

109TH CONGRESS
1ST SESSION

S. 495

To impose sanctions against perpetrators of crimes against humanity in
Darfur, Sudan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2005

Mr. CORZINE (for himself, Mr. BROWNBACK, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. TALENT, Mr. DEWINE, and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions against perpetrators of crimes against
humanity in Darfur, 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 “Darfur Accountability
5 Act of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-

mittees” means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) GOVERNMENT OF SUDAN.—The term “Government of Sudan” means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act.

(3) MEMBER STATES.—The term “member states” means the member states of the United Nations.

(4) SUDAN NORTH-SOUTH PEACE AGREEMENT.—The term “Sudan North-South Peace Agreement” means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People’s Liberation Army/Movement on January 9, 2005.

(5) THOSE NAMED BY THE UN COMMISSION.—The term “those named by the UN Commission” means those individuals whose names appear in the sealed file delivered to the Secretary General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Secretary General.

1 (6) UN COMMISSION.—The term “UN Commis-
2 sion” means the International Commission of In-
3 quiry on Darfur to the United Nations Secretary
4 General.

5 **SEC. 3. FINDINGS.**

6 Congress makes the following findings:

7 (1) On July 22, 2004, the House of Represent-
8 atives and the Senate declared that the atrocities oc-
9 curring in Darfur, Sudan are genocide.

10 (2) On September 9, 2004, Secretary of State
11 Colin L. Powell stated before the Committee on For-
12 eign Relations of the Senate, “[w]hen we reviewed
13 the evidence compiled by our team, along with other
14 information available to the State Department, we
15 concluded that genocide has been committed in
16 Darfur and that the Government of Sudan and the
17 [Janjaweed] bear responsibility—and genocide may
18 still be occurring”.

19 (3) President George W. Bush, in an address
20 before the United Nations General Assembly on Sep-
21 tember 21, 2004, stated, “[a]t this hour, the world
22 is witnessing terrible suffering and horrible crimes in
23 the Darfur region of Sudan, crimes my government
24 has concluded are genocide”.

1 (4) On July 30, 2004, the United Nations Se-
2 curity Council passed Security Council Resolution
3 1556, calling upon the Government of Sudan to dis-
4 arm the Janjaweed militias and to apprehend and
5 bring to justice Janjaweed leaders and their associ-
6 ates who have incited and carried out violations of
7 human rights and international humanitarian law
8 and carried out other atrocities in the Darfur region.

9 (5) On September 18, 2004, the United Na-
10 tions Security Council passed Security Council Reso-
11 lution 1564, determining that the Government of
12 Sudan had failed to meet its obligations under Secu-
13 rity Council Resolution 1556, calling for a military
14 flight ban in and over the Darfur region, demanding
15 the names of Janjaweed militiamen disarmed and
16 arrested for verification, establishing an Inter-
17 national Commission of Inquiry into violations of
18 international humanitarian and human rights laws,
19 and threatening sanctions should the Government of
20 Sudan fail to fully comply with Security Council
21 Resolutions 1556 and 1564.

22 (6) United Nations Security Council Resolution
23 1564 declares that if the Government of Sudan
24 “fails to comply fully” with Security Council Resolu-
25 tions 1556 and 1564, the Security Council shall con-

1 sider taking “additional measures” against the Gov-
2 ernment of Sudan “as contemplated in Article 41 of
3 the Charter of the United Nations, such as actions
4 to affect Sudan’s petroleum sector or individual
5 members of the Government of Sudan, in order to
6 take effective action to obtain such full compliance
7 and cooperation”.

8 (7) United Nations Security Council Resolution
9 1564 also “welcomes and supports the intention of
10 the African Union to enhance and augment its moni-
11 toring mission in Darfur” and “urges member states
12 to support the African Union in these efforts, includ-
13 ing by providing all equipment, logistical, financial,
14 material, and other resources necessary to support
15 the rapid expansion of the African Union Mission”.

16 (8) On February 1, 2005, the United Nations
17 released the Report of the International Commission
18 of Inquiry on Darfur to the United Nations Sec-
19 retary-General, dated January 25, 2005, which stat-
20 ed that, “[g]overnment forces and militias conducted
21 indiscriminate attacks, including killing of civilians,
22 torture, enforced disappearances, destruction of vil-
23 lages, rape and other forms of sexual violence, pil-
24 laging and forced displacement throughout Darfur”,
25 that such “acts were conducted on a widespread and

1 systematic basis, and therefore may amount to
 2 crimes against humanity”, and that the “magnitude
 3 and large-scale nature of some crimes against hu-
 4 manity as well as their consistency over a long pe-
 5 riod of time, necessarily imply that these crimes re-
 6 sult from a central planning operation”.

7 (9) The Report of the International Commis-
 8 sion of Inquiry on Darfur to the United Nations
 9 Secretary-General notes that, pursuant to its man-
 10 date and in the course of its work, the UN Commis-
 11 sion collected information relating to individual per-
 12 petrators of acts constituting “violations of inter-
 13 national human rights law and international human-
 14 itarian law, including crimes against humanity and
 15 war crimes” and that the UN Commission has deliv-
 16 ered to the Secretary-General of the United Nations
 17 a sealed file of those named by the UN Commission
 18 with the recommendation that the “file be handed
 19 over to a competent Prosecutor”.

20 **SEC. 4. SENSE OF CONGRESS.**

21 It is the sense of Congress that—

22 (1) the atrocities unfolding in Darfur, Sudan,
 23 have been and continue to be genocide;

1 (2) the United States should immediately seek
2 passage at the United Nations Security Council of a
3 resolution that—

4 (A) requires member states to freeze the
5 property and assets of, deny visas to, and deny
6 entry to—

7 (i) those named by the UN Commis-
8 sion;

9 (ii) family members of those named by
10 the UN Commission; and

11 (iii) any associates of those named by
12 the UN Commission to whom assets or
13 property of those named by the UN Com-
14 mission were transferred on or after June
15 11, 2004;

16 (B) urges member states to submit to the
17 Security Council the name of any individual
18 that the government of any such member state
19 believes is or has been planning, carrying out,
20 responsible for, or otherwise involved in geno-
21 cide, war crimes, or crimes against humanity in
22 Darfur, along with evidence supporting such be-
23 lief so that the Security Council may consider
24 imposing sanctions described in subparagraph

1 (A) against those individuals described in such
2 subparagraph;

3 (C) imposes sanctions or additional meas-
4 ures against the Government of Sudan, includ-
5 ing sanctions that will affect the petroleum sec-
6 tor in Sudan, individual members of the Gov-
7 ernment of Sudan, and entities controlled or
8 owned by officials of the government of Sudan
9 or the National Congress Party in Sudan, that
10 will remain in effect until such time as—

11 (i) humanitarian organizations are
12 granted full, unimpeded access to Darfur;

13 (ii) the Government of Sudan cooper-
14 ates with humanitarian relief efforts, car-
15 ries out activities to demobilize and disarm
16 Janjaweed militias and any other militias
17 supported or created by the Government of
18 Sudan, and cooperates fully with efforts to
19 bring to justice the individuals responsible
20 for genocide, war crimes, or crimes against
21 humanity in Darfur;

22 (iii) the Government of Sudan cooper-
23 ates fully with the African Union, the
24 United Nations, and all other observer,

1 monitoring, and protection missions man-
2 dated to operate in Sudan;

3 (iv) the Government of Sudan permits
4 the safe and voluntary return of displaced
5 persons and refugees to their homes and
6 rebuilds the communities destroyed in the
7 violence in Darfur; and

8 (v) the Sudan North-South Peace
9 Agreement is fully implemented and a new
10 coalition government is created under such
11 Agreement;

12 (D) establishes a military no-fly zone in
13 Darfur;

14 (E) supports the expansion of the African
15 Union force in Darfur so that such force
16 achieves the size and strength needed to pre-
17 vent ongoing fighting and violence in Darfur;

18 (F) urges member states to accelerate as-
19 sistance to the African Union force in Darfur;

20 (G) calls on the Government of Sudan to
21 cooperate with, and allow unrestricted move-
22 ment in Darfur by, the African Union force in
23 the region, international humanitarian organi-
24 zations, and United Nations monitors;

1 (H) extends the embargo of military equip-
2 ment established by paragraphs 7 through 9 of
3 Security Council Resolution 1556 to include the
4 prohibition of sale or supply to the Government
5 of Sudan; and

6 (I) supports African Union efforts to nego-
7 tiate peace talks between the Government of
8 Sudan and rebels in Darfur, calls on the Gov-
9 ernment of Sudan and rebels in Darfur to abide
10 by their obligations under the N'Djamena
11 Ceasefire Agreement of April 8, 2004 and sub-
12 sequent agreements, and urges parties to en-
13 gage in peace talks without preconditions and
14 seek to resolve the conflict;

15 (3) the United States should work with other
16 nations to ensure effective efforts to freeze the prop-
17 erty and assets of and deny visas and entry to—

18 (A) those named by the UN Commission;

19 (B) any individuals the United States be-
20 lieves is or has been planning, carrying out, re-
21 sponsible for, or otherwise involved in genocide,
22 war crimes, and crimes against humanity in
23 Darfur;

24 (C) family members of any person de-
25 scribed in subparagraphs (A) or (B); and

1 (D) any associates of any such person to
2 whom assets or property of such person were
3 transferred on or after June 11, 2004;

4 (4) the United States should support account-
5 ability through action by the United Nations Secu-
6 rity Council, pursuant to Chapter VII of the Charter
7 of the United Nations, to ensure the prompt pros-
8 ecution and adjudication in a competent inter-
9 national court of justice of those named by the UN
10 Commission;

11 (5) the United States should not provide assist-
12 ance to the Government of Sudan, other than assist-
13 ance necessary for the implementation of the Sudan
14 North-South Peace Agreement, the support of the
15 southern regional government in Sudan, or for hu-
16 manitarian purposes in Sudan, unless the President
17 certifies and reports to Congress that—

18 (A) humanitarian organizations are being
19 granted full, unimpeded access to Darfur and
20 the Government of Sudan is providing full co-
21 operation with humanitarian efforts;

22 (B) concrete, sustained steps are being
23 taken toward demobilizing and disarming
24 Janjaweed militias and any other militias sup-
25 ported or created by the Government of Sudan;

1 (C) the Government of Sudan is cooper-
2 ating fully with efforts to bring to justice those
3 responsible for genocide, war crimes, or crimes
4 against humanity in Darfur;

5 (D) the Government of Sudan cooperates
6 fully with the African Union, the United Na-
7 tions, and all other observer, monitoring, and
8 protection missions mandated to operate in
9 Sudan;

10 (E) the Government of Sudan permits the
11 safe and voluntary return of displaced persons
12 and refugees to their homes and rebuilds the
13 communities destroyed in the violence in
14 Darfur; and

15 (F) the Sudan North-South Peace Agree-
16 ment is fully implemented and a new coalition
17 government is created under such Agreement;

18 (6) the President should work with the African
19 Union and other international organizations and na-
20 tions to establish mechanisms for the enforcement of
21 a no-fly zone in Darfur;

22 (7) the African Union should extend its man-
23 date in Darfur to include the protection of civilians
24 and proactive efforts to prevent violence, and mem-
25 ber states should support fully this extension;

1 (8) the President should accelerate assistance
2 to the African Union force in Darfur and discussions
3 with the African Union and the European Union
4 and other supporters of the African Union force on
5 the needs of such force, including assistance for
6 housing, transportation, communications, equipment,
7 technical assistance such as training and command
8 and control assistance, and intelligence;

9 (9) the President should appoint a Presidential
10 Envoy for Sudan—

11 (A) to support the implementation of the
12 Sudan North-South Peace Agreement;

13 (B) to seek ways to bring stability and
14 peace to Darfur;

15 (C) to address instability elsewhere in
16 Sudan; and

17 (D) to seek a comprehensive peace
18 throughout Sudan;

19 (10) United States officials, including the Presi-
20 dent, the Secretary of State, and the Secretary of
21 Defense, should raise the issue of Darfur in bilateral
22 meetings with officials from other members of the
23 United Nations Security Council and relevant coun-
24 tries, with the aim of passing a United Nations Se-
25 curity Council resolution described in paragraph (2)

1 and mobilizing maximum support for political, finan-
2 cial, and military efforts to stop the genocide in
3 Darfur;

4 (11) the Secretary of State should immediately
5 engage in a concerted, sustained campaign with
6 other members of the United Nations Security
7 Council and relevant countries with the aim of
8 achieving the goals described in paragraph (10);

9 (12) the United States fully supports the Sudan
10 North-South Peace Agreement and urges the rapid
11 implementation of its terms; and

12 (13) the United States condemns attacks on
13 humanitarian workers and calls on all forces in
14 Darfur, including forces of the Government of
15 Sudan, all militia, and forces of the Sudan People's
16 Liberation Army/Movement and the Justice and
17 Equality Movement, to refrain from such attacks.

18 **SEC. 5. IMPOSITION OF SANCTIONS.**

19 (a) FREEZING ASSETS.—At such time as the United
20 States has access to the names of those named by the UN
21 Commission, the President shall take such action as may
22 be necessary to immediately freeze the funds and other
23 assets belonging to anyone so named, their family mem-
24 bers, and any associates of those so named to whom assets
25 or property of those so named were transferred on or after

1 June 11, 2004, including requiring that any United States
2 financial institution holding such funds and assets
3 promptly report those funds and assets to the Office of
4 Foreign Assets Control.

5 (b) VISA BAN.—Beginning at such times as the
6 United States has access to the names of those named
7 by the UN Commission, the President shall deny visas and
8 entry to—

9 (1) those named by the UN Commission;

10 (2) the family members of those named by the
11 UN Commission; and

12 (3) anyone the President determines has been,
13 is, or may be planning, carrying out, responsible for,
14 or otherwise involved in crimes against humanity,
15 war crimes, or genocide in Darfur, Sudan.

16 (c) ASSET REPORTING REQUIREMENT.—Not later
17 than 14 days after a decision to freeze the property or
18 assets of, or deny a visa or entry to, any person under
19 this section, the President shall report the name of such
20 person to the appropriate congressional committees.

21 (d) NOTIFICATION OF WAIVERS OF SANCTIONS.—
22 Not later than 30 days before waiving the provisions of
23 any sanctions currently in force with regard to Sudan, the
24 President shall submit to the appropriate congressional

1 committees a report describing the waiver and the reasons
2 therefor.

3 **SEC. 6. REPORTS TO CONGRESS.**

4 (a) REPORTS ON STABILIZATION IN SUDAN.—

5 (1) INITIAL REPORT.—Not later than 30 days
6 after the date of enactment of this Act, the Sec-
7 retary of State, in conjunction with the Secretary of
8 Defense, shall report to the appropriate congres-
9 sional committees on efforts to deploy an African
10 Union force in Darfur, the capacity of such force to
11 stabilize Darfur and protect civilians, the needs of
12 such force to succeed at such mission including
13 housing, transportation, communications, equipment,
14 technical assistance, including training and com-
15 mand and control, and intelligence, current status of
16 United States and other assistance to the African
17 Union force, and additional United States assistance
18 needed.

19 (2) SUBSEQUENT REPORTS.—The Secretary of
20 State, in conjunction with the Secretary of Defense,
21 shall submit not less than every 60 days until such
22 time as the President certifies that the situation in
23 Darfur is stable and that civilians are no longer in
24 danger and that the African Union is no longer

1 needed to prevent a resumption of violence and at-
2 tacks against civilians.

3 (b) REPORT ON THOSE NAMED BY THE UN COMMIS-
4 SION.—At such time as the United States has access to
5 the names of those named by the UN Commission, the
6 President shall submit to the appropriate congressional
7 committees a report listing such names.

8 (c) REPORTS ON ACCOUNTABILITY.—

9 (1) IN GENERAL.—No later than 30 days after
10 the date of enactment of this Act and every 30 days
11 thereafter, the President shall submit to the appro-
12 priate congressional committees a report on the sta-
13 tus of efforts in the United Nations Security Council
14 to ensure prompt prosecution and adjudication of
15 those named by the UN Commission in a competent
16 international court of justice.

17 (2) CONTENT.—The reports required under
18 paragraph (1) shall describe—

19 (A) the status of any relevant resolution
20 introduced in the United Nations Security
21 Council;

22 (B) the policy of the United States with
23 regard to such resolutions;

24 (C) the status of all possible venues for
25 prosecution and adjudication of those named by

1 the UN Commission, including whether such
2 venues have the jurisdiction, personnel and as-
3 sets necessary to promptly prosecute and adju-
4 dicate cases involving such persons; and

5 (D) any ongoing or planned United States
6 or other assistance related to the prosecution
7 and adjudication of cases involving those named
8 by the UN Commission.

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