg/publications/Working\\_papers.html](http://www.rsis.edu.sg/publications/Working_papers.html) (15. 6. 2010)

<sup>405</sup> D'AGOÛT, M.: c. d., p. 126.

<sup>406</sup> *Ibid.*

releasing quarterly company reports together with financial data related to the campaign. Unlike its predecessor, however, the CRN makes these materials available to paid subscribed members only, with the fee varying depending on the type of applicant. Moreover, going back to the topic of Task Force's reports, it has not been possible to access any of them since the termination of the project in May of last year. For this reason, this as well as the following section draws only on one of such reports, which was downloaded prior to the date. To compensate for the weakness, the author has consulted a variety of other sources, including news articles covering the divestment campaign, studies citing the SDTF's reports and statistics, websites of organizations at the forefront of the movement for Darfur, and other secondary material.

The Sudan divestment movement spearheaded by the Sudan Divestment Task Force has managed to score some success in their efforts to regulate the behavior of multinational companies working in Sudan. After being targeted for engagement by the SDTF, over a dozen companies have ceased operations in Sudan or substantially changed their practices in the country.<sup>407</sup> Among the firms that disinvested were the British engineering giant Rolls-Royce that supplied diesel engines to Sudan's oil industry;<sup>408</sup> the Scottish engineering firm Weir Group that had been a long-time provider of oil exploration and production equipment;<sup>409</sup> the Swiss ABB that acted a supplier for the national power transmission grid;<sup>410</sup> and the German telecommunications provider Siemens.<sup>411</sup> Other corporations included British Petrofac, German Bauer AG, ICSA of India, and Canada's CHC Helicopter, all engaged in the oil, mineral extraction, and energy and defense industries.<sup>412</sup>

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<sup>407</sup> *Annual Report 2008*. In: Genocide Intervention Network, [http://www.genocideintervention.net/who-we-are/annual\\_report](http://www.genocideintervention.net/who-we-are/annual_report) (17. 6. 2010)

<sup>408</sup> *Rolls-Royce Pull-out Could Force Other Businesses to Quit Sudan*. Professional Engineering, 25 April 2007, p. 4. ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>409</sup> *Scottish Weir Group to Withdraw from Sudan Oil*. Sudan Tribune, 22 December 2007, <http://www.sudantribune.com/spip.php?article25271> (17. 6. 2010)

<sup>410</sup> *ABB Pulls Out of Sudan over Political Risks*. Sudan Tribune, 6 January 2007, <http://www.sudantribune.com/spip.php?article19598> (17. 6. 2010)

<sup>411</sup> *German Siemens to Pull Out of Sudan*. Sudan Tribune, 19 January 2007, <http://www.sudantribune.com/spip.php?article19821> (17. 6. 2010)

<sup>412</sup> WESTERMANN-BEHAYLO, M.: c. d., p. 429.

The company most often cited as an example of successful engagement is Canada-based mining firm La Mancha Resources, which was initially targeted for divestment because of its gold mining activities in Sudan. Instead of withdrawing, as did the companies named above, La Mancha Resources chose to remain in the country and take substantial action in the area of corporate social responsibility. In accordance with the suggestions of the Task Force, the company arranged a meeting with senior officials of the Sudanese government to convey concern about the situation in Darfur. It also put a temporary ban on new investment in the Hassai gold mine and has carried out a number of social projects benefiting the local community.<sup>413</sup>

This accomplishment notwithstanding, the departure of the companies or the improved behavior of those that stayed in Sudan had zero effect on the country's economy. The climax of the disinvestment movement coincided with the thriving Sudanese economy, which was fuelled by soaring oil production and hiking oil prices. The inability of Western actors to apply any meaningful pressure on Sudan's economy was aptly summed up by Time magazine journalist Vivienne Walt. 'Thousand of miles from the tough talk in Washington ... and from Hollywood's celebrity campaign to Save Darfur, Sudan is booming. Cranes loom over Khartoum's cityscape while bulldozers roar down below, churning up the earth to make way for multilane roads and tall office buildings'.<sup>414</sup>

The main culprit for this was the constant influx of Asian, and particularly Chinese, capital into the African nation. The divestment movement may have been able to induce withdrawal of some Western companies with business ventures in Sudan, but it has fallen short of securing disinvestment of the biggest villains among the "highest offenders", which have major stakes in the country's oil industry: the Chinese CNPC, the Malaysian Petronas and the Indian ONGC. Considering that these three firms account for more than 90 percent of Sudan's oil output, and that oil revenues make up around 95 percent of total export earnings and two-thirds of the national budget, their continuous involvement have kept Sudan's oil

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<sup>413</sup> *Sudan Divestment Resource Guide: A Report by The Sudan Divestment Task Force, 2008.*

<sup>414</sup> WALT, Vivienne: *Khartoum Boom*. *Fortune*, Vol. 156, 2007, No. 3, p. 28.  
(www.proquest.umi.com)

economy afloat and shielded Khartoum from any significant pressure to change its conduct in Darfur.

The evidence that the Sudan divestment movement has failed to exert any leverage on the Eastern parastatals is the fact that the firms have not only refused to dispose of their Sudan-related assets, but also have deepened their engagement with the economy over the last few years. This is particularly true of the CNPC, target number one of the divestment campaign. A few months into the beginning of the movement on U.S. university campuses, the CNPC together with Petronas and three other small oil companies signed a production-sharing contract with Khartoum for oil exploration and development of Block 15 situated in the Red Sea Basin off Sudan.<sup>415</sup> In compliance with the terms of the agreement, the consortium commenced drilling operations early this year.<sup>416</sup>

In 2007, year when the disinvestment movement was at its peak, the Chinese state firm concluded another production-sharing agreement with the Sudanese government to explore a block in the same offshore area.<sup>417</sup> Two years later in 2009, the CNPC signed three important oil and gas cooperation contracts with Khartoum; one of them involving a major expansion of Sudan's largest refinery in Khartoum, intended to significantly increase the facility's production potential.<sup>418</sup>

The Malaysian Petronas has followed the same path as the CNPC. As noted in relation to the expansion in activities of the Chinese corporation, in 2005 Petronas became part of the consortium exploring Block 15 off Sudan. In the same year, the company concluded an agreement to build a refinery at Port Sudan in a joint venture with the Khartoum government, through which it entered the downstream refining business in Sudan.<sup>419</sup> In 2008, after

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<sup>415</sup> *CNPC in Sudan*.

<sup>416</sup> *Sudan Starts Oil Exploration in Red Sea*. Sudan Tribune, 3 February 2010, <http://www.sudantribune.com/spip.php?article33991> (17. 6. 2010)

<sup>417</sup> *China's CNPC to Explore for More Oil in Sudan*. Sudan Tribune, 3 July 2007, <http://www.sudantribune.com/spip.php?article22667> (17. 6. 2010)

<sup>418</sup> WATKINS, Eric: *CNPC Signs New Agreement with Sudan*. In: Ecosonline, [http://www.ecosonline.org/news/2009/CNPC\\_signs\\_new\\_agreements\\_with\\_Sudan/](http://www.ecosonline.org/news/2009/CNPC_signs_new_agreements_with_Sudan/) (17. 6. 2010)

<sup>419</sup> *Malaysia's Petronas Strengthens Presence in Sudan by Taking Stake in Refinery*. Forbes, 29 August 2005, <http://www.forbes.com/feeds/afx/2005/08/29/afx2195613.html> (17. 6. 2010)

receiving permission from south Sudan's government, the Malaysian giant begun oil exploration in Block 5B of the Muglad basin.<sup>420</sup>

As for the ONGC of India, it has not acquired more acreage in the country since it purchased interests from Austrian OMV in 2004, but on a number of occasions it has expressed an interest to do so.<sup>421</sup> The last time this happened was in December 2009, when the Indian government held talks with Sudan regarding the possibility to increase its energy interests in the country. The result of the meeting was a cooperation agreement between New Delhi and Khartoum that should 'pave the way for increased oil production and exploration and infrastructure development'.<sup>422</sup>

Taking into account the enormous and growing energy needs of China and India as well as the profitability of Sudan's oil industry, the strengthening presence of Asian national oil companies in the African country is an understandable phenomenon. At a global level, Sudan might not be a major oil producing and exporting country, but the three states have poured billions of dollars into Sudan and have expended a lot of time and effort cultivating cozy relationships with Khartoum. In the past, they would not be deterred by civil war and violent rebel attacks on oil installations, and have not backed down in the face of widespread criticism over human rights abuses in Darfur.<sup>423</sup> For China, India and Malaysia, Sudan is a valuable economic and energy security partner, and as long as oil reserves continue to be available in the country, the three states, represented by their respective national petroleum companies, will be there to exploit them.

Let us suppose, just for the sake of argument, that the Asian state firms would pull out of Sudan as a result of the divestment movement. How would it affect Sudan's petroleum industry? One may argue that the withdrawals

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<sup>420</sup> *Petronas to Start Work in South Sudan Oil Block*. Sudan Tribune, 19 January 2008, <http://www.sudantribune.com/spip.php?article25623> (17. 6. 2010)

<sup>421</sup> *See e.g. India Wants More Oil Concessions in Sudan*. Sudan Tribune, 7 November 2007, <http://www.sudantribune.com/spip.php?article24617> (17. 6. 2010)

<sup>422</sup> STEVENSON, Alexandra: *India Builds on Sudanese Oil Interests*. In: Ecosonline, [http://www.ecosonline.org/news/2009/India\\_builds\\_on\\_Sudanese\\_oil\\_interests/](http://www.ecosonline.org/news/2009/India_builds_on_Sudanese_oil_interests/) (17. 6. 2010)

<sup>423</sup> There has been an observable change in the behavior of China, though. On the evolution of Beijing's diplomacy over Darfur see e.g. LARGE, D.: *China & the Contradiction of "Non-interference in Sudan*, pp. 93-106; LARGE, Daniel: *China and the Changing Context of Development in Sudan*. Society for International Development, Vol. 50, 2007, No. 3, pp. 57-62 ([www.proquest.umi.com](http://www.proquest.umi.com)); HOLSLAG, Jonathan: *China's Diplomatic Manoeuvring on the Question of Darfur*. Journal of Contemporary China, Vol. 17, 2008, No. 54, pp. 71-84. ([www.proquest.umi.com](http://www.proquest.umi.com))

would not be detrimental to the oil production, at least not in the medium and long term. As has been demonstrated in the previous section, the Sudanese government has never had a shortage of candidates for development of the petroleum sector. After Western oil majors such as U.S.-based Chevron ceased their activities in Sudan, their junior-sized counterparts moved in to explore, accompanied by state-owned or state-controlled oil firms from Asia. When Talisman, OMV and Lundin Petroleum announced their departures, Khartoum did not have any difficulties in finding alternative buyers – the Eastern parastatals divided among themselves the left-behind assets.

The claim that there would be companies willing to replace the Asian giants is supported by the fact that oil firms from countries other than China, Malaysia and India have either already been granted concessions to explore for oil in Sudan or have shown interest in getting involved in the industry. The former category primarily encompasses oil companies from the Middle East (examples being Jordanian Dindir Petroleum, Qahtani of Saudi Arabia, Ansan Wikifs of Yemen, and Al Thani Corporation of the United Arab Emirates), but also represented are France (Total), South Africa (PetroSA), the Netherlands (Tamoil) or Indonesia (Pertamina).<sup>424</sup> In the latter group belongs, for example, the state-owned Vietnam Oil and Gas Corporation, which in February of this year expressed hopes that it will be allowed to invest in the country.<sup>425</sup>

When one compares the two cases of disinvestment movements in terms of the forms of corporate withdrawals, a significant similarity appears: physical disinvestment is not the preferred method of leaving the country. Rather, the departures have taken financial form. The majority of U.S. companies disinvested from South Africa by selling their assets to domestic or foreign companies. Talisman Energy, OMV and Lundin Petroleum did not remove petroleum exploration facilities or suspended their operations pending the end of war in Darfur; they sold their oil concessions to alternative investors. The withdrawals of Western juniors from Sudan were unrelated to the Sudan divestment movement, which was launched only

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<sup>424</sup> *China's Thirst for Oil.*

<sup>425</sup> *Vietnam Says Interested to Explore Sudan's Oil.* Sudan Tribune, 12 February 2010, <http://www.sudantribune.com/spip.php?article34100> (18. 6. 2010)



after the companies had disengaged from investing in the economy, but they do serve to demonstrate that financial withdrawals are a popular way to disinvest also in the case of Sudan.

Looking at the targeting and signaling aspects of investment sanctions and their potential to produce political change without necessarily causing comprehensive economic damage, it can be said that they were doomed to failure from the very beginning. As was pointed out in the first chapter of the study, punitive economic measures may contribute to policy change only if the target country has a relatively well-organized opposition group whose political effectiveness could be enhanced through messages of international support. Also highlighted was the essential role played by the media in conveying such signals.

In Sudan, the key conditions for success are absent: the political opposition is weak and fragmented, and Khartoum keeps a tight grip on the media. This makes the case of Sudan fundamentally different from that of South Africa where there was a burgeoning domestic anti-apartheid movement in the 1980s, and the U.S. divestment campaign was widely covered by the local press. The contrast between the two countries was aptly expressed by Wall Street Journal Europe editorial writer Richard Minter.

'For years, human rights activists have been looking for “another South Africa” – benighted land that could be forced to reform by foreigners yanking out investment. But Sudan is not South Africa and policy makers have overestimated the role of sanctions there. South Africa had a free press, opposition parties and a modern economy. Sudan is a dusty dictatorship...Opposition parties and trade unions are banned. Free press? Go as the local mullah if he minds.'<sup>426</sup>

The study has demonstrated that the investment sanctions against Sudan have fallen short of achieving the main instrumental goal: to exert economic leverage to change the political behavior of the al-Bashir regime in Darfur. A number of Western companies have pulled out of Sudan, but these were mostly supplier and service providers relatively easily replaceable. The biggest wrongdoers responsible for keeping Sudan's oil economy afloat have

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<sup>426</sup> MINITER, Richard: *U.S. Puts European Firms in the Crosshairs*. Wall Street Journal, 3 September 2001, p. 7.

stayed on, shielding the Khartoum government from pressure over its handling of Darfur. However, just like in the case of South Africa, it can be argued that it has proved successful in attaining expressive objectives.

The expressive dimension of the Sudan-related sanctions on foreign direct investment is discernible in the activities of both private and public actors. As has been shown in the first section of this chapter, some of the advocates of divestment based their case primarily on moral grounds, arguing that it is ethically irresponsible to profit from companies that consciously fund human rights abuses. This type of reasoning implicitly implies that the most important objective for institutional investors is to purge themselves of complicity in genocide, and thus divestment is justifiable irrespective of its effect in diminishing violence in Darfur.

In the statements concerning decisions to shed Sudan investments also featured the argument advanced by Kaempfer and Lowenberg that divestment constitutes a consumption alternative through which activists in the sender country can prove their utility. An example of such a statement can be found in the comment made by Brian Banks, a university student active in the divestment movement. Remarking on the decision of the state of Vermont to sell holdings in Sudan-related companies, Banks stated that he was 'well aware that Vermont's divestment will not stop the genocide in Darfur'. He continued saying that it was largely a symbolic act, designed to 'make the people of Vermont not helpless'. 'We've made a difference, it sends a message to other states.'<sup>427</sup>

Secondary or expressive objectives also emerge when looking at the actions of the federal executive and legislative branches in Washington. As has been established earlier, the Sudan Accountability Divestment Act of 2007 stood very little chance of inducing corporate withdrawals from Sudan. Yet, it gained unanimous bipartisan support on Capitol Hill and the endorsement of the Bush administration. Given the contradiction between the bill's minimal potential to apply any pressure on Khartoum and such a

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<sup>427</sup> SNEYD, Ross: *Activists Praising Vermont for Divesting in Sudan Companies*. In: Vermont State Treasurer's Office, [http://www.vermonttreasurer.gov/sites/treasurer/files/pdf/newsClippings/20070227\\_ActivistsPraisingVermontDivesting.pdf](http://www.vermonttreasurer.gov/sites/treasurer/files/pdf/newsClippings/20070227_ActivistsPraisingVermontDivesting.pdf) (19. 6. 2010)

wide support, it can be reasoned that the politicians' behavior was motivated by other than officially avowed purposes.

These become clear when one considers the political circumstances surrounding the Act's enactment. In September 2004, the government used the word "genocide" – 'a call to action' – to describe the atrocities unfolding in Darfur. But it was reluctant to intervene militarily to stop the bloodshed. Following the lack of response, the pressure from the U.S. public and lobbying groups was mounting on the political authorities to do something about Darfur. To deflect domestic criticism, they passed the feel-good but largely ineffective legislation. A similar argument was advanced by M. Karna L. Cohen, a widely recognized expert on China-Africa relations. "The decision to use sanctions...implies that the Sudan government's role demands punitive measure but the crisis as a whole is not worthy of a U.S. military intervention. It is the policymakers' response to the felt need to do something."<sup>428</sup>

### 3.4 Interpretation of the Campaign Results

It has been shown earlier in this paper that within a very short time, the U.S.-based divestment campaign received a tremendous support across the country. Only a few years after the two Harvard students set the movement into motion, the Task Force could pride itself with a long list of institutions that had adopted targeted divestment policies. Moreover, unlike divestment efforts against South Africa, the U.S. campaign for Darfur developed into federal policy in less than three years. Despite this great start, the divestment campaign has resulted in the withdrawal of only a handful of companies, failing to secure the disinvestment of the trio of Asian oil companies. This part of the paper will attempt to shed some light on the reasons for the failure, as well as the factors behind the disinvestment decisions of the European firms.

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<sup>428</sup> COHEN, Karna M. L.: *Sanctioning the CPA: A Policy Conundrum for the U.S.* In: Social Science Research Council, <http://blogs.ssrc.org/sudan/2009/05/06/sanctioning-the-cpa-a-policy-conundrum-for-the-us/> (19. 6. 2010)

Starting with the latter, it can be argued that the public investment sanctions did not feature in the companies' decision-making processes. The vast majority of the corporations announced their departures during 2007 - before the Sudan Accountability and Divestment Act was signed into a law at the very end of the year. As for divestment efforts, it is highly implausible that they put downward pressure on the companies' share prices. Even if we assumed (which we know to be false) that the institutional investors sold their holdings in the companies in one shot, and that U.S. capital markets were inefficient, the stock prices of the firms were bound to remain constant because the institutions owned only a small percentage of shares in the target companies.

For example, the German Siemens stated that as of September 2005, North American investors owned about 12 percent of its shares. Given that the figure comprised all U.S. investors (individuals, institutional investors that did not adopt any divestment policies as well as institutions that did), the divested assets were likely to account for only a very modest percentage of Siemens' total shares outstanding. The number is even smaller in the case of the French communications giant Alcatel. In March of 2006, the company reported that U.S. pension funds and university endowments owned less than 1.4 percent of its shares, and thus a total divestment by all such investors was unlikely to have any 'material impact on the market value of its securities'.<sup>429</sup>

Yet, while the SDTF's selective divestment campaign had close to zero chance of inducing the corporate withdrawals by slashing stock prices, it may be reasoned that it did play a significant role in stimulating the disinvestments by creating a "hassle" for and negatively affecting the image of the companies. Considering the combination of the widespread publicity surrounding the campaign and the fact that for many of the firms Sudan represented only a small part of their worldwide activities, one may presume that the corporations 'simply halted their operations' because 'the

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<sup>429</sup> BOUNDS, Jeff: *Darfur Conflict Hits Close to Home*. Dallas Business Journal, 5 June 2006, <http://bizjournalshire.com/dallas/stories/2006/06/05/> (19. 6. 2010)

profitability of Sudanese investment was not worth the costs of engagement'.<sup>430</sup>

Moving on to the question of why the Sudan divestment campaign has fallen short of regulating the behavior of the Asian oil companies, it can be said the movement was doomed to failure from the very beginning. It has been noted above that it is beyond the ability of the United States to directly mandate disinvestment of non-American corporations working in Sudan. Also mentioned was the fact that SADA – the government's tool to force the companies out of Sudan indirectly – stood no prospect of exerting any pressure on the Eastern parastatals. Taking into account that for each of them, Sudan was the largest overseas operation in 2007, it is extremely implausible that the bill's ban on federal contracts would convince the three firms to choose doing business with Washington over the oil bonanza in Sudan.

The effort to change the conduct of the problematic companies by exerting downward pressure on their share prices was even more ill conceived. It was explained earlier that the Darfur divestment campaign has had to deal with an extra layer of complexity compared to its South African predecessor. In the anti-apartheid divestment movement, U.S. activists were targeting American corporations, which operated in the country without legal restrictions for most of the duration of the racial regime. In sharp contrast, the targets of the U.S.-based Sudan divestment campaign are non-American multinational firms listed on U.S. stock exchanges.

Closely related to this point is the fact that only a small percentage of the three companies' shares are publicly traded, which makes the Asian firms impervious to shareholder activism. Whereas an overwhelming majority of U.S. companies active in South Africa were typical publicly traded corporations, the main and sometimes the only shareholders in the petroleum companies are the respective Asian governments. At the onset of the campaign, New Delhi owned about 90 percent of ONGC, after it sold 10

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<sup>430</sup> REED, Tristan: *Have Activists Found a Soft Power Policy More Powerful than Sanctions?* In: Social Science Research Council, <http://blogs.ssrc.org/sudan/2008/08/19/have-activists-found-a-soft-power-policy-more-powerful-than-sanctions/> (20. 6. 2010)

percent of the company to the public in March 2004.<sup>431</sup> Since the CNPC is wholly owned by Beijing, the activists have been targeting the company's publicly traded subsidiary PetroChina, which went public with approximately 10 percent of its stock in 2000.<sup>432</sup> At present, less than 14 percent of PetroChina shares are listed on stock exchanges.<sup>433</sup> The Malaysian Petronas, whose shares are also entirely held by the government, was targeted even less directly, through fiduciary fixed-income portfolios.<sup>434</sup>

From the above it can be seen that divestment decisions were extremely unlikely to translate into real pressure on the companies. Even if the petroleum giants saw their stock prices slashed (which will be shown not to be the case), the shareholder structure would mitigate the impact of any sell-off by a minority shareholder. And just for the sake of argument, even if the firms incurred substantial losses as a result of the divestment campaign, they would still most likely remain engaged in Sudan. Considering the growing energy needs of China and India, one could presume that energy security would take precedence over the bottom-line.

In view of the relative recency of the Sudan divestment movement, there are no studies on price reactions to divestment announcements. But some general conclusions can be drawn by analyzing the long-term stock performance of the Asian companies. Since the CNPC's subsidiary PetroChina has been the principal target of the campaign, it seems logical to examine the case of this particular company. If divestment drives stock prices down, then PetroChina shares should have been plunging as the campaign was gaining speed.

As can be seen from Figure 13, the Sudan divestment movement has had no effect whatsoever on the share performance of the Chinese oil company. Instead of dropping as envisioned by the divestment supporters, PetroChina stock price has been increasing, reaching an all-time high in November 2007. What is interesting to note is that the upward price

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<sup>431</sup> RAMACHADRAN, Sushma: *ONGC Public Issue Oversubscribed*. Hindu, 6 March 2004, <http://www.hindu.com/2004/03/06/stories/2004030605320100.htm> (20. 6. 2010)

<sup>432</sup> LANDER, Mark: *China's NO. 1 Oil Company Goes Public with Whimper*. New York Times, 8 April 2000, <http://www.nytimes.com/2000/04/08/business/international-business-china-s-no-1-oil-company-goes-public-with-whimper.html?scp=55&sq=PetroChina&st=nyt> (20. 6. 2010)

<sup>433</sup> *CNPC (Hong Kong) Limited: 2009 Interim Report*. In: CNPC, <http://www.cnpc.com.hk/report/2009interimreport%28e%29.pdf> (20. 6. 2010)

<sup>434</sup> *Sudan Company Profiles: A Report by The Sudan Divestment Task Force, 2008*.

movement was directly proportional to the increasing intensity of the campaign. As the graph shows, the share price started to rise dramatically around the same time as the Harvard students discovered that their university was heavily invested in the company. Throughout the period when the divestment campaign was scoring victories in the United States, the stock was getting stronger, soaring sevenfold in value between 2003 and the end of 2007.<sup>435</sup> In November 2007, the peak of the divestment activities, PetroChina became the world's largest corporation measured by market capitalization.<sup>436</sup> Since then the share price has fallen, but the drop has been largely driven by the combination of record crude oil costs and Beijing's cap on product prices.<sup>437</sup>

The findings support the theory that if an investor sells a particular stock on political as opposed to market and financial considerations, other not-so-socially responsible investors step in to exploit the arbitrage opportunity. In the case of the divestment movement for Darfur, it is very easy to identify those who have not hesitated to obtain the lucrative assets: American and other international private investors. While the civil society groups have had relatively few difficulties in securing divestment of public pension funds and other large public institutional investors, they have been facing an uphill battle to persuade private investors such as mutual funds and insurance companies to shed Sudan-related holdings. In the anticipation of the drop in stock price, a number of high-profile investment firms, including the Warren Buffett's Berkshire Hathaway, have excluded PetroChina and other target companies from their portfolios.<sup>438</sup> But the vast majority of their counterparts such as Vanguard and Franklin Templeton have refused to let the highly profitable shares go.<sup>439</sup>

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<sup>435</sup> *Berkshire Shareholders Reject PetroChina Divestment for Darfur*. Sudan Tribune, 6 May 2007, <http://sudantribune.com/spip.php?article21732> (22. 6. 2010)

<sup>436</sup> LOU, Ying: *PetroChina's Value Tops \$1 Trillion, Surpassing Exxon*. In: Bloomberg, [http://www.bloomberg.com/apps/news?pid=newsarchive&sid=afq.WPd\\_zCO4](http://www.bloomberg.com/apps/news?pid=newsarchive&sid=afq.WPd_zCO4) (22. 6. 2010)

<sup>437</sup> WANG, Jimmy: *For Chinese, the Reality of Higher Gas Prices*. New York Times, 21 June 2008, [http://www.nytimes.com/2008/06/21/business/worldbusiness/21gas.html?\\_r=1&scp=23&sq=PetroChina&st=nyt](http://www.nytimes.com/2008/06/21/business/worldbusiness/21gas.html?_r=1&scp=23&sq=PetroChina&st=nyt) (22. 6. 2010)

<sup>438</sup> RICHARDSON, Karen: *Buffett's PetroChina Sale; Fiscal or Social Move? Investors See Cash-Out and Activists See Victory*. Wall Street Journal, 12 October 2007, p. C.1 ([www.proquest.umi.com](http://www.proquest.umi.com)); *Fidelity Cuts Stake in PetroChina by 91%*. Financial Times, 16 May 2007, p. 1 ([www.proquest.umi.com](http://www.proquest.umi.com))

<sup>439</sup> <http://investorsagainstgenocide.net> (22. 6. 2010)

To conclude, it has been demonstrated that the Sudan divestment campaign has failed to achieve its instrumental goal to change Khartoum's behavior in Darfur. In an unprecedented short period of time, the movement gained a strong following among the American public and matured into federal policy. But it has not been able to translate this support into withdrawals of the three Asian national oil companies, which have continued to supply the Sudanese government with large revenues and to protect it from any meaningful international action. The reasons behind this failure can be found in the efficiency of capital markets and the ill-conceived idea to target state-owned/controlled enterprises through divestment campaigns. As the case of PetroChina has proved, divestment on political grounds merely leads to a shuffling of the line-up of investors, without putting downward pressure on share prices of targeted companies. But even if it did, the chapter has shown that the shareholder structure of the Eastern parastatals would buffer the impact of the price drop.



## Conclusion

Throughout history, states have used economic sanctions to affect policies of other countries. With the development of world capital markets and the evolution of the modern multinational corporations, governments added another “economic weapon” into their arsenal – sanctions on foreign direct investment. The new policy tool has also been taken up by private international actors; first in the struggle against the apartheid South Africa and later, among others, against the government of Sudan to change its behavior in Darfur. In both the highly visible instances of social activism in investment policies, a wide array of civil society groups engaged themselves in divestment/disinvestment campaigns calling on institutional investors and multinational corporations to sever their economic ties with the two problematic countries. They based their argument on the assumption that if deprived of economic benefits accruing from foreign direct investment, the targeted governments would bow to economic pressure and consent to behavior modification.

While the advocates of divestment justified its use on various grounds (including moral, educational and attention-getting), both campaigns featured the argument that divestment would put downward pressure on share prices of the target companies. The reasoning followed that, in order to avoid difficulties in financing new stock issues and deflect hostile takeovers, the firms would disinvested from the countries. In the case of the Sudan divestment campaign, the activists have argued that the corporations would take with them the vast revenues generated by Sudan’s oil fields and the political support provided by their home governments. Similarly, civil society groups calling for economic disengagement with Pretoria believed that corporate divestitures would result in heavy damage to the South African economy.

The theory presented in the first chapter of the study suggests that these arguments cannot stand up to scrutiny. It was pointed out that the finance literature agrees that if divestment and other socially responsible

behaviors take place in efficient capital markets and do not affect the anticipated sales and incomes of the issuing companies, they only lead to a short-term decline in price or do not affect price at all. In conditions of elastic capital supply, which are those of well-developed stock markets in most of the major industrial economies, arbitrage opportunities are exploited as they arise; conventional investors lured by profits will stand ready to purchase securities divested by their ethically concerned counterparts. Also emphasized was the fact that institutional investors usually divest incrementally over two-to-five year time periods to prevent incurring unnecessary financial costs, which means that even if divestment took place in inefficient capital markets, it would fail to exert much downward pressure on stock prices.

Another point made in the first chapter was that due to the high costs generally associated with physical disinvestment, corporate divestitures are most likely to take the form of marginal withdrawal (unwillingness to undertake future investments in the target country) or financial disinvestment. Yet, as was highlighted previously, financial withdrawals tend to do little economic damage to the ostracized country because the substitutability of capital and the efficiency of global markets ensure that alternative investors purchase the disinvested assets. As long as the market of the targeted nation offers good investment opportunities, it is more than certain that firms from non-sanctioning countries will step in to acquire the production facilities.

Evidence for the relevance of this theory was found in the second chapter of the study. Upon a close examination of the economic and political effects of the use of public and private sanctions on foreign direct investment against the Pretoria government, it was concluded that they failed to achieve the publicly stated goal of bringing about or contributing to the abolishment of the racial regime. After over two decades of the sanctioning efforts, a great number of multinational corporations made the decision to leave the South African market and disinvested. But a more significant number of their business counterparts remained invested in the economy and sometimes even extended their operations.

As the theory would predict, the transnational enterprises largely favored the financial form of disinvestment. It was shown that only a negligible percentage of the companies that pulled out of South Africa fully terminated their operations and closed down. In the vast majority of cases, there was no closure or demolition of the physical assets. According to the figures provided by the Washington-based Investor Research Responsibility Center, out of the more than 200 multinational corporations that withdrew direct investments between 1984 and 1989, only 16 percent selected the method of physical disinvestment. Moreover, as one may have expected, the businesses entities that chose this type of departure had few physical assets to sell, thus making a relatively easy decision.

Given that the vast majority of the subsidiaries whose parents disinvested remained operational under new ownership, the corporate departures caused little damage to the economy in terms of production, employment or tax revenues. In addition, many of the previous owners retained non-equity ties with the new holders of the assets, which ensured a continued supply of world-class technology. Taking into account that dependence on Western technology was one of the biggest Achilles heels of the South African economy, the preservation of non-equity links significantly reduced the costs that sanctions on foreign direct investment could have imposed on the economy.

Hence the assumption advanced by the proponents of economic disengagement with South Africa that withdrawal of American and other multinational enterprises would exert pressure on the country's economy proved false. Drawing on the public choice theory of international economic sanctions, which posits that the policy tool has the potential to produce changes in behavior without necessarily imposing major costs on the entire economy, the study in turn explored whether the FDI sanctions could have contributed to the end of the apartheid by targeting the white minority population and signaling international support to black South Africans.

The closer examination of the selective effects of disinvestment showed that the sanctions actually hurt the black population more than it did white South Africans. While the latter were given a unique opportunity to purchase more than a half of the left-behind assets at "fire-sale" prices, the black

population was largely restricted from acquiring any of the previously foreign-owned companies. A further negative consequence of corporate pullouts for black South Africans was the post-disinvestment cutback in funding for community development programs and organizations involved in combating the policies of apartheid.

Upon examining the signaling dimension of the policy instrument, the study found that perhaps one of the few ways in which the FDI sanctions may have contributed towards the regime change was by conveying messages of international support for the majority population. It was shown that there existed a positive correlation between the peak in divestment/disinvestment campaigns around mid-1980s and the development of the domestic anti-apartheid movement. Considering that the heightened political activity within South Africa was met by increased policing costs, it was reasoned that the sanctions may have somewhat undermined the apartheid by hastening the build-up of costs linked with the system. But after weighing this one positive aspect and the many negative consequence of the sanctions, the author concluded they were to a large extent counterproductive and their use was not justified.

The chapter also disproved the argument advanced by divestment proponents that the act of selling shares puts downward pressure on stock prices. This was done by citing the findings of two major studies that examined the financial effects of divestment on share prices of American banks and corporations with business presence in South Africa. Neither the study by Teoh et al. nor the study by Davidson III et al. found evidence that divestment announcements were associated with significant negative market responses. In view of the fact that the anti-apartheid divestment campaign took place almost exclusively in the United States – a country with highly efficient capital markets – the results of the studies were to be expected. In addition, as one scholar writing on the U.S. divestment movement pointed out, institutional investors purged their portfolios of the problematic holdings incrementally, making sure they would not incur financial losses.

In continuing the assessment of the factors that prompted the departures of the corporations, the study showed that the actions taken by Western governments did not constitute a significant variable in the

disinvestment decisions. It was demonstrated on the case of the United States that the government-imposed sanctions influenced corporate decision-making process only indirectly by increasing private perceptions of risks. In contrast, the study highlighted the strong link between disinvestments and the actions taken by U.S. state and local actors. The measures in question were the selective purchasing laws, which had a direct quantifiable impact on balance sheets of companies that generated more revenue from non-federal contracts than from South Africa-related activities.

Likewise, a direct link was established between economic factors and corporate decisions to withdraw from the country. The deteriorating investment environment, combined with the highly volatile political situation and the structural problems of the South African market, substantially reduced the profitability of direct investment in the country and motivated foreign companies to look for more lucrative markets elsewhere. Hence, one can conclude that out of the external political risks, only the selective purchasing laws directly weighed in the corporate decision-making process. The remaining factors directly stimulating disinvestments (internal political risk and economic considerations) from the country were not related to the FDI sanctions.

The hypothesis that sanctions on foreign direct investment are not effective policy instruments in terms of achieving publicly stated objectives was also confirmed in the third chapter of the study. While the Sudan targeted divestment campaign gained a strong following among the American public and developed into U.S. federal policy within an unparalleled period of time, it has failed to coerce the trio of Asian national oil companies to give up their rights to the very lucrative Sudan oil concessions. As a result of this failure, the Chinese and, to a smaller extent, Malaysian and Indian governments have continued to shield Khartoum from international sanctions over its actions in Darfur. Likewise, the Sudanese government has been kept supplied with generous revenues flowing from the key petroleum sector, which is dominated by the Eastern parastatals.

As the main reasons for this outcome were identified the efficiency of capital markets and the ill-conceived idea to exert pressure on state-owned or state-controlled companies through market pressures. As for the latter, it

was pointed out in theoretical chapter that divestment as a strategy to induce change in corporate behavior does not have any impact on privately held (not publicly traded) firms. Yet, the main targets of the Sudan divestment campaign have been the three Asian companies who have either issued only a small percentage of their stock (the Indian ONGC) or are wholly government-owned and have been targeted indirectly through their publicly traded subsidiaries (the Chinese CNPC and its PetroChina). Also noted was that even the affiliates list a relatively negligible proportion of their shares on stock exchanges, which makes all the Asian oil companies largely impervious to shareholder activism.

The proof of the relevance of the theory that divestment pressures applied in conditions of elastic capital supply do not drive stock prices down was also found in the case of the Sudan divestment campaign. The case of PetroChina demonstrated that divestment decisions made on political grounds as opposed to market and financial considerations only leads to a change in ownership of the divested securities without affecting their price. While socially responsible investors purged their portfolios of the problematic stock, their ethically less concerned counterparts (mainly private institutional investors) did not vacillate to exploit the arbitrage opportunity and bought into the divested stock. The efficiency of U.S. stock markets, in combination with the skyrocketing profits the Chinese oil company was receiving at the height of the divestment campaign, sent the PetroChina share price soaring, reaching an all-time high at the end of 2007 – the peak of the divestment movement.

Proceeding to the actions taken by the United States – the only major country that has imposed FDI sanctions on the Khartoum government, it can be argued that they were doomed to failure from their very imposition. It was explained that it is beyond the ability of the United States to directly command withdrawals of non-American corporations involved with the Sudanese economy. Also noted was the fact that the Sudan Accountability Divestment Act of 2007 lacks the potential to apply any pressure whatsoever on the Asian trio; given that for each of the companies Sudan is currently the largest or one of the largest overseas operations, it is highly

unlikely that the Act's prohibition on federal contracts would persuade the firms to pick Washington over the oil cash cow in Sudan.

To conclude, there seems to be a fair amount of evidence to indicate that the sanctions on foreign direct investment against Pretoria and Khartoum fell short of achieving the publicly stated goals of inducing regime/policy change. Having said this, however, the study proved that the officially given purposes or "instrumental" goals were not the only motives pursued by the senders. In both instances of the sanctions use, the author identified several "expressive" objectives that were also (or primarily) driving the employment of the policy instrument. It was shown that the 1986 Comprehensive Anti-Apartheid Act was designed in a way not to inflict heavy economic damage on the South African economy, but instead to signal a strong message of moral condemnation and appease the U.S. public opinion. The same was argued about the Sudan Accountability and Divestment Act, which was passed to deflect domestic criticism over the Bush administration's reluctance to militarily intervene in Darfur.

The "expressive" dimension of the sanctions was also discernible in the activities of private actors. During both the Sudan and South African divestment movements, some of the proponents of divestment stated their case primarily on ethical grounds, arguing that it is morally reprehensible to profit from companies that lend credibility and economic support to oppressive regimes. As the study suggested, this type of argument implicitly implies that the senders' primary objective is not to produce behavioral change in the target country but to absolve themselves of complicity in apartheid or human rights violations in Darfur. Hence, despite the negligible and, in the case of South Africa also, ironical and unintended outcomes of the use of FDI sanctions, the policy instrument was successful in achieving "expressive" objectives.

Upon a close analysis of the subject matter, a considerable amount of evidence has been presented to argue that the hypothesis introduced at the beginning of the study was confirmed. Neither the sanctions against South Africa nor Sudan achieved or contributed to the achievement of the publicly stated goals of policy and regime change. The present study further demonstrated that the sanctions in question contained an "expressive"

dimension, and thus were successful in attaining other than officially stated goals.



## Abstract

VOLOVSKÁ, Monika: *Analýza efektivnosti privátních a veřejných sankcí na přímé zahraniční investice: případové studie Súdán a Jihoafrická republika*. Magisterská diplomová práce. Olomouc, Katedra politologie a evropských studií Filozofické fakulty Univerzity Palackého v Olomouci 2010, 168 s.

Předkládaná diplomová práce analyzuje efektivnost privátních a veřejných sankcí na přímé zahraniční investice. Tato problematika je zkoumána na dvou nejznámějších případech uvalení tohoto druhu ekonomických sankcí – Jihoafrické republiky a Súdánu. Hlavním cílem práce je dokázat, že sankce na zahraniční přímé investice nejsou efektivními prostředky pro dosažení oficiálně stanovených cílů z důvodu efektivnosti kapitálových trhů a nahraditelnosti kapitálu. Dodatečným cílem práce je dokázat, že přestože těmito sankcemi nelze docílit úprav politiky zemí, mohou být úspěšným nástrojem k dosažení jiných, nevyřčených, cílů.

**Klíčová slova:** mezinárodní ekonomické sankce, ekonomické sankce na přímé zahraniční investice, Jihoafrická republika, Súdán, divestiční kampaň, dezinvestice.

VOLOVSKÁ, Monika: *The Analysis of the Effectiveness of Public and Private Sanctions on Foreign Direct Investment: The Case Studies of Sudan and South Africa*. Master Thesis, Department of Political Science and European Studies, Faculty of Arts, Palacký University Olomouc 2010, 168.

This Master thesis analyses the effectiveness of public and private sanctions on foreign direct investment. The issue is examined by studying the two most visible cases of the use of this type of economic sanctions to date: South Africa and Sudan. The main goal of the thesis is to demonstrate that sanctions on foreign direct investment are ineffective in terms of achieving publicly stated goals due to the efficiency of capital markets and substitutability of capital. An additional objective of the study is to show that while the policy tool lacks the ability to produce policy changes in the target countries, it can be successful in accomplishing other, unstated, goals.

**Key words:** international economic sanctions, economic sanctions on foreign direct investment, South Africa, Sudan, divestment campaign, corporate disinvestment.

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# Appendix

## List

<b>FIGURE 1: U.S DIVESTMENT FROM SOUTH AFRICA AS OF 1988.....</b>	<b>157</b>
<b>FIGURE 2: SANCTIONS ADOPTED AGAINST SOUTH AFRICA.....</b>	<b>158</b>
<b>FIGURE 3: STRUCTURE OF SOUTH AFRICA’S FOREIGN LIABILITIES, 1970-1984.....</b>	<b>159</b>
<b>FIGURE 4: BALANCE OF PAYMENTS: CAPITAL ACCOUNT, 1980-1988.....</b>	<b>159</b>
<b>FIGURE 5: COMMERCIAL AND FINANCIAL RAND EXCHANGE RATES, 1981-1989.....</b>	<b>160</b>
<b>FIGURE 6: SOUTH AFRICA’S FOREIGN DEBT, 1980-1987.....</b>	<b>161</b>
<b>FIGURE 7: SOUTH AFRICA’S ANNUAL GROWTH, 1960-1991.....</b>	<b>161</b>
<b>FIGURE 8: TRADE UNION MILITANCY 1977-1986.....</b>	<b>162</b>
<b>FIGURE 9: LEVEL OF INSURRECTIONARY ACTIVITY.....</b>	<b>164</b>
<b>FIGURE 10: REAL GDP GROWTH RATE IN SUDAN, 2000-2010 (%).....</b>	<b>166</b>
<b>FIGURE 11: PROGRESSIVE CONTRIBUTION OF THE AGRICULTURAL SECTOR IN THE TOTAL VALUE OF SUDAN EXPORTS, 1980-2001.....</b>	<b>167</b>
<b>FIGURE 12: MAP OF SUDAN AND SOUTHERN OIL CONCESSIONS.....</b>	<b>167</b>
<b>FIGURE 13: PETROCHINA SHARE PRICE CHART, 2000-2010.....</b>	<b>168</b>

Fig.1: US Divestment from South Africa as of 1988

<b>Number of investors</b>	<b>Type of funds</b>	<b>Assets</b>
148	College and university	\$ 98,2 billion
135	State and local government	\$ 319,5 billion
247	Church/religious	\$ 20,0 billion
11	Foundation	\$ 0,5 billion
11	Insurance company	\$ 12,0 billion

Source: GELDENHUYS, Deon: *Isolated States: A Comparative Analysis*.

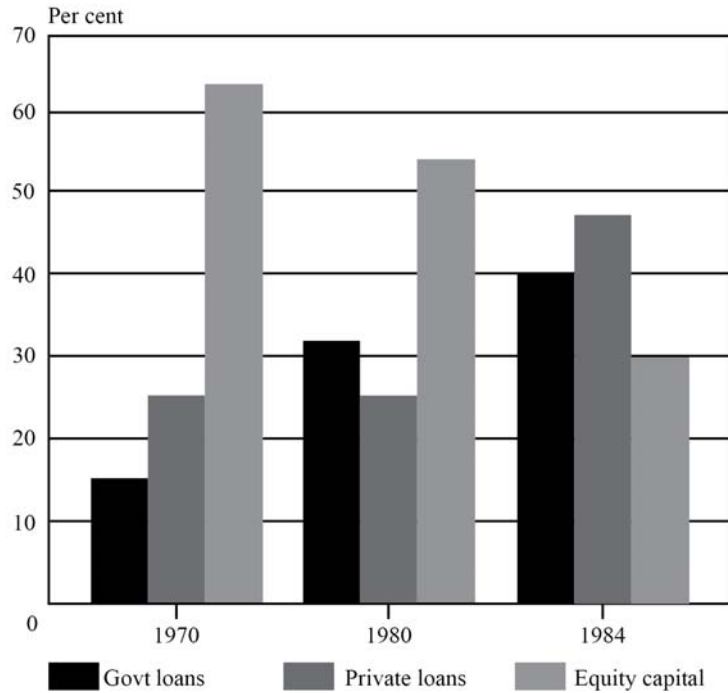
Fig.2: Sanctions Adopted Against South Africa

	Arms/military cooperation	Oil	Nuclear Technology	Computer hardware/software	Other technology transfers	All government procurement	Termination of export support	Fruit and vegetables	Sugar	Wine	Iron and steel	Coal	Uranium	Kruggerands	Other manufactured goods	Products of parastatals	New Direct investment	Private Loans	Government loans	Double tax agreements	Landing rights for SAA	National carriers to SAA	Tourist promotion	Penalties for breaking embargoes
UN Security Council	■		■	□			□									□								
Commonwealth (excl. UK)	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
European Community	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Nordic States	■	■	■	■	□	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Organisation E. Caribbean	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
OAU (excl. SADCC)	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Socialist bloc	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Australia	■	■	■	■	■	■	■	■	■	■	■	■	■	■	□		□	□						
Austria	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	□
Belgium	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Brazil	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Canada	■	□	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	□
Denmark	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	□
Finland	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
France	■	■	■	■	□	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
F. Rep. Germany	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Greece	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Hong Kong	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Iceland	■	■	■	■	□	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
India	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Ireland	■	■	■	■	■	■	■	■	□	□	□	□	■	■	■	■	■	■	■	■	■	■	■	□
Israel	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Italy	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Japan	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Rep. of Korea	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Luxembourg	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Netherlands	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
New Zealand	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Norway	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Portugal	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Seychelles	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Singapore	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Spain	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Sweden	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Switzerland	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Turkey	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
United Kingdom	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
United States	□	■	■	□	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

Notes: ■ = mandatory □ = voluntary

Source: JENKINS, Carolyn M.: *Assessing the Damage: The Effects of Sanctions on South Africa.*

Fig.3: Structure of South Africa's Foreign Liabilities, 1970-1984



Source: ORKIN, Mark (Ed.): *Sanctions Against Apartheid*.

Fig.4: Balance of Payments: Capital Account, 1980-1988 (R millions)

	1980	1981	1982	1983	1984	1985	1986	1987	1988
Net long-term capital	-478	542	2 433	-238	2 563	-445	-3 060	-1 698	-1 052
Net short-term capital	-1 804	419	797	290	-1 772	-8 786	-3 037	-1 371	-5 611
Net capital movements	-2 282	961	3 230	52	791	-9 231	-6 097	-3 069	-6 663

Source: OVENDEN, Keith – COLE, Tony: *Apartheid and International Finance: A Program for Change*.

Fig.5: Commercial and Financial Rand Exchange Rates, 1981-1989

	Commercial Rand		Financial Rand	
	Effective Rate (a)	US\$ (b,c)	US\$ (b,d)	Discount on commercial Rand % (e)
	(1)	(2)	(3)	(4)
1981	106.2	1.14	0.80	23.4
1982	92.8	0.92	0.76	18.7
1983	96.8	0.90	-	-
1984	81.1	0.68	-	-
1985	57.3	0.45	0.27	30.2
1986	50.3	0.44	0.22	52.9
1987	52.7	0.49	0.32	38.1
1988	47.3	0.44	0.26	37.9
Jan.	52.4	0.51	0.35	30.6
Feb.	48.9	0.49	0.37	22.7
Mar.	48.5	0.47	0.34	28.6
Apr.	48.5	0.47	0.35	25.1
May	47.3	0.45	0.34	24.5
June	47.1	0.44	0.29	32.5
July	45.9	0.42	0.29	29.6
Aug.	45.3	0.41	0.28	32.2
Sep.	45.3	0.41	0.25	38.7
Oct.	44.5	0.41	0.25	39.1
Nov.	44.9	0.42	0.28	35.2
Dec.	45.8	0.43	0.26	37.9
1989				
Jan.	45.8	0.42	0.26	38.9
Feb.	44.8	0.40	0.25	37.1
Mar.	n.a.	0.39	0.25	37.6
Apr.	n.a.	0.39	0.24	37.8

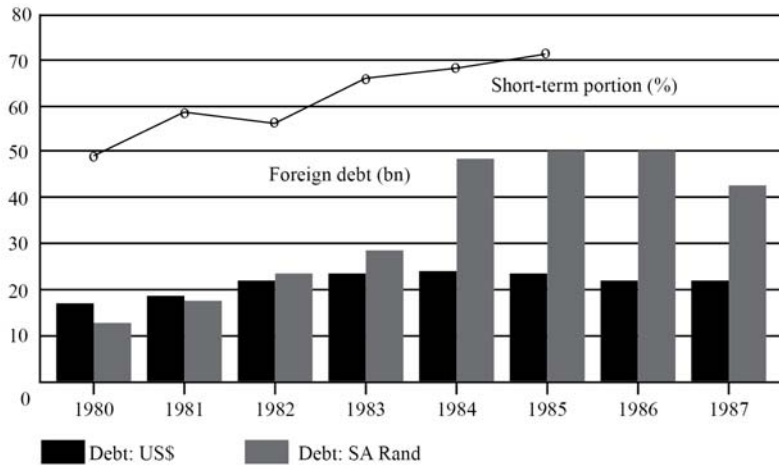
- (a) Weighted average; index 24 January 1979 - 100, figures are average for period.  
 (b) Units of US currency required to purchase 1 Rand  
 (c) Average for period.  
 (d) End of period rates.  
 (e) Commercial Rand rate minus financial Rand rate, divided by commercial Rand rate. SARB figures quoted cannot be derived from the two previous columns, because the commercial Rand rate is an average for the period while the financial Rand rate is an end-of-period figure.

n.a. not available

Source: OVENDEN, Keith – COLE, Tony: *Apartheid and International Finance: A Program for Change*.



Fig.6: South Africa's foreign debt, 1980-1987



Source: ORKIN, Mark (Ed.): *Sanctions Against Apartheid*.

Fig.7: South Africa's Annual Growth in GDP, 1960-1991

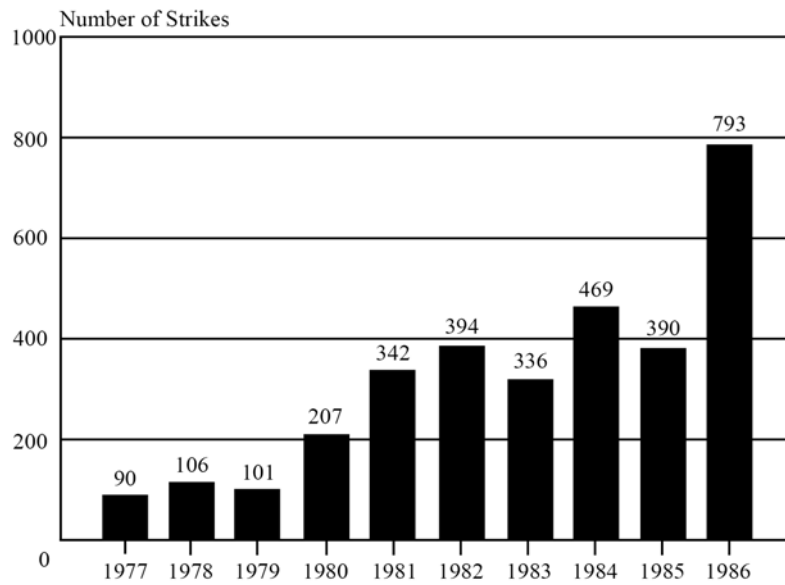
Period	% p.a.
1960- 74	5.0
1975- 84	2.7
1985	1.6

Note: Average growth rates calculated by fitting a trend line to annual rates which were derived from GDP data.

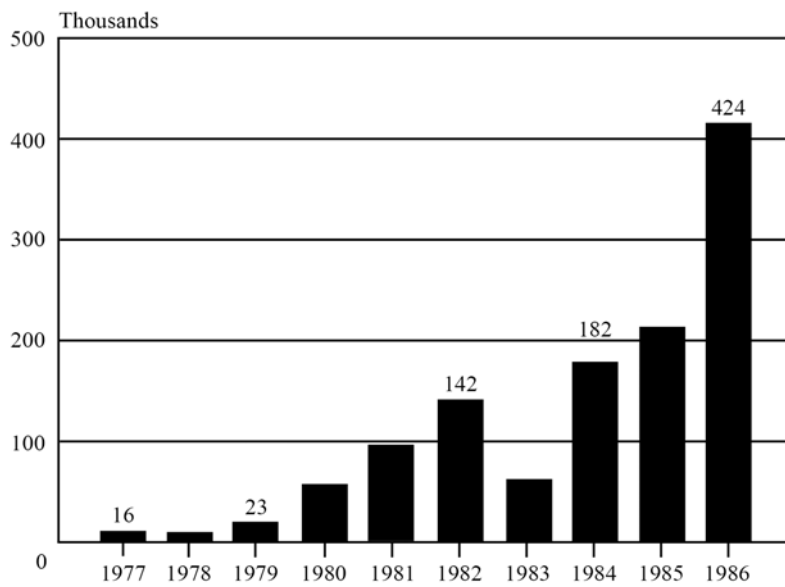
Source: JENKINS, Carolyn M.: *Assessing the Damage: The Effects of Sanctions on South Africa*.

Fig.8: Trade Union Militancy 1977-1986

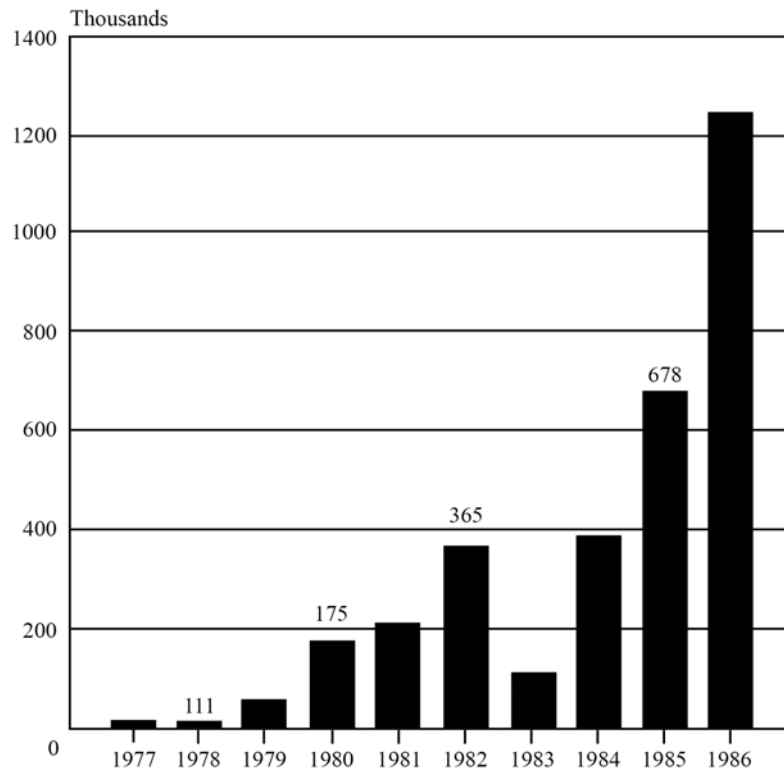
Strike Actions



Number of Workers Involved in Strikes



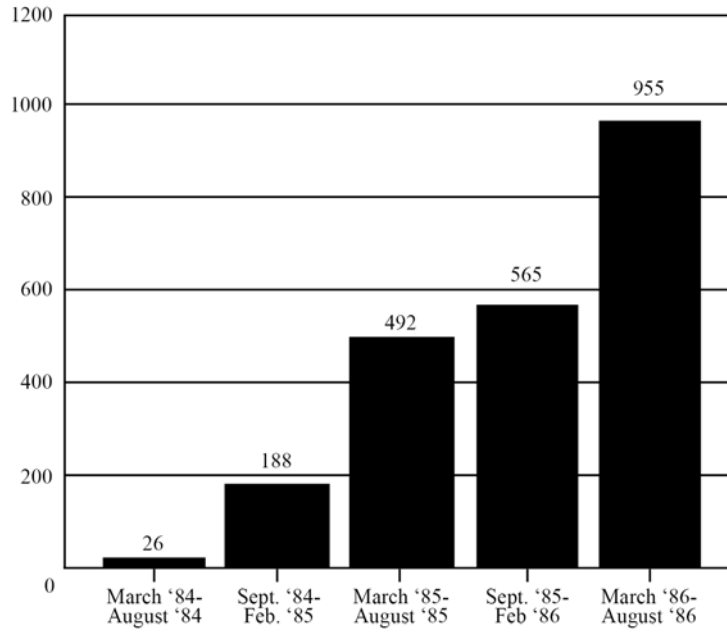
Man-days Lost to Strikes



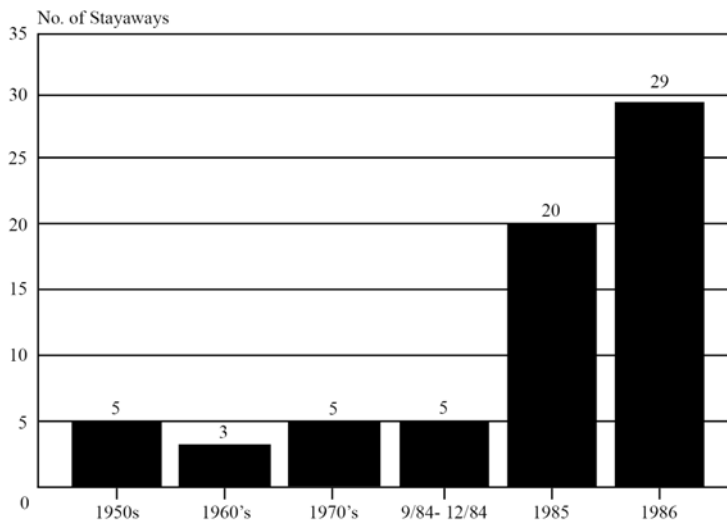
Source: PRICE, Robert M.: *The Apartheid State in Crisis: Political Transformations in South Africa.*

Fig.9: Level of Insurrectionary Activity

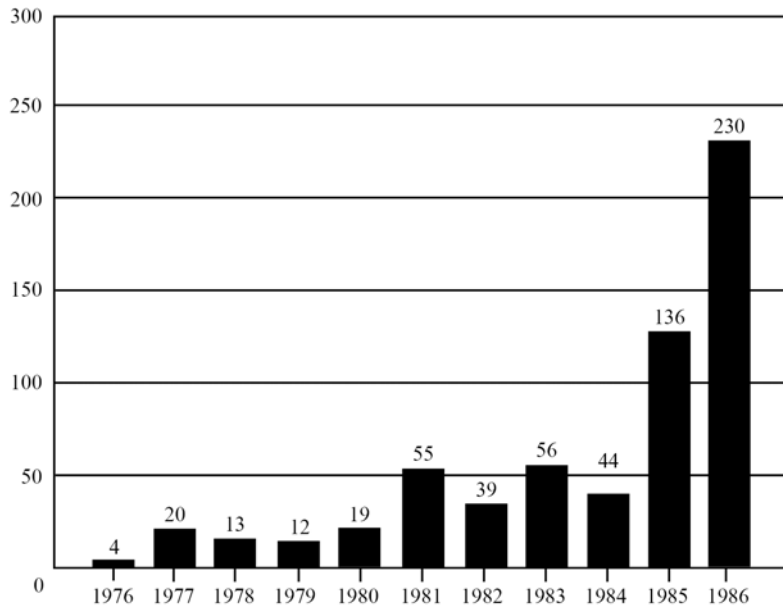
"Unrest" Deaths



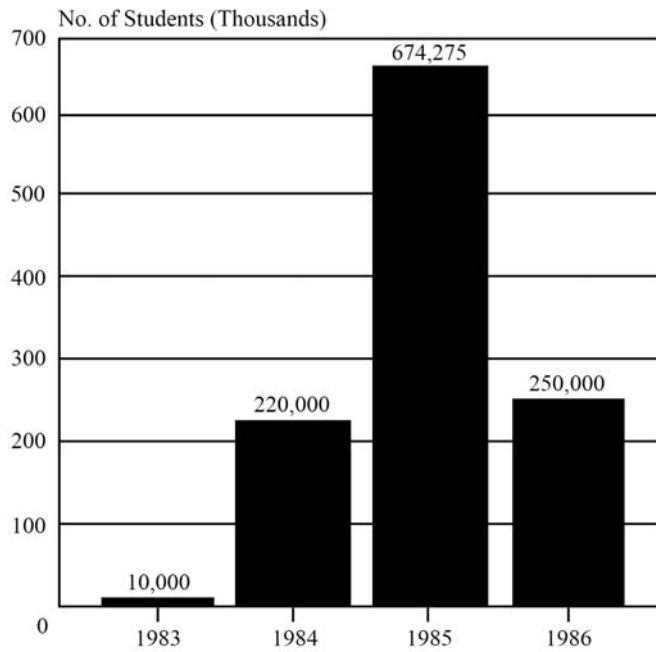
Political Strikes



“Guerrilla” Attacks



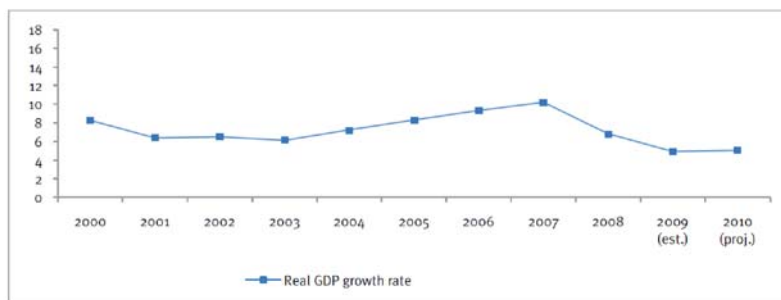
### School Boycotts



Note: Figures represent participation in extended boycotts. Many more pupils participated in short boycotts of several days duration.

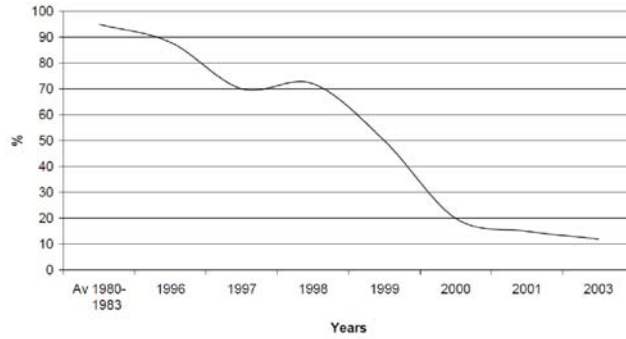
Source: PRICE, Robert M.: *The Apartheid State in Crisis: Political Transformations in South Africa*.

Fig.10: Real GDP Growth Rate in Sudan, 2000-2010 (%)



Source: DINGLE, Mohamed Ahmed Ali: *Case Study on Sudan*.

Fig.11: Progressive Contribution of the Agricultural Sector in the Total Values of Sudan Exports (1980-2001)



Source: AHMED, Medani M.: *Global Financial Crisis Discussion Series*; Paper 19: Sudan Phase 2.

Fig.12: Map of Sudan and Southern Oil Concessions



Source: <http://www.sudanreeves.org/modules.php?op=modload&name=News&file=article&sid=7&mode=thread&order=0&thold=0>

Fig. 13: Petrochina Share Price Chart, 2000-2010



Source: <http://finance.yahoo.com/echarts?s=PTR+Interactive#chart2:symbol=ptr;range=my;indicator=volume;charttype=line;crosshair=on;ohlcvvalue s=0;logscale=off;source=undefined>