

Submission

to British Government Inquiry

on Allegations of Sanctions-Busting

by Shell and British Petroleum

presented by

The Haslemere Group

The Anti-apartheid Movement

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Sanctions-Busting by Shell and British Petroleum

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Introduction

The saga of how Rhodesia has continued to obtain its oil supplies is undoubtedly the biggest sanctions-busting story since UDI. Oil is absolutely crucial to the survival of the illegal regime. If Rhodesia's oil supply was cut off, the economy would soon be on the verge of collapse.

In January 1966, soon after UDI, Harold Wilson told fellow Commonwealth leaders that the Rhodesian rebellion would be ended "within a matter of weeks, rather than months" -- a prediction made on the assumption that oil sanctions would 'bite'. But the oil continued to flow, through South Africa and Mozambique, and what is surprising is that it has taken so many years for the story to emerge.

It was not until the United Church of Christ report entitled 'The Oil Conspiracy' was released in New York last June that a detailed account of how Rhodesia obtains its oil was first publicly available. This was followed by the Anti-Apartheid Movement/Haslemere Group report on 'Shell and BP in South Africa' which was published in London on 1 March 1977. This study included a brief but important section on sanctions-busting which concluded that there is "little doubt that Shell and BP oil has been reaching Rhodesia."

The facts are simple. Firstly, Shell and BP are the major distributors of oil in Rhodesia -- the two companies control around 50 per cent of the Rhodesian market. Secondly, Rhodesia now obtains all of its oil in a refined form from South Africa. Thirdly, almost 40 per cent of the refined oil in South Africa is produced from Iranian crude oil at a Durban refinery which is jointly owned by Shell and BP. The only questions that remain are whether oil from the Shell/BP refinery is reaching Rhodesia, and whether the South African subsidiaries of Shell and BP have encouraged or discouraged this flow.

We are certainly not the first to put these questions before the Government; they have been raised on a number of occasions since UDI. For instance, on 12 July 1976 John Prescott MP asked in a parliamentary question whether the Prime Minister would raise at the next meeting of the European Council the need for the tightening of oil sanctions against Rhodesia. Ted Rowlands, a junior Minister at the Foreign and Commonwealth Office, replied: "I see no need at present to raise the subject in the European Council." On 15 July 1976 Mr Prescott asked the Chancellor what recent discussions he had had with BP about the operation of economic sanctions against Rhodesia. Mr. Joel Barnett replied: "None" (1).**

In the same month, the UN Sanctions Committee made an unannounced request to the British government to respond within two months at the latest to allegations made before it that Shell and BP, amongst others, had been providing oil for Rhodesia (2). The British response is not publicly available.

Since the publication of 'Shell and BP in South Africa' last month, the matter has again been raised on a number of occasions with the Government, both within the House of Commons and privately.

African government have been particularly concerned about the role of Western oil companies in supplying Rhodesia. Three months ago, President Kaunda told the OAU Liberation Committee that "the time has come for these oil companies to choose between Ian Smith and cooperation with Africa." (3) The Zambian government is also planning to raise the issue at the Commonwealth Prime Ministers' meeting in London in June.

The Nigerian government is also concerned about the involvement of the oil companies in supplying Rhodesia. Nigeria is the major African source of crude oil for Shell and BP, and the assets of the

** See list of footnotes at end of this Submission.

two companies in the country amount to £200 million (4). Any retaliatory action by the Nigerian authorities against Shell and BP would therefore have very serious repercussions on the two companies. Shell and BP, which operate throughout independent Africa, could well find that they face serious financial losses because of their involvement in Southern Africa.

Within six weeks of publication of the Anti-Apartheid Movement/ Haslemere Group report on Shell and BP, the Foreign Secretary announced that an official Inquiry would be set up to investigate: (a) how oil gets to Rhodesia; (b) whether British companies are involved; and (c) whether British legislation has been broken.

We welcome the establishment of the Inquiry, and hope that it will be conducted both thoroughly and urgently. We offer our full cooperation.

Immediately after the announcement of the Inquiry, we decided to prepare this Submission to the Inquiry. Because of the importance of the subject, and widespread interest expressed, it was decided to make the Submission publicly available**. The Submission is also being presented to other bodies concerned with this issue. These include the U.N. Sanctions Committee, the Commonwealth Sanctions Committee, and the Organisation of African Unity. In addition, it is being sent to member governments of the OAU, OPEC, the Commonwealth, and the EEC; and finally, to the government of the USA.

The Submission documents considerable evidence on how oil gets to Rhodesia; it also points out where further information should be available, and discusses some of the legal and political issues involved. It is based on a research programme that has been undertaken over several years, and that is being actively continued. Much of the information it contains has not been published before, and was obtained from a wide range of sources in Britain, Europe, the

** N.B. Further copies of this Submission may be obtained from the Anti-Apartheid Movement. Please send a stamped addressed envelope and a small donation.

USA, and Africa. We would like to thank Martin Bailey (author of 'Shell and BP in South Africa') and Bernard Rivers (principal author of 'The Oil Conspiracy') for compiling this Submission. Copies of these two reports are being submitted to the Foreign Office as an attachment to this Submission. We would also like to thank Kairos (a Dutch church group) and the Interfaith Center for Corporate Responsibility (ICCR) in New York for their active cooperation in working on this issue.

This Submission deals primarily with the activities of Shell and BP. It does not attempt to be comprehensive in its coverage of the other foreign oil companies operating in South Africa. These are the American firms Mobil and Caltex, and the French firm Total. We urge the British government to encourage the governments of the USA and France to ensure that their oil companies are not involved in supplying Rhodesia.

It should be stressed that we are not accusing the head offices of Shell and BP in London of direct involvement in sanctions-busting. In our investigations we have seen no evidence which shows that either company has contravened the UK Sanctions Order No. 2 of 1968 as it has been interpreted in the courts. There are nevertheless very strong grounds for believing that the South African subsidiaries of Shell and BP are involved in providing oil for Rhodesia. At present this does not appear to be illegal under British law.

In presenting this Submission to the Inquiry, we wish publicly to state that:

(a) We call upon the British government and oil companies to take immediate action to ensure that oil products from British-owned refineries in South Africa are not supplied to Rhodesia.

(b) We call upon the Government to amend UK sanctions legislation so that British oil companies are held responsible for ensuring that oil products from their refineries in South Africa are not supplied to Rhodesia.

(c) We call upon the Government to press South Africa to allow effective international scrutiny of British-owned oil companies in South Africa to ensure that oil they refine is not supplied to Rhodesia.

(d) If South Africa makes effective scrutiny of British-owned oil companies there impossible, it becomes even more necessary for the British government to work through the United Nations for an extension of oil sanctions to cover South Africa.

The swift introduction of majority rule in Rhodesia is the declared aim of the British government. Effective international sanctions, particularly on oil, provide the only means short of support for the liberation forces by which the international community can assist the people of Zimbabwe in securing majority rule. As President Kaunda told the Afro-Arab summit in March 1977: "There could be no greater contribution to the liberation struggle today in Southern Africa than to end the sale of oil to rebel Rhodesia."

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Summary

CHAPTER ONE -- BACKGROUND

A. The Oil Companies in Rhodesia and South Africa

Five oil companies distribute in Rhodesia -- Shell, BP, Mobil, Caltex and Total -- and the same companies also operate in South Africa. All Rhodesia's oil now clearly comes from South Africa.

B. The Ownership of BP and Shell

The British government has a 68 per cent stake in BP. Shell is an Anglo-Dutch group. The South African operations of both companies are wholly-owned subsidiaries.

CHAPTER TWO -- EVIDENCE

A. Stockpiling Before Sanctions

In the months before UDI the oil companies in Rhodesia -- especially Shell and BP -- helped Smith build up substantial stockpiles. Zambia, on the other hand, had very small stocks by the time of UDI.

B. Initial Response to Sanctions

The South African subsidiaries of Shell and BP appear to have helped Rhodesia survive the first few weeks of sanctions by assisting the effort to supply the country by road tankers.

C. From Road to Rail

Rail was the only economic method for Rhodesia to obtain its oil. But until the publication of a report entitled 'The Oil Conspiracy', little was known of exactly how Rhodesia arranged the importation of oil.

D. The Paper-Chase

Secret Mobil documents show that the South African subsidiary of the company used a complicated paper-chase to supply Rhodesia with oil through intermediaries.

E. Shell and BP

Strong evidence has emerged to suggest that Shell and BP established their own paper-chases to provide oil for Rhodesia. The main intermediary used was Freight Services Ltd.

F. Sources of Further Evidence

Likely sources of further evidence of sanctions-busting by Shell and BP are listed.

CHAPTER THREE -- COMMENT

A. The Response of the Oil Companies

The head offices of the oil companies have not denied that their South African subsidiaries supply Rhodesia via intermediaries.

B. Legal Constraints

Mobil's headquarters claim that supplies to Rhodesia through intermediaries could not be cut off because of the South African Official Secrets Act and 'conditional selling' legislation. It is not clear, however, if these laws would actually be enforced, or whether they are a convenient shield for the oil companies to hide behind.

C. Conclusion

If this South African legislation is not likely to be enforced, then the oil companies should take immediate steps to ensure that supplies do not reach Rhodesia. On the other hand, if the legislation is enforced, then this would make it even more necessary for the British government to work for an extension of oil sanctions to cover South Africa.

Chapter One -- The Background

A. The Oil Companies in Rhodesia and South Africa

There are five Western oil companies with subsidiaries in Rhodesia: Shell, British Petroleum (BP), Mobil, Caltex, and Total. All five operate as locally-registered companies which are wholly-owned by parent companies based in Europe or the USA. Shell is an Anglo-Dutch company, BP is British, Mobil and Caltex are American, and Total is French. These five companies all have wholly-owned subsidiaries in South Africa as well.

Rhodesia has one oil refinery, at Umtali. It was opened in March 1965, and was intended to supply both the Rhodesian and Zambian markets. The refinery is owned by Central African Petroleum Refineries (CAPREF), a company registered in Salisbury, and it is managed by Shell. Shareholders in CAPREF are Shell (20.75%), BP (20.75%), Mobil (17.5%), Caltex (15.75%), American Independent Oil (15%), Kuwait National Petroleum (5%), and Total (5%). Since UDI, control of the refinery has lain with the Rhodesian subsidiaries of the oil companies rather than with the parent companies overseas. The Umtali refinery was supplied with crude oil via a 186-mile pipeline from the Mozambique port of Beira. The pipeline is owned by the Companhia do Pipeline Mocambique Rodesia (CPMR), registered in Beira. The British company Lonrho holds a 62% stake in CPMR.

Rhodesia declared UDI on 11 November 1965. Shortly thereafter, sanctions were imposed on oil and certain other products, although it was not until 1968 that sanctions were made comprehensive and covered all products. Once sanctions were imposed, no crude oil reached Beira, and the pipeline to the refinery ceased operating on 31 December 1965. In consequence, the Umtali refinery was closed a few days later. Since then, the pipeline and the refinery have lain dormant.

Since UDI, the five Rhodesian subsidiaries of the oil companies have continued to operate. They became 'directed' companies under Rhodesian legislation, and the parent companies overseas claim to have no control over their operations. No UK sanctions law is being broken if the Rhodesian subsidiaries confine their activities to within Rhodesia.

However, the closure of the pipeline to Umtali meant that Rhodesia would collapse rapidly, unless other ways could be found of bringing oil into the country. There were problems involved in importing crude oil once the pipeline was out of action. So instead it was necessary to import the entire range of oil products that are

obtained from the refining process. These consist of fuels (such as petrol, diesel fuel, aviation fuels, etc.) and non-fuel oil products (such as lubricants, greases, solvents, etc.).

Rhodesia is a land-locked country, so these oil products had to come in overland from a neighbouring country. The only two possible neighbours were Mozambique and South Africa. Mozambique possesses one refinery, owned by Sonarep, at Lourenco Marques (now Maputo). South Africa possesses five refineries:

Shell/BP (joint ownership) -- Durban
Mobil -- Durban
Caltex -- Cape Town
NATREF -- Sasolburg
SATMAR -- Boksburg

NATREF (National Petroleum Refiners of South Africa) is 30 per cent owned by the French Compagnie Francaise Des Petroles ('Total'), 17.5 per cent owned by the National Iranian Oil Company, and 52.5 per cent owned by the South African government corporation SASOL. SATMAR (the South African Torbanite Mining and Refining Company) is the only refinery totally owned by South African interests. However, there is also a SASOL-owned plant at Sasolburg which produces oil from coal. The NATREF refinery was only opened in 1971. The SASOL and SATMAR plants have very small capacities. Thus, at least until 1971, only the three Western-owned refineries had sufficient capacity to supply Rhodesia from South Africa.

Virtually all of South Africa's crude oil has been imported from Iran since the Arab OPEC members imposed an embargo against South Africa in November 1973 (5). This means that Iran -- a country which accepts UN sanctions resolutions -- is knowingly or unknowingly providing the crude oil which is refined to supply Rhodesia's needs.

BP is the major partner in the Iranian Consortium, which markets Iran's exports to South Africa and other countries. Its share in the Consortium, held through the London-registered Oil Trading (Iran), is 40 per cent. Shell, with a 14 per cent stake, is also an important partner. In January 1977 it was reported in 'Africa' Journal that "informed sources have claimed that Iran is now considering halting -- or at least reducing -- oil supplies to South Africa if the apartheid regime continues to fuel the Smith regime."

For most of the period since UDI, Rhodesia's oil supply has been sent from South Africa via Mozambique. The most economical route was to take the products by ship from South Africa to Lourenco Marques, in Mozambique, and then to use rail transport into Rhodesia. Sometimes the oil may have been railed all the way from South Africa into Mozambique, and then on to Rhodesia. We also understand that certain specialised oil products were shipped to Beira for onward transportation to Rhodesia.

On 3 March 1976 the FRELIMO government closed the Mozambique-Rhodesia border. Until shortly before that time, the only other rail route from South Africa to Rhodesia went through Botswana, which was a particularly circuitous route for products from the Durban refineries. But in September 1974 a direct rail link from South Africa was completed between Beit Bridge and the Rhodesian town of Rutenga. This is now the main route used by Rhodesia to import its oil requirements.

B. The Ownership of BP and Shell

The British government at present holds a 68 per cent stake in BP. This includes the original 48 per cent shareholding, purchased in 1914, and a 20 per cent holding that was acquired by the Treasury in January 1975 as part of the operation to rescue the Burmah Oil Company. On 5 April 1977 the Chancellor of the Exchequer confirmed that the Government intended to sell part of its shareholding, but that it would still retain a 51 per cent majority holding in BP. This sale has not yet taken place.

The Government has the right to nominate two members to the BP Board. The present Government Directors are Lord Greenhill of Harrow (former Permanent Under-Secretary at the Foreign and Commonwealth Office) and Tom Jackson (General Secretary of the Union of Post Office Workers). The Government Directors have the power to veto any decisions. But in 1914 it was made clear by the Government that the veto would only be exercised over certain specific matters, which included foreign affairs. The veto has never been formally used. However, there seems to be no reason why the Government, as majority shareholder, cannot use this power to prevent BP or its subsidiaries from supplying Rhodesia. This should be done, even if such supplying of Rhodesia is being carried out in a way that does not contravene UK sanctions legislation. Indeed, it has been reported that Tom Jackson, one of the Government Directors, raised this issue at a meeting of the BP Board on 3 March 1977, two days after publication of the Anti-Apartheid Movement/Haslemere Group report 'Shell and BP in South Africa'.

The ownership of Shell is very different. The 'Shell' Transport and Trading Company Limited, registered in London, has a 40 per cent stake in the Shell group. The Royal Dutch Petroleum Company, registered in the Hague, has a 60 per cent stake. Shell's South African subsidiaries fall under the authority of Shell Petroleum Supply, registered in London, but the close interlocking ties between Royal Dutch and 'Shell' Transport and Trading presumably mean that responsibility for their South African operations lies with both the British and Dutch companies.

The South African holding companies of Shell and BP are both wholly owned by the European parent companies. Thus the head offices of Shell and BP should be in a position to issue instructions to their South African subsidiaries. In the last resort, of course, they could replace the South African directors if these instructions were not acted upon. It would therefore appear quite possible for the head offices of Shell and BP to instruct their South African

subsidiaries to take steps to ensure that oil from their joint refinery is not supplied to Rhodesia.

Shell and BP have traditionally worked closely together in Southern Africa. In Rhodesia marketing was controlled by a subsidiary of Consolidated Petroleum, registered in London, in which Shell and BP each hold a 50 per cent stake. Marketing operations in South Africa were also organised on a joint basis. In July 1975, however, arrangements were made by Shell and BP to form independent marketing companies. Both Shell and BP still retain a 50 per cent shareholding in South African Petroleum Refineries (SAPREF) which operates Africa's largest refinery at Durban. Shell and BP also each have 17.5 per cent stakes in Trek Beleggings Beperk, the only privately owned South African oil company. Trek is supplied with refined products from the joint Shell/BP refinery at Durban.

The close links between Shell and BP in Southern Africa mean that sometimes it becomes difficult to separate the operations of the two companies in dealings with Rhodesia.

Chapter Two -- Evidence

This Submission seeks to bring together a range of information, all of which suggests that the South African subsidiaries of Shell and BP have supplied Rhodesia ever since UDI. Some of the material we quote represents clearly documented evidence. Other material constitutes allegations made by others -- allegations which are apparently based on sound evidence, although we have not always had the opportunity of examining this evidence ourselves.

At times we report claims which have been made to us by informants who have asked us not to reveal our source. These instances are clearly stated when they occur in this chapter. It should be stressed that under the Official Secrets Acts of both Rhodesia and South Africa, a person could face a long prison sentence for revealing even a small part of the story which we tell.

The importance of the material in this chapter, when viewed in toto, is that it all tells a consistent story. Indeed, in conducting our investigations we were struck by the fact that evidence gathered from a very wide range of sources appeared to independently confirm our early results. The conclusions one is forced to draw from the material in this chapter are worrying ones which demand further in-depth investigation by those better placed than ourselves to carry it out.

A. Stockpiling Before Sanctions

In an unpublished memorandum, the United African National Council of Zimbabwe claims that "all the oil companies in Rhodesia, especially Shell and BP, had assured Smith even before UDI that they would secure oil supplies to Rhodesia even if sanctions legislation was passed by the United Kingdom, and a careful plan had been laid out for the purpose." (6)

The UANC "Memorandum on Sanctions Violations by Mobil, Caltex, Shell, BP and Total and their subsidiaries and affiliates", dated 10 March 1977, has been submitted to Senator Sparkman, Chairman of the US Senate Foreign Relations Committee. The covering letter was signed by Mr. Justice R.J. Hayfron-Benjamin, a Ghanaian appeal court judge who is Constitutional Consultant to the UANC, and was sent from the Office of the Ghanaian High Commissioner in London. It requested the US Senate Sub-Committee on African Affairs to reopen hearings on allegations of sanctions-busting by American oil companies (Mobil and Caltex).

The UANC Memorandum claims that "there is evidence that the oil companies, by assuring Smith of continued oil supplies despite sanctions, encouraged him to declare UDI.... The oil companies thought that the illegal Government would get recognition within a matter of weeks, and therefore built up stockpiles of petroleum products in Rhodesia in the months immediately preceding UDI." (7)

Shell was apparently keen on helping Smith at this time partly because the company was "busily negotiating for oil concessions in Angola from the Portuguese and thought that support for Smith would aid success" (8). It is alleged that Peter Jamieson, a Shell employee who was Director of the Umtali refinery, was particularly involved in ensuring that Rhodesia survived the first few months of sanctions. Before UDI, of course, the head offices of the oil companies were presumably responsible for the actions of their Rhodesian subsidiaries.

Rhodesia undoubtedly had substantial stockpiles of oil at the time of UDI, and these appear to have been somewhat greater than was generally reported at the time in the press. Indeed, we understand that when sanctions were imposed on 17 December 1965 Rhodesia had almost six months supply of oil at reduced consumption levels.

Zambia, on the other hand, had very small stocks of oil when sanctions were imposed against Rhodesia. At this time it had no refinery of its own, and until UDI it obtained its supplies from the refinery in Rhodesia. Early in January 1966, two weeks after supplies from Rhodesia had been cut, there was only enough oil in Zambia to last eight days. The United Kingdom, the United States, and Canada then mounted an emergency airlift to ensure the survival of Zambia. Road transport also had to be used to haul in supplies over the Great North Road until the completion of the oil pipeline from Dar es Salaam in August 1968. The additional costs of bringing in Zambia's oil over this period almost certainly exceeded £100 million.

The UANC memorandum goes on to claim that the petroleum companies "deliberately cut back oil supplies to and precipitated a crisis in Zambia" (9). This apparently represented a breach of the agreement of 30 October 1962 between Zambia (then Northern Rhodesia) and the oil companies on the establishment of the Umtali refinery. Since the submission of the UANC Memorandum, President Kaunda has revealed that Zambia is "actively considering" taking legal action against the oil companies in the Zambian courts (10).

This period up to 17 December 1965 -- during which stockpiles were deliberately built up inside Rhodesia -- might be deemed to fall outside the terms of reference of the Official Inquiry. In our view, however, it is important to consider the months immediately before the imposition of sanctions, because activities carried out then could well help explain how the Rhodesian regime managed to survive the months immediately following the introduction of sanctions.

B. Initial Response to Sanctions

In the period immediately after UDI, according to the UANC Memorandum, Peter Jamieson of Shell (Rhodesia) attempted to ensure that crude oil continued to flow into Rhodesia. On 25 December 1965 Mobil apparently "decided to obey United States regulations in respect of sanctions, and therefore decided to cease supplying oil to Rhodesia" (11). This decision "threatened to wreck the whole plan" which the oil companies in Rhodesia had made, and Ian Smith immediately held a meeting with Jamieson. Following discussions with Dr. Freiters-Cruz, the Portuguese Consul-General in Salisbury, Jamieson then went to Mozambique with power of attorney from CAPREF, the Umtali refinery company, to seal Mobil's installations in Lourenco Marques. On 28 December 1965, after Jamieson's arrival in Mozambique, "Mobil caved in and agreed to remain in the scheme to violate sanctions" (12).

After the supply of crude oil to the Umtali refinery was closed by sanctions, it became essential for Rhodesia to import refined oil products. On 5 February 1966 a South African newspaper reported that three or four fuel tankers per day were crossing the South African - Rhodesian border by road at Beit Bridge, and a picture of a Rhodesian tanker was published with the story (13). Faintly visible through a thin coat of grey paint was a large 'P' -- part of the BP insignia. Eleven days later the same tanker was again seen crossing the border; this time the BP insignia had been completely painted out (14).

According to Robert Good, then US Ambassador in Lusaka, "BP was first into the breach, to be followed by Shell and subsequently by other international oil companies" (15). Good added that "London's failure to use effective pressure against BP at the outset carried far-reaching consequences" (16).

The British government was clearly aware of the extent of oil traffic at Beit Bridge. On 12 February 1966 officers from the British Embassy in South Africa established their own observation post at the frontier. Robert Good points out that they "maintained a round-the-clock surveillance from a parked car a few yards from the border gate" (17). By the end of February around 40,000 gallons of oil were being transported across the Beit Bridge border point every day. This represented approximately half of Rhodesia's requirements at reduced consumption rates.

In 1966 Shell, BP and Mobil financed a 100,000 gallon oil depot at Messina. This depot was only ten miles south of the Beit Bridge border point, and it was generally assumed that its purpose was to store oil bound for Rhodesia. Shell's office in The Hague, when questioned on this point, did not deny that their South African subsidiary had helped finance the Messina depot (18). This suggests that the South African subsidiaries of Shell and BP were actively assisting Rhodesia obtain oil supplies by road.

C. From Road to Rail

Road transport across the Beit Bridge border proved a vital means of bringing in Rhodesia's oil during the first few months of UDI. But the road route was expensive and the only long-term answer was to bring in the oil by rail. It was not until September 1974 that a direct rail link between South Africa and Rhodesia was completed. Until then, the most economical route therefore involved sending oil from South African refineries to Lourenco Marques (now Maputo) in Mozambique, either by sea or rail, and then by rail on to Rhodesia through Malvernia. By March 1966 a reliable estimate suggested that 140-160,000 gallons of oil were going into Rhodesia from Mozambique every day. This was roughly equivalent to Rhodesia's normal consumption (19).

Informed observers of the Southern African scene assumed that the oil companies in Rhodesia obtained all their requirements from South Africa. But it was hard to prove this, and harder still to discover who it was in South Africa that provided the oil products. When queried on this point, the parent companies were unable or unwilling to provide clarification. Rawleigh Warner, Chairman of Mobil, said in 1975 that "the Rhodesian Government subjected all petroleum companies operating within the country to a stringent set of controls which required them to secure all of their product requirements solely from a government agency" (20). He did not name this Rhodesian agency, nor did he explain how it obtained the oil products which it then passed on to the oil companies within Rhodesia.

It took over ten years for the full story to emerge. On 21 June 1976 a 50-page report entitled 'The Oil Conspiracy' was published in New York by the Center for Social Action of the United Church of Christ, one of America's major Protestant churches. This study contained highly detailed allegations of how the South African subsidiary of Mobil was supplying oil products to Rhodesia through a chain of intermediaries. It was largely based on eighteen secret documents, all of which were internal memoranda of Mobil(Rhodesia) and Mobil(South Africa), or were letters to or from these two companies. The report also contained references to involvement in similar activities by Shell and BP.

A press conference to launch 'The Oil Conspiracy' was held in Washington DC. Reverend Larold K. Schulz took the opportunity to explain that the Center for Social Action, of which he was Executive Director, had over the past few years carried out considerable research and publicity on the issue of Rhodesian sanctions. He said that the documents on which 'The Oil Conspiracy' was based had been received from OKHELA, a clandestine group of white South Africans dedicated to combatting apartheid. In addition to the documents, OKHELA supplied him with further undocumented information on how oil reaches Rhodesia. All this information "had apparently been obtained from strategically placed informants who worked in South Africa and Rhodesia", and was gathered by OKHELA "during a period of intensive and secret research, with infiltration and intelligence work lasting over a year" (21).

The first task of the official Inquiry, according to the Foreign Secretary, is to "establish the facts concerning the operations whereby supplies of petroleum and petroleum products have reached Rhodesia since December 17, 1965" (22). There is no doubt that the most detailed publicly-available evidence on this question is to be found in 'The Oil Conspiracy', where a lengthy description is given of how Mobil oil gets to Rhodesia. All the evidence available to us suggests that broadly similar methods for supplying Rhodesia are used by all five of the oil companies operating inside Rhodesia. This similarity even extends, in certain cases, to their using the same intermediary companies. It therefore seems appropriate to summarize the facts presented in 'The Oil Conspiracy', even though much of that case relates directly to Mobil.

D. The Paper-Chase

'The Oil Conspiracy' showed that the Rhodesian government agency which imports the country's oil is named GENTA. As Mobil's Chairman pointed out, the agency does indeed sell to the oil companies in Rhodesia their requirements of fuel products, although in fact it seems to leave the companies to make their own arrangements for importing non-fuel oil products such as lubricants.

'The Oil Conspiracy' went on to reveal that the oil companies in Rhodesia, having been told after UDI that they must buy their fuel products from GENTA, were themselves asked to set up procedures whereby GENTA could import the fuel from their sister companies in South Africa (23). For instance, shortly after UDI, GENTA asked Mobil(Rhodesia) to make arrangements whereby Mobil(South Africa) would sell to GENTA most or all of Rhodesia's requirements of petrol, diesel fuel, and Avtur (aviation turbine fuel). GENTA would then resell these fuel imports to all the oil companies in Rhodesia -- which included Mobil(Rhodesia). Other oil companies, including Shell and BP, were asked to provide other fuel products (24).

In mid-1966, an elaborate scheme was then devised to make it look as if the South African subsidiaries of the oil companies were not themselves involved in any trade with Rhodesia. Physical transportation of oil products to Rhodesia from the refineries in South Africa provided no real problem, since unmarked rail tank cars were used. The difficulty lay in the paperwork, because, it seems, a decision was made that nowhere in the accounts of the South African subsidiaries of the oil companies was there to be a copy of an invoice billing a Rhodesian firm (25). It is not clear whether this subterfuge was primarily intended to conceal information from the South African government (which did not impose sanctions), the parent oil companies, or the governments of the countries in which the parent oil companies are based.

The scheme that was eventually devised consisted of creating what Mobil has called a 'paper-chase' (26). One of our informants has claimed that it was in fact Shell(Rhodesia) which first arranged the system. This would be quite logical because Shell is by far the largest oil company in Rhodesia and it is the managing company of the Umtali refinery.

The paper-chase was a system whereby sales and payments would be passed through various South African companies which acted as intermediaries. Thus Mobil(South Africa) could sell oil to a South African company, knowing that it would be passed on to other companies, which would eventually sell it to the required recipient in Rhodesia -- usually GENTA. GENTA would then sell them to the oil companies in Rhodesia for final sale to the public. If the South African subsidiaries of the oil companies were ever asked whether they provided oil products for Rhodesia, they could evade the question by stating that they sold only to companies in South Africa, and that they did not know what these companies did with the oil purchased (27).

Even if a clever investigator managed to discover that certain oil products had found their way to Rhodesia from the South African refineries owned by Shell/BP or Mobil, the oil companies were quite sage -- so long as nobody could prove that there was intention on the part of the oil companies for their products to reach Rhodesia. Unfortunately for them the documents released in 'The Oil Conspiracy' showed that the oil companies did indeed intend their products to reach Rhodesia.

For instance, an official of Mobil(Rhodesia) explains in one of the documents that the different stages of the paper-chase "are, to all intents and purposes, meaningless and are merely our false trail being laid..." He adds: "You might consider that the procedure that we have adopted is unduly complicated and unnecessary, but as was conveyed to you when you were here, it is the wish of George's people [a reference to GENTA, whose Chairman is George Atmore] that we involve and complicate this matter to a far greater degree than pertains at present in the hope that it will discourage an investigation" (28). Another document explains that the paper-chase "is necessary in order to make sure that there is no link between MOSA [Mobil(South Africa)] and MOSR's [Mobil(Rhodesia)'s] supplies..." It goes on to state that: "This paper-chase, which costs very little to administer, is done primarily to hide the fact that MOSA is in fact supplying MOSR with product in contravention of U.S. Sanctions regulations..." (29).

The major part of 'The Oil Conspiracy' is taken up with a detailed description of the various paper-chases used by Mobil to get different fuel products from South Africa to Rhodesia via a sequence of intermediary companies. Many of these are in fact bogus companies; others are fronts acting for other companies. The report also contains details on Rhodesia's fuel consumption and the market share held by different oil companies within Rhodesia.

The 'New York Times' carried out a detailed investigation of 'The Oil Conspiracy', the conclusions of which were given in a major article on 2 August 1976. The newspaper was clearly impressed; it had been unable to disprove any of the allegations, and it had obtained independent confirmation of certain details of the Mobil paper-chase. It went on to say: "With the passage of more than a month since the report was made public, and in the absence of a disavowal by Mobil, church and Government officials say credibility appears to be growing. One UN official, asked about the authenticity of the documents, said: 'We do have reason to believe they are authentic by reason of our experience in dealing with this type of document'."

The U.S. Senate Subcommittee on African Affairs, chaired by Senator Dick Clark, held hearings on the allegations in September 1976. The U.S. Treasury also conducted an enquiry, which has been going on for almost a year. The results are expected soon. A shareholder resolution is also to be put before the Mobil AGM on 5 May 1977 calling on the company "to insure that no Mobil products are supplied, directly or indirectly, to Rhodesia, and that no bulk sales of products are made without verifiable guarantees by the purchasers that said products are not destined for resale or transfer to Rhodesia" (30).

E. Shell and BP

The information in 'The Oil Conspiracy', both documented and undocumented, refers primarily to Mobil. It clearly illustrates how Mobil has made effective use of the fact that US sanctions regulations apparently do not prevent a South African-registered company from trading with Rhodesia, even when that company is wholly owned by a company registered in the United States. We have every reason for believing that Shell and BP have since UDI been making use of an equivalent loophole in British sanctions legislation. 'The Oil Conspiracy' itself provides much of this evidence. The report claims that when Shell (South Africa) plan their future sales, they include in their planning tables a special category, enigmatically entitled 'S'. This stands for a South African company called Freight Services Ltd., and is to cover purchases made by Freight Services for subsequent resale to on in Mozambique, Malawi ... and Rhodesia (31). In supplying oil products to Rhodesia, Shell apparently operates through Freight Services and five other intermediaries. This system has been operating for several years. Every three months Freight Services, acting on behalf of themselves and the other intermediaries, inform Shell of their requirements for a variety of oil products, specifying how much they estimate will be needed over the next 3 and 12 months. Soon after publication of the report on 'Shell and BP in South Africa', the author was told by Shell's press office in London that their South African subsidiary did indeed sell oil to Freight Services. The office added that no investigations had been undertaken to examine allegations that Freight Services supply Rhodesia. So far as BP are concerned, they have consistently refused either to confirm or deny reports that Freight Services is a customer of their South African subsidiary. In the course of our own investigations, we have come upon another source which confirms again that Freight Services has over the years obtained oil products from Shell (South Africa) for shipment to Rhodesia. More importantly, this same source adds that Freight Services has also acted in a similar way for BP (South Africa). Unfortunately it is not possible for us to name this source, so we acknowledge that this information does not constitute evidence in the formal sense.

One informant has claimed that Freight Services Ships Agency at Lourenco Marques acts as handling agent for both BP Tanker Company Limited (registered in London) and Shell International Marine Limited.

It is clear from 'The Oil Conspiracy' that Freight Services does not only act for Shell and BP. It is also the most important intermediary company used by Mobil. Freight Services is one of South Africa's largest shipping and forwarding companies, with branches in Rhodesia and Mozambique, as well as throughout South Africa. It is widely known in Southern African business circles for its considerable involvement in trade with Rhodesia.

The ownership of Freight Services is complex. Until 1975, 23.9 per cent of the shares in Freight Services were held by Charter Consolidated, a British company which is part of the Anglo American group; and a further 56 per cent was in the hands of the Anglo American Industrial Corporation. This meant that the Anglo American group held almost 90 per cent of the shares in Freight Services. Ocean Transport and Trading, another British company, also had a stake in Freight Services.

In July 1975 the Freight Services parent company, Freight Services Holdings, was merged with two other companies to form Aero Marine Freight Services Holdings. Major shareholders in this larger company are Anglo American and the South African Marine Corporation (Safmarine). The British and Commonwealth Shipping Company, registered in London, held a 28 per cent stake in Aero Marine Investments (which merged with Freight Services in 1975) as well as a 13.6 per cent holding in Safmarine (which in turn has a 32.6 per cent share in the new Aero Marine Freight Services group).

It is clear that Freight Services acts as an intermediary for the oil companies under a number of guises. The Mobil documents showed that Freight Services often operates behind a front called Minerals Exploration Company. Numerous other companies -- frequently representing little more than letter-boxes for passing invoices -- have been set up, some by Freight Services, to deal with oil for Rhodesia. These intermediaries include Rand Oils, Western Transvaal Development and Exploration Co., Botswana Carriers, Botswana Transport, Semco No. 3 Account, Village Main Distributors, Recom of Rhodesia Ltd., and Plascon Evans No. 3 Account.

It should be emphasised, however, that Freight Services is certainly not the only company assisting in supplying Rhodesia. It is likely that SASOL, a South African government corporation, is also involved in supplying oil purchased from other companies in South Africa to Rhodesia. SASOL features in a number of the Mobil paper-chases outlined in 'The Oil Conspiracy'. One of the important tasks of the official Inquiry should be to determine which intermediaries have been used to supply Rhodesia. Clearly it will be important for information to be sought from the South African subsidiaries of Shell and BP on all major bulk sales.

On at least one occasion it appears that a company in which Shell and BP together have a 35 per cent stake was actually used by Mobil as an intermediary. A Mobil(Rhodesia) memorandum reproduced in 'The Oil Conspiracy' shows that a firm known as Semco was used in

supplying lubricants and greases to Rhodesia. The memorandum points out that these products are billed by Mobil(South Africa) to "Semco No. 3 Account" in Durban (33). This is almost certainly a reference to Semco Lubricants and Chemicals (Pty), which is part of Chemico (Pty). Chemico is a wholly owned subsidiary of Trek Beleggings. The South African subsidiaries of Shell and BP each have a 17.5 per cent holding in Trek Beleggings. The lubricants supplied to Mobil(Rhodesia) could well have come from the South African Lubricants Manufacturing Company (SAMCO) plant at Durban. SAMCO is owned by Trek (50 per cent), Shell (25 per cent), and BP (25 per cent).

Other evidence of Shell's involvement in supplying Rhodesia was contained in two secret Mobil documents reproduced in 'The Oil Conspiracy'. First, in a lengthy technical letter dated 2 September 1968 Richard van Niekerk of Mobil(Rhodesia) wrote to R.H.Maskew of Mobil(South Africa) on the procedures for importation. He included the following note on "Supply Sales Premium vs Regular": "As was communicated to you on the telephone on Friday morning we have held further discussions with GENIA here on this matter and they are aware that we are going back to Shell with an offer to accomodate them at L.M. [Lourenço Marques] for Regular. If Shell refuse this offer there will be no justification for GENIA favouring them on Premium at our expense." (34)

Secondly, Shell appears to have a monopoly on the export of Avgas 100/130 into Rhodesia. A Mobil(Rhodesia) memorandum on "Product Procurement" points out that "Avgas 100/130 is imported from Shell by GENIA". Avgas 100/130 is a vital aviation fuel used in light aircraft. It is not produced at any South African refinery, and consequently the Avgas which Shell sends from South Africa to Rhodesia must have been originally imported to South Africa from a country which does not permit sanctions-busting. (35)

The same Mobil memorandum goes on to add that Avtur (aviation turbine fuel) is imported by Mobil, "despite frequent attempts by Shell to stop this; they claim product contamination etc. This is resolved by a sample to them from each batch. While Mobil imports Avtur, other companies import kerosine, avgas etc." (36)

'The Oil Conspiracy' also points out that in 1974, Shell(Rhodesia) built a lubricant blending plant at Willowvale, on the outskirts of Salisbury, which uses base-stock (semi-processed crude oil) imported from the Shell refinery at Durban. The plant has apparently been used to blend lubricants according to Shell specifications, which is then put into tins marked with the trademarks of BP, Mobil, Caltex, Total, and of course Shell. (37)

According to 'The Oil Conspiracy', Shell is by far the largest oil company in Rhodesia (38). Between 1967 and 1972 Shell's share of the Rhodesian petrol market (i.e. not including diesel fuel, lubricants, etc.) ranged from 34.4 per cent to 37.2 per cent. BP's share ranged from 15.3 per cent to 15.9 per cent (39). In June 1976, when 'The Oil Conspiracy' was published, it was claimed that Shell and BP were still importing oil products into Rhodesia (40). It was

also pointed out that "informed sources say that the British government is quite aware of the fact that Shell(South Africa) is providing oil products for Rhodesia. But nothing has been done about this." (41)

The figures for the market share held by Shell and BP appear to be confirmed by statistics quoted in the UANC Memorandum to the US Senate. These figures deal with all oil products (not, as in 'The Oil Conspiracy', just with petrol) and show that Shell and BP have together supplied approximately half of Rhodesia's oil. The yearly shares of the two companies together in Rhodesia have been as follows (42):

1967	43.5%
1968	47.1%
1969	47.3%
1972	47.1%
1973	56.1%
1974	49.6%

Tonnage figures are also given for the first four months of 1974. These show that Shell and BP supplied 76,100 tons of oil during this period (January: 24,175 tons; February: 13,890 tons; March: 18,270 tons; and April: 19,765 tons).

If the first third of the year was typical, then we can conclude from these and other figures quoted in the UANC Memorandum that during 1974: (a) Rhodesia imported some 460,000 tons of oil, and (b) Shell and BP's share of this was some 228,000 tons. This total importation figure of 460,000 tons is similar to a figure obtainable from 'The Oil Conspiracy'. Documents there show that in 1973 Rhodesia's projected consumption of petrol as 1,873,000 barrels, and of diesel fuel was 1,738,000 barrels. These two figures, which do not include other oil products (such as lubricants), total 3,611,000 barrels, or approximately 425,000 tons (at 8.5 barrels per ton). (43)

It is slightly ambiguous as to whether the figures in the UANC Memorandum refer to sales inside Rhodesia by Shell and BP, or to exports into Rhodesia from the South African subsidiaries of Shell and BP. This should clearly be checked by the Inquiry. It is implied, however, that the quantities sold inside Rhodesia by each company are the same as the quantities exported to Rhodesia by the South African subsidiary of the same company.

There is little doubt that a complicated paper-chase has been used to supply Rhodesia with oil from the Shell/BP refinery at Durban. What is not proven, however, is whether the South African subsidiaries of Shell and BP have deliberately set up the paper-chase in order to try to hide their involvement in this trade, or whether conversely they have been merely aware that intermediaries such as Freight Services have been purchasing their oil for resale to Rhodesia and have not taken measures to stop these sales. The Mobil evidence presents a strong case for suggesting that the South African subsidiaries of Shell and BP adopted a similar procedure to Mobil, and deliberately participated in the establishment of a paper-chase to supply Rhodesia.

F. Sources of Further Evidence

The British government has presumably been keeping a close watch on the question of how oil supplies have reached Rhodesia ever since it took the initiative to impose oil sanctions against the Smith regime soon after UDI. British diplomatic representatives in both South Africa and Mozambique are known to have attempted to monitor this oil traffic for Rhodesia. The Foreign Office in London is believed to have gathered considerable information over many years on this subject.

Other governments, particularly of the Netherlands, the United States, and France, have presumably undertaken similar investigations. Similarly both the United Nations Sanctions Committee and the Commonwealth Sanctions Committee are known to have examined the question of sanctions-busting by Shell and BP.

Other documentary evidence on how Rhodesia has been obtaining oil presumably exists in a number of different offices. The following sources would almost certainly be in a position to provide substantial information for the Inquiry:

(a) The oil companies operating in South Africa -- namely Shell, BP, Mobil, Caltex, Total, Trek, Esso, Sonap and Sasol -- would clearly be the most important source. In particular the South African marketing subsidiaries of Shell and BP (Shell Oil South Africa and BP Oil South Africa) must have detailed information on sales to customers, such as Freight Services, which are believed to be involved in supplying Rhodesia.

(b) South African Railways and Harbours (SARH) should have considerable information on the shipment of oil bound for Rhodesia:

(i) SARH owns the pipeline from the Shell/BP refinery at Durban to Germiston, near Johannesburg, which presumably now handles most of the Shell-BP oil supplied to Rhodesia.

(ii) SARH controls the major rail routes which have been used to transport oil to Rhodesia -- the routes to the Rhodesian border at Beit Bridge, to the Mozambique border near Lourenço Marques/Maputo (for shipments through Mozambique to Rhodesia), and to the Botswana border near Mafeking (for shipments through Botswana to Plumtree).

(iv) SARH controls the harbour at Durban which was used to ship oil by sea to Lourenço Marques for subsequent trans-shipment by rail through Mozambique to Rhodesia; this route clearly became redundant when the Mozambique-Rhodesia border was closed on 3 March 1976.

(c) South African Department of Customs and Excise presumably has records of all oil exported from South Africa to Rhodesia.

(d) The oil companies operating in Mozambique -- i.e. Shell, BP, Mobil, Caltex, Total and Sonap -- presumably have certain details of sales to Rhodesia, or to intermediaries acting on behalf of Rhodesia, for the period up to 3 March 1976.

(e) Mozambique Railways have statistics of oil carried between Lourenço Marques and the Rhodesian border at Malvernia, and also between Beira and Umtali, for the period until 3 March 1976.

(f) Mozambique Customs Department should have records of oil exported from Mozambique to Rhodesia up until 3 March 1976.

(g) The Sonarep Refinery in Mozambique, and its principal shareholder Manuel Boullosa, is believed to have considerable information on how oil has reached Rhodesia. Sonarep refines oil both for itself and for the French company of Total. Between 1968 and 1972 Sonarep and Total together supplied approximately 15 per cent of the Rhodesian market (44).

(h) Aero Marine Freight Services Ltd, the parent company for Freight Services, must have access to a vast amount of relevant information. The company's head office is in South Africa. It also has offices in Mozambique, Beira, Lourenco Marques, all of which presumably have detailed information on oil handled. The company also has an office in London.

(i) A number of banks in Southern Africa have handled very large financial transactions in the course of the operation of the various oil paper-chases. The two largest banks in South Africa -- Barclays National and the Standard Bank of South Africa -- are British controlled.

(j) The Botswana government is believed to have statistics on oil transported by rail from South Africa to Rhodesia via Botswana. A detailed survey on this railway (which is owned by Rhodesia) was carried out by a Canadian firm of consultants two years ago.

(k) The Zambian government has announced that it intends to take legal action against Shell, BP, Mobil, Caltex and Total for supplying Rhodesia. Press reports have pointed out that Ministry of Justice officials are now at an advanced stage in the preparation of their legal case (45). The Zambian government is therefore likely to have evidence implicating the oil companies in sanctions-busting.

(l) The United African National Council of Zimbabwe has claimed that it is in possession of "substantial additional evidence which would show that the Mobil Oil Corporation is not the sole operator in sanctions-busting, and that it acted in collusion with the other major oil corporations, including Shell, BP, Caltex and Total in an ingenious scheme to violate the sanctions regulations of the United Nations, and the enforcement legislation of the United States, United Kingdom, and the legitimate sovereign of Rhodesia" (46). This claim is made in the UANC Memorandum submitted to the US Senate.

(m) The British company Lonrho has claimed to have acquired considerable information on sanctions-busting by Shell and BP on a number of occasions. Mr. R.W. Rowland, the company's Chief Executive, wrote to Mr. H.C. Gill, Inspector of Companies at the Department of Trade, on 5 April 1976. Rowland claimed that soon after the introduction of the Beira patrol "what was not given publicity was the untrammelled and constant off-loading of refined petroleum products destined for Rhodesia at Lourenco Marques, where the existing tank farms mushroomed. Over 50 per cent of these petroleum products were imported into Rhodesia by BP and Shell, and carried by rail tank wagons via Malvernia and Gwelo to Bulawayo and Salisbury." (47)

Rowland went on to add that many years ago he had supplied the chassis numbers of around 300 rail tankers which were used to carry fuel from the Shell-BP tank farm at Lourenco Marques into Rhodesia. This evidence was presented to James Bottomley, then Deputy Under Secretary of State at the Foreign and Commonwealth Office, and Rowland "suggested a meeting of the petroleum companies to bring this anomaly to an end."

In 1967 Lonrho is actually believed to have considered legal action against the British government over sanctions-busting by BP, presumably because of the then 48 per cent government shareholding in BP; Professor Raoul Ventura prepared a writ (48). According to Rowland's letter, the company dropped the proposed action after discussions with Angus Ogilvy, then a Lonrho Director. Apparently Ogilvy had been advised by Sir Michael Adeane, the Queen's Secretary, that if legal proceedings against the Government were initiated, then "he must resign forthwith".

On 10 April 1977 it was revealed that Rowland had recently asked his lawyers to prepare a civil action against the five oil companies, including Shell and BP, which are believed to have been supplying Rhodesia (49). Lonrho apparently wants to sue them for £50-£100 million for breaching contracts with the Companhia do Pipeline Mocambique - Rhodesia (CPMR), in which Lonrho has a 62 per cent stake.

CPMR owns the pipeline built to carry crude oil from Beira to the Rhodesian refinery at Umtali. We understand that under a contract signed between the oil companies and CPMR in the early sixties, the oil companies guaranteed that they would not import oil into Rhodesia by any means other than the pipeline. At the end of 1965 the pipeline was closed as a result of sanctions. Thus if the oil companies themselves then brought oil into Rhodesia by other routes, they could well have been acting in breach of their contract with CPMR, even if they did the importation in a way that did not contravene UK sanctions legislation. If, as has been reported, Lonrho plans to take the oil companies to court for breach of this contract, then it would seem that Lonrho would have to prove that the oil companies did send oil into Rhodesia.

According to the Sunday Times, Lonrho has indeed acquired the documentary evidence to back up its claim that Shell, BP and other oil companies have been supplying Rhodesia.

(n) Further research. The Haslemere Group and the Anti-Apartheid Movement are actively continuing their investigations into how oil is supplied to Rhodesia. Further leads are currently being pursued.

Chapter Three -- Comment

A. The Response of the Oil Companies

Shell and BP have denied actually breaking UK sanctions regulations. They point out that since UDI they have lost control over their subsidiaries in Rhodesia. They have usually also denied that their South African subsidiaries supply Rhodesia direct; but they have not denied (or confirmed) that these subsidiaries supply Rhodesia via South African intermediaries.

A typical comment from Shell was reported in the Sunday Times last year: "Yesterday in London, Shell denied for the umpteenth time, that its South African subsidiary had knowingly supplied these products to Rhodesia. Hans Pohl, managing director and acting Chairman of Shell Oil South Africa, said: 'As far as I know, no Shell company in South Africa has an interest in supplying oil to Rhodesia.' However, in response to a further question, he said: 'What Freight Services does? I do not know'." (50) BP has consistently stated that it does not trade with Rhodesia, and claims that this applies to its South African subsidiary as well (51). But in reply to repeated questions as to whether BP(South Africa) supplies Rhodesia via intermediaries, "the company said that it was difficult to give a firm answer one way or another." (52)

Thus neither of the British oil companies have denied the allegation made in the report on 'Shell and BP in South Africa' that their South African subsidiaries have been supplying Rhodesia through intermediaries. As 'The Guardian' pointed out: "Until the companies have announced measures to ensure that Freight Services is not used as an intermediary to supply Rhodesia, there is strong evidence to imply that they are aware of how fuel from their joint refinery at Durban is reaching the Rhodesian regime." (53) Clearly it will be important for the Official Inquiry to find out from Shell and BP what instructions on sanctions have been issued to their South African subsidiaries since 1965, and what the response has been.

At this point it is instructive to examine the detailed arguments put forward by Mobil to justify its present position, which almost certainly allows its South African subsidiary to supply Rhodesia through intermediaries. Mobil's legal case was expressed in a lengthy testimony to the US Senate Subcommittee on African Affairs last September.

The US head office of Mobil has never denied allegations that Mobil(South Africa) deliberately supplied Rhodesia via South African intermediaries, nor has it denied the authenticity of the documents upon which these allegations were based. (In fairness it must be pointed out that neither have they confirmed these things.) The company's response can be summarised as follows: (a) they are

prevented by the South African Official Secrets Act from conducting an investigation, and they therefore do not know if the documents in 'The Oil Conspiracy' are authentic or the allegations are true; (b) even if it were proved that the allegations were correct, South African legislation on 'conditional selling' might make it impossible for the parent company to prevent oil going from Mobil(South Africa) to Rhodesia via intermediaries.

B. Legal Constraints

The South African Official Secrets Act certainly makes it difficult to investigate the question of how oil has been reaching Rhodesia. The Act covers all matters relating to the storage, distribution, and sale of petroleum. Mobil explained the dilemma they faced: "Actually, we are caught in the middle, squarely between the US government attempts to enforce a boycott of Rhodesia and the equally determined efforts of the South African government to prevent any external or internal interference in the distribution of petroleum products. As a result of these differing policies, we have been unable to conduct any investigation in South Africa relating to the allegations because of the South African Official Secrets Act." (54)

After three of Mobil's top executives had flown to South Africa last August to examine allegations of sanctions-busting made in 'The Oil Conspiracy', they were apparently warned by their legal advisers that if they attempted "to carry out any investigation of this subject they, themselves, would be subject to prosecution as foreign agents." (55) The South African Secretary of Commerce advised the Mobil representatives that this controversy was a policy matter which could only be dealt with on a "government to government basis". (56)

The Official Secrets Act is a powerful weapon in the hands of the South African government. In connection with the issue under review it is certainly most unusual for a peacetime government to have the power to prevent the subsidiary of an oil company from disclosing details of its customers to its head office abroad. It has been claimed by sources within Mobil that the company has not faced this situation elsewhere during the past twenty five years.

There are grounds for believing that the oil companies may be taking an excessively strict interpretation of the Official Secrets Act and using it as a shield to hide their involvement in business with Rhodesia.

The Act covers disclosure of information "prejudicial to the safety and interest of South Africa." (57) It could be argued, however, that even though South Africa does not adhere to a sanctions policy, provision of information to a foreign parent company on evasion of sanctions against a third country (Rhodesia) which occurs within South Africa would not by itself contravene the Act.

Mr. C. Friedman, Mobil's legal adviser in South Africa, himself pointed out that the Official Secrets Act cannot prevent or impede the "normal flow of information" between the company's South African subsidiary and its overseas head office. (58) This certainly suggests that the question of whether Freight Services is a bulk purchaser of oil from the South African subsidiaries of Shell and BP could well be a matter that could be disclosed in the course of "normal" business.

Finally, it should be pointed out that the oil companies have already disclosed material on trade with Rhodesia, and no prosecution has followed. How is it, for instance, that the head offices of Shell and BP have been able to determine (as they claim) that their South African subsidiaries have not supplied Rhodesia direct?

Mobil actually informed the US Senate Sub-Committee of an arrangement which had only been permitted by the South African government on condition that it was kept secret. George Birrell, General Counsel of Mobil, recalled the situation that arose in January 1966: "Mobil's South African affiliates advised that their boards had adopted resolutions formally requiring discontinuance of all petroleum product supplies to Mobil Rhodesia. Our manager in South Africa advised that the South African Government was willing to permit the adoption of such a policy which would prevent direct sales to Rhodesia, but the Government insisted that no public announcement of this policy be made and that sales in the normal course of business in South Africa not be accompanied by any attempts to restrict the use to which its customers should put those products." (59)

In addition to quoting legislation which they say prevents them asking questions of Mobil(South Africa), Mobil have also referred to legislation which they say prevents them from exercising a veto as to who Mobil(South Africa) makes bulk sales to. They say that South African legislation on "conditional selling" makes it impossible for Mobil(South Africa) to refuse to sell to customers willing to pay the current price. These restrictions are embodied in the Price Control Act No. 25 of 1964, and the National Supplies Procurement Act No. 89 of 1970. (60)

Shell's London office also made use of this argument after publication of the report on 'Shell and BP in South Africa'. They claimed that "under South African law companies are unable to refuse to supply customers or to control the ultimate destination of products sold. Shell companies operate under the laws of the countries in which they exist." (61) Another report added: "A spokesman pointed out that Shell could be liable to prosecution under South African law if it refused to supply its customers there." (62)

The 'conditional selling' legislation applies only to customers within South Africa. The oil companies in South Africa are therefore able to refuse to sell to companies outside the country, including Rhodesia. Mobil also received legal advice to suggest that 'conditional selling' legislation would probably not apply in the case of a customer "who is plainly acting as a mere agent for a Rhodesian purchaser." (63) As 'The Guardian' has pointed out, "this suggests that it would be unlikely that Shell or BP could be prosecuted for cutting off supplies to intermediaries like Freight Services." (64)

C. Conclusion

It is important to remember that although the South African government has strong legal powers, the oil companies have enormous economic power. The five major foreign oil firms which operate in South Africa import and refine 85 per cent of the country's oil. They continue to supply the country in the face of a concerted embargo by all the Arab members of OPEC. Consequently the oil companies have strong leverage, and the South African government would certainly be reluctant to antagonise them unduly. It is certainly questionable, for instance, whether South Africa would be willing to endanger its own supplies in order to assist in the continued survival of the Smith regime.

It is therefore far from clear whether the legal barriers cited by the oil companies -- the Official Secrets Act and the legislation on 'conditional selling' -- would apply to Shell and BP if they took positive steps to ensure that oil from their refinery was not supplied to Rhodesia. These are obviously complicated legal issues which will have to be examined by the Official Inquiry. In simple terms two main conclusions are possible.

First, the Official Inquiry might conclude that the Official Secrets Act and the 'conditional selling' legislation do not produce an insurmountable barrier. In this case we would urge that the laws be tested. The South African subsidiaries of Shell and BP should take immediate steps to ensure that no bulk sales are made to customers unable to provide verifiable evidence that the products purchased are not destined for transshipment to Rhodesia.

Alternatively, if South African legislation does effectively rule out the possibility of cutting off sales to intermediaries involved in supplying Rhodesia, then this constitutes an intolerable situation. This is particularly the case with regard to BP, in which the majority shareholding is held by the very government which first introduced sanctions. It would then become even more necessary for the British government to work through the United Nations for an extension of oil sanctions to cover South Africa.

Footnotes

1. Hansard
2. 'New York Times', 2 August 1976. See also testimony before UN Sanctions Committee by AAM-USA, July 1976.
3. Speech of 31 January 1977.
4. 'Observer' (London), 27 March 1977.
5. 'Financial Mail' (Johannesburg), 20 February 1976.
6. Unpublished memorandum to Senator Sparkman by UANC, 10 March 1977, page 3.
7. Ibid, page 9.
8. Ibid, page 9.
9. Ibid, page 9.
10. 'Observer' (London), 3 April 1977.
11. UANC Memorandum, page 3.
12. Ibid, pages 3-4.
13. 'Rand Daily Mail' (Johannesburg), 5 February 1966.
14. 'Rand Daily Mail' (Johannesburg), 18 February 1966.
15. 'U.D.I.', by Robert C. Good, published by Faber and Faber, London, 1973; page 127.
16. Ibid, page 127.
17. Ibid, page 128.
18. Shell answer to questionnaire submitted by Kairos (Holland) in '74.
19. Robert C. Good, page 146.
20. 'The Oil Conspiracy', June 1976; published by and available from The Center for Social Action, 8th Floor, 297 Park Avenue South, New York, N.Y. 10010, USA (price \$1.00 plus postage); page 34.
21. Statement by Larold C. Schulz, 21 June 1976, at a press conference in Washington D.C., USA.
22. 'The Times' (London), 9 April 1977.
23. 'The Oil Conspiracy', page 8.
24. Ibid, page 8.
25. Ibid, page 8.
26. Ibid, page 39.
27. Ibid, page 8.
28. Ibid, page 13.
29. Ibid, page 13.
30. Quoted in Mobil notice of 1977 annual general meeting (USA).

31. 'The Oil Conspiracy', page 26.
32. Ibid, page 26.
33. Ibid, page 43.
34. Ibid, page 38.
35. ibid, pages 26 and 42.
36. Ibid, page 41.
37. Ibid, page 26.
38. Ibid, page 23.
39. Ibid, page 22.
40. Ibid, page 26.
41. Ibid, page 26.
42. UANC Memorandum, pages 6-7.
43. 'The Oil Conspiracy', page 26.
44. UANC Memorandum, page 26.
45. 'Financial Times' (London), 5 April 1977.
46. UANC Memorandum, page 2.
47. This letter was distributed to selected journalists in July 1976.
48. 'Africa Confidential' (London), August 1967, plus letter above.
49. 'Sunday Times' (London), 10 April 1977.
50. 'Sunday Times' (London), 11 July 1976.
51. 'Financial Times' (London), 9 April 1977.
52. Ibid.
53. 'The Guardian' (London), 1 March 1977.
54. Mobil press statement, New York, 27 August 1976.
55. Statement before US Senate Subcommittee on African Affairs
by George Birrell, General Counsel of Mobil Oil Corporation,
17 September 1976; page 32. See also unpublished
supporting documentation.
56. Ibid, page 56.
57. Ibid, Appendix 8, page 7.
58. Letter to C. Klaerner, President of Mobil International Division,
New York, from C. Friedman, of Hayman Godfrey and
Sanderson, Johannesburg, 9 August 1976 (unpublished);
page 15.
59. Birrell testimony, page 26.
60. There are many references to this in Birrell's testimony and
his supporting documentation.
61. 'Sunday Times' (London), 10 April 1977.
62. 'Financial Times' (London), 2 March 1977.
63. See Birrell's testimony and supporting documentation.
64. 'The Guardian' (London), 1 March 1977.

NOTE: The Anti-Apartheid Movement/Haslemere Group report on 'Shell and BP in South Africa' is available for £0.35 from Third World Publications, 151 Stratford Road, Birmingham, England.