

110TH CONGRESS
1ST SESSION

H. R. 180

To require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2007

Ms. LEE introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Darfur Accountability
5 and Divestment Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) In the 108th Congress, the House of Rep-
2 resentatives adopted House Concurrent Resolution
3 467 on July 22, 2004, by a unanimous vote of 422–
4 0, which—

5 (A) declares that the atrocities unfolding
6 in the Darfur region of Sudan, are genocide;

7 (B) declares that the Government of
8 Sudan has violated the Convention on the Pre-
9 vention and Punishment of the Crime of Geno-
10 cide;

11 (C) urges the Administration to seriously
12 consider multilateral intervention to stop geno-
13 cide in Darfur should the United Nations Secu-
14 rity Council fail to act; and

15 (D) calls on the Administration to impose
16 targeted sanctions, including visa bans and the
17 freezing of assets of the Sudanese National
18 Congress and affiliated business and individuals
19 directly responsible for the atrocities in Darfur.

20 (2) In the 109th Congress, the House of Rep-
21 resentatives passed H.R. 3127, the Darfur Peace
22 and Accountability Act of 2006, on April 5, 2006,
23 by a vote of 416–3, which—

24 (A) appeals to the international commu-
25 nity, including the United Nations, the Euro-

1 pean Union, and the North Atlantic Treaty Or-
2 ganization (NATO), to immediately mobilize
3 sufficient political, military, and financial re-
4 sources to support and expand the African
5 Union Mission in Sudan (AMIS);

6 (B) blocks assets and restricts travel of
7 any individual the President determines is re-
8 sponsible for acts of genocide, war crimes, or
9 crimes against humanity in the Darfur region
10 of Sudan; and

11 (C) offers United States support for the
12 International Criminal Court's efforts to pros-
13 ecute those responsible for acts of genocide in
14 Darfur.

15 (3) On September 9, 2004, former Secretary of
16 State Colin Powell stated before the Committee on
17 Foreign Relations of the Senate that genocide was
18 being committed in the Darfur region of Sudan and
19 that the Government of Sudan and the government-
20 supported Janjaweed militias bear responsibility for
21 the genocide.

22 (4) On September 21, 2004, President George
23 W. Bush affirmed the Secretary of State's finding in
24 an address before the United Nations General As-
25 sembly, stating that the world is witnessing terrible

1 suffering and horrible crimes in the Darfur region of
2 Sudan, crimes the Government of the United States
3 has concluded are genocide.

4 (5) Although the Government of the United
5 States currently bans United States companies from
6 conducting business operations in Sudan, millions of
7 Americans are inadvertently supporting the Govern-
8 ment of Sudan by investing in foreign companies
9 that conduct business operations in Sudan that dis-
10 proportionately benefit the Sudanese regime in
11 Khartoum.

12 (6) Illinois, New Jersey, Oregon, and Maine
13 have passed legislation mandating divestment of
14 State funds from companies that conduct business
15 operations in Sudan. California, Massachusetts,
16 Rhode Island, North Carolina, Kansas, Wisconsin,
17 Indiana, Georgia, Maryland, New York, Iowa, and
18 Texas have considered or are considering legislation
19 to divest State funds from companies that conduct
20 business operations in Sudan. Connecticut, Ohio,
21 and Vermont have passed non-binding divestment
22 legislation with respect to Sudan. Arizona, Lou-
23 isiana, Missouri, and Pennsylvania have adopted
24 screening processes for investments in companies

1 that conduct business operations in countries that
2 are sponsors of terrorism, including Sudan.

3 (7) Providence, Rhode Island and New Haven,
4 Connecticut have passed legislation mandating di-
5 vestment of city funds from companies that conduct
6 business operations in Sudan.

7 (8) Amherst, Boston University, Brandeis,
8 Brown, Columbia, Dartmouth, Harvard, Middlebury,
9 Oberlin, Princeton, the Reconstructionist Rabbinical
10 College, Samford, Simmons, Smith, Stanford, Trin-
11 ity, the University of California, the University of
12 Maryland, the University of Pennsylvania, the Uni-
13 versity of Southern California, the University of
14 Vermont, the University of Washington, Williams,
15 and Yale have divested their funds from, or placed
16 restrictions on investment of their funds in, certain
17 companies that conduct business operations in
18 Sudan.

19 (9) No American should have to worry that his
20 or her investments or pension money was earned in
21 support of genocide.

22 (10) Divestment has proven effective in similar
23 situations, as in 1986, when State pension funds
24 and university endowments were divested from com-
25 panies that conducted business operations in South

1 Africa, which was critical to ending apartheid in that
2 country, and by 1994, when the first free elections
3 in South Africa took place, a substantial number of
4 States, counties, cities, universities and colleges in
5 the United States had adopted partial or total di-
6 vestment policies.

7 (11) The only type of pressure shown to be ef-
8 fective against Sudan is economic pressure against
9 the Government of Sudan, such as the imposition of
10 sanctions and divestment. Sudan has cooperated
11 with the United States on counterterrorism efforts
12 due to United States sanctions imposed on Sudan in
13 1997 and Sudan agreed to negotiations with the
14 Sudan People's Liberation Army of South Sudan
15 that resulted in the Comprehensive Peace Agreement
16 of 2005 due in part to a successful divestment cam-
17 paign against Talisman Energy, Incorporated of
18 Canada.

19 (12) Congress acknowledges that divestment
20 should be used sparingly and under extraordinary
21 circumstances. This Act is based on unique cir-
22 cumstances, specifically, the reprehensible and ab-
23 horrent genocide occurring in Sudan.

24 (13) The business operations of companies in
25 countries that perpetrate grave abuses of human

1 rights, especially the uniquely monstrous crime of
2 genocide, are of material financial concern to United
3 States investors even when these operations rep-
4 resent a small fraction of a company's total busi-
5 ness.

6 (14) State and city pension funds have rou-
7 tinely but unsuccessfully sought to acquire and uti-
8 lize data from the Federal Government on compa-
9 nies for investment decisions.

10 (15) The deteriorating security situation in the
11 Darfur region of Sudan indicates that the people of
12 Darfur cannot wait long for security to be reestab-
13 lished.

14 **SEC. 3. STATEMENT OF POLICY.**

15 Congress recognizes and supports—

16 (1) States and cities that have divested or are
17 in the process of divesting State and city funds from
18 companies that conduct business operations in
19 Sudan; and

20 (2) United States colleges and universities that
21 have divested their funds from, or placed restrictions
22 on investments of their funds in, companies that
23 conduct business operations in Sudan.

1 **SEC. 4. IDENTIFICATION OF COMPANIES CONDUCTING**
2 **BUSINESS OPERATIONS IN SUDAN.**

3 (a) IDENTIFICATION.—The Securities and Exchange
4 Commission, acting through the Division of Corporation
5 Finance, shall require all companies trading in securities
6 that are registered under section 12 of the Securities Ex-
7 change Act of 1934 (15 U.S.C. 78l) which, either directly
8 or through a parent or subsidiary company, including
9 partly-owned subsidiaries, conduct business operations in
10 Sudan to disclose the nature of their business operations
11 in Sudan, including—

12 (1) the existence and nature of business rela-
13 tionships and investments with national, regional,
14 and local governments;

15 (2) business activities with government or gov-
16 ernment-controlled entities;

17 (3) business operations relating to the sale of
18 military equipment or inherently “dual-use” tech-
19 nology, such as civilian radar systems;

20 (4) business operations relating to natural re-
21 source extraction, including oil-related activities and
22 mining of minerals; and

23 (5) safeguards to ensure business operations do
24 not become indirectly involved in the terrorist-spon-
25 soring or genocidal policies of the Government of
26 Sudan.

1 (b) INVESTIGATION BY GOVERNMENT ACCOUNT-
2 ABILITY OFFICE.—The Comptroller General of the Gov-
3 ernment Accountability Office shall investigate the exist-
4 ence and extent of all Federal Retirement Thrift Invest-
5 ment Board investments in companies identified pursuant
6 to subsection (a).

7 (c) REPORTS.—

8 (1) SEC REPORT.—Not later than 90 days
9 after the date of the enactment of this Act, and an-
10 nually thereafter, the Securities and Exchange Com-
11 mission shall prepare and submit to Congress a re-
12 port that contains the names of the companies and
13 a description of their business operations identified
14 under subsection (a).

15 (2) GAO REPORT.—Not later than 180 days
16 after the date of the enactment of this Act, and an-
17 nually thereafter, the Comptroller General of the
18 Government Accountability Office shall prepare and
19 submit to Congress a report that contains the names
20 of the companies and a description of the amount of
21 Federal Retirement Thrift Investment Board invest-
22 ments in such companies identified under subsection
23 (b).

24 (d) PUBLICATION ON WEBSITES.—

1 (1) SEC WEBSITE.—The Securities and Ex-
2 change Commission shall maintain a list of the
3 names of the companies identified under subsection
4 (a) on the website of the Securities and Exchange
5 Commission.

6 (2) GAO WEBSITE.—The Comptroller General
7 of the Government Accountability Office shall main-
8 tain a list of the names of the companies identified
9 under subsection (b) on the website of the Govern-
10 ment Accountability Office.

11 **SEC. 5. PROHIBITION ON UNITED STATES GOVERNMENT**
12 **CONTRACTS.**

13 (a) PROHIBITION.—Notwithstanding any other provi-
14 sion of law, the Government of the United States shall
15 not enter into or renew a contract for the procurement
16 of goods or services with any company identified under
17 section 4(a).

18 (b) EXCEPTION.—The prohibition in subsection (a)
19 shall not apply with respect to a company identified under
20 section 4(a) whose business operations in Sudan are lim-
21 ited to activities or transactions relating to—

22 (1) southern Sudan, southern Kordofan/Nuba
23 Mountains State, Blue Nile State, or Abyei;

24 (2) the implementation of the Darfur Peace
25 Agreement of May 5, 2006;

1 (3) the provision of military equipment to be
2 used by nongovernmental organizations in the
3 Darfur region of Sudan, the African Union Mission
4 in Sudan (AMIS), or the United Nations; or

5 (4) the provision of humanitarian assistance
6 that is of immediate and substantial benefit to—

7 (A) the majority of people of the Darfur
8 region of Sudan; or

9 (B) the majority of people of eastern
10 Sudan, including the Red Sea, Kassala, and
11 Gedaref States.

12 (c) **WAIVER.**—The President may waive the prohibi-
13 tion in subsection (a) on a case-by-case basis if the Presi-
14 dent determines and certifies in writing to Congress that
15 it is important to the national security interests of the
16 United States to do so.

17 **SEC. 6. RULE OF CONSTRUCTION.**

18 Nothing in this Act or any other provision of law shall
19 be construed to preempt any State law that prohibits in-
20 vestment of State funds, including State pension funds,
21 in or relating to Sudan.

22 **SEC. 7. DEFINITIONS.**

23 In this Act:

24 (1) **BUSINESS OPERATIONS.**—The term “busi-
25 ness operations” means maintaining, selling, or leas-

1 ing equipment, facilities, personnel, or any other ap-
2 paratus of business or commerce, including the own-
3 ership or possession of real or personal property.

4 (2) COMPANY.—The term “company”—

5 (A) means a sole proprietorship, organiza-
6 tion, association, corporation, partnership, ven-
7 ture, or other entity, its subsidiary or affiliate
8 that exists for profit-making purposes or to oth-
9 erwise secure economic advantage; and

10 (B) includes a company owned or con-
11 trolled, either directly or indirectly, by the gov-
12 ernment of a foreign country, that is estab-
13 lished or organized under the laws of, or has its
14 principal place of business in, such foreign
15 country.

16 (3) GOVERNMENT OF SUDAN.—The term “Gov-
17 ernment of Sudan” means the Government of Sudan
18 located in Khartoum or its instrumentalities.

19 (4) INVESTMENT.—The term “investment”
20 means the purchase, ownership, or control of stock
21 of a company, association, or corporation, the capital
22 stock of a mutual water company or corporation,
23 bonds issued by the government or a political sub-
24 division of a foreign country, corporate bonds or
25 other debt instruments issued by a company, or the

1 commitment of funds or other assets to a company,
2 including a loan or extension of credit to that com-
3 pany.

4 (5) MILITARY EQUIPMENT.—The term “mili-
5 tary equipment” means weapons, arms, or military
6 defense supplies.

7 (6) OIL-RELATED ACTIVITIES.—The term “oil-
8 related activities” includes the export of oil, extract-
9 ing or producing oil, exploration for oil, or the con-
10 struction or maintenance of a pipeline, refinery, or
11 other oil field infrastructure.

12 (7) SUDAN.—The term “Sudan” means the Re-
13 public of Sudan, a territory under the administra-
14 tion or control of the Government of Sudan, includ-
15 ing the Darfur region, or an individual, company, or
16 public agency located in Khartoum, northern Sudan,
17 or the Nile River Valley that supports the Republic
18 of the Sudan.

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