

108TH CONGRESS  
2D SESSION

# H. R. 4364

To amend the Foreign Assistance Act of 1961 to require the governments of low income oil-producing countries to meet certain requirements relating to their oil revenues in order to be eligible to receive United States economic assistance.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2004

Mr. HYDE introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Financial Services, 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

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## A BILL

To amend the Foreign Assistance Act of 1961 to require the governments of low income oil-producing countries to meet certain requirements relating to their oil revenues in order to be eligible to receive United States economic assistance.

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 “United States Eco-  
5 nomic Assistance Conditionality Act of 2004”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The governments of low income oil-pro-  
4 ducing countries often do not provide information to  
5 the people of such countries regarding their oil reve-  
6 nues. Such opacity can hide billions of dollars worth  
7 of financial impropriety.

8 (2) The governments of such countries have  
9 generally refused to disclose information regarding  
10 their oil revenues when pressed by international or-  
11 ganizations and others, proclaiming that such dislo-  
12 sure is an infringement on national sovereignty.

13 (3) As a result, the people of such countries are  
14 left without the necessary information to ensure  
15 proper management and accountability regarding  
16 such oil revenues. Dispossessed, the people of such  
17 countries are often left marginalized and at the  
18 mercy of donor assistance. In Angola, for example,  
19 one in every four oil dollars earned is unaccounted  
20 for. At the same time, one in four Angolan children  
21 dies before the age of five from preventable diseases.

22 (4) In some low income oil-producing countries,  
23 government-imposed royalties and fees on the reve-  
24 nues of business enterprises engaged in oil produc-  
25 tion are often misappropriated and squandered.

1       These businesses are then left vulnerable to accusa-  
2       tions of complicity with corruption.

3           (5) The governments of low income oil-pro-  
4       ducing countries that mismanage oil revenues are  
5       often unstable and do not survive, creating further  
6       instability that threatens the supply of vital indus-  
7       trial commodities and forcing the international com-  
8       munity to respond with costly emergency assistance  
9       to those countries.

10          (6) A key to promoting political, economic, and  
11       social reform in low income oil-producing is trans-  
12       parency in public finances.

13          (7) If the governments of such countries tell  
14       their people how much oil revenue the government  
15       receives and how that revenue is allocated and ex-  
16       pended, the resulting transparency will engender  
17       more realistic public expectations, more plausible na-  
18       tional development programs, and better means to  
19       combat corruption and promote democracy, respect  
20       for human rights, and the rule of law.

21          (8) Transparency by such foreign governments  
22       will benefit United States business enterprises as  
23       well. Respect for the rule of law, codified regulatory  
24       practices, and transparent bidding and award prac-  
25       tices deter corruption and encourage a level playing

1 field in such countries for United States business en-  
2 terprises.

3 (9) Export credit activities and other bilateral  
4 concessional loan programs of the United States  
5 Government for low income oil-producing countries  
6 should require that any assistance under such activi-  
7 ties and programs be conditional on appropriate  
8 transparency by the governments of such countries  
9 relating to oil revenues.

10 (10) International financial institutions such as  
11 the World Bank should incorporate revenue trans-  
12 parency across their lending and technical assistance  
13 portfolios by making full transparency a condition of  
14 all their financial support and by including it in  
15 their national poverty reduction strategy consulta-  
16 tions.

17 (11) One bold and promising model is the  
18 Chad/Cameroon Pipeline Project, under which the  
19 Government of Chad, private investors, and the  
20 World Bank Group have established an account-  
21 ability and oversight mechanism for the country's  
22 revenues derived from oil production.

23 (12) Donald Norland, former United States  
24 Ambassador to Chad, in testimony on April 18,  
25 2002, before the Committee on International Rela-

1 tions of the House of Representatives stated that the  
2 Chad/Cameroon Pipeline Project “has addressed  
3 these extraordinarily challenging issues in ways that  
4 may well serve as a model for developing natural re-  
5 sources in other countries”.

6 (13) Ambassador Norland further testified that:  
7 “Success will require keeping the project in the spot-  
8 light of public attention as well as under constant  
9 scrutiny and monitoring by outside groups . . . Scru-  
10 tiny is the key to transparency. Transparency is, in  
11 turn, indispensable in guaranteeing that oil re-  
12 sources go . . . to projects that reduce poverty while  
13 preserving the environment and advancing human  
14 rights . . . to make sure that revenues go to benefit  
15 the people of Chad and not to private bank ac-  
16 counts.”.

17 **SEC. 3. LIMITATION ON UNITED STATES ECONOMIC ASSIST-**  
18 **ANCE FOR LOW INCOME OIL-PRODUCING**  
19 **COUNTRIES.**

20 Chapter 1 of part III of the Foreign Assistance Act  
21 of 1961 (22 U.S.C. 2351 et seq.) is amended—

22 (1) by redesignating the second section 620G  
23 (as added by section 149 of Public Law 104–164  
24 (110 Stat. 1436)) as section 620J; and

1           (2) by adding at the end the following new sec-  
2           tion:

3   **“SEC. 620K. LIMITATION ON UNITED STATES ECONOMIC AS-**  
4                   **SISTANCE FOR LOW INCOME OIL-PRODUCING**  
5                   **COUNTRIES.**

6           “(a) DEFINITIONS.—In this section:

7                   “(1) LOW INCOME COUNTRY.—The term ‘low  
8           income country’ means a country that has a per cap-  
9           ita income equal to or less than the historical ceiling  
10          of the International Development Association, as de-  
11          fined by the International Bank for Reconstruction  
12          and Development.

13                   “(2) LOW INCOME OIL PRODUCING COUNTRY.—  
14          The term ‘low income oil-producing country’ means  
15          a low-income country that produces an average of  
16          not less than 100,000 barrels of oil or equivalent per  
17          day based on the most recent information available  
18          by the Energy Information Administration of the  
19          Department of Energy.

20                   “(3) OIL.—The term ‘oil’ includes crude oil,  
21          natural gas plant liquids, other petroleum-based liq-  
22          uids, and petroleum-based refinery byproducts.

23                   “(4) UNITED STATES ECONOMIC ASSISTANCE.—  
24          The term ‘United States economic assistance’ means  
25          any of the following:

1           “(A) Bilateral economic, development, or  
2 technical assistance (other than military assist-  
3 ance, humanitarian assistance, or assistance to  
4 prevent, treat, and monitor HIV/AIDS) pro-  
5 vided by any department or agency of the  
6 United States Government to a foreign country  
7 under any program, project, or activity that is  
8 contained within the major budget functional  
9 category 150 (relating to International Affairs),  
10 including assistance under—

11                   “(i) chapter 1 of part I of the Foreign  
12 Assistance Act of 1961 (relating to devel-  
13 opment assistance);

14                   “(ii) chapter 10 of part I of that Act  
15 (relating to the Development Fund for Af-  
16 rica);

17                   “(iii) chapter 11 of part I of that Act  
18 (relating to assistance for the independent  
19 states of the former Soviet Union);

20                   “(iv) chapter 12 of part I of that Act  
21 (relating to assistance for the countries of  
22 the South Caucasus and Central Asia re-  
23 gion);

1 “(v) chapter 4 of part II of that Act  
2 (relating to the Economic Support Fund);

3 or

4 “(vi) the Support for East European  
5 Democracy (SEED) Act of 1989.

6 “(B) Bilateral economic, development, or  
7 technical assistance (other than military assist-  
8 ance, humanitarian assistance, or assistance to  
9 prevent, treat, and monitor HIV/AIDS) pro-  
10 vided by any department or agency of the  
11 United States Government to a foreign country  
12 under any program, project, or activity that is  
13 contained within any of the following major  
14 budget functional categories:

15 “(i) 270 (relating to Energy).

16 “(ii) 300 (relating to Natural Re-  
17 sources and the Environment), including  
18 programs, projects, and activities of the  
19 Environmental Protection Agency, the De-  
20 partment of the Interior, and the United  
21 States Army Corps of Engineers).

22 “(iii) 350 (relating to Agriculture), in-  
23 cluding assistance provided under title I of  
24 the Agricultural Trade Development and  
25 Assistance Act of 1954, the Food for

1 Progress program, and other programs ad-  
2 ministered by the Department of Agri-  
3 culture, such as programs administered by  
4 the Commodity Credit Corporation.

5 “(iv) 370 (relating to Commerce and  
6 Housing Credit).

7 “(v) 400 (relating to Transportation).

8 “(vi) 500 (relating to Education,  
9 Training, Employment, and Social Serv-  
10 ices).

11 “(vii) 550 (relating to Health).

12 “(viii) 750 (relating to the Adminis-  
13 tration of Justice).

14 “(ix) 800 (relating to the General  
15 Government).

16 “(b) IDENTIFICATION; DETERMINATIONS.—Not later  
17 than October 1, 2005, and not later than each October  
18 1 thereafter, the President, acting through the Board of  
19 Directors of the Millennium Challenge Corporation—

20 “(1) shall identify all countries in the world  
21 that are low income oil-producing countries (as de-  
22 fined in subsection (a)(1)); and

23 “(2) for each country identified under para-  
24 graph (1)—

1           “(A) shall determine whether or not the  
2 country scores in the top quartile of all low in-  
3 come countries in each of the three indicators  
4 described in subsection (d), as required under  
5 subsection (c)(1)(A); and

6           “(B) shall determine whether or not the  
7 government of the country meets the require-  
8 ments of subsection (e), as required under sub-  
9 section (c)(1)(B).

10       “(c) LIMITATION ON ECONOMIC ASSISTANCE.—

11           “(1) LIMITATION.—Notwithstanding any other  
12 provision of law (other than a provision of this sec-  
13 tion), United States economic assistance may be pro-  
14 vided for fiscal year 2007 and each subsequent fiscal  
15 year for a low income oil-producing country only if  
16 the President, acting through the Board of Directors  
17 of the Millennium Challenge Corporation, determines  
18 that—

19           “(A) the country scores in the top quartile  
20 of all low income countries in each of the three  
21 indicators described in subsection (d); and

22           “(B) the government of the country meets  
23 the requirements of subsection (e).

24           “(2) RULE OF CONSTRUCTION.—The limitation  
25 on assistance under paragraph (1) shall not apply to

1 a low income oil-producing country that is deter-  
2 mined by the Board of Directors of the Millennium  
3 Challenge Corporation to be an eligible country  
4 under section 607 of the Millennium Challenge Act  
5 of 2003 (22 U.S.C. 7706) and is identified as such  
6 by the Chief Executive Officer of the Corporation  
7 under section 608(d) of such Act (22 U.S.C.  
8 7707(d)).

9 “(d) INDICATORS.—The indicators referred to in sub-  
10 section (c)(1)(A) are the following:

11 “(1) TOTAL EXPENDITURES ON HEALTH.—The  
12 amount expended by the government of the country  
13 at all levels on health divided by the gross domestic  
14 product of the country.

15 “(2) TOTAL EXPENDITURES ON PRIMARY EDU-  
16 CATION.—The amount expended by the government  
17 of the country at all levels on primary education di-  
18 vided by the gross domestic product of the country.

19 “(3) PRIMARY EDUCATION COMPLETION  
20 RATE.—The number of students who complete pri-  
21 mary education divided by the total population of in-  
22 dividuals of the same age in the country.

23 “(e) REQUIREMENTS.—The requirements referred to  
24 in subsection (c)(1)(B) are the following:

1           “(1) TRANSPARENCY RELATING TO OIL REVE-  
2           NUES.—The government of the country makes pub-  
3           licly available information on—

4                   “(A) the amount of revenues received by  
5           the government through the production of oil in  
6           the country for the preceding calendar year,  
7           whether through royalties, rents, taxes, cus-  
8           toms, duties, or otherwise; and

9                   “(B) the allocation of such revenues among  
10          the various departments and agencies of the  
11          government.

12          “(2) ALLOCATION AND EXPENDITURE OF OIL  
13          REVENUES.—The government of the country allo-  
14          cates and expends an appropriate amount of the rev-  
15          enues referred to in paragraph (1) on education,  
16          food and nutrition assistance, and public health pro-  
17          grams for the people of the country.

18          “(3) UN CONVENTION AGAINST CORRUPTION.—  
19          The country is a signatory to the United Nations  
20          Convention Against Corruption (Document A/58/  
21          422), as adopted by the United Nations General As-  
22          sembly on October 31, 2003.

23          “(f) REPORT.—

24                   “(1) IN GENERAL.—Not later than October 1,  
25          2006, and not later than October 1 of each year

1 thereafter, the President, acting through the Board  
2 of Directors of the Millennium Challenge Corpora-  
3 tion, shall prepare and transmit to Congress a re-  
4 port that contains—

5 “(A) for the fiscal year beginning on the  
6 applicable October 1—

7 “(i) the identification each low income  
8 oil-producing country, as required under  
9 subsection (b)(1); and

10 “(ii) the determinations with respect  
11 to each such low income oil-producing  
12 country, as required under subparagraphs  
13 (A) and (B) of subsection (b)(2); and

14 “(B) for the prior fiscal year, an identifica-  
15 tion of each low income oil-producing country  
16 that received United States economic assistance  
17 by reason of the application of subsection (c)(1)  
18 and the amounts and purposes of such assist-  
19 ance.

20 “(2) SPECIAL RULE FOR INITIAL REPORT.—

21 The requirement to include information described in  
22 subparagraph (B) of paragraph (1) shall not apply  
23 to the initial report required to be submitted under  
24 such paragraph.”.

1 **SEC. 4. LIMITATION ON UNITED STATES SUPPORT FOR**  
2 **MULTILATERAL ASSISTANCE FOR CERTAIN**  
3 **COUNTRIES.**

4 The Bretton Woods Agreements Act (22 U.S.C. 286–  
5 28600) is amended by adding at the end the following:

6 **“SEC. 64. LIMITATION ON UNITED STATES SUPPORT FOR**  
7 **MULTILATERAL ASSISTANCE FOR CERTAIN**  
8 **COUNTRIES.**

9 “The Secretary of the Treasury shall instruct the  
10 United States Executive Directors at the Fund and at the  
11 Bank to use the voice, vote, and influence of the United  
12 States to oppose the making of a loan by the Fund or  
13 the Bank, respectively, to the government of any country  
14 not eligible to receive United States economic assistance  
15 by reason of section 620K of the Foreign Assistance Act  
16 of 1961.”.

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