AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

I

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Darfur Accountability and Divestment Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

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

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

(B) declares that the Government of Sudan has violated the Convention on the Prevention and Punishment of the Crime of Genocide;

(C) urges the Administration to seriously consider multilateral intervention to stop genocide in Darfur should the United Nations Security Council fail to act; and

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

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

(A) appeals to the international community, including the United Nations, the Euro-

pean Union, and the North Atlantic Treaty Organization (NATO), to immediately mobilize sufficient political, military, and financial resources to support and expand the African Union Mission in Sudan (AMIS);

(B) blocks assets and restricts travel of any individual the President determines is responsible for acts of genocide, war crimes, or crimes against humanity in the Darfur region of Sudan; and

(C) offers United States support for the International Criminal Court's efforts to prosecute those responsible for acts of genocide in Darfur.

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

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

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

(5) Although the Government of the United States currently bans United States companies from conducting business operations in Sudan, millions of Americans are inadvertently supporting the Government of Sudan by investing in foreign companies that conduct business operations in Sudan that disproportionately benefit the Sudanese regime in Khartoum.

(6) Illinois, New Jersey, Oregon, and Maine have passed legislation mandating divestment of State funds from companies that conduct business operations in Sudan. California, Massachusetts, Rhode Island, North Carolina, Kansas, Wisconsin, Indiana, Georgia, Maryland, New York, Iowa, and Texas have considered or are considering legislation to divest State funds from companies that conduct business operations in Sudan. Connecticut, Ohio, and Vermont have passed non-binding divestment legislation with respect to Sudan. Arizona, Louisiana, Missouri, and Pennsylvania have adopted screening processes for investments in companies

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

(7) Providence, Rhode Island and New Haven, Connecticut have passed legislation mandating divestment of city funds from companies that conduct business operations in Sudan.

(8) Amherst, Boston University, Brandeis, Brown, Columbia, Dartmouth, Harvard, Middlebury, Oberlin, Princeton, the Reconstructionist Rabbinical College, Samford, Simmons, Smith, Stanford, Trinity, the University of California, the University of Maryland, the University of Pennsylvania, the University of Southern California, the University of Vermont, the University of Washington, Williams, and Yale have divested their funds from, or placed restrictions on investment of their funds in, certain companies that conduct business operations in Sudan.

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

(10) Divestment has proven effective in similar situations, as in 1986, when State pension funds and university endowments were divested from companies that conducted business operations in South

Africa, which was critical to ending apartheid in that country, and by 1994, when the first free elections in South Africa took place, a substantial number of States, counties, cities, universities and colleges in the United States had adopted partial or total divestment policies.

(11) The only type of pressure shown to be effective against Sudan is economic pressure against the Government of Sudan, such as the imposition of sanctions and divestment. Sudan has cooperated with the United States on counterterrorism efforts due to United States sanctions imposed on Sudan in 1997 and Sudan agreed to negotiations with the Sudan People's Liberation Army of South Sudan that resulted in the Comprehensive Peace Agreement of 2005 due in part to a successful divestment campaign against Talisman Energy, Incorporated of Canada.

(12) Congress acknowledges that divestment should be used sparingly and under extraordinary circumstances. This Act is based on unique circumstances, specifically, the reprehensible and abhorrent genocide occurring in Sudan.

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

rights, especially the uniquely monstrous crime of genocide, are of material financial concern to United States investors even when these operations represent a small fraction of a company's total business.

(14) State and city pension funds have routinely but unsuccessfully sought to acquire and utilize data from the Federal Government on companies for investment decisions.

(15) The deteriorating security situation in the Darfur region of Sudan indicates that the people of Darfur cannot wait long for security to be reestablished.

SEC. 3. STATEMENT OF POLICY.

Congress recognizes and supports—

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

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

SEC. 4. IDENTIFICATION OF COMPANIES CONDUCTING BUSINESS OPERATIONS IN SUDAN.

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

(1) the existence and nature of business relationships and investments with national, regional, and local governments;

(2) business activities with government or government-controlled entities;

(3) business operations relating to the sale of military equipment or inherently ''dual-use'' technology, such as civilian radar systems;

(4) business operations relating to natural resource extraction, including oil-related activities and mining of minerals; and

(5) safeguards to ensure business operations do not become indirectly involved in the terrorist-sponsoring or genocidal policies of the Government of Sudan.

(b) INVESTIGATION BY GOVERNMENT ACCOUNTABILITY OFFICE.—The Comptroller General of the Government Accountability Office shall investigate the existence and extent of all Federal Retirement Thrift Investment Board investments in companies identified pursuant to subsection (a).

(c) REPORTS.—

(1) SEC REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Securities and Exchange Commission shall prepare and submit to Congress a report that contains the names of the companies and a description of their business operations identified under subsection (a).

(2) GAO REPORT.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the Government Accountability Office shall prepare and submit to Congress a report that contains the names of the companies and a description of the amount of Federal Retirement Thrift Investment Board investments in such companies identified under subsection (b).

(d) PUBLICATION ON WEBSITES.—

(1) SEC WEBSITE.—The Securities and Exchange Commission shall maintain a list of the names of the companies identified under subsection (a) on the website of the Securities and Exchange Commission.

(2) GAO WEBSITE.—The Comptroller General of the Government Accountability Office shall maintain a list of the names of the companies identified under subsection (b) on the website of the Government Accountability Office.

SEC. 5. PROHIBITION ON UNITED STATES GOVERNMENT CONTRACTS.

(a) PROHIBITION.—Notwithstanding any other provision of law, the Government of the United States shall not enter into or renew a contract for the procurement of goods or services with any company identified under section 4(a).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply with respect to a company identified under section 4(a) whose business operations in Sudan are limited to activities or transactions relating to—

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

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

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

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

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

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

(c) WAIVER.—The President may waive the prohibition in subsection (a) on a case-by-case basis if the President determines and certifies in writing to Congress that it is important to the national security interests of the United States to do so.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act or any other provision of law shall be construed to preempt any State law that prohibits investment of State funds, including State pension funds, in or relating to Sudan.

SEC. 7. DEFINITIONS.

In this Act:

(1) BUSINESS OPERATIONS.—The term ''business operations'' means maintaining, selling, or leas-

ing equipment, facilities, personnel, or any other apparatus of business or commerce, including the ownership or possession of real or personal property.

(2) COMPANY.—The term ''company''—

(A) means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profit-making purposes or to otherwise secure economic advantage; and

(B) includes a company owned or controlled, either directly or indirectly, by the government of a foreign country, that is established or organized under the laws of, or has its principal place of business in, such foreign country.

(3) GOVERNMENT OF SUDAN.—The term ''Government of Sudan'' means the Government of Sudan located in Khartoum or its instrumentalities.

(4) INVESTMENT.—The term ''investment'' means the purchase, ownership, or control of stock of a company, association, or corporation, the capital stock of a mutual water company or corporation, bonds issued by the government or a political subdivision of a foreign country, corporate bonds or other debt instruments issued by a company, or the

commitment of funds or other assets to a company, including a loan or extension of credit to that company.

(5) MILITARY EQUIPMENT.—The term ''military equipment'' means weapons, arms, or military defense supplies.

(6) OIL-RELATED ACTIVITIES.—The term ''oil-related activities'' includes the export of oil, extracting or producing oil, exploration for oil, or the construction or maintenance of a pipeline, refinery, or other oil field infrastructure.

(7) SUDAN.—The term ''Sudan'' means the Republic of Sudan, a territory under the administration or control of the Government of Sudan, including the Darfur region, or an individual, company, or public agency located in Khartoum, northern Sudan, or the Nile River Valley that supports the Republic of the Sudan.

○