

CONFIDENTIALMEMORANDUM FOR CABINET BY THE HON. MINISTER OF
COMMONWEALTH AND FOREIGN AFFAIRSImplementation of the Security Council's Resolution
on Mandatory Sanctions

On December 15, 1966, the Security Council, acting in accordance with Articles 39 and 41 of the United Nations Charter, passed a Resolution making it mandatory on all Member States to refrain from trading in certain specified commodities with Southern Rhodesia.

The Secretary-General of the United Nations in a Note addressed to the Ministry of Commonwealth and Foreign Affairs, has drawn the Ministry's attention to the fact that failure or refusal by a Member State to implement the Resolution shall constitute a violation of Article 25 of the Charter. Moreover Member States of the United Nations or of the Specialized Agencies were to report to the Secretary-General the measures each has taken in accordance with the provisions of paragraph 2 of the Resolution.

The Resolution enjoins on the Secretary-General the responsibility to report to the Council on the progress of the present Resolution, the first report to be submitted not later than 15th February, 1967.

In order, therefore, to comply with the intent of the Resolution, it is submitted that adequate measures be taken by the Government of Malta to enact legislation with the scope of giving effect to the Security Council's Resolution. Accordingly a draft Bill has been prepared by the Crown Advocate General and is attached.

Ministers are asked to approve the draft Bill as a matter of urgency.

27th January, 1967.

L-ARKIVI NAZZJONALI TA' MALTA

A BILL

entitled

AN ACT to give effect to a resolution adopted on the 16th December, 1966, by the Security Council of the United Nations on the question concerning the situation in Southern Rhodesia.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled and by the authority of the same, as follows:-

Short title.

1. This Act may be cited as the Southern Rhodesia (Prohibited Trade and Dealings) Act, 1967.

2. (1) In this Act, unless the context otherwise requires -

"appointed day" means the January, 1967;

"commander", in relation to an aircraft means the person designated as commander of the aircraft by the operator thereof and includes any person who is for the time being in charge or command of the aircraft

"Malta" has the same meaning as is assigned to it in section 126 of the Constitution of Malta.

"master" in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship.

"operator", in relation to an aircraft, means the person for the time being having the management of the aircraft

"person" includes a body of persons.

"owner", in relation to a ship, includes the person for the time being having the management of the ship and any person to whom it is chartered.

(2) Any provision of this Act which relates to goods exported from Southern Rhodesia (or to the exportation of goods from Southern Rhodesia) shall not have effect in respect of goods exported (or the exportation of goods) which have only passed through Southern Rhodesia in transit and have not there been the subject

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of any transaction other than a transaction relating solely to their transportation.

Importation of certain goods into Malta.

3. (1) All goods to which this section applies that are exported from Southern Rhodesia after the appointed day are prohibited to be imported into Malta.

(2) This section shall have effect for the purposes of the Importation (Control) Regulations, 1959, as if it were a provision contained in those Regulations and the provisions of those Regulations shall apply to goods to which this section applies and to the importation thereof as they apply to goods and to the importation of goods in respect of which no licence for their importation has been issued thereunder, whether such licence has or has not been issued.

(3) The goods to which this section applies are the goods specified in the First Schedule to this Act.

(4) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the importation of goods into Malta.

Exportation of certain goods from Southern Rhodesia.

4. (1) No person shall -
- (a) make or carry out any contract for the exportation from Southern Rhodesia after the appointed day of any goods to which section 3 of this Act applies or
 - (b) make or carry out any contract for the sale of any such goods which he intends or has reason to believe that another person intends to export from Southern Rhodesia after the appointed day, or
 - (c) do any act calculated to promote the exportation from Southern Rhodesia of any such goods.

(2) No person shall deal in any goods to which section 3 of this Act applies that have been exported from Southern Rhodesia after the appointed day, that is to say, shall, by way of trade or otherwise for gain, acquire or dispose of such goods or of any property or interest in them or any right to or charge upon them or process them or do any act calculated to promote any such acquisition, disposal or processing by himself or any other person.

(3) Without prejudice to any other provision of this Act -

- (a) any such contract as is referred to in paragraph (a) or paragraph (b) of subsection (1) of this section, whether made before or after the appointed day and
- (b) any transfer made, after the appointed day and in pursuance of any such contract, of any property or interest in or any right to or charge upon any goods to which section 3 of this Act applies, shall be absolutely void.

Provided that no money paid after the appointed day in pursuance of any such contract shall be recoverable in any court of law.

(4) No person shall carry out any of the following transactions, that is to say -

- (a) make any payment to or for the credit of a person resident in Southern Rhodesia, or
- (b) make any payment to or for the credit of a person resident outside Southern Rhodesia by order of or on behalf of a person resident in Southern Rhodesia, or
- (c) place any sum to the credit of a person resident in Southern Rhodesia, or
- (d) make any payment to or for the credit of a person resident outside Southern

Rhodesia as consideration for or in association with -

- (i) the receipt by any person of a payment made in Southern Rhodesia or the acquisition by any person of any property or thing which is in Southern Rhodesia, or
- (ii) the transfer to any person, or the creation in favour of any person, of a right (whether present or future and whether vested or contingent) to receive a payment in Southern Rhodesia or to acquire any property or thing which is in Southern Rhodesia,

if that transaction is carried out for the purposes of any act which is forbidden by any of the provisions of this section.

(5) Any person who contravenes any of the foregoing provisions of this section shall be guilty of an offence against this Act and, in the case of a person who -

(a) is a citizen of Malta or

(b) is a body corporate registered or established under the law of Malta,

shall be guilty of such offence wherever the contravention takes place.

(6) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting payments to or for the credit of or connected with persons resident in Southern Rhodesia.

Exportation of
certain goods
from Malta.

5. (1) All goods to which this section applies are prohibited to be exported to Southern Rhodesia.

(2) This section shall have effect for the purposes of the Exportation (Control) Regulations, 1948 as if it were a provision contained in those Regulations and the provisions of those Regulations shall

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apply to goods to which this section applies and to the exportation thereof as they apply to goods and to the exportation of goods in respect of which no licence for their exportation has been issued thereunder, whether such a licence has or has not been issued.

(3) The goods to which this section applies are the goods specified in the Second Schedule to this Act.

(4) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the exportation of goods from Malta.

Supply of
certain goods
to Southern
Rhodesia.

5. (1) No person shall -
- (a) supply or deliver or agree to supply or deliver to or to the order of any person in Southern Rhodesia any goods to which this section applies that are not in that country, or
 - (b) supply or deliver or agree to supply or deliver any such goods to any person knowing or having reasonable cause to believe that they will be supplied or delivered to or to the order of a person in Southern Rhodesia, or
 - (c) do any act calculated to promote the supply or delivery of any such goods in contravention of the foregoing provisions of this subsection.

(2) Any person who contravenes the foregoing provisions of this section shall be guilty of an offence against this Act and, in the case of a person who -

(a) is a citizen of Malta; or

(b) is a body corporate registered or established under the law of Malta,

shall be guilty of an offence wherever the contravention takes place.

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(3) The goods to which this section applies are the goods specified in the Second Schedule to this Act.

Manufacture or assembly in Southern Rhodesia of aircraft or motor vehicles.

7. (1) No person shall do any act which promotes or is calculated to promote the manufacture or assembly of aircraft or motor vehicles in Southern Rhodesia.

(2) Any person who contravenes any of the provisions of subsection (1) of this section shall be guilty of an offence against this Act and, in the case of a person who -

(a) is a citizen of Malta or

(b) a body corporate registered or established under the law of Malta,

shall be guilty of such an offence wherever the contravention takes place.

Carriage of certain goods exported from or destined for Southern Rhodesia.

8. (1) Without prejudice to the generality of section 4 of this Act, no ship and no aircraft, being a ship or aircraft to which this section applies, shall be used for the carriage of any goods to which section 3 of this Act applies if these goods are being or have been exported from Southern Rhodesia after the appointed day.

(2) Without prejudice to the generality of sections 5 and 6 of this Act, no ship and no aircraft, being a ship or aircraft to which this section applies, shall be used for the carriage of any goods to which section 5 or section 6 of this Act applies if the carriage is, or forms part of, carriage from any place outside Southern Rhodesia to any destination therein.

(3) If any ship or aircraft is used in contravention of any of the foregoing provisions of this section -

(a) the owner and the master of the ship; or

(b) the operator and the commander of the aircraft,

/as the case

as the case may be, shall be guilty of an offence against this Act unless he proves that he did not know and had no reason to suppose -

(i) in the case of a ship or aircraft used in contravention of subsection (1) of this section, that the goods were being or had been exported from Southern Rhodesia after the appointed day.

(ii) in the case of a ship or aircraft used in contravention of subsection (2) of this section, that the carriage of the goods in question was, or formed part of, carriage from any place outside Southern Rhodesia to any destination therein, or that the goods in question were goods to which section 5 or Section 6 of this Act applies.

(4) This section applies to ships or aircraft registered in Malta.

(5) Nothing in this section shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships or aircraft.

9. (1) Where any police officer or any officer of customs has reason to suspect that any ship or aircraft registered in Malta has been or is being or is about to be used in contravention of subsection (1) or subsection (2) of section 8 of this Act, that officer may request the master of the ship, or the operator and the commander of the aircraft or either such operator or commander, as the case may be, to furnish such information relating to the ship and her cargo, or to the aircraft and its cargo, as the case may be, and to produce for his inspection such documents so relating and such cargo as he may specify, and that officer may (either alone or accompanied and assisted by persons under his authority) board the ship or aircraft and search such ship or aircraft and for that purpose, may use

/or authorise

or authorise the use of reasonable force and any such officer as aforesaid (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the master of the ship, or the operator and the commander of the aircraft or either such operator or commander, as the case may be, to cause the aircraft to remain in Malta until notified that the ship or aircraft, as the case may be, may depart and the master, operator or commander shall comply with any such request.

(2) Without prejudice to the provisions of subsection (5) of this section where any police officer or officer of customs has reason to suspect that any request that a ship or aircraft should remain in Malta that has been made under subsection (1) of this section may not be complied with, or where a master fails to comply with any such request, that officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

- (a) enter, or authorise entry, upon that ship or upon any land and upon that aircraft
- (b) detain, or authorise the detention of, that ship or aircraft and
- (c) use, or authorise the use of, reasonable force.

(3) No information furnished or document produced by any person in pursuance of a request under this section shall be disclosed except -

- (a) with the consent of the person by whom the information was furnished or the document was produced

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent

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for the purposes of this paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

(b) to any person who would have been empowered under this section to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of Malta; or

(c) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence against this Act or, with respect to any of the matters regulated by this Act, for an offence against any provision of law relating to the importation or exportation of goods or to customs.

(4) Any power conferred by this section to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(5) The following persons shall be guilty of an offence against this Act, that is to say -

(a) a master of a ship or an operator or a commander of an aircraft who, without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this section by any person empowered to make it or who wilfully furnishes false information or produces false documents to such a person in response to such a request; or

(b) a master or a member of the crew of a ship or an operator or a commander or a

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member of the crew of an aircraft who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this section, or

- (c) a person who discloses any information or document in contravention of the provisions of subsection (3) of this section.

(8) Nothing in this section shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships or aircraft.

Penalties and proceedings.

10. (1) Any person guilty of an offence against this Act shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine (amenda) not exceeding five hundred pounds or to both such imprisonment and fine.

(2) Where an offence against this Act or a contravention against Regulations as applied by this Act is committed by a body of persons, every person who, at the time of the commission of such offence or contravention was a director, manager, secretary or other similar officer of such body of persons or was purporting to act in any such capacity shall be deemed to be guilty of that offence or contravention unless he proves that the offence or the contravention was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence or contravention.

(3) Proceedings for an offence against this Act, being an offence alleged to have been committed outside Malta, may be commenced at any time not later than twelve months from the date on which the person charged first enters Malta after committing the offence.

FIRST SCHEDULE

Section 3

Goods to which section 3 applies

Part ISpecified goods

1. Asbestos, that is to say, goods falling within heading No. 25.24.
2. Chromium ore (chromite or chrome iron ore) and concentrates thereof falling within heading No. 26.01.
3. Ferro-chromium and ferro-silico-chromium falling within heading No. 73.02.
4. Iron ore and concentrates thereof and roasted iron pyrites falling within heading No. 26.01
5. Pig iron, cast iron and spiegeleisen, that is to say goods falling within heading No. 73.01.
6. Copper ore and concentrates, slag, ash and residues thereof falling within Chapter 26.
7. Copper and all other goods falling within Chapter 74.
8. Sugar, that is to say, goods falling within heading No. 12.04, heading No. 17.01, heading No. 17.02, heading No. 17.03 or heading No. 17.05.
9. Tobacco, that is to say, goods falling within Chapter 24.
10. Meat, poultry, and all other goods falling within Chapter 2.
11. Preparations of meat, that is to say, goods falling within heading No. 16.01, heading No. 16.02 or heading No. 16.03.
12. Hides, skins, leather and all other goods falling within Chapter 41.

Part IIInterpretation

References in this Schedule to Chapters or headings are references to such Chapters or headings in the Customs Tariff set out in the Second Schedule to the Import Duties Act, 1954, interpreted as provided in that Schedule.

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of 1954

SECOND SCHEDULE

Sections 1 and 2

Goods to which sections 5 and 6 apply

Part ISpecified goods

1. Arms.
2. Ammunition.
3. Aircraft.
4. Motor vehicles.
5. Equipment or materials for the manufacture, assembly or maintenance in Southern Rhodesia of arms, ammunition, aircraft or motor vehicles.
6. Petroleum.

Part IIInterpretation

1. In this Schedule -
 - (a) the expression "equipment or materials" includes plant and machinery
 - (b) "petroleum" means mineral oil and natural gas and hydrocarbons derived wholly or mainly therefrom or from coal, bituminous shale or other mineral but excludes pharmaceutical, insecticide and pesticide products
 - (c) references

- (c) references to equipment or materials for the manufacture, assembly or maintenance of arms, ammunition, aircraft or motor vehicles include references to -
- (i) parts and components of, and accessories for, arms, ammunition, aircraft or motor vehicles; and
 - (ii) completely knocked-down packs and unassembled arms, ammunition, aircraft or motor vehicles,
- for use in the manufacture, assembly or maintenance of arms, ammunition, aircraft or motor vehicles.

2. For the purposes of the operation of this Schedule in relation to section 5 and 6 of this Act, equipment or materials shall be regarded as being for the manufacture, assembly or maintenance of arms, ammunition, aircraft, or motor vehicles if (and shall not be so regarded unless) the person exporting them or seeking to export them, or the person performing or seeking to perform any act in relation to them that is specified as prohibited in any of the paragraphs of subsection (1) of section 6 of this Act, as the case may be, intends, or has reasonable cause to believe that another person intends, that they should be used for that purpose.

Objects and Reasons

The object of this Bill is to give effect to the Resolution adopted on the 16th December, 1966, by the Security Council of the United Nations calling upon all member states to impose selected sanctions against Southern Rhodesia.

The Bill prohibits the importation into Malta of certain goods exported from Southern Rhodesia and the exportation from Malta of certain goods intended for Southern Rhodesia. It also prohibits certain activities and dealings relating to these goods, including the carriage thereof in ships or aircraft registered in Malta. The Bill also imposes restrictions

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on certain activities calculated to promote the manufacture of aircraft or motor vehicles in Southern Rhodesia and makes provision for the investigation of ships or aircraft suspected of contravening the Act.