

PUBLIC LAW 108-497—DEC. 23, 2004

COMPREHENSIVE PEACE IN SUDAN ACT OF
2004

Public Law 108–497
108th Congress

An Act

Dec. 23, 2004
[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.

Comprehensive
Peace in Sudan
Act of 2004.
50 USC 1701
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Comprehensive Peace in Sudan Act of 2004”.

50 USC 1701
note.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” 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, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004).

(3) JEM.—The term “JEM” means the Justice and Equality Movement.

(4) SLA.—The term “SLA” means the Sudan Liberation Army.

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

50 USC 1701
note.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) A comprehensive peace agreement for Sudan, as envisioned in the Sudan Peace Act (50 U.S.C. 1701 note) and the Machakos Protocol of 2002, could be in jeopardy if the parties do not implement and honor the agreements they have signed.

(2) Since seizing power through a military coup in 1989, the Government of Sudan repeatedly has attacked and dislocated civilian populations in southern Sudan in a coordinated policy of ethnic cleansing and genocide that has cost the lives of more than 2,000,000 people and displaced more than 4,000,000 people.

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

(4) At the same time that the Government of Sudan was negotiating for a comprehensive and all inclusive peace agreement, enumerated in the Nairobi Declaration on the Final Phase of Peace in the Sudan, it refused to engage in any meaningful discussion with regard to its ongoing campaign of ethnic cleansing and genocide in the Darfur region of western Sudan.

(5) The Government of Sudan reluctantly agreed to attend talks to bring peace to the Darfur region only after considerable international pressure and outrage was expressed through high level visits by Secretary of State Colin Powell and others, and through United Nations Security Council Resolution 1556 (July 30, 2004).

(6) The Government of the United States, in both the executive branch and Congress, has concluded that genocide has been committed and may still be occurring in the Darfur region, and that the Government of Sudan and militias supported by the Government of Sudan, known as the Janjaweed, bear responsibility for the genocide.

(7) Evidence collected by international observers in the Darfur region between February 2003 and November 2004 indicate a coordinated effort to target African Sudanese civilians in a scorched earth policy, similar to that which was employed in southern Sudan, that has destroyed African Sudanese villages, killing and driving away their people, while Arab Sudanese villages have been left unscathed.

(8) As a result of this genocidal policy in the Darfur region, an estimated 70,000 people have died, more than 1,600,000 people have been internally displaced, and more than 200,000 people have been forced to flee to neighboring Chad.

(9) Reports further indicate the systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves.

(10) Despite the threat of international action expressed through United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004), the Government of Sudan continues to obstruct and prevent efforts to reverse the catastrophic consequences that loom over the Darfur region.

(11) In addition to the thousands of violent deaths directly caused by ongoing Sudanese military and government-sponsored Janjaweed attacks in the Darfur region, the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter.

(12) The Government of Sudan’s continued support for the Janjaweed and their obstruction of the delivery of food, shelter, and medical care to the Darfur region is estimated by the World Health Organization to be causing up to 10,000 deaths per month and, should current conditions persist, is projected to escalate to thousands of deaths each day by December 2004.

(13) The Government of Chad served an important role in facilitating the humanitarian cease-fire (the N’Djamena Agreement dated April 8, 2004) for the Darfur region between the Government of Sudan and the two opposition rebel groups in the Darfur region (the JEM and the SLA), although both sides have violated the cease-fire agreement repeatedly.

(14) The people of Chad have responded courageously to the plight of over 200,000 Darfur refugees by providing assistance to them even though such assistance has adversely affected their own means of livelihood.

(15) On September 9, 2004, Secretary of State Colin Powell stated before the Committee on Foreign Relations of the Senate: “When we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring.”

(16) The African Union has demonstrated renewed vigor in regional affairs through its willingness to respond to the crisis in the Darfur region, by convening talks between the parties and deploying several hundred monitors and security forces to the region, as well as by recognizing the need for a far larger force with a broader mandate.

(17) The Government of Sudan’s complicity in the atrocities and genocide in the Darfur region raises fundamental questions about the Government of Sudan’s commitment to peace and stability in Sudan.

50 USC 1701
note.

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

(a) **SUDAN PEACE ACT.**—It is the sense of Congress that the Sudan Peace Act (50 U.S.C. 1701 note) remains relevant and should be extended to include the Darfur region of Sudan.

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

(1) a legitimate countrywide peace in Sudan will only be possible if those principles enumerated in the 1948 Universal Declaration of Human Rights, that are affirmed in the Machakos Protocol of 2002 and the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004, are applied to all of Sudan, including the Darfur region;

(2) the parties to the N’Djamena Agreement (the Government of Sudan, the JEM, and the SLA) must meet their obligations under that Agreement to allow safe and immediate delivery of all humanitarian assistance throughout the Darfur region and must expedite the conclusion of a political agreement to end the genocide and conflict in the Darfur region;

(3) the United States should continue to provide humanitarian assistance to the areas of Sudan to which the United States has access and, at the same time, implement a plan

to provide assistance to the areas of Sudan to which access has been obstructed or denied;

(4) the international community, including African, Arab, and Muslim nations, should immediately provide resources necessary to save the lives of hundreds of thousands of individuals at risk as a result of the crisis in the Darfur region;

(5) the United States and the international community should—

(A) provide all necessary assistance to deploy and sustain an African Union Force to the Darfur region; and

(B) work to increase the authorized level and expand the mandate of such forces commensurate with the gravity and scope of the problem in a region the size of France;

(6) the President, acting through the Secretary of State and the Permanent Representative of the United States to the United Nations, should—

(A) condemn any failure on the part of the Government of Sudan to fulfill its obligations under United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004), and press the United Nations Security Council to respond to such failure by immediately imposing the penalties suggested in paragraph (14) of United Nations Security Council Resolution 1564;

(B) press the United Nations Security Council to pursue accountability for those individuals who are found responsible for orchestrating and carrying out the atrocities in the Darfur region, consistent with relevant United Nations Security Council Resolutions; and

(C) encourage member states of the United Nations to—

(i) cease to import Sudanese oil; and

(ii) take the following actions against Sudanese Government and military officials and other individuals, who are planning, carrying out, or otherwise involved in the policy of genocide in the Darfur region, as well as their families, and businesses controlled by the Government of Sudan and the National Congress Party:

(I) freeze the assets held by such individuals or businesses in each such member state; and

(II) restrict the entry or transit of such officials through each such member state;

(7) the President should impose targeted sanctions, including a ban on travel and the freezing of assets, on those officials of the Government of Sudan, including military officials, and other individuals who have planned or carried out, or otherwise been involved in the policy of genocide in the Darfur region, and should also freeze the assets of businesses controlled by the Government of Sudan or the National Congress Party;

(8) the Government of the United States should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to, and takes demonstrable steps to implement, peace agreements for all areas of Sudan, including the Darfur region;

(9) those individuals found to be involved in the planning or carrying out of genocide, war crimes, or crimes against

humanity should not hold leadership positions in the Government of Sudan or the coalition government established pursuant to the agreements reached in the Nairobi Declaration on the Final Phase of Peace in the Sudan; and

(10) the Government of Sudan has a primary responsibility to guarantee the safety and welfare of its citizens, which includes allowing them access to humanitarian assistance and providing them protection from violence.

50 USC 1701
note.

SEC. 5. AMENDMENTS TO THE SUDAN PEACE ACT.

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

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

President.

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

“(a) ASSISTANCE.—

“(1) AUTHORITY.—Notwithstanding any other provision of law, the President is authorized to provide assistance for Sudan as authorized in paragraph (5) of this section—

“(A) subject to the requirements of this section, to support the implementation of a comprehensive peace agreement that applies to all regions of Sudan, including the Darfur region; and

“(B) to address the humanitarian and human rights crisis in the Darfur region and eastern Chad, including to support the African Union mission in the Darfur region, provided that no assistance may be made available to the Government of Sudan.

“(2) CERTIFICATION FOR THE GOVERNMENT OF SUDAN.—Assistance authorized under paragraph (1)(A) may be provided to the Government of Sudan only if the President certifies to the appropriate congressional committees that the Government of Sudan has taken demonstrable steps to—

“(A) ensure that the armed forces of Sudan and any associated militias are not committing atrocities or obstructing human rights monitors or the provision of humanitarian assistance;

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

“(C) allow full and unfettered humanitarian assistance to all regions of Sudan, including the Darfur region;

“(D) allow an international commission of inquiry to conduct an investigation of atrocities in the Darfur region, in a manner consistent with United Nations Security Council Resolution 1564 (September 18, 2004), to investigate reports of violations of international humanitarian law and human rights law in the Darfur region by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

“(E) cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

“(F) permit the safe and voluntary return of displaced persons and refugees to their homes and rebuild the communities destroyed in the violence; and

“(G) implement the final agreements reached in the Naivasha peace process and install a new coalition government based on the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004.

“(3) CERTIFICATION WITH REGARD TO SPLM’S COMPLIANCE WITH A PEACE AGREEMENT.—If the President determines and certifies in writing to the appropriate congressional committees that the SPLM has not engaged in good faith negotiations, or has failed to honor the agreements signed, the President shall suspend assistance authorized in this section for the SPLM, except for health care, education, and humanitarian assistance.

“(4) SUSPENSION OF ASSISTANCE.—If, on a date after the President transmits the certification described in paragraph (2), the President determines that the Government of Sudan has ceased taking the actions described in such paragraph, the President shall immediately suspend the provision of any assistance to such Government under this section until the date on which the President transmits to the appropriate congressional committees a further certification that the Government of Sudan has resumed taking such actions.

“(5) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—In addition to any other funds otherwise available for such purposes, there are authorized to be appropriated to the President—

“(i) \$100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the fiscal years 2006 and 2007, unless otherwise authorized, to carry out paragraph (1)(A); and

“(ii) \$200,000,000 for fiscal year 2005 to carry out paragraph (1)(B), provided that no amounts appropriated under this authorization may be made available for the Government of Sudan.

“(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

“(b) GOVERNMENT OF SUDAN DEFINED.—In this section, the term ‘Government of Sudan’ means the National Congress Party, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of the Comprehensive Peace in Sudan Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004).”.

(2) CONFORMING AMENDMENTS.—Section 3 of such Act (50 U.S.C. 1701 note) is amended—

(A) in paragraph (2), by striking “The” and inserting “Except as provided in section 12, the”; and

(B) by adding at the end the following new paragraph:

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

(b) REPORTING AMENDMENT.—The Sudan Peace Act (50 U.S.C. 1701 note) is amended by striking section 8 and inserting the following:

“SEC. 8. REPORTING REQUIREMENTS.

“(a) **REPORT ON COMMERCIAL ACTIVITY.**—Not later than 30 days after the date of the enactment of the Comprehensive Peace in Sudan Act of 2004, and annually thereafter until the completion of the interim period outlined in the Machakos Protocol of 2002, the Secretary of State, in consultation with relevant United States Government departments and agencies, shall submit to the appropriate congressional committees a report regarding commercial activity in Sudan that includes—

“(1) a description of the sources and current status of Sudan’s financing and construction of infrastructure and pipelines for oil exploitation, the effects of such financing and construction on the inhabitants of the regions in which the oil fields are located and the ability of the Government of Sudan to finance the war in Sudan with the proceeds of the oil exploitation;

“(2) a description of the extent to which that financing was secured in the United States or with the involvement of United States citizens; and

“(3) a description of the relationships between Sudan’s arms industry and major foreign business enterprises and their subsidiaries, including government-controlled entities.

“(b) **REPORT ON THE CONFLICT IN SUDAN, INCLUDING THE DARFUR REGION.**—Not later than 30 days after the date of the enactment of the Comprehensive Peace in Sudan Act of 2004, and annually thereafter until the completion of the interim period outlined in the Machakos Protocol of 2002, the Secretary of State shall prepare and submit to the appropriate congressional committees a report regarding the conflict in Sudan, including the conflict in the Darfur region. Such report shall include—

“(1) the best estimates of the extent of aerial bombardment of civilian centers in Sudan by the Government of Sudan, including targets, frequency, and best estimates of damage; and

“(2) a description of the extent to which humanitarian relief in Sudan has been obstructed or manipulated by the Government of Sudan or other forces, and a contingency plan to distribute assistance should the Government of Sudan continue to obstruct or delay the international humanitarian response to the crisis in Darfur.

“(c) **DISCLOSURE TO THE PUBLIC.**—The Secretary of State shall publish or otherwise make available to the public each unclassified report, or portion of a report that is unclassified, submitted under subsection (a) or (b).”.

President.
50 USC 1701
note.
Effective date.

SEC. 6. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) **SANCTIONS.**—Beginning on the date that is 30 days after the date of enactment of this Act, the President shall, notwithstanding paragraph (1) of section 6(b) of the Sudan Peace Act (50 U.S.C. 1701 note), implement the measures set forth in subparagraphs (A) through (D) of paragraph (2) of such section.

Effective date.

(b) **BLOCKING OF ASSETS.**—Beginning on the date that is 30 days after the date of enactment of this Act, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of appropriate senior officials of the Government of Sudan.

(c) **WAIVER.**—The President may waive the application of subsection (a) or (b) if the President determines and certifies to the appropriate congressional committees that such a waiver is in the national interest of the United States.

Certification.

(d) **CONTINUATION OF RESTRICTIONS.**—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Act, 2004 (division D of Public Law 108–199; 118 Stat. 143), or any other similar provision of law, shall remain in effect against the Government of Sudan and may not be lifted pursuant to such provisions of law unless the President transmits a certification to the appropriate congressional committees in accordance with paragraph (2) of section 12(a) of the Sudan Peace Act (as added by section 5(a)(1) of this Act).

(e) **DETERMINATION.**—Notwithstanding subsection (a) of this section, the President shall continue to transmit the determination required under section 6(b)(1)(A) of the Sudan Peace Act (50 U.S.C. 1701 note).

SEC. 7. ADDITIONAL AUTHORITIES.

Notwithstanding any other provision of law, the President is authorized to provide assistance, other than military assistance, to areas that were outside of the control of the Government of Sudan on April 8, 2004, including to provide assistance for emergency relief, development and governance, or to implement any program in support of any viable peace agreement at the local, regional, or national level in Sudan.

President.
50 USC 1701
note.

SEC. 8. TECHNICAL CORRECTION.

Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended by striking “Organization of African Unity” and inserting “African Union”.

50 USC 1701
note.

Approved December 23, 2004.

LEGISLATIVE HISTORY—S. 2781 (H.R. 5061):

CONGRESSIONAL RECORD, Vol. 150 (2004):

Sept. 23, considered and passed Senate.

Nov. 19, considered and passed House, amended.

Dec. 7, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):

Dec. 23, Presidential statement.

