

104TH CONGRESS
1ST SESSION

H. R. 2697

To impose sanctions against Nigeria, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 30, 1995

Mr. PAYNE of New Jersey (for himself, Mr. HOUGHTON, Mr. RANGEL, Mr. PORTER, Mr. LANTOS, Mr. MFUME, Mr. FRAZER, Ms. MCKINNEY, Mr. ACKERMAN, Mr. ENGEL, Mr. JOHNSTON of Florida, Mr. SMITH of New Jersey, Ms. PELOSI, Mr. WYNN, Mr. CHABOT, Ms. WATERS, and Mr. SALMON) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on the Judiciary, Banking and Financial Services, and Transportation and Infrastructure, 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 impose sanctions against Nigeria, 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 “Nigeria Democracy
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) The November 10, 1995, execution by hang-
2 ing of Ken Saro-Wiwa and eight other Ogoni envi-
3 ronmental activists was carried out by the Govern-
4 ment of Nigeria after a trial that ignored the fun-
5 damental standards of legal process, and despite the
6 pleas for clemency by the African and international
7 community, as well as the United States Administra-
8 tion, the Chairman and ranking minority member of
9 the Committee on International Relations of the
10 House of Representatives, and the Chairman of the
11 Congressional Black Caucus and the co-chairs of the
12 Human Rights Caucus of the House of Representa-
13 tives.

14 (2) This heinous action followed an October 1,
15 1995, ambiguous statement by Nigerian military
16 leader General Sani Abacha, that the country would
17 be returned to civilian democratic rule in three
18 years, and a lifting of the ban on political parties
19 while at the same time not repealing the Treason-
20 able Offenses Decree which allows the arrest of any-
21 one speaking against the government.

22 (3) General Abacha's announcement was pres-
23 sured by the outrage of the international community
24 for his March 1995 arrest and conviction to long
25 prison terms by secret trial of some 43 persons for

1 involvement in a so-called coup. Among those con-
2 victed and still incarcerated are former President
3 General Olusegun Obasanjo, the only military leader
4 in Nigeria to return power to democratic civilian
5 rule, General Shehu Musa Yar-Adua, deputy to the
6 President in Abaasanjo's Administration, and later,
7 human rights activist Beko Ransome-Kuti.

8 (4) The people of Nigeria and the international
9 community had been led to believe that the presi-
10 dential election held in Nigeria on June 12, 1993,
11 would result in a return to full democratic civilian
12 rule in Nigeria.

13 (5) General Ibrahim Babangida, the head of Ni-
14 geria's military government at the time of the June
15 12, 1993, election interrupted the release of the elec-
16 tion results on June 23, 1993, and later annulled
17 the election, thereby preventing a return to civilian
18 rule.

19 (6) The election process indicated that voters in
20 Nigeria—a country with a population of approxi-
21 mately 90,000,000 persons comprising 250 ethnic
22 groups and spread across 357,000 square miles—
23 were expressing a spirit of national unity that tran-
24 scended ethnic, religious, and regional allegiances.

1 (7) The reported returns suggested that Chief
2 M.K.O. Abiola of the Social Democratic Party was
3 receiving a substantial majority of the votes cast,
4 leading the poll in 20 of the 30 States in Nigeria.

5 (8) The annulment of the presidential elections
6 resulted in various forms of civil unrest, which in
7 turn led to the deaths of more than 100 persons.

8 (9) An interim government established by Gen-
9 eral Babangida on August 27, 1993, and headed by
10 Ernest Shonekan, failed to win the support of the
11 Nigerian people.

12 (10) General Sani Abacha took power on No-
13 vember 17, 1993, appointing an unelected Provi-
14 sional Ruling Council to govern Nigeria.

15 (11) Chief M.K.O. Abiola was imprisoned in
16 solitary confinement for over one year for pressing
17 his claim as the elected democratic leader of Nigeria,
18 and still remains incarcerated today.

19 (12) The political and economic conditions in
20 Nigeria have continued to deteriorate in the months
21 since Abacha took control of the country.

22 (13) The faith of the Nigerian people in the vi-
23 ability of the nation as a unified whole must be pre-
24 served, and the balkanization of Nigeria guarded
25 against.

1 (14) The people of Nigeria have not accepted
2 the continuation of military rule and have coura-
3 geously spoken out in favor of the rapid return of
4 democratic and civilian rule.

5 (15) On May 15, 1994, a broad coalition of Ni-
6 gerian democrats formed the National Democratic
7 Coalition calling upon the military government to
8 step down in favor of the winner of the June 12,
9 1993 election.

10 (16) The confidence of the Nigerian people and
11 the international community in the Provisional Rul-
12 ing Council's commitment to the restoration of de-
13 mocracy can only be established by a sustained dem-
14 onstration of a commitment to human rights, due
15 process, and the return of civilian rule.

16 (17) The United States would prefer to have a
17 relationship with Nigeria based upon cooperation
18 and mutual support but cannot, and will not, con-
19 done or overlook the denial of democratic civilian
20 rule, against the clear wishes of the Nigerian people,
21 by the Provisional Ruling Council or any other body
22 in Nigeria.

23 (18) The lack of support from the Nigerian au-
24 thorities on drug trafficking issues forced the United
25 States for the last 2 years to place Nigeria on the

1 list of countries penalized for failure to seriously ad-
2 dress the narcotics proliferation issue, thus endan-
3 gering vulnerable youth in our communities.

4 (19) Continuing credible reports of widespread
5 corruption and questionable business practices in the
6 Nigerian Government and “seams” in the United
7 States, and the lack of cooperation in addressing
8 these problems by the Nigerian Government, further
9 undermines Nigeria’s credibility in the international
10 community, and is a constant embarrassment to ap-
11 proximately 1,000,000 law-abiding Nigerian Ameri-
12 cans.

13 (20) Nigeria’s leadership role on the African
14 continent, especially in the area of peacekeeping, will
15 be severely compromised by its failure to rejoin the
16 world community of democratic nations.

17 (21) Nigeria was recently suspended from the
18 Commonwealth, a forum linking Britain and former
19 colonies, and African countries like South Africa
20 have already called for diplomatic, economic, and
21 sports sanctions, since the limited sanctions imposed
22 by the United States Administration have had little
23 effect in safeguarding the lives of the people of Nige-
24 ria and moving Nigeria toward democracy.

1 **SEC. 3. DECLARATIONS OF POLICY.**

2 (a) COMMITMENT TO UNITY AND DEMOCRACY BY
3 THE NIGERIAN PEOPLE.—The Congress continues to sup-
4 port the Nigerian people in their commitment to unity and
5 democracy as evidenced by their participation in the June
6 12, 1993, presidential election in Nigeria, and in their
7 subsequent insistence on the return to full civilian and
8 democratic rule.

9 (b) ACTIONS TAKEN BY THE UNITED STATES.—
10 While the Congress endorses the limited steps taken by
11 the Administration to demonstrate United States opposi-
12 tion to the annulment of the June 12, 1993, presidential
13 election in Nigeria, more needs to be accomplished to en-
14 courage the restoration of fully democratic and civilian
15 rule in Nigeria.

16 (c) SANCTIONS TO BE IMPLEMENTED IN COORDINA-
17 TION WITH INTERNATIONAL COMMUNITY.—The Congress
18 declares that the sanctions against Nigeria contained in
19 this Act should be taken in concert with the international
20 community and the United Nations to the maximum ex-
21 tent possible.

22 (d) INCREASE IN DEMOCRACY BUILDING AND RULE
23 OF LAW ASSISTANCE.—The Congress declares that the fi-
24 nite foreign assistance resources of the United States Gov-
25 ernment provided to Nigeria should be re-prioritized with-
26 in present budget levels in order that more funds can be

1 expended for democracy building and the promotion of the
2 rule of law through nongovernmental organizations in
3 Nigeria.

4 **SEC. 4. SANCTIONS AGAINST THE GOVERNMENT OF NIGE-**
5 **RIA.**

6 (a) UNITED STATES MEASURES TO PROMOTE DE-
7 MOCRACY AND HUMAN RIGHTS.—

8 (1) NO ASSISTANCE.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (B), no assistance may be made
11 available under the Foreign Assistance Act of
12 1961 or the Arms Export Control Act to the
13 Government of Nigeria.

14 (B) EXCEPTIONS.—The prohibition in sub-
15 paragraph (A) shall not apply to assistance for
16 democracy building and the promotion of the
17 rule of law through nongovernmental organiza-
18 tions.

19 (2) INTERNATIONAL FINANCIAL INSTITU-
20 TIONS.—The President shall instruct the United
21 States Executive Director of each international fi-
22 nancial institution to vote against any loan or other
23 utilization of the funds of the respective institution
24 to or from Nigeria.

1 (3) AIR TRANSPORTATION.—Air transportation
2 with Nigeria shall be prohibited in accordance with
3 subsection (b).

4 (4) DEFENSE ARTICLES AND SERVICES.—No
5 defense article or defense service may be sold or fi-
6 nanced with respect to Nigeria, and no license to ex-
7 port to Nigeria a defense article or service may be
8 issued.

9 (5) EXCLUSION OF NIGERIANS FROM ADMIS-
10 SION TO THE UNITED STATES.—Except as required
11 by United States treaty obligations, any Nigerian
12 national who formulates, implements, or benefits
13 from policies which hinder Nigeria’s transition to de-
14 mocracy and members of their immediate families
15 shall be ineligible to receive a visa and shall be ex-
16 cluded from admission into the United States.

17 (6) EXIMBANK, OPIC, AND TDA.—No funds
18 available to the Export-Import Bank of the United
19 States, the Overseas Private Investment Corpora-
20 tion, or the Trade and Development Agency may be
21 used with respect to Nigeria.

22 (7) PROHIBITION OF NEW INVESTMENT.—

23 (A) IN GENERAL.—No national of the
24 United States may, directly or through another

1 person, make any new investment in Nigeria,
2 including new investments in the energy sector.

3 (B) EFFECTIVE DATE.—The prohibition
4 contained in subparagraph (A) shall take effect
5 45 days after the date of enactment of this Act.

6 (8) ASSETS FREEZE.—The President, acting
7 through the Secretary of the Treasury, shall exercise
8 the authority of the International Emergency Eco-
9 nomic Powers Act to block the assets of any Nige-
10 rian national who formulates, implements, or bene-
11 fits from policies which hinder Nigeria’s transition
12 to democracy and members of their immediate fami-
13 lies.

14 (b) PROHIBITION OF AIR TRANSPORTATION WITH
15 NIGERIA.—

16 (1) PROHIBITION ON NIGERIAN AIR CARRIER.—

17 (A) IN GENERAL.—Not later than 10 days
18 after the date of the enactment of this Act, the
19 President shall direct the Secretary of Trans-
20 portation to revoke the right of any air carrier
21 designated by the Government of Nigeria under
22 any air transport agreement between the
23 United States and Nigeria to service the routes
24 provided in the agreement.

1 (B) NOTIFICATION.—The President shall
2 immediately notify the Government of Nigeria
3 of his intention to suspend, in accordance with
4 subparagraph (A), the rights of any air carrier
5 designated by the Government of Nigeria under
6 any such air transport agreement.

7 (2) PROHIBITION ON UNITED STATES AIR CAR-
8 RIER.—Not later than 10 days after the date of the
9 enactment of this Act, the President shall direct the
10 Secretary of Transportation not to permit or other-
11 wise designate any United States air carrier to pro-
12 vide service between the United States and Nigeria
13 pursuant to any air transport agreement between
14 the United States and Nigeria.

15 (3) TERMINATION OF AIR TRANSPORT AGREE-
16 MENTS.—

17 (A) IN GENERAL.—Not later than 10 days
18 after the date of the enactment of this Act, the
19 Secretary of State shall terminate any air
20 transport agreement between the Government
21 of the United States and the Government of Ni-
22 geria in accordance with the provisions of that
23 agreement.

24 (B) PROHIBITION ON NIGERIAN AIR-
25 CRAFT.—Upon termination of such agreement,

1 the Secretary of Transportation shall prohibit
2 any aircraft of a foreign air carrier owned, di-
3 rectly or indirectly, by the Government of Nige-
4 ria or by Nigerian nationals from engaging in
5 air transportation with respect to the United
6 States.

7 (C) PROHIBITION ON UNITED STATES AIR-
8 CRAFT.—The Secretary of Transportation shall
9 prohibit the takeoff and landing in Nigeria of
10 any aircraft by an air carrier owned, directly or
11 indirectly, or controlled by a national of the
12 United States or by any corporation or other
13 entity organized under the laws of the United
14 States or of any State.

15 (4) WAIVERS.—The President may waive the
16 prohibitions contained in paragraph (1), (2), or (3)
17 if the President determines and certifies to the Con-
18 gress that the air transportation prohibited under ei-
19 ther such paragraph is important to the national in-
20 terest of the United States, including emergencies in
21 which the safety of an aircraft or its crew or pas-
22 sengers is threatened.

23 (5) DEFINITIONS.—For the purposes of this
24 subsection, the terms “aircraft”, “air transpor-
25 tation”, and “foreign air carrier” have the meanings

1 given those terms in section 101 of the Federal
2 Aviation Act of 1958 (49 U.S.C. 1301).

3 (c) MULTILATERAL MEASURES TO PROMOTE DE-
4 MOCRACY AND HUMAN RIGHTS.—The President shall in-
5 struct the United States Permanent Representative to the
6 United Nations to actively pursue the passage of any reso-
7 lution by the United Nations Security Council that en-
8 hances the cooperation of other nations in the application
9 of the spirit and intent of the sanctions contained in this
10 section.

11 (d) WAIVER OF SANCTIONS.—The President may
12 waive any of the sanctions contained in this section if the
13 President determines and certifies to the Congress that
14 such a waiver is important to the national interest of the
15 United States.

16 **SEC. 5. SENSE OF THE CONGRESS.**

17 It is the sense of the Congress that—

18 (1) the United States should follow the prece-
19 dent of the Federation of International Football As-
20 sociations which withdrew its invitation for Nigeria
21 to host the World Youth Soccer Championships in
22 1995 by excluding Nigerian sporting teams from
23 participating in any sporting event in the United
24 States; and

1 (2) not later than 60 days prior to the opening
2 of the 1996 Olympic Games to be held in the United
3 States, the President should make a determination
4 as to the appropriateness of issuing visas for Nige-
5 rian participants in the Olympic Games based upon
6 the progress made by Nigeria toward democracy.

7 **SEC. 6. REPORT.**

8 Not later than 3 months after the date of the enact-
9 ment of this Act, and every 6 months thereafter, the Presi-
10 dent shall prepare and transmit to the Congress a report
11 on the extent to which Nigeria has made progress toward
12 democracy, civilian rule, and respect for internationally
13 recognized human rights.

14 **SEC. 7. DEFINITIONS.**

15 As used in this Act:

16 (1) INTERNATIONAL FINANCIAL INSTITU-
17 TION.—The term “international financial institu-
18 tions” includes the International Bank for Recon-
19 struction and Development, the International Devel-
20 opment Association, the International Finance Cor-
21 poration, the Mutual Investment Guarantee Agency,
22 the African Development Bank, the African Develop-
23 ment Fund, and the International Monetary Fund.

24 (2) NATIONAL OF THE UNITED STATES.—The
25 term “national of the United States” means—

1 (A) a natural person who is a citizen of the
2 United States or is an alien lawfully admitted
3 for permanent residence in the United States,
4 as defined by section 101(a)(20) of the Immi-
5 gration and Nationality Act; or

6 (B) a corporation, partnership, or other
7 business association which is organized under
8 the law of the United States, any State or terri-
9 tory thereof, or the District of Columbia.

10 (3) NEW INVESTMENT.—The term “new invest-
11 ment”—

12 (A) means—

13 (i) a commitment or contribution of
14 funds or other assets, and

15 (ii) a loan or other extension of credit,
16 and

17 (B) does not include—

18 (i) the reinvestment of profits gen-
19 erated by a controlled Nigerian entity into
20 that same controlled Nigerian entity or the
21 investment of such profits in a Nigerian
22 entity; and

23 (ii) contributions of money or other
24 assets where such contributions are nec-
25 essary to enable a controlled Nigerian en-

1 tity to operate in an economically sound
2 manner, without expanding its operations.

3 (4) NIGERIAN ENTITY.—The term “Nigerian
4 entity” means—

5 (A) a corporation, partnership, or other
6 business association or entity organized in Ni-
7 geria; or

8 (B) a branch, office, agency, or sole propri-
9 etorship in Nigeria of a person that resides or
10 is organized outside Nigeria.

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