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H. R. 180

IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on Banking, Housing, and Urban
Affairs

AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Darfur Accountability
3 and Divestment Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

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

10 (A) declares that the atrocities unfolding
11 in the Darfur region of Sudan are genocide;

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

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

20 (D) calls on the Administration to impose
21 targeted sanctions, including visa bans and the
22 freezing of assets of the Sudanese National
23 Congress and affiliated business and individuals
24 directly responsible for the atrocities in Darfur.

25 (2) In the 109th Congress, the House of Rep-
26 resentatives passed H.R. 3127, the Darfur Peace

1 and Accountability Act of 2006, on April 5, 2006,
2 by a vote of 416–3, which—

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

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

15 (C) offers United States support for the
16 International Criminal Court’s efforts to pros-
17 ecute those responsible for acts of genocide in
18 Darfur.

19 (3) On September 9, 2004, former Secretary of
20 State Colin Powell stated before the Committee on
21 Foreign Relations of the Senate that genocide was
22 being committed in the Darfur region of Sudan and
23 that the Government of Sudan and the government-
24 supported Janjaweed militias bear responsibility for
25 the genocide.

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

8 (5) On May 29, 2007, President George W.
9 Bush affirmed that the Government of Sudan is
10 complicit in the bombing, murder, and rape of inno-
11 cent civilians in Darfur and again declared that
12 these actions rightfully constitute genocide.

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

21 (7) Several States and governmental entities,
22 through legislation and other means, have expressed
23 their desire, or are considering measures—

1 (A) to divest any equity in, or to refuse to
2 provide debt capital to, certain companies that
3 operate in Sudan;

4 (B) to disassociate themselves and the
5 beneficiaries of their public pension and endow-
6 ment funds from directly or indirectly sup-
7 porting the Darfur genocide; and

8 (C) to prohibit themselves from entering
9 into or renewing contracts for the procurement
10 of goods or services with certain companies that
11 have a direct investment in, or conduct business
12 operations in, Sudan.

13 (8) California, Colorado, Florida, Hawaii, Indi-
14 ana, Illinois, Iowa, Kansas, Maine, Minnesota, New
15 Jersey, New York, Oregon, Rhode Island, Texas and
16 Vermont have passed legislation to divest State
17 funds from companies that conduct business oper-
18 ations in Sudan. Massachusetts, Michigan, North
19 Carolina, Ohio, Pennsylvania, South Carolina, and
20 Wisconsin are considering legislation to divest State
21 funds from companies that conduct business oper-
22 ations in Sudan. Arkansas, Connecticut, Maryland,
23 and Ohio have passed non-binding divestment legis-
24 lation with respect to Sudan.

1 (9) Denver, Colorado, Los Angeles, California,
2 Miami Beach, Florida, New Haven, Connecticut,
3 Newton, Massachusetts, Philadelphia, Pennsylvania,
4 Pittsburgh, Pennsylvania, Providence, Rhode Island,
5 and San Francisco, California have passed legisla-
6 tion mandating divestment of city funds from com-
7 panies that conduct business operations in Sudan.

8 (10) American University, Amherst College, An-
9 dover Newton Theological School, Boston University,
10 Bowdoin College, Brandeis University, Brown Uni-
11 versity, Colby College, Columbia University, Con-
12 necticut College, Cornell University, Dartmouth Col-
13 lege, Drew University, Duke University, Emory Uni-
14 versity, Hampton University, Harvard University,
15 Hendrix College, Howard University, Lee University,
16 Massachusetts Institute of Technology, Middlebury
17 College, Nazareth College, Northwestern University,
18 Oberlin College, Queen's University, Reconstruc-
19 tionist Rabbinical College, Regis University,
20 Samford University, Seton Hall, Smith College,
21 Stanford University, Swarthmore College, Trinity
22 College, University of California, University of Colo-
23 rado, University of Connecticut, University of Den-
24 ver, University of Illinois, University of Maryland,
25 University of Massachusetts, University of Min-

1 nesota, University of Pennsylvania, University of
2 Rochester, University of Southern California, Uni-
3 versity of Vermont, University of Virginia, Univer-
4 sity of Washington, University of Wisconsin System,
5 Vassar College, Wellesley College, Wheaton College,
6 Williams College, and Yale University have divested
7 their funds from or placed restrictions on investment
8 of their funds in certain companies that conduct
9 business operations in Sudan.

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

20 (12) Economic pressure against the Govern-
21 ment of Sudan has been effective in pushing Sudan
22 to cooperate with the United States on
23 counterterrorism efforts and in part in agreeing to
24 negotiations with the Sudan People's Liberation

1 Army of South Sudan which resulted in the Com-
2 prehensive Peace Agreement of 2005.

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

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

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

19 (16) There is an increasing interest by States,
20 local governments, educational institutions, and pri-
21 vate institutions to seek to disassociate themselves
22 from companies that support the Government of
23 Sudan.

24 (17) Policy makers and fund managers may
25 find moral, prudential, or reputational reasons to di-

1 vest from companies that accept the business risk of
2 operating in countries that are subject to inter-
3 national economic sanctions or that have business
4 relationships with countries, governments, or entities
5 with which any United States company would be
6 prohibited from dealing because of economic sanc-
7 tions imposed by the United States.

8 (18) The world community has a moral obliga-
9 tion to work to do everything possible to stop the on-
10 going genocidal practices of the Government of
11 Sudan in the Darfur region.

12 **SEC. 3. TRANSPARENCY IN CAPITAL MARKETS.**

13 (a) LIST OF PERSONS DIRECTLY INVESTING IN OR
14 CONDUCTING BUSINESS OPERATIONS IN CERTAIN SUDA-
15 NESE SECTORS.—

16 (1) PUBLICATION OF LIST.—Not later than 6
17 months after the date of the enactment of this Act
18 and every 6 months thereafter, the Secretary of the
19 Treasury, in consultation with the Secretary of En-
20 ergy, the Secretary of State, the Securities and Ex-
21 change Commission, and the heads of other appro-
22 priate Federal departments and agencies, shall,
23 using only publicly available (including proprietary)
24 information, ensure publication in the Federal Reg-
25 ister of a list of each person, whether within or out-

1 side of the United States, that, as of the date of the
2 publication, has a direct investment in, or is con-
3 ducting, business operations in Sudan's power pro-
4 duction, mineral extraction, oil-related, or military
5 equipment industries, subject to paragraph (2). To
6 the extent practicable, the list shall include a de-
7 scription of the investment made by each such per-
8 son, including the dollar value, intended purpose,
9 and status of the investment, as of the date of the
10 publication.

11 (2) EXCEPTIONS.—The Secretary of the Treas-
12 ury shall exclude a person from the list if all of the
13 business operations by reason of which the person
14 would otherwise be included on the list—

15 (A) are conducted under contract directly
16 and exclusively with the regional government of
17 southern Sudan;

18 (B) are conducted under a license from the
19 Office of Foreign Assets Control, or are ex-
20 pressly exempted under Federal law from the
21 requirement to be conducted under such a li-
22 cense;

23 (C) consist of providing goods or services
24 to marginalized populations of Sudan;

1 (D) consist of providing goods or services
2 to an internationally recognized peacekeeping
3 force or humanitarian organization;

4 (E) consist of providing goods or services
5 that are used only to promote health or edu-
6 cation;

7 (F) are conducted by a person that has
8 also undertaken significant humanitarian ef-
9 forts as described in section 10(14)(B);

10 (G) have been voluntarily suspended; or

11 (H) will cease within 1 year after the
12 adoption of a formal plan to cease the oper-
13 ations, as determined by the Secretary.

14 (3) CONSIDERATION OF SCRUTINIZED BUSINESS
15 OPERATIONS.—The Secretary of the Treasury
16 should give serious consideration to including on the
17 list any company that has a scrutinized business op-
18 eration with respect to Sudan (within the meaning
19 of section 10(4)).

20 (4) PRIOR NOTICE TO PERSONS.—The Sec-
21 retary of the Treasury shall, at least 30 days before
22 the list is published under paragraph (1), notify
23 each person that the Secretary intends to include on
24 the list.

1 (5) DELAY IN INCLUDING PERSONS ON THE
2 LIST.—After notifying a person under paragraph
3 (4), the Secretary of the Treasury may delay includ-
4 ing that person on the list for up to 60 days if the
5 Secretary determines and certifies to the Congress
6 that the person has taken specific and effective ac-
7 tions to terminate the involvement of the person in
8 the activities that resulted in the notification under
9 paragraph (4).

10 (6) REMOVAL OF PERSONS FROM THE LIST.—
11 The Secretary of the Treasury may remove a person
12 from the list before the next publication of the list
13 under paragraph (1) if the Secretary determines
14 that the person no longer has a direct investment in
15 or is no longer conducting business operations as de-
16 scribed in paragraph (1).

17 (7) ADVANCE NOTICE TO CONGRESS.—Not later
18 than 30 days (or, in the case of the first such list,
19 60 days) before the date by which paragraph (1) re-
20 quires the list to be published, the Secretary of the
21 Treasury shall submit to the Committees on Finan-
22 cial Services, on Education and Labor, and on Over-
23 sight and Government Reform of the House of Rep-
24 resentatives and the Committees on Banking, Hous-
25 ing, and Urban Affairs, on Health, Education,

1 Labor, and Pensions, and on Homeland Security
2 and Governmental Affairs of the Senate a copy of
3 the list which the Secretary intends to publish under
4 paragraph (1).

5 (b) PUBLICATION ON WEBSITE.—The Secretary of
6 the Treasury shall ensure that the list is published on an
7 appropriate, publicly accessible government website, up-
8 dating the list as necessary to take into account any per-
9 son removed from the list under subsection (a)(6).

10 (c) DEFINITION.—In this section, the term “invest-
11 ment” has the meaning given in section 4(b)(3).

12 **SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**
13 **TO DIVEST FROM CERTAIN COMPANIES DI-**
14 **RECTLY INVESTED IN CERTAIN SUDANESE**
15 **SECTORS.**

16 (a) STATEMENT OF POLICY.—It is the policy of the
17 United States to support the decision of any State or local
18 government to divest from, and to prohibit the investment
19 of assets controlled by the State or local government in,
20 persons on—

21 (1) the list most recently published under sec-
22 tion 3(a)(1), as modified under section 3(a)(6); or

23 (2) any list developed by the State or local gov-
24 ernment for the purpose of divestment from certain

1 persons described in subsection (b)(1)(B) of this sec-
2 tion.

3 (b) AUTHORITY TO DIVEST.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, a State or local government may
6 adopt and enforce measures to divest the assets of
7 the State or local government from, or prohibit in-
8 vestment of the assets of the State or local govern-
9 ment in—

10 (A) persons that are included on the list
11 most recently published under section 3(a)(1) of
12 this Act, as modified under section 3(a)(6) of
13 this Act; or

14 (B) persons having a direct investment in,
15 or carrying on a trade or business (within the
16 meaning of section 162 of the Internal Revenue
17 Code of 1986) in Sudan or with the Govern-
18 ment of Sudan, if the measures require the
19 State or local government, as the case may be,
20 to the maximum extent practicable, to—

21 (i) provide written notice to each per-
22 son to whom the measures are to be ap-
23 plied; and

24 (ii) not apply the measures to a per-
25 son—

1 (I) before the end of the 90-day
2 period beginning with the date written
3 notice is provided to the person pursu-
4 ant to clause (i); or

5 (II) if the person demonstrates to
6 the State or local government, as the
7 case may be, that the person is no
8 longer involved in the activities by
9 reason of which the measures would
10 otherwise be applied to the person.

11 (2) APPLICABILITY.—This subsection applies to
12 measures adopted by a State or local government be-
13 fore, on, or after the date of the enactment of this
14 Act.

15 (3) DEFINITIONS.—In this subsection:

16 (A) INVESTMENT.—The “investment” of
17 assets includes—

18 (i) a commitment or contribution of
19 assets; and

20 (ii) a loan or other extension of credit
21 of assets.

22 (B) ASSETS.—The term “assets” refers to
23 public monies and includes any pension, retire-
24 ment, annuity, or endowment fund, or similar

1 instrument, that is controlled, directly or indi-
2 rectly, by a State or local government.

3 (c) PREEMPTION.—A measure of a State or local gov-
4 ernment that is authorized by subsection (b) is not pre-
5 empted by any Federal law or regulation.

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

7 It is the sense of the Congress that a divestment
8 measure authorized under section 4 or a measure author-
9 ized under section 9 to prohibit State or local contracts
10 would not violate the United States Constitution because
11 such a measure—

12 (1) is not pre-empted under the Supremacy
13 Clause;

14 (2) is authorized by the Congress as an appro-
15 priate measure with regard to interstate or foreign
16 commerce; and

17 (3) is authorized by the Congress as a measure
18 that promotes the foreign policy of the United
19 States.

20 **SEC. 6. SAFE HARBOR FOR CHANGES OF INVESTMENT**
21 **POLICIES BY ASSET MANAGERS.**

22 Section 13 of the Investment Company Act of 1940
23 (15 U.S.C. 80a–13) is amended by adding at the end the
24 following new subsection:

1 “(c) **SAFE HARBOR FOR CHANGES IN INVESTMENT**
2 **POLICIES.**—Notwithstanding any other provision of Fed-
3 eral or State law, no person may bring any civil, criminal,
4 or administrative action against any registered investment
5 company or person providing services to such registered
6 investment company (including its investment adviser), or
7 any employee, officer, or director thereof, based solely
8 upon the investment company divesting from, or avoiding
9 investing in, securities issued by companies that are in-
10 cluded on the list most recently published under section
11 3(a)(1) of the Darfur Accountability and Divestment Act,
12 as modified under section 3(a)(6) of that Act. For pur-
13 poses of this subsection the term ‘person’ shall include the
14 Federal government, and any State or political subdivision
15 of a State.”.

16 **SEC. 7. SAFE HARBOR FOR CHANGES OF INVESTMENT**
17 **POLICIES BY EMPLOYEE BENEFIT PLANS.**

18 Section 404 of the Employee Retirement Income Se-
19 curity Act of 1974 (29 U.S.C. 1104) is amended by adding
20 at the end the following new subsection:

21 “(n) No person shall be treated as breaching any of
22 the responsibilities, obligations, or duties imposed upon fi-
23 duciaries by this title for divesting plan assets from, or
24 avoiding investing plan assets in, persons that are included
25 on the list most recently published under section 3(a)(1)

1 of the Darfur Accountability and Divestment Act, as
2 modified under section 3(a)(6) of such Act. Any divesti-
3 ture of plan assets from, or avoidance of investing plan
4 assets in, persons that are included on such list shall be
5 treated as in accordance with this title and the documents
6 and instruments governing the plan.”.

7 **SEC. 8. PROHIBITION ON UNITED STATES GOVERNMENT**
8 **CONTRACTS.**

9 (a) PROHIBITION.—Notwithstanding any other provi-
10 sion of law, the Government of the United States shall
11 not enter into or renew a contract for the procurement
12 of goods or services with persons that are included on the
13 list most recently published under section 3(a)(1), as
14 modified under section 3(a)(6).

15 (b) WAIVER AUTHORITY.—The President may waive
16 the prohibition in subsection (a) on a case-by-case basis
17 if the President determines and certifies in writing to the
18 Congress that it is important to the national security in-
19 terests of the United States to do so.

20 **SEC. 9. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**
21 **TO PROHIBIT CONTRACTS.**

22 (a) STATEMENT OF POLICY.—It is the policy of the
23 United States to support the decision of any State or local
24 government to prohibit the State or local government, as

1 the case may be, from entering into or renewing a contract
2 as described in subsection (b).

3 (b) **AUTHORITY TO PROHIBIT CONTRACTS.**—Not-
4 withstanding any other provision of law, a State or local
5 government may adopt and enforce measures to prohibit
6 the State or local government, as the case may be, from
7 entering into or renewing a contract for the procurement
8 of goods or services with persons that are included on the
9 list most recently published under section 3(a)(1), as
10 modified under section 3(a)(6).

11 **SEC. 10. DEFINITIONS.**

12 For purposes of this Act:

13 (1) **PERSON.**—The term “person”, except in
14 paragraph (6), means—

15 (A) a natural person as well as a corpora-
16 tion, company, business association, partner-
17 ship, society, trust, any other nongovernmental
18 entity, organization, or group;

19 (B) any governmental entity or instrumen-
20 tality of a government, including a multilateral
21 development institution (as defined in section
22 1701(c)(3) of the International Financial Insti-
23 tutions Act); and

1 (C) any successor, subunit, or subsidiary of
2 any entity described in subparagraph (A) or
3 (B).

4 (2) STATE.—The term “State” includes the
5 District of Columbia, the Commonwealth of Puerto
6 Rico, the United States Virgin Islands, Guam,
7 American Samoa, and the Commonwealth of the
8 Northern Mariana Islands.

9 (3) STATE OR LOCAL GOVERNMENT.—

10 (A) IN GENERAL.—The term “State or
11 local government” includes—

12 (i) any State and any agency or in-
13 strumentality thereof;

14 (ii) any local government within a
15 State, and any agency or instrumentality
16 thereof;

17 (iii) any other governmental instru-
18 mentality; and

19 (iv) any public institution of higher
20 education.

21 (B) PUBLIC INSTITUTION OF HIGHER EDU-
22 CATION.—The term “public institution of high-
23 er education” means a public institution of
24 higher education within the meaning of the
25 Higher Education Act of 1965.

1 (4) SCRUTINIZED BUSINESS OPERATION.—A
2 company has a scrutinized business operation with
3 respect to Sudan if—

4 (A)(i) the company has business operations
5 that involve contracts with or provision of sup-
6 plies or services to—

7 (I) the Government of Sudan;

8 (II) a company in which the Govern-
9 ment of Sudan has any direct or indirect
10 equity share;

11 (III) a consortium or project commis-
12 sioned by the Government of Sudan; or

13 (IV) a company involved in a consor-
14 tium or project commissioned by the Gov-
15 ernment of Sudan; and

16 (ii)(I)(aa) more than 10 percent of the rev-
17 enues or assets of the company that are linked
18 to Sudan involve oil-related activities or mineral
19 extraction activities;

20 (bb) less than 75 percent of the revenues
21 or assets of the company that are linked to
22 Sudan involve contracts with, or provision of
23 oil-related or mineral extracting products or
24 services to the regional government of southern

1 Sudan or a project or consortium created exclu-
2 sively by that regional government; and

3 (cc) the company has failed to take sub-
4 stantial action with respect to the business op-
5 erations referred to in clause (i) of this sub-
6 paragraph or as described in subparagraph (B)
7 or (C) of paragraph (14); or

8 (II)(aa) more than 10 percent of the reve-
9 nues or assets of the company that are linked
10 to Sudan involve power production activities;

11 (bb) less than 75 percent of the power pro-
12 duction activities of the company include
13 projects whose intent is to provide power or
14 electricity to the marginalized populations of
15 Sudan; and

16 (cc) the company has failed to take sub-
17 stantial action with respect to the business op-
18 erations referred to in clause (i) of this sub-
19 paragraph or as described in subparagraph (B)
20 or (C) of paragraph (14);

21 (B) the company supplies military equip-
22 ment in Sudan, unless the company clearly
23 shows that—

1 (i) the military equipment cannot be
2 used to facilitate offensive military actions
3 in Sudan; or

4 (ii) the company implements rigorous
5 and verifiable safeguards to prevent use of
6 the equipment by forces actively partici-
7 pating in armed conflict, including
8 through—

9 (I) post-sale tracking of the
10 equipment by the company;

11 (II) certification from a reputable
12 and objective third party that such
13 equipment is not being used by a
14 party participating in armed conflict
15 in Sudan; or

16 (III) sale of the equipment solely
17 to the regional government of south-
18 ern Sudan or any internationally rec-
19 ognized peacekeeping force or humani-
20 tarian organization; or

21 (C) the Secretary of the Treasury has de-
22 termined that the company has been complicit
23 in the Darfur genocide.

24 (5) BUSINESS OPERATIONS.—The term “busi-
25 ness operations” means engaging in commerce in

1 any form in Sudan, including by acquiring, devel-
2 oping, maintaining, owning, selling, possessing, leas-
3 ing, or operating equipment, facilities, personnel,
4 products, services, personal property, real property,
5 or any other apparatus of business or commerce.

6 (6) COMPANY.—The term “company” means
7 any natural person, legal person, sole proprietorship,
8 organization, association, corporation, partnership,
9 firm, joint venture, franchisor, franchisee, financial
10 institution, utility, public franchise, trust, enterprise,
11 limited partnership, limited liability partnership, lim-
12 ited liability company, or other business entity or as-
13 sociation, including all wholly-owned subsidiaries,
14 majority-owned subsidiaries, parent companies, or
15 affiliates of such business entities or associations,
16 that exists for profit-making purposes.

17 (7) COMPLICIT.—The term “complicit” means
18 has taken actions in the preceding 20 months which
19 have directly supported or promoted the genocidal
20 campaign in Darfur, including preventing Darfur’s
21 victimized population from communicating with each
22 other, encouraging Sudanese citizens to speak out
23 against an internationally approved security force
24 for Darfur, actively working to deny, cover up, or

1 alter evidence of human rights abuses in Darfur, or
2 other similar actions.

3 (8) GOVERNMENT OF SUDAN.—The term “Gov-
4 ernment of Sudan” means the government in Khar-
5 toum, Sudan, which is led by the National Congress
6 Party (formerly known as the National Islamic
7 Front) or any successor government formed on or
8 after October 13, 2006 (including the coalition Na-
9 tional Unity Government agreed upon in the Com-
10 prehensive Peace Agreement for Sudan), and does
11 not include the regional government of southern
12 Sudan.

13 (9) MARGINALIZED POPULATIONS OF SUDAN.—
14 The term “marginalized populations of Sudan” in-
15 cludes—

16 (A) the portion of the population in the
17 Darfur region that has been victimized;

18 (B) the portion of the population of south-
19 ern Sudan victimized by Sudan’s North-South
20 civil war;

21 (C) the Beja, Rashidiya, and other simi-
22 larly affected groups of eastern Sudan;

23 (D) the Nubian and other similarly af-
24 fected groups in Sudan’s Abyei, Southern Blue
25 Nile, and Nuba Mountain regions; and

1 (E) the Amri, Hamadab, Manasir, and
2 other similarly affected groups of northern
3 Sudan.

4 (10) MILITARY EQUIPMENT.—The term “mili-
5 tary equipment” means—

6 (A) weapons, arms, military supplies, and
7 equipment that readily may be used for military
8 purposes, including radar systems or military-
9 grade transport vehicles; or

10 (B) supplies or services sold or provided di-
11 rectly or indirectly to any force actively partici-
12 pating in armed conflict in Sudan.

13 (11) MINERAL EXTRACTION ACTIVITIES.—The
14 term “mineral extraction activities” includes—

15 (A) exploring, extracting, processing,
16 transporting, or wholesale selling or trading of
17 elemental minerals or associated metal alloys or
18 oxides (ore), including gold, copper, chromium,
19 chromite, diamonds, iron, iron ore, silver, tung-
20 sten, uranium, and zinc, and

21 (B) facilitating any activity described in
22 subparagraph (A), including by providing sup-
23 plies or services in support of the activity.

24 (12) OIL-RELATED ACTIVITIES.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term “oil-related activi-
3 ties” includes—

4 (i) exporting, extracting, producing,
5 refining, processing, exploring for, trans-
6 porting, selling, or trading oil;

7 (ii) constructing, maintaining, or op-
8 erating a pipeline, refinery, or other oilfield
9 infrastructure; and

10 (iii) facilitating any activity described
11 in clause (i) or (ii), including by providing
12 supplies or services in support of the activ-
13 ity.

14 (B) SPECIAL RULES.—

15 (i) A company that is involved in the
16 retail sale of gasoline or related consumer
17 products in Sudan but is not involved in
18 any other activity described in subpara-
19 graph (A) shall not be considered to be in-
20 volved in an oil-related activity.

21 (ii) A company that is involved in
22 leasing, or that owns, rights to an oil block
23 in Sudan but is not involved in any other
24 activity described in subparagraph (A)

1 shall not be considered to be involved in an
2 oil-related activity.

3 (13) POWER PRODUCTION ACTIVITIES.—The
4 term “power production activities” means—

5 (A) any business operation that involves a
6 project commissioned by the National Elec-
7 tricity Corporation of Sudan or other similar
8 Government of Sudan entity whose purpose is
9 to facilitate power generation and delivery, in-
10 cluding establishing power-generating plants or
11 hydroelectric dams, selling or installing compo-
12 nents for the project, providing service con-
13 tracts related to the installation or maintenance
14 of the project; and

15 (B) facilitating an activity described in
16 subparagraph (A), including by providing sup-
17 plies or services in support of the activity.

18 (14) SUBSTANTIAL ACTION.—The term “sub-
19 stantial action” means—

20 (A) adopting, publicizing, and imple-
21 menting a formal plan to cease scrutinized busi-
22 ness operations within 1 year after the date of
23 the enactment of this Act, and refraining from
24 any new scrutinized business operations;

1 (B) undertaking significant humanitarian
2 efforts—

3 (i) in conjunction with an inter-
4 national development or humanitarian or-
5 ganization, the regional government of
6 southern Sudan, or a non-profit entity;

7 (ii) substantial in relationship to the
8 size and scope of the business operations
9 with respect to Sudan;

10 (iii) of benefit to 1 or more
11 marginalized populations of Sudan; and

12 (iv) evaluated and certified by an
13 independent third party to meet the re-
14 quirements of clauses (i) through (iii); or

15 (C) materially improving conditions for the
16 victimized population in Darfur.

17 **SEC. 11. SENSE OF THE CONGRESS.**

18 It is the sense of the Congress that the governments
19 of all other countries should adopt measures, similar to
20 those contained in this Act, to publicize the activities of
21 all persons that, through their financial dealings, know-
22 ingly or unknowingly enable the Government of Sudan to
23 continue to oppress and commit genocide against people
24 in the Darfur region and other regions of Sudan, and to

1 authorize divestment from, and the avoidance of further
2 investment in, the persons.

3 **SEC. 12. SUNSET.**

4 This Act shall terminate 30 days after the date on
5 which—

6 (1) the President has certified to Congress
7 that—

8 (A) the Darfur genocide has been halted
9 for at least 12 months; and

10 (B) the Government of Sudan has honored
11 its commitments to—

12 (i) abide by United Nations Security
13 Council Resolution 1706;

14 (ii) cease attacks on civilians;

15 (iii) demobilize and demilitarize the
16 Janjaweed and associated militias;

17 (iv) grant free and unfettered access
18 for delivery of humanitarian assistance;

19 and

20 (v) allow for the safe and voluntary
21 return of refugees and internally displaced
22 persons; and

23 (2) the United States has revoked all sanctions
24 against the Government of Sudan and the officials

1 of such government, including sanctions authorized
2 by—

3 (A) the Sudan Peace Act (Public Law
4 107–245);

5 (B) the Comprehensive Peace in Sudan
6 Act of 2004 (Public Law 108–497);

7 (C) the USA PATRIOT Improvement and
8 Reauthorization Act of 2005 (Public Law 109–
9 177);

10 (D) the Darfur Peace and Accountability
11 Act of 2006 (Public Law 109–344); and

12 (E) any other Federal law or Executive
13 order.

Passed the House of Representatives July 31, 2007.

Attest: LORRAINE C. MILLER,
Clerk.