

109TH CONGRESS
2D SESSION

H. R. 6140

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

SEPTEMBER 21, 2006

Ms. LEE (for herself, Ms. PELOSI, Mr. LANTOS, Mr. RANGEL, Mr. HONDA, Mr. OLVER, Mr. McDERMOTT, Ms. NORTON, Ms. WATERS, Mrs. CHRISTENSEN, Mr. SERRANO, Mr. DAVIS of Illinois, Ms. KILPATRICK of Michigan, Mr. OWENS, Ms. MILLENDER-McDONALD, Mr. CUMMINGS, Mr. MEEKS of New York, Mr. WATT, Mr. CONYERS, Mr. FATTAH, Mr. PAYNE, Mr. MEEHAN, Mr. BLUMENAUER, Mr. AL GREEN of Texas, Mr. VAN HOLLEN, Ms. CARSON, Mr. STARK, Ms. JACKSON-LEE of Texas, Mr. ROTHMAN, Mr. BERMAN, Mr. WEINER, Mrs. DAVIS of California, Ms. LINDA T. SÁNCHEZ of California, Mr. MEEK of Florida, Mr. KENNEDY of Rhode Island, Ms. SCHAKOWSKY, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MORAN of Virginia, Mr. PRICE of North Carolina, Ms. DELAURO, Mr. LEWIS of Georgia, Mr. THOMPSON of Mississippi, Mr. CLYBURN, Ms. MOORE of Wisconsin, Mr. KUCINICH, Ms. SOLIS, Mr. HINCHEY, Mr. WEXLER, Mr. MCGOVERN, Mr. ENGEL, Mr. DELAHUNT, Mr. GRIJALVA, Mr. CAPUANO, and Ms. WATSON) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on 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 Gov-

ernment 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 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In the 108th Congress, the House of Rep-
 9 representatives adopted House Concurrent Resolution
 10 467 on July 22, 2004, by a unanimous vote of 422–
 11 0, which—

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

14 (B) declares that the Government of
 15 Sudan has violated the Convention on the Pre-
 16 vention and Punishment of the Crime of Geno-
 17 cide;

18 (C) urges the Administration to seriously
 19 consider multilateral intervention to stop geno-
 20 cide in Darfur should the United Nations Secu-
 21 rity Council fail to act; and

22 (D) calls on the Administration to impose
 23 targeted sanctions, including visa bans and the
 24 freezing of assets of the Sudanese National

1 Congress and affiliated business and individuals
2 directly responsible for the atrocities in Darfur.

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

7 (A) appeals to the international commu-
8 nity, including the United Nations, the Euro-
9 pean Union, and the North Atlantic Treaty Or-
10 ganization (NATO), to immediately mobilize
11 sufficient political, military, and financial re-
12 sources to support and expand the African
13 Union Mission in Sudan (AMIS);

14 (B) blocks assets and restricts travel of
15 any individual the President determines is re-
16 sponsible for acts of genocide, war crimes, or
17 crimes against humanity in the Darfur region
18 of Sudan; and

19 (C) offers United States support for the
20 International Criminal Court’s efforts to pros-
21 ecute those responsible for acts of genocide in
22 Darfur.

23 (3) On September 9, 2004, former Secretary of
24 State Colin Powell stated before the Committee on
25 Foreign Relations of the Senate that genocide was

1 being committed in the Darfur region of Sudan and
2 that the Government of Sudan and the government-
3 supported Janjaweed militias bear responsibility for
4 the genocide.

5 (4) On September 21, 2004, President George
6 W. Bush affirmed the Secretary of State's finding in
7 an address before the United Nations General As-
8 sembly, stating that the world is witnessing terrible
9 suffering and horrible crimes in the Darfur region of
10 Sudan, crimes the Government of the United States
11 has concluded are genocide.

12 (5) Although the Government of the United
13 States currently bans United States companies from
14 conducting business operations in Sudan, millions of
15 Americans are inadvertently supporting the Govern-
16 ment of Sudan by investing in foreign companies
17 that conduct business operations in Sudan that dis-
18 proportionately benefit the Sudanese regime in
19 Khartoum.

20 (6) Illinois, New Jersey, Oregon, and Maine
21 have passed legislation mandating divestment of
22 State funds from companies that conduct business
23 operations in Sudan. California, Massachusetts,
24 Rhode Island, North Carolina, Kansas, Wisconsin,
25 Indiana, Georgia, Maryland, New York, Iowa, and

1 Texas have considered or are considering legislation
2 to divest State funds from companies that conduct
3 business operations in Sudan. Connecticut, Ohio,
4 and Vermont have passed non-binding divestment
5 legislation with respect to Sudan. Arizona, Lou-
6 isiana, Missouri, and Pennsylvania have adopted
7 screening processes for investments in companies
8 that conduct business operations in countries that
9 are sponsors of terrorism, including Sudan.

10 (7) Providence, Rhode Island and New Haven,
11 Connecticut have passed legislation mandating di-
12 vestment of city funds from companies that conduct
13 business operations in Sudan.

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

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

4 (10) Divestment has proven effective in similar
5 situations, as in 1986, when State pension funds
6 and university endowments were divested from com-
7 panies that conducted business operations in South
8 Africa, which was critical to ending apartheid in that
9 country, and by 1994, when the first free elections
10 in South Africa took place, a substantial number of
11 States, counties, cities, universities and colleges in
12 the United States had adopted partial or total di-
13 vestment policies.

14 (11) The only type of pressure shown to be ef-
15 fective against Sudan is economic pressure against
16 the Government of Sudan, such as the imposition of
17 sanctions and divestment. Sudan has cooperated
18 with the United States on counterterrorism efforts
19 due to United States sanctions imposed on Sudan in
20 1997 and Sudan agreed to negotiations with the
21 Sudan People's Liberation Army of South Sudan
22 that resulted in the Comprehensive Peace Agreement
23 of 2005 due in part to a successful divestment cam-
24 paign against Talisman Energy, Incorporated of
25 Canada.

1 (12) Congress acknowledges that divestment
2 should be used sparingly and under extraordinary
3 circumstances. This Act is based on unique cir-
4 cumstances, specifically, the reprehensible and ab-
5 horrent genocide occurring in Sudan.

6 (13) The business operations of companies in
7 countries that perpetrate grave abuses of human
8 rights, especially the uniquely monstrous crime of
9 genocide, are of material financial concern to United
10 States investors even when these operations rep-
11 resent a small fraction of a company's total busi-
12 ness.

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

17 (15) The deteriorating security situation in the
18 Darfur region of Sudan indicates that the people of
19 Darfur cannot wait long for security to be reestab-
20 lished.

21 **SEC. 3. STATEMENT OF POLICY.**

22 Congress recognizes and supports—

23 (1) States and cities that have divested or are
24 in the process of divesting State and city funds from

1 companies that conduct business operations in
2 Sudan; and

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

7 **SEC. 4. IDENTIFICATION OF COMPANIES CONDUCTING**
8 **BUSINESS OPERATIONS IN SUDAN.**

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

18 (1) the existence and nature of business rela-
19 tionships and investments with national, regional,
20 and local governments;

21 (2) business activities with government or gov-
22 ernment-controlled entities;

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

1 (4) business operations relating to natural re-
2 source extraction, including oil-related activities and
3 mining of minerals; and

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

8 (b) INVESTIGATION BY GOVERNMENT ACCOUNT-
9 ABILITY OFFICE.—The Comptroller General of the Gov-
10 ernment Accountability Office shall investigate the exist-
11 ence and extent of all Federal Retirement Thrift Invest-
12 ment Board investments in companies identified pursuant
13 to subsection (a).

14 (c) REPORTS.—

15 (1) SEC REPORT.—Not later than 90 days
16 after the date of the enactment of this Act, and an-
17 nually thereafter, the Securities and Exchange Com-
18 mission shall prepare and submit to Congress a re-
19 port that contains the names of the companies and
20 a description of their business operations identified
21 under subsection (a).

22 (2) GAO REPORT.—Not later than 180 days
23 after the date of the enactment of this Act, and an-
24 nually thereafter, the Comptroller General of the
25 Government Accountability Office shall prepare and

1 submit to Congress a report that contains the names
2 of the companies and a description of the amount of
3 Federal Retirement Thrift Investment Board invest-
4 ments in such companies identified under subsection
5 (b).

6 (d) PUBLICATION ON WEBSITES.—

7 (1) SEC WEBSITE.—The Securities and Ex-
8 change Commission shall maintain a list of the
9 names of the companies identified under subsection
10 (a) on the website of the Securities and Exchange
11 Commission.

12 (2) GAO WEBSITE.—The Comptroller General
13 of the Government Accountability Office shall main-
14 tain a list of the names of the companies identified
15 under subsection (b) on the website of the Govern-
16 ment Accountability Office.

17 **SEC. 5. PROHIBITION ON UNITED STATES GOVERNMENT**
18 **CONTRACTS.**

19 (a) PROHIBITION.—Notwithstanding any other provi-
20 sion of law, the Government of the United States shall
21 not enter into or renew a contract for the procurement
22 of goods or services with any company identified under
23 section 4(a).

24 (b) EXCEPTION.—The prohibition in subsection (a)
25 shall not apply with respect to a company identified under

1 section 4(a) whose business operations in Sudan are lim-
2 ited to activities or transactions relating to—

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

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

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

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

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

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

18 (c) WAIVER.—The President may waive the prohibi-
19 tion in subsection (a) on a case-by-case basis if the Presi-
20 dent determines and certifies in writing to Congress that
21 it is important to the national security interests of the
22 United States to do so.

23 **SEC. 6. RULE OF CONSTRUCTION.**

24 Nothing in this Act or any other provision of law shall
25 be construed to preempt any State law that prohibits in-

1 vestment of State funds, including State pension funds,
2 in or relating to Sudan.

3 **SEC. 7. DEFINITIONS.**

4 In this Act:

5 (1) BUSINESS OPERATIONS.—The term “busi-
6 ness operations” means maintaining, selling, or leas-
7 ing equipment, facilities, personnel, or any other ap-
8 paratus of business or commerce, including the own-
9 ership or possession of real or personal property.

10 (2) COMPANY.—The term “company”—

11 (A) means a sole proprietorship, organiza-
12 tion, association, corporation, partnership, ven-
13 ture, or other entity, its subsidiary or affiliate
14 that exists for profit-making purposes or to oth-
15 erwise secure economic advantage; and

16 (B) includes a company owned or con-
17 trolled, either directly or indirectly, by the gov-
18 ernment of a foreign country, that is estab-
19 lished or organized under the laws of, or has its
20 principal place of business in, such foreign
21 country.

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

1 (4) INVESTMENT.—The term “investment”
2 means the purchase, ownership, or control of stock
3 of a company, association, or corporation, the capital
4 stock of a mutual water company or corporation,
5 bonds issued by the government or a political sub-
6 division of a foreign country, corporate bonds or
7 other debt instruments issued by a company, or the
8 commitment of funds or other assets to a company,
9 including a loan or extension of credit to that com-
10 pany.

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

14 (6) OIL-RELATED ACTIVITIES.—The term “oil-
15 related activities” includes the export of oil, extract-
16 ing or producing oil, exploration for oil, or the con-
17 struction or maintenance of a pipeline, refinery, or
18 other oil field infrastructure.

19 (7) SUDAN.—The term “Sudan” means the Re-
20 public of Sudan, a territory under the administra-
21 tion or control of the Government of Sudan, includ-
22 ing the Darfur region, or an individual, company, or
23 public agency located in Khartoum, northern Sudan,

- 1 or the Nile River Valley that supports the Republic
- 2 of the Sudan.

