

108TH CONGRESS
2D SESSION

S. 2781

To express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 2004

Mr. LUGAR (for himself, Mr. BIDEN, Mr. ALEXANDER, Mr. HAGEL, Mr. LEAHY, Mr. DEWINE, and Mr. COLEMAN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, 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 “Comprehensive Peace
5 in Sudan Act of 2004”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means the Committee on Foreign Relations
4 of the Senate and the Committee on International
5 Relations of the House of Representatives.

6 (2) JEM.—The term “JEM” means the Justice
7 and Equality Movement.

8 (3) SLA.—The term “SLA” means the Suda-
9 nese Liberation Army.

10 (4) SPLM.—The term “SPLM” means the
11 Sudan People’s Liberation Movement.

12 **SEC. 3. FINDINGS.**

13 Congress makes the following findings:

14 (1) A comprehensive peace agreement for
15 Sudan, as envisioned in the Sudan Peace Act (50
16 U.S.C. 1701 note), and in the Machakos Protocol of
17 2002, is in grave jeopardy.

18 (2) Since 1989, the Government of Sudan has
19 repeatedly engaged in and sponsored orchestrated
20 campaigns of attacking and dislocating targeted ci-
21 vilian populations, disrupting their ability to sustain
22 themselves, and subsequently restricting assistance
23 to those displaced in a coordinated policy of ethnic
24 cleansing and Arabization that is most recently evi-
25 dent in the Darfur region of Sudan.

1 (3) In response to 2 decades of civil conflict in
2 Sudan, the United States has helped to establish an
3 internationally supported peace process to promote a
4 negotiated settlement to the war that has resulted in
5 a framework peace agreement, the Nairobi Declara-
6 tion on the Final Phase of Peace in the Sudan
7 signed June 5, 2004.

8 (4) At the same time that the Government of
9 Sudan was negotiating for a final countrywide peace,
10 enumerated in the Nairobi Declaration on the Final
11 Phase of Peace in the Sudan, it refused to engage
12 in any discussion with regard to its ongoing cam-
13 paign of ethnic cleansing in the region of Darfur.

14 (5) It was not until the international commu-
15 nity expressed its outrage, through high level visits
16 by Secretary of State Colin Powell and others, and
17 through United Nations Security Council Resolution
18 1556 of July 30, 2004, that the Government of
19 Sudan agreed to engage in talks to bring peace to
20 the Darfur region.

21 (6) According to the Government of the United
22 States and United Nations officials, the Government
23 of Sudan has engaged in an orchestrated campaign,
24 with the assistance of its Arab Sudanese proxy mili-
25 tia, the Janjaweed, to remove a significant part of

1 the ethnically African population from North
2 Darfur, West Darfur, and South Darfur, Sudan.

3 (7) The United Nations High Commissioner for
4 Human Rights identified “massive human rights vio-
5 lations in Darfur perpetrated by the Government of
6 Sudan and the Janjaweed, which may constitute war
7 crimes and/or crimes against humanity”.

8 (8) Evidence collected by international observ-
9 ers in the Darfur region between January 2003 and
10 September 2004 indicate a coordinated effort to tar-
11 get African Sudanese civilians in a scorched earth
12 policy, from both air and ground, that has destroyed
13 African Sudanese villages, killing and driving away
14 its people, while Arab Sudanese villages have been
15 left unscathed.

16 (9) As a result of this coordinated campaign,
17 which Congress has declared to be genocide, reports
18 indicate tens of thousands of African Sudanese civil-
19 ians killed, the systematic rape of thousands of
20 women and girls, the destruction of hundreds of
21 Fur, Masalit, and Zaghawa villages and other eth-
22 nically African populations, including the poisoning
23 of their wells and the plunder of crops and cattle
24 upon which they sustain themselves.

1 (10) According to the United Nations High
2 Commissioner for Refugees, 1,400,000 people have
3 been displaced in the Darfur region of Sudan, of
4 whom over 200,000 have been forced to flee to Chad
5 as refugees.

6 (11) The Government of Sudan conducted aer-
7 ial attack missions and deadly raids across the inter-
8 national border between Sudan and Chad in an ille-
9 gal effort to pursue Sudanese civilians seeking ref-
10 uge in Chad.

11 (12) In addition to the thousands of violent
12 deaths directly caused by ongoing Sudanese military
13 and government sponsored Janjaweed attacks in the
14 Darfur region, the Government of Sudan has re-
15 stricted humanitarian and human rights workers'
16 access to the Darfur area, primarily through bureau-
17 cratic and administrative obstruction in an attempt
18 to inflict the most devastating harm on those dis-
19 placed from their villages and homes without any
20 means of sustenance or shelter.

21 (13) The Government of Sudan's continued
22 support for the Janjaweed and their obstruction of
23 the delivery of food, shelter, and medical care to the
24 Darfur region—

1 (A) is estimated to be causing 500 deaths
2 each day; and

3 (B) is projected to escalate to 2,400 deaths
4 each day by December 2004, so that even a
5 best-case scenario will likely result in the death
6 of more than 320,000 people between April 1,
7 2004 and December 31, 2004.

8 (14) The Government of Chad served an impor-
9 tant role in facilitating the Darfur humanitarian
10 cease-fire (the N'Djamena Agreement dated April 8,
11 2004) for the Darfur region between the Govern-
12 ment of Sudan and the 2 opposition rebel groups in
13 Darfur (the JEM and the SLA) although both sides
14 have violated it repeatedly.

15 (15) The people of Chad have responded coura-
16 geously to the plight of over 200,000 Darfur refu-
17 gees even though such assistance has adversely af-
18 fected their own means of livelihood.

19 (16) The cooperation and inclusion of all Suda-
20 nese is essential to the establishment of peace and
21 security throughout all of Sudan.

22 (17) The African Union has demonstrated re-
23 newed vigor in regional affairs through its willing-
24 ness to respond to the crisis in Darfur, by convening
25 talks between the parties and deploying several hun-

1 dred monitors and security forces to the region, as
 2 well as by recognizing the need for a far larger force
 3 with a broader mandate.

4 (18) Despite the threat of international action
 5 expressed through United Nations Security Council
 6 Resolution 1556 of July 30, 2004, the Government
 7 of Sudan continues to obstruct and prevent efforts
 8 to reverse the catastrophic consequences that loom
 9 over Darfur.

10 **SEC. 4. SENSE OF CONGRESS REGARDING THE CONFLICT**
 11 **IN DARFUR, SUDAN.**

12 (a) SUDAN PEACE ACT.—It is the sense of Congress
 13 that the Sudan Peace Act (50 U.S.C. 1701 note) remains
 14 relevant and should be extended to include the Darfur re-
 15 gion of Sudan.

16 (b) ACTIONS TO ADDRESS THE CONFLICT.—It is the
 17 sense of Congress that—

18 (1) a legitimate countrywide peace in Sudan
 19 will only be possible if the principles of the
 20 Machakos Protocol of 2002 and the Nairobi Dec-
 21 laration on the Final Phase of Peace in the Sudan
 22 signed June 5, 2004, negotiated with the SPLM,
 23 apply to all of Sudan and to all of the people of
 24 Sudan, including the Darfur region;

1 (2) the parties to the N'Djamena Agreement
2 (the Government of Sudan, the SLA, and the JEM)
3 must meet their obligations under that Agreement to
4 allow safe and immediate access of all humanitarian
5 assistance throughout the Darfur region and must
6 expedite the conclusion of a political agreement to
7 end the conflict in Darfur;

8 (3) the United States should continue to pro-
9 vide humanitarian assistance to the areas of Sudan
10 to which the United States has access and, at the
11 same time, develop a plan similar to that described
12 in section 10 of the Sudan Peace Act to provide as-
13 sistance to the areas of Sudan to which United
14 States access has been obstructed or denied;

15 (4) the international community, including Afri-
16 can, Arab, and Muslim nations, should immediately
17 provide resources necessary to save the lives of hun-
18 dreds of thousands of individuals at risk as a result
19 of the Darfur crisis;

20 (5) the United States Ambassador-at-Large for
21 War Crimes should travel to Chad and the Darfur
22 region immediately to investigate war crimes and
23 crimes against humanity to develop a more accurate
24 portrayal of the situation on the ground and to bet-

1 ter inform the report required in section 11(b) of the
2 Sudan Peace Act;

3 (6) the United States and the international
4 community should—

5 (A) provide all necessary means to assist in
6 the immediate deployment of a contingent of
7 4,200 African Union forces as recommended by
8 the United Nations and to sustain such forces;
9 and

10 (B) work to increase the authorized level
11 and expand the mandate of such forces com-
12 mensurate with the gravity and scope of the
13 problem in a region the size of France;

14 (7) the President should use all means to facili-
15 tate a comprehensive solution to the conflict in
16 Sudan, including by directing the United States Per-
17 manent Representative to the United Nations to
18 pursue a resolution of the United Nations Security
19 Council that—

20 (A) condemns the actions of the Govern-
21 ment of Sudan in engaging in an orchestrated
22 campaign of ethnic cleansing in Darfur;

23 (B) calls on the Government of Sudan to
24 cease support of ethnic cleansing and the killing
25 of innocent civilians, disarm the Janjaweed mi-

1 militias, prevent such militias from harassing and
2 killing civilians, and ensure immediate access
3 for all humanitarian assistance to all areas of
4 Darfur;

5 (C) calls on all parties to the conflict in
6 the Darfur region to permit unimpeded delivery
7 of humanitarian assistance directly to Darfur,
8 in particular to allow such assistance to cross
9 directly from countries that border Sudan;

10 (D) calls on the Government of Sudan to
11 provide all assistance possible, including release
12 of its strategic food reserves, to respond to the
13 Darfur crisis;

14 (E) calls on the international community,
15 particularly those countries with strong eco-
16 nomic ties to Sudan, to expedite the provision
17 of humanitarian assistance to Darfur;

18 (F) authorizes the African Union Mission
19 in Sudan (AUMIS) now deploying to the
20 Darfur region of Sudan, and calls for the ex-
21 pansion of such force, and extension of the
22 force's mandate to include protection of civil-
23 ians;

24 (G) establishes an international commis-
25 sion of inquiry to examine the actions and ac-

1 countability of those responsible for war crimes
2 and crimes against humanity in the Darfur re-
3 gion; and

4 (H) confirms the right of all displaced Su-
5 danese to return to their villages under safe
6 and secure conditions;

7 (8) an international commission of inquiry
8 should be established to conduct an investigation of
9 atrocities in the Darfur region and to preserve evi-
10 dence of atrocities for use in the prosecution of those
11 responsible for war crimes and crimes against hu-
12 manity;

13 (9) sanctions should be imposed on the assets
14 and activities of those Sudanese Government offi-
15 cials and other individuals that are involved in car-
16 rying out the policy of ethnic cleansing in the Darfur
17 region;

18 (10) the Government of the United States
19 should not normalize relations with Sudan, including
20 through the lifting of any sanctions, until the Gov-
21 ernment of Sudan agrees to, and takes demonstrable
22 steps to implement, peace agreements for all areas
23 of Sudan, including Darfur; and

24 (11) Presidential Proclamation 6958 issued No-
25 vember 22, 1996, which suspends entry into the

1 United States of members of the Government of
 2 Sudan, officials of that Government, and members
 3 of the Sudanese Armed Forces, should continue to
 4 remain in effect and be strictly enforced.

5 **SEC. 5. AMENDMENTS TO THE SUDAN PEACE ACT.**

6 (a) ASSISTANCE FOR THE CRISIS IN DARFUR AND
 7 FOR COMPREHENSIVE PEACE IN SUDAN.—

8 (1) IN GENERAL.—The Sudan Peace Act (50
 9 U.S.C. 1701 note) is amended by adding at the end
 10 the following new section:

11 **“SEC. 12. ASSISTANCE FOR THE CRISIS IN DARFUR AND**
 12 **FOR COMPREHENSIVE PEACE IN SUDAN.**

13 **“(a) AUTHORIZATION OF APPROPRIATIONS.—**

14 **“(1) HUMANITARIAN ASSISTANCE.—**There is
 15 authorized to be appropriated to the President for
 16 assistance to address the humanitarian and human
 17 rights crisis in the Darfur region and its impact on
 18 eastern Chad, pursuant to the authority in section
 19 491 of the Foreign Assistance Act of 1961 (22
 20 U.S.C. 2292), \$200,000,000 for fiscal year 2005, in
 21 addition to any other funds otherwise available for
 22 such purpose.

23 **“(2) ADDITIONAL ASSISTANCE.—**Subject to
 24 subsections (b), (c), and (d), there is authorized to
 25 be appropriated to the President, for assistance for

1 Sudan upon the conclusion of a North-South peace
2 agreement between the Government of Sudan and
3 the SPLM, \$100,000,000 for fiscal year 2005 in ad-
4 dition to any other funds otherwise available for such
5 purpose.

6 “(3) AVAILABILITY.—Amounts appropriated
7 pursuant to the authorization of appropriations
8 under paragraph (1) or (2) are authorized to remain
9 available until expended, notwithstanding any other
10 provision of law other than the provisions of this
11 section.

12 “(b) REQUIREMENT FOR CERTIFICATION.—The as-
13 sistance authorized under subsection (a)(2) may be pro-
14 vided only if the President submits the certification de-
15 scribed in subsection (c).

16 “(c) CERTIFICATION FOR THE GOVERNMENT OF
17 SUDAN.—The certification referred to in subsection (b) is
18 a certification submitted by the President to the appro-
19 priate congressional committees that the Government of
20 Sudan has taken demonstrable steps to—

21 “(1) ensure that the armed forces of Sudan and
22 any associated militias are not attacking civilians or
23 obstructing human rights monitors or the provision
24 of humanitarian assistance;

1 “(2) demobilize and disarm militias supported
2 or created by the Government of Sudan;

3 “(3) allow full and unfettered access for the
4 provision of humanitarian assistance to all regions of
5 Sudan, including Darfur; and

6 “(4) cooperate fully with the African Union, the
7 United Nations, and all other observer, monitoring,
8 and protection missions mandated to operate in
9 Sudan.

10 “(d) SUSPENSION OF ASSISTANCE.—If, on a date
11 after the President submits the certification described in
12 subsection (c), the President determines that the Govern-
13 ment of Sudan—

14 “(1) has ceased taking the actions described in
15 such subsection, the President shall immediately sus-
16 pend the provision of any assistance until the date
17 on which the President certifies that the Govern-
18 ment of Sudan has resumed taking such actions; or

19 “(2) has not demonstrated good faith in work-
20 ing to establish sustainable peace in all parts of
21 Sudan, including but not limited to the Darfur re-
22 gion, the President may suspend all assistance to
23 Sudan.”.

24 (b) REPORTING REQUIREMENT.—Section 8 of the
25 Sudan Peace Act (50 U.S.C. 1701 note) is amended in

1 the first sentence by striking “Sudan.” and inserting
2 “Sudan, including the conflict in the Darfur region.”.

3 **SEC. 6. OTHER RESTRICTIONS.**

4 (a) **BLOCKING OF ASSETS.**—On the date that is 120
5 days after the date of enactment of this Act, if the Presi-
6 dent has not submitted the certification described in sub-
7 section (c) of section 12 of the Sudan Peace Act, as added
8 by section 5, the President shall, consistent with the au-
9 thorities granted in the International Emergency Eco-
10 nomic Powers Act (50 U.S.C. 1701 et seq.), block the as-
11 sets of appropriate senior officials of the Government of
12 Sudan.

13 (b) **CONTINUATION OF RESTRICTIONS.**—Restrictions
14 against the Government of Sudan that were imposed pur-
15 suant to title III and sections 508, 512, and 527 of the
16 Foreign Operations, Export Financing, and Related Pro-
17 grams Appropriations Act, 2004 (Division D of Public
18 Law 108–199; 118 Stat. 143) shall remain in place until
19 the President makes the certification described in sub-
20 section (c) of section 12 of the Sudan Peace Act, as added
21 by section 5.

22 **SEC. 7. REQUIREMENT FOR REPORT.**

23 (a) **REQUIREMENT.**—Not later than 60 days after the
24 date of enactment of this Act, the President shall submit
25 to the appropriate congressional committees a report on

1 the planned United States response to a comprehensive
2 peace agreement for Sudan.

3 (b) CONTENT.—The report required by subsection
4 (a) shall include—

5 (1) a description of the planned United States
6 response to a modified peace process between the
7 Government of Sudan and the SPLM that would ac-
8 count for the implementation of a peace in all re-
9 gions of Sudan, in particular Darfur; and

10 (2) a contingency plan for extraordinary hu-
11 manitarian assistance should the Government of
12 Sudan continue to obstruct or delay the inter-
13 national humanitarian response to the crisis in
14 Darfur.

15 (c) FORM OF REPORT.—The report required by sub-
16 section (a) may be submitted in classified form.

17 **SEC. 8. TECHNICAL CORRECTION.**

18 Section 12 of the International Organizations Immu-
19 nities Act (22 U.S.C. 288f–2) is amended by striking “Or-
20 ganization of African Unity” and inserting “African
21 Union”.

○