

DARFUR PEACE AND ACCOUNTABILITY ACT OF 2005

MARKUP

BEFORE THE
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN
RIGHTS AND INTERNATIONAL OPERATIONS
OF THE

COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

H.R. 3127

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JULY 21, 2005
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**DARFUR PEACE AND ACCOUNTABILITY ACT
OF 2005**

THURSDAY, JULY 21, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS
AND INTERNATIONAL OPERATIONS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 6:05 p.m. in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (Chairman of the Subcommittee) presiding.

Mr. SMITH. Good afternoon. Pursuant to notice, I call up H.R. 3127, the Darfur Peace and Accountability Act of 2005, for purposes of markup, and move its recommendation to the Full Committee. Without objection, the resolution will be considered as read and open for amendment at any point.

[H.R. 3127 follows:]

109TH CONGRESS
1ST SESSION

H. R. 3127

To impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. HYDE (for himself, Mr. PAYNE, Mr. SMITH of New Jersey, Mr. LANTOS, Mr. ROYCE, Mr. TANCREDO, Mr. WOLF, Ms. JACKSON-LEE of Texas, Mr. RANGEL, and Mr. CAPUANO) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of 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 Peace and Ac-
5 countability Act of 2005”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

8 (2) **GOVERNMENT OF SUDAN.**—

9 (A) **IN GENERAL.**—The term “Government
10 of Sudan” means the National Congress Party,
11 formerly known as the National Islamic Front,
12 government in Khartoum, Sudan, or any suc-
13 cessor government formed on or after the date
14 of the enactment of this Act (including the coa-
15 lition National Unity Government agreed upon
16 in the Comprehensive Peace Agreement for
17 Sudan, signed in Nairobi, Kenya on January 9,
18 2005), except that such term does not include
19 the Government of Southern Sudan.

20 (B) **OFFICIALS OF THE GOVERNMENT OF**
21 **SUDAN.**—The term “Government of Sudan”,
22 when used with respect to an official of the
23 Government of Sudan, does not include an
24 individual—

25 (i) who was not a member of such
26 government prior to July 1, 2005; or

1 (ii) who is a member of the Govern-
2 ment of Southern Sudan.

3 (3) SUDAN NORTH-SOUTH PEACE AGREE-
4 MENT.—The term “Sudan North-South Peace
5 Agreement” means the comprehensive peace agree-
6 ment signed by the Government of Sudan and the
7 Sudan People’s Liberation Movement/Army (SPLM/
8 A) in Nairobi, Kenya, on January 9, 2005.

9 **SEC. 3. FINDINGS.**

10 Congress makes the following findings:

11 (1) On July 22, 2004, the House of Represent-
12 atives and the Senate declared that the atrocities oc-
13 ccurring in the Darfur region of Sudan are genocide.

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

23 (3) On September 21, 2004, in an address be-
24 fore the United Nations General Assembly, Presi-
25 dent George W. Bush affirmed the Secretary of

1 State's finding and stated, "[a]t this hour, the world
2 is witnessing terrible suffering and horrible crimes in
3 the Darfur region of Sudan, crimes my government
4 has concluded are genocide".

5 (4) On July 30, 2004, the United Nations Se-
6 curity Council passed Security Council Resolution
7 1556, calling upon the Government of Sudan to dis-
8 arm the Janjaweed militias and to apprehend and
9 bring to justice Janjaweed leaders and their associ-
10 ates who have incited and carried out violations of
11 human rights and international humanitarian law,
12 and establishing a ban on the sale or supply of arms
13 and related materiel of all types, including the provi-
14 sion of related technical training or assistance, to all
15 nongovernmental entities and individuals, including
16 the Janjaweed.

17 (5) On September 18, 2004, the United Na-
18 tions Security Council passed Security Council Reso-
19 lution 1564, determining that the Government of
20 Sudan had failed to meet its obligations under Secu-
21 rity Council Resolution 1556, calling for a military
22 flight ban in and over the Darfur region, demanding
23 the names of Janjaweed militiamen disarmed and
24 arrested for verification, establishing an Inter-
25 national Commission of Inquiry on Darfur to inves-

1 investigate violations of international humanitarian and
2 human rights laws, and threatening sanctions should
3 the Government of Sudan fail to fully comply with
4 Security Council Resolutions 1556 and 1564, includ-
5 ing such actions as to affect Sudan’s petroleum sec-
6 tor or individual members of the Government of
7 Sudan.

8 (6) On February 1, 2005, the United Nations
9 released the Report of the International Commission
10 of Inquiry on Darfur, which had been submitted to
11 the United Nations Secretary-General on January
12 25, 2005.

13 (7) The Report of the International Commis-
14 sion of Inquiry on Darfur established that the “Gov-
15 ernment of the Sudan and the Janjaweed are re-
16 sponsible for serious violations of international
17 human rights and humanitarian law amounting to
18 crimes under international law,” that “these acts
19 were conducted on a widespread and systematic
20 basis, and therefore may amount to crimes against
21 humanity,” and that Sudanese officials and other in-
22 dividuals may have acted with “genocidal intent”.

23 (8) The Report of the International Commis-
24 sion of Inquiry on Darfur further notes that, pursu-
25 ant to its mandate and in the course of its work, the

1 Commission had collected information relating to in-
2 dividual perpetrators of acts constituting “violations
3 of international human rights law and international
4 humanitarian law, including crimes against human-
5 ity and war crimes” and that a sealed file containing
6 the names of those individual perpetrators had been
7 delivered to the United Nations Secretary-General.

8 (9) On March 24, 2005, the United Nations Se-
9 curity Council passed Security Council Resolution
10 1590, establishing the United Nations Mission in
11 Sudan (UNMIS), consisting of up to 10,000 military
12 personnel and 715 civilian police and tasked with
13 supporting implementation of the Sudan North-
14 South Peace Agreement and “closely and continu-
15 ously liais[ing] and coordinat[ing] at all levels with
16 the African Union Mission in Sudan (AMIS) with a
17 view towards expeditiously reinforcing the effort to
18 foster peace in Darfur”.

19 (10) On March 29, 2005, the United Nations
20 Security Council passed Security Council Resolution
21 1591, extending the military embargo established by
22 Security Council Resolution 1556 to all the parties
23 to the N’djamena Ceasefire Agreement and any
24 other belligerents in the states of North Darfur,
25 South Darfur, and West Darfur, calling for an asset

1 freeze and travel ban against those individuals who
2 impede the peace process, constitute a threat to sta-
3 bility in Darfur and the region, commit violations of
4 international humanitarian or human rights law or
5 other atrocities, or violate the military embargo, and
6 establishing a Panel of Experts to assist in moni-
7 toring compliance with Security Council Resolutions
8 1556 and 1591.

9 (11) On March 31, 2005, the United Nations
10 Security Council passed Security Council Resolution
11 1593, referring the situation in Darfur since July 1,
12 2002, to the prosecutor of the International Crimi-
13 nal Court and calling on the Government of Sudan
14 and all parties to the conflict to cooperate fully with
15 the Court, while recognizing that “[s]tates not party
16 to the Rome Statute have no obligation under the
17 [S]tatute”.

18 **SEC. 4. SENSE OF CONGRESS.**

19 It is the sense of Congress that—

20 (1) the atrocities unfolding in the Darfur region
21 of Sudan have been and continue to be genocide;

22 (2) the African Union should rapidly expand
23 the size and amend the mandate of the African
24 Union Mission in Sudan (AMIS) to authorize such
25 action as may be necessary to protect civilians and

1 humanitarian operations, and deter violence in the
2 Darfur region without delay;

3 (3) the international community, including the
4 United Nations, the North Atlantic Treaty Organi-
5 zation (NATO), the European Union, and the
6 United States, should immediately act to mobilize
7 sufficient political, military, and financial resources
8 to support the expansion of the African Union Mis-
9 sion in Sudan so that it achieves the size, strength,
10 and capacity necessary for protecting civilians and
11 humanitarian operations, and ending the continued
12 violence in the Darfur region;

13 (4) if an expanded and reinforced African
14 Union Mission in Sudan fails to stop genocide in the
15 Darfur region, the international community should
16 take additional, dispositive measures to prevent and
17 suppress acts of genocide in the Darfur region;

18 (5) acting under Article 5 of the Charter of the
19 United Nations, the United Nations Security Coun-
20 cil should call for suspension of the Government of
21 Sudan's rights and privileges of membership by the
22 General Assembly until such time as the Govern-
23 ment of Sudan has honored pledges to cease attacks
24 upon civilians, demobilize the Janjaweed and associ-
25 ated militias, and grant free and unfettered access

1 for deliveries of humanitarian assistance in the
2 Darfur region;

3 (6) pursuant to the adoption of resolutions on
4 July 22, 2004, by both the House of Representatives
5 and the Senate, and the declaration on September 9,
6 2004, by former Secretary of State Colin Powell
7 that the atrocities unfolding in Darfur, Sudan, are
8 genocide, and notwithstanding the American
9 Servicemembers' Protection Act of 2002 (title II of
10 the 2002 Public Law 107–206), the United States
11 should render assistance to the efforts of the Inter-
12 national Criminal Court (ICC) to bring to justice
13 persons accused of genocide, war crimes, or crimes
14 against humanity in Darfur, Sudan, provided that
15 assurances have been received by the United Nations
16 Security Council or the ICC that no current or
17 former United States Government official or em-
18 ployee (including any contractor), member of the
19 United States Armed Forces, or United States na-
20 tional will be subject to prosecution by the ICC in
21 connection with those efforts;

22 (7) the United States should not provide assist-
23 ance to the Government of Sudan, other than assist-
24 ance necessary for the implementation of the Sudan
25 North-South Peace Agreement, the support of the

1 southern regional government in Sudan, or for hu-
2 manitarian purposes in Sudan, until such time as
3 the Government of Sudan has honored pledges to
4 cease attacks upon civilians, demobilize the
5 Janjaweed and associated militias, and grant free
6 and unfettered access for deliveries of humanitarian
7 assistance in the Darfur region;

8 (8) the President should seek to assist members
9 of the Sudanese diaspora in the United States by es-
10 tablishing a student loan forgiveness program for
11 those individuals who commit to return to southern
12 Sudan for a period of not less than five years for the
13 purpose of contributing professional skills needed for
14 the reconstruction of southern Sudan;

15 (9) the President should appoint a Presidential
16 Envoy for Sudan to provide stewardship of efforts to
17 implement the Sudan North-South Peace Agree-
18 ment, seek ways to bring stability and peace to the
19 Darfur region, address instability elsewhere in
20 Sudan and northern Uganda, and pursue a truly
21 comprehensive peace throughout the region;

22 (10) the international community should
23 strongly condemn attacks against humanitarian
24 workers and demand that all armed groups in the
25 Darfur region, including the forces of the Govern-

1 ment of Sudan, the Janjaweed, associated militias,
2 the Sudan Liberation Movement/Army (SLM/A), the
3 Justice and Equality Movement (JEM), and all
4 other armed groups to refrain from such attacks;

5 (11) the United States should fully support the
6 Sudan North-South Peace Agreement and urge
7 rapid implementation of its terms; and

8 (12) the Sudan People’s Liberation Movement
9 should seek to play a constructive role in bringing
10 about a political settlement to the crisis in the
11 Darfur region.

12 **SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.**

13 (a) BLOCKING OF ASSETS AND RESTRICTION ON
14 VISAS.—Section 6 of the Comprehensive Peace in Sudan
15 Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note)
16 is amended—

17 (1) in the heading of subsection (b), by insert-
18 ing “OF APPROPRIATE SENIOR OFFICIALS OF THE
19 SUDANESE GOVERNMENT” after “ASSETS”;

20 (2) by redesignating subsections (e) through (e)
21 as subsections (d) through (f), respectively; and

22 (3) by inserting after subsection (b) the fol-
23 lowing new subsection:

1 “(c) BLOCKING OF ASSETS AND RESTRICTION ON
2 VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE
3 PRESIDENT.—

4 “(1) BLOCKING OF ASSETS.—Beginning on the
5 date that is 30 days after the date of the enactment
6 of the Darfur Peace and Accountability Act of 2005,
7 and in the interest of contributing to peace in
8 Sudan, the President shall, consistent with the au-
9 thorities granted in the International Emergency
10 Economic Powers Act (50 U.S.C. 1701 et seq.),
11 block the assets of any individual who the President
12 determines is responsible, either by commission or
13 omission, for acts of genocide, war crimes, or crimes
14 against humanity in Sudan, including the family
15 members or any associates of such individual to
16 whom assets or property of such individual was
17 transferred on or after July 1, 2002.

18 “(2) RESTRICTION ON VISAS.—Beginning on
19 the date that is 30 days after the date of the enact-
20 ment of the Darfur Peace and Accountability Act of
21 2005, and in the interest of contributing to peace in
22 Sudan, the President shall deny visas and entry to
23 any individual who the President determines is re-
24 sponsible, either by commission or omission, for acts
25 of genocide, war crimes, or crimes against humanity

1 in Sudan, including the family members or any asso-
2 ciates of such individual to whom assets or property
3 of such individual was transferred on or after July
4 1, 2002.”.

5 (b) WAIVER.—Section 6(d) of the Comprehensive
6 Peace in Sudan Act of 2004 (as redesignated by sub-
7 section (a)) is amended by adding at the end the following
8 new sentence: “The President may waive the application
9 of paragraph (1) or (2) of subsection (c) with respect to
10 an individual if, prior to exercising the waiver, the Presi-
11 dent transmits to the appropriate congressional commit-
12 tees a notification of the waiver which includes the name
13 of the individual and the reasons for the waiver.”.

14 **SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUP-**
15 **PRESS GENOCIDE IN DARFUR.**

16 (a) UNITED STATES ASSISTANCE TO SUPPORT
17 AMIS.—Section 7 of the Comprehensive Peace in Sudan
18 Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note)
19 is amended—

20 (1) by striking “Notwithstanding” and insert-
21 ing “(a) GENERAL ASSISTANCE.—Notwithstanding”;
22 and

23 (2) by adding at the end the following new sub-
24 section:

1 “(b) ASSISTANCE TO SUPPORT AMIS.—Notwith-
2 standing any other provision of law, the President is au-
3 thorized to provide assistance, on such terms and condi-
4 tions as the President may determine and in consultation
5 with the appropriate congressional committees, to rein-
6 force the deployment and operations of an expanded Afri-
7 can Union Mission in Sudan (AMIS) with the mandate,
8 size, strength, and capacity to protect civilians and hu-
9 manitarian operations, stabilize the Darfur region of
10 Sudan and, as necessary, dissuade and deter air attacks
11 directed against civilians and humanitarian workers, in-
12 cluding but not limited to providing assistance in the areas
13 of logistics, transport, communications, materiel support,
14 technical assistance, training, command and control, aerial
15 surveillance, and intelligence.”.

16 (b) NATO ASSISTANCE TO SUPPORT AMIS.—The
17 President shall instruct the United States Permanent
18 Representative to the North Atlantic Treaty Organization
19 (NATO) to use the voice, vote, and influence of the United
20 States at NATO to advocate NATO reinforcement of the
21 African Union Mission in Sudan (AMIS), upon the request
22 of the African Union, including but not limited to the pro-
23 vision of assets to dissuade and deter offensive air strikes
24 directed against civilians and humanitarian workers in the
25 Darfur region of Sudan and other logistical, transpor-

1 tation, communications, training, technical assistance,
2 command and control, aerial surveillance, and intelligence
3 support.

4 (c) DENIAL OF ENTRY AT UNITED STATES PORTS
5 TO CERTAIN CARGO SHIPS OR OIL TANKERS.—Section
6 6(b)(2)(C) of the Sudan Peace Act (Public Law 107–245;
7 50 U.S.C. 1701 note) is amended by inserting “, including
8 by prohibiting the entry at United States ports to cargo
9 ships or oil tankers engaged in business or trade activities
10 in the oil sector of Sudan or involved in the shipment of
11 goods for use by the armed forces of Sudan,” after “access
12 to oil revenues”.

13 (d) PROHIBITION ON ASSISTANCE TO COUNTRIES IN
14 VIOLATION OF UNITED NATIONS SECURITY COUNCIL
15 RESOLUTIONS 1556 AND 1591.—

16 (1) PROHIBITION.—United States assistance
17 (other than humanitarian assistance) may not be
18 provided to a country that is in violation of the em-
19 bargo on military assistance with respect Sudan im-
20 posed pursuant to United Nations Security Council
21 Resolutions 1556 (July 30, 2004) and 1591 (March
22 29, 2005).

23 (2) WAIVER.—The President may waive the ap-
24 plication of paragraph (1) if the President deter-
25 mines and certifies to the appropriate congressional

1 committees that it is in the national interest of the
2 United States to do so.

3 **SEC. 7. MULTILATERAL EFFORTS.**

4 The President shall direct the United States Perma-
5 nent Representative to the United Nations to use the voice
6 and vote of the United States to urge the adoption of a
7 resolution by the United Nations Security Council which—

8 (1) supports the expansion of the African Union
9 Mission in Sudan (AMIS) so that it achieves the
10 mandate, size, strength, and capacity needed to pro-
11 tect civilians and humanitarian operations, and dis-
12 suade and deter fighting and violence in the Darfur
13 region of Sudan, and urges member states of the
14 United Nations to accelerate political, material, fi-
15 nancial, and other assistance to the African Union
16 toward this end;

17 (2) reinforces efforts of the African Union to
18 negotiate peace talks between the Government of
19 Sudan, the Sudan Liberation Movement/Army
20 (SLM/A), the Justice and Equality Movement
21 (JEM), and associated armed groups in the Darfur
22 region, calls on the Government of Sudan, the SLM/
23 A, and the JEM to abide by their obligations under
24 the N'Djamena Ceasefire Agreement of April 8,
25 2004 and subsequent agreements, urges all parties

1 to engage in peace talks without preconditions and
2 seek to resolve the conflict, and strongly condemns
3 all attacks against humanitarian workers in the
4 Darfur region;

5 (3) imposes sanctions against the Government
6 of Sudan, including sanctions against individual
7 members of the Government of Sudan, and entities
8 controlled or owned by officials of the Government
9 of Sudan or the National Congress Party in Sudan;

10 (4) calls upon those member states of the
11 United Nations that continue to undermine efforts
12 to foster peace in Sudan by providing military assist-
13 ance and equipment to the Government of Sudan,
14 the SLM/A, the JEM, and associated armed groups
15 in the Darfur region in violation of the embargo on
16 such assistance and equipment, as called for in
17 United Nations Security Council Resolutions 1556
18 (July 30, 2004) and 1591 (March 29, 2005), to im-
19 mediately cease and desist; and

20 (5) acting under Article 5 of the Charter of the
21 United Nations, calls for suspension of the Govern-
22 ment of Sudan's rights and privileges of membership
23 by the General Assembly until such time as the Gov-
24 ernment of Sudan has honored pledges to cease at-
25 tacks upon civilians, demobilize the Janjaweed and

1 associated militias, and grant free and unfettered ac-
2 cess for deliveries of humanitarian assistance in the
3 Darfur region.

4 **SEC. 8. REPORTS.**

5 (a) REPORT ON SANCTIONS IN SUPPORT OF PEACE
6 IN DARFUR.—Section 8 of the Sudan Peace Act (Public
7 Law 107–245; 50 U.S.C. 1701 note) is amended—

8 (1) by redesignating subsection (c) as sub-
9 section (d); and

10 (2) by inserting after subsection (b) the fol-
11 lowing new subsection:

12 “(c) REPORT ON SANCTIONS IN SUPPORT OF PEACE
13 IN DARFUR.—Not later than 30 days after the date of
14 the enactment of the Darfur Peace and Accountability Act
15 of 2005, and in conjunction with reports required under
16 subsections (a) and (b) of this section thereafter, the Sec-
17 retary of State shall prepare and submit to the appro-
18 priate congressional committees a report regarding sanc-
19 tions imposed under subsections (a) through (d) of section
20 6 of the Comprehensive Peace in Sudan Act of 2004,
21 including—

22 “(1) a description of each sanction imposed
23 under such provisions of law; and

24 “(2) the name of the individual or entity sub-
25 ject to the sanction, if applicable.”.

1 (b) REPORT ON STABILIZATION IN SUDAN.—Not
2 later than 30 days after the date of enactment of this Act,
3 the Secretary of State shall submit to the appropriate con-
4 gressional committees a report, to be prepared in conjunc-
5 tion with the Secretary of Defense, on—

6 (1) efforts to deploy an African Union Mission
7 in Sudan (AMIS) with the size, strength and capaci-
8 ty necessary to stabilize the Darfur region of Sudan
9 and protect civilians and humanitarian operations;

10 (2) the needs of AMIS to ensure success, in-
11 cluding in the areas of housing, transport, commu-
12 nications, equipment, technical assistance, training,
13 command and control, intelligence, and such assist-
14 ance as is necessary to dissuade and deter air at-
15 tacks directed against civilians and humanitarian
16 workers; and

17 (3) the current level of United States assistance
18 and other assistance provided to AMIS, and a re-
19 quest for additional United States assistance, if nec-
20 essary.

21 **SEC. 9. DEFINITION.**

22 (a) COMPREHENSIVE PEACE IN SUDAN ACT OF
23 2004.—Section 2(2) of the Comprehensive Peace in
24 Sudan Act of 2004 (50 U.S.C. 1701 note) is amended to
25 read as follows:

1 “(2) GOVERNMENT OF SUDAN.—

2 “(A) IN GENERAL.—The term ‘Govern-
3 ment of Sudan’ means the National Congress
4 Party, formerly known as the National Islamic
5 Front, government in Khartoum, Sudan, or any
6 successor government formed on or after the
7 date of the enactment of the Darfur Peace and
8 Accountability Act of 2005 (including the coali-
9 tion National Unity Government agreed upon in
10 the Comprehensive Peace Agreement for Sudan,
11 signed in Nairobi, Kenya on January 9, 2005),
12 except that such term does not include the Gov-
13 ernment of Southern Sudan.

14 “(B) OFFICIALS OF THE GOVERNMENT OF
15 SUDAN.—The term ‘Government of Sudan’,
16 when used with respect to an official of the
17 Government of Sudan, does not include an
18 individual—

19 “(i) who was not a member of such
20 government prior to July 1, 2005; or

21 “(ii) who is a member of the Govern-
22 ment of Southern Sudan.”.

23 (b) SUDAN PEACE ACT.—Section 12(b) of the Sudan
24 Peace Act (50 U.S.C. 1701 note) is amended to read as
25 follows:

1 “(b) GOVERNMENT OF SUDAN DEFINED.—In this
2 section, the term ‘Government of Sudan’ means the Na-
3 tional Congress Party, formerly known as the National Is-
4 lamic Front, government in Khartoum, Sudan, or any suc-
5 cessor government formed on or after the date of the en-
6 actment of the Darfur Peace and Accountability Act of
7 2005 (including the coalition National Unity Government
8 agreed upon in the Comprehensive Peace Agreement for
9 Sudan, signed in Nairobi, Kenya on January 9, 2005),
10 except that such term does not include the Government
11 of Southern Sudan. Such term, when used with respect
12 to an official of the Government of Sudan, does not in-
13 clude an individual who was not a member of such govern-
14 ment prior to July 1, 2005, or an individual who is a mem-
15 ber of the Government of Southern Sudan.”.

○

Mr. SMITH. The Chair recognizes himself for a brief opening statement.

I would say to my colleagues, as you all know, since the crisis in the Darfur region of Sudan began 2 years ago, people around the world have scrambled to come to the aid of the 2.6 million Darfur residents who have been displaced by civil war. Members of this Congress, particularly Mr. Hyde, Mr. Payne, Mr. Lantos, Mr. Tancredo—really everyone on this Subcommittee—have worked hard on this issue over these many years. Several of us have devised legislation to address the pressing need to protect civilians from the government that has at times launched furious attacks on them.

The time for action is now, and it is unquestioned. There are too few of us who are passionately concerned with African issues, and the crisis in Darfur requires a compassionate response applied with passionate urgency. That is why we have developed a bipartisan response to this crisis. Because action must be taken soon to prevent further loss of life, H.R. 3127 has been carefully crafted to pass both houses of Congress in the shortest possible time frame in order to be a meaningful expression of our collective concern.

H.R. 3127 emphasizes the role of the African Union mission in Sudan and, like the Senate version, calls for accelerated assistance which the African Union has requested to enable it to carry out its mission. In fact, the AU has warned that its peacekeeping mission in Darfur risks failure unless it receives increased support soon.

H.R. 3127 calls on the United States to work through NATO to help the AU mission provide air support to protect the lives of the civilians. It recommends sanctions on the Government of Sudan that would affect the petroleum sector and calls for suspension of Sudan's rights and privileges as a member of the U.N. General Assembly unless it honors pledges to cease attacks on civilians. It prohibits trading in the United States capital markets and denies port entries to Sudanese vessels.

H.R. 3127 calls on member states to cease and desist actions that support either the Sudanese Government or the Darfur rebels so as to cut off arms and material that would keep the fighting going.

The legislation we are considering today could help save many lives and help end the appalling tragedy of Darfur. It is a step in that direction. Last month, a coalition of Members of Congress, African advocacy groups, interfaith leaders, women, youth and labor unions called on the Administration to take urgent action to protect as many as a million people who may be dead by the end of this year without urgent action by America and the rest of the world community.

We need to move this legislation through the House and the Senate as quickly as possible to meet the deadlines set for deploying African Union peacekeepers to Darfur by mid-September.

This Subcommittee has long operated on a bipartisan basis to protect the interests of Africans and all of Africa. As Chairman, I intend to continue that tradition, and I am pleased that H.R. 3127 is yet another example of our joint efforts to address Africa's challenges.

I would like to yield to my friend and colleague, Mr. Payne, for comments he might have.

Mr. PAYNE. Thank you very much, Mr. Chairman, and thank you for moving this Darfur Peace and Accountability Act of 2005.

As you know, this bill is the result of what proved to be somewhat tenuous negotiations between a number of offices, and I was, to be honest, quite disappointed that the original Darfur Genocide Accountability Act, H.R. 1424, was not scheduled for markup, would not be scheduled for markup. And in order to move along in Darfur, I think that there is too much suffering going on too long, and that I did agree to co-sponsor the new legislation that we have before us. H.R. 1424 had over 120 co-sponsors and many others interested in coming on board. However, that was 1424, and we are now talking about the new legislation before us, which has many similar counterparts. Of course, there are some areas that have been removed because it is a feeling that they went too far.

It is important to note that I agreed to co-sponsor Chairman Hyde's bill; he asked me and I said I would, as I mentioned, for the sake of the Sudan coalition. And I have to say that the Sudan coalition has really been a truly bipartisan effort. It has worked with Congressman Wolf, who was here before all of us. When Congressman Royce became Chairman of the Africa Subcommittee, Sudan was on the top of the agenda. When Congressman Tancredo came to the Congress, he, too, had a very strong interest. And I thought it was 2 or 3 years ago that we went to Sudan, he revised the number and told me it was 7 or 8 years ago. Time, I guess, travels quickly when you are having a good time, or maybe it just travels quickly, you know.

But I do commend my colleagues on the other side of the aisle for their continued interest and, of course, the Chairman, who has just been concerned about human rights throughout the world. And I commend Chairman Smith for his record which stands clear for everyone to see.

And of course, on our side of the aisle, we have stalwarts who have from day one as they entered Congress—Congresswoman Lee, Congresswoman McCollum, Congressman Meeke, Ambassador Watson—have all been strong supporters of trying to end these dastardly acts that have been going on in Sudan for too long. We had a civil war that lasted too long, for 20 years, the north versus the south. And people were then saying this was just a war between Christians and Muslims, and that the world always condemns Muslims because it is the old crusades, and that we had to continually show that this had nothing to do with religion, but Sharia law should not be applied throughout the whole country. We appealed that this had nothing to do with bias toward Muslims, that it was a north-south fight that should not have been happening, that Dr. Garang and his SPLA said that they would not have Sharia as a law. And so finally, with the Naivasha accords we have seen the north-south issue come to some settlement, and we are moving into the new Sudan.

However, we turned around and heard then about Darfur. No longer could we be accused of being anti-Muslim, and that this is once again bashing the Government of Sudan because it is Islamic, because the people of Darfur are Islamic, too. They carry the same Kuran that the people do in Khartoum. They pray the same num-

ber of times in Darfur in the west that they do in the capital city of Khartoum.

And so, all of a sudden, the Government of Khartoum could no longer say that is the Christian West and that it is the EU and America always saying that the Muslim and Islamic faith is wrong. These were Islamic government officials, military officials, Antonov planes, bombing Muslim people who lived in Darfur. And the reason was not because they were not good Darfurians. As a matter of fact, the government, the army of Sudan in the past was actually led by many Darfurians who fought with the Government of Sudan and the Islamic, National Islamic Front, against the south.

And so I want to say that this legislation is not as strong as I want it to be, but I feel that we should move it along. Even the capital market sanctions, the no-fly zone, the area of using unmanned aircraft to have a no-fly zone, not a single U.S. personnel on the ground was in the bill. However, we have a new bill.

I realize that sometimes we have to compromise, and that is what I am doing, and I have accepted the bill as it is. I do hope that we can work on much stronger legislation that really holds accountable those who are responsible for this horrific genocide which we are still watching today. But we have to be clear and consistent with the message that we send.

I want to take this opportunity to come out strongly against the announcement made by Secretary Rice when, en route to Sudan yesterday from Senegal, said that the Administration is considering upgrading its diplomatic presence in Sudan, and she looks forward to the Ambassador level being opened in the Government of Khartoum. I think this is terribly going in the wrong direction. She said: "We are looking for the day when we can put Ambassadorial representatives in there, because obviously things are moving pretty quickly in Sudan." Rice said she was willing to proclaim a new day in terms of our relationship with Sudan. A new day? Should we say that there is a new day as the situation in Darfur continues?

Rice's statement sends the message to Khartoum that the United States is eager to normalize relationships; our only caveat was that the move to send an Ambassador will be determined by a resolution of the situation in Darfur. I would like to see more clarity on what is considered by the State Department a resolution to the problem. Only when the genocide has stopped, when the Janjaweed are disarmed and the government troops are completely pulled out of Darfur, when the killing ends, when the starvation, when the rapes, when all of this ends, that is when we should start to possibly consider sending an Ambassador, when people are no longer starving and dying painful deaths due to neglect by their government should we even consider changing our relationships with Sudan.

Dr. John Garang of the SPLA was just sworn in last week as the first Vice President. But this does not mean that he will have influence over that government there. He has a title; he is just beginning. We are putting too many eggs in the basket that the Government of Khartoum will be dealing with him.

So what do we need? We need a special envoy who can devote the adequate time. And I commend a bill that talks about a special envoy. My last conversation with Mr. Zoellick was that he was not

sure that we needed a special envoy. He said he thought he could do the job, with all of the thousands of other things he has to do. I think that we should have a special envoy who could devote the adequate amount of time and attention, and apply strong pressure on the brutal regime in Khartoum. Any other discussion right now is simply irresponsible.

However, the suffering in Darfur continues. The U.S. has done a great deal in terms of providing humanitarian assistance, food relief. The United States has been ahead of the rest in Darfur and other parts of Sudan. And this is commendable. It was only 1 year ago that Secretary Powell traveled to Darfur to witness the horrible situation there. This was the first visit by a U.S. Secretary of State to Sudan since 1978, and Secretary Rice's visit to Darfur is welcomed and overdue.

You may recall when Powell visited Darfur, whip-whaling Sudanese troops kept foreigners away from the Powell entourage. In front of our Secretary of State, they used whips to keep people away because they did not want the average person to talk to him. That same day, students attempting to deliver a petition to Secretary-General Annan during his visit to Khartoum were shot in front of the Secretary-General by security forces. There is total disregard for people by the Government of Sudan. Last night, the government emptied out an IDP camp that Annan was supposed to visit the night before he visited that camp several months ago.

So this abusive behavior by the Sudanese security forces should be no surprise. Secretary Rice simply got a small taste of what President Omar Basheer's Government is all about when, just 2 days ago, U.S. officials and reporters were roughed up right in front of our Secretary of State and initially forcibly kept her and her people from going into the meeting with Basheer. One of the top ones, Andrea Mitchell, was pushed away and told to get her camera out, that we don't have our free press here. This is in front of our Secretary of State. This is the government that we are talking about normalizing relationships with and having an Ambassador. What more can they do to show you they have a disdain and a disrespect for anybody? Our Secretary of State has to have her entourage pushed physically by people just yesterday. It is disgraceful. It is a rogue regime, does not deserve the respect even of a visit of our Secretary of State. We lower our dignity when we go and ask them for permission to visit them.

So, thank you, Mr. Chairman, for calling this hearing. As you can see, this is an issue that has long been on our minds. I would like to also mention, though, that I am very pleased that State governments are moving. Senator William Payne had a bill passed through the New Jersey legislature, and the State Senate, and with your support of the legislation, the letter that we sent together to the New Jersey officials, on Thursday, there will be a divestment bill signed by Governor Codey of New Jersey that will say, no longer will pension funds from the people who work in New Jersey, no longer can that money be invested in companies doing business in Sudan. There will be no more blood money in New Jersey. And so I am so proud that signing will happen next Thursday. I will be proud to be there with this legislation.

Illinois will have one that will go into effect in January. We will have \$2 to \$4 billion removed from the government of companies doing business. These are not American companies, because the U.S. companies are restricted from doing business in Sudan.

And so we will continue to press forward, Mr. Chairman. Let me thank you for calling this very important bill up so that we can get it to the Floor before we adjourn. And thank you.

Mr. SMITH. Thank you so much, Mr. Payne.

If the gentleman would yield very briefly, congratulations on the work on that legislation in the State House of New Jersey. You and I both tried several years back to get the disinvestment from Talisman Oil, which was also another success in New Jersey.

I would like to yield to Mr. Tancredo.

Mr. TANCREDO. Thank you so much, Mr. Chairman. I appreciate—well, first of all, I certainly appreciate your bringing this bill forward, in the words of my colleague, Mr. Payne. We have indeed agreed to many changes, some I am quite concerned about and hope that we can address at some future time; one, of course, specifically with dealing with the ICC and the definition of the Government of Sudan.

We have agreed to various changes requested by the Department of State. We have agreed to various changes requested by the office of Senator Brownback. So this final piece of legislation is certainly not the bill that Congressman Payne and I have labored on and, again, Mr. Payne introduced as the primary sponsor.

You know, recently there were claims being made that the Government of Sudan has reduced or has been able to contain the Janjaweed and there have been fewer attacks outside of Darfur and on the villages. There is a reason there has been fewer attacks, but it has got nothing to do with the Government of Sudan containing the Janjaweed. It is because they have burned every village. There is nothing left to burn. There is not a village left to pillage. So, yes, fewer attacks have been registered, but inside the camps and around the camps, of course, there is still great danger and women being raped, people being murdered and, of course, we know, as Congressman Payne has said, people dying of starvation.

So I, too, wish that this bill had stronger provisions. Like so many things that we do here, though, we have to accommodate the desires of others in order to get anything done, and in this case, something is better than nothing. And so I will support the bill somewhat reluctantly, but with the hope that it will add to the efforts.

By the way, I should also say—I may be wrong, but it was my understanding earlier today when I heard the reports about Secretary Rice, that she in fact did say all those things about what we could do in Sudan, but I thought she prefaced them with saying only after things had been taken care of in Darfur. I mean, again, that was my understanding of her comments. I may be wrong. It was the radio coming in today that was the report that she made it clear that we could do all of these things and that Sudan could enter into the community of nations and we could have a relationship, but only if the issue of Darfur is settled and that these people are allowed to both get the supplies they need and, of course, have the ability to go back home because the area has been pacified.

So I just want to again thank my Chairman for bringing the bill forward and thank Mr. Payne for his leadership as always. Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Tancredo.

Ms. Lee.

Ms. LEE. Thank you, Mr. Chairman. Thank you, again, for your continued leadership, and also to Mr. Payne for really always making sure that, when it affects the people of Darfur, the people of Africa or anywhere in the world, that he works in a bipartisan fashion regardless of whether or not he gets the credit for it.

And so I just want to thank you, Mr. Payne, for your leadership and your commitment.

Clearly, we must do everything possible to end the murder, rape and suffering in Darfur. So while I support the bill before us today, I am troubled also that it doesn't go far enough. Genocide demands more. That is why, Mr. Chairman, I will offer a couple of amendments today. One, an amendment regarding the State pension divestment movement along with my colleagues, Congresswomen Watson and McCollum, also, a critical amendment to strengthen this bill by adding a prohibition on trading in U.S. capital markets. I am convinced that we must hit Khartoum where it hurts, and that is in the pocketbook, in order to end this genocide. So I look forward to our discussions today and the consideration and hopefully the passage of these amendments.

And, in conclusion, I would just like to say the State of California also is moving forward in terms of divesting from our public employee pension funds. We have a bill right now that is waiting on the State senate that would divest from California public employment retirement system of the probably \$8 to \$9 billion in 44 companies. And so I think this movement is taking place, and I think we need to do all we can do to rev up our efforts to end this genocide once and for all.

Thank you, Mr. Chairman. I yield the balance of my time.

Mr. SMITH. Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman. And I want to join in saying, thank you, to you, Mr. Chairman, as well as Mr. Payne for bringing this bill up.

And I want to echo the words of Congressman Payne who I know, particularly in Africa, but all across has been in the forefront.

And I want to join with the voices that say that I am supporting this bill and I think it is good; I think it is, it heads in the right direction. But there is much, much more that we can and need to do. And we need to send a much stronger message, and I think it helps us from being anywhere hypocritical, if you will, when I think about the heinous deeds that have taken place already and the millions of people that have been killed, and when I think about how we now are—and rightly so—the people of Iraq are holding Saddam Hussein for heinous acts that took place with the killing of people, that this seems to be real similar in a much more timely fashion that we should be taking action. We waited, you know, 1980, 1981 is when these atrocious acts were taking place in Iraq. And even though we had members of our Government still

there in the 1980s while these atrocious acts were taking place, he is being held now.

I think we have the opportunity with the Government of Khartoum to now be focused. And we can't settle to let people who have committed these heinous acts and allow them to continue to go on and to get away with it. They—anyone that was a part of those kind of heinous acts—should be punished to the fullest extent of the law. And we should in no way seem to be coddling them, because, remember, it always comes back to haunt us later when they end up turning against us. And the warning signs have been there already, because if I understand it correctly, in this same government, they once hosted Osama bin Laden. And so I am really concerned.

So I am pleased that in this bill that we ban the sale or supply of arms and related material to the Janjaweed or nongovernmental entities and individuals. I just wished that we had banned the total arms, a ban of arms to the entire country as opposed to just to the Janjaweed and the nongovernmental agencies.

And so, Mr. Chair, I am supporting this bill. I will support the amendments that are forwarded also that I think help strengthen this bill. It is a great step in the right direction. It shows what can happen when Democrats and Republicans sit down and work together. There is some compromise. I will take the first step. I just want to make sure that there are more steps to go, because we need to go all the way to send a message loud and clear that we are not going to tolerate and allow the kind of genocide that has taken place in Darfur to continue or to happen anyplace else.

And I yield back.

Mr. SMITH. Thank you, Mr. Meeks.

I have an amendment at the desk in the nature of a substitute. Without objection, it will be considered as read.

[The amendment referred to follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3127
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Darfur Peace and Ac-
3 countability Act of 2005”.

4 SEC. 2. DEFINITIONS.

5 In this Act:

6 (1) APPROPRIATE CONGRESSIONAL COMMIT-
7 TEES.—The term “appropriate congressional com-
8 mittees” means the Committee on International Re-
9 lations of the House of Representatives and the
10 Committee on Foreign Relations of the Senate.

11 (2) GOVERNMENT OF SUDAN.—

12 (A) IN GENERAL.—The term “Government
13 of Sudan” means the National Congress Party,
14 formerly known as the National Islamic Front,
15 government in Khartoum, Sudan, or any suc-
16 cessor government formed on or after the date
17 of the enactment of this Act (including the coa-
18 lition National Unity Government agreed upon

1 in the Comprehensive Peace Agreement for
2 Sudan), except that such term does not include
3 the regional Government of Southern Sudan.

4 (B) OFFICIALS OF THE GOVERNMENT OF
5 SUDAN.—The term “Government of Sudan”,
6 when used with respect to an official of the
7 Government of Sudan, does not include an
8 individual—

9 (i) who was not a member of such
10 government prior to July 1, 2005; or

11 (ii) who is a member of the regional
12 Government of Southern Sudan.

13 (3) COMPREHENSIVE PEACE AGREEMENT FOR
14 SUDAN.—The term “Comprehensive Peace Agree-
15 ment for Sudan” means the peace agreement signed
16 by the Government of Sudan and the Sudan Peo-
17 ple’s Liberation Movement/Army (SPLM/A) in
18 Nairobi, Kenya, on January 9, 2005.

19 **SEC. 3. FINDINGS.**

20 Congress makes the following findings:

21 (1) On July 22, 2004, the House of Represent-
22 atives and the Senate declared that the atrocities oc-
23 ccurring in the Darfur region of Sudan are genocide.

24 (2) On September 9, 2004, Secretary of State
25 Colin L. Powell stated before the Committee on For-

1 eign Relations of the Senate, “[w]hen we reviewed
2 the evidence compiled by our team, along with other
3 information available to the State Department, we
4 concluded that genocide has been committed in
5 Darfur and that the Government of Sudan and the
6 [Janjaweed] bear responsibility—and genocide may
7 still be occurring”.

8 (3) On September 21, 2004, in an address be-
9 fore the United Nations General Assembly, Presi-
10 dent George W. Bush affirmed the Secretary of
11 State’s finding and stated, “[a]t this hour, the world
12 is witnessing terrible suffering and horrible crimes in
13 the Darfur region of Sudan, crimes my government
14 has concluded are genocide”.

15 (4) On July 30, 2004, the United Nations Se-
16 curity Council passed Security Council Resolution
17 1556, calling upon the Government of Sudan to dis-
18 arm the Janjaweed militias and to apprehend and
19 bring to justice Janjaweed leaders and their associ-
20 ates who have incited and carried out violations of
21 human rights and international humanitarian law,
22 and establishing a ban on the sale or supply of arms
23 and related materiel of all types, including the provi-
24 sion of related technical training or assistance, to all

1 nongovernmental entities and individuals, including
2 the Janjaweed.

3 (5) On September 18, 2004, the United Na-
4 tions Security Council passed Security Council Reso-
5 lution 1564, determining that the Government of
6 Sudan had failed to meet its obligations under Secu-
7 rity Council Resolution 1556, calling for a military
8 flight ban in and over the Darfur region, demanding
9 the names of Janjaweed militiamen disarmed and
10 arrested for verification, establishing an Inter-
11 national Commission of Inquiry on Darfur to inves-
12 tigate violations of international humanitarian and
13 human rights laws, and threatening sanctions should
14 the Government of Sudan fail to fully comply with
15 Security Council Resolutions 1556 and 1564, includ-
16 ing such actions as to affect Sudan's petroleum sec-
17 tor or individual members of the Government of
18 Sudan.

19 (6) On February 1, 2005, the United Nations
20 released the Report of the International Commission
21 of Inquiry on Darfur, which had been submitted to
22 the United Nations Secretary-General on January
23 25, 2005.

24 (7) The Report of the International Commis-
25 sion of Inquiry on Darfur established that the "Gov-

1 ernment of the Sudan and the Janjaweed are re-
2 sponsible for serious violations of international
3 human rights and humanitarian law amounting to
4 crimes under international law,” that “these acts
5 were conducted on a widespread and systematic
6 basis, and therefore may amount to crimes against
7 humanity,” and that Sudanese officials and other in-
8 dividuals may have acted with “genocidal intent”.

9 (8) The Report of the International Commis-
10 sion of Inquiry on Darfur further notes that, pursu-
11 ant to its mandate and in the course of its work, the
12 Commission had collected information relating to in-
13 dividual perpetrators of acts constituting “violations
14 of international human rights law and international
15 humanitarian law, including crimes against human-
16 ity and war crimes” and that a sealed file containing
17 the names of those individual perpetrators had been
18 delivered to the United Nations Secretary-General.

19 (9) On March 24, 2005, the United Nations Se-
20 curity Council passed Security Council Resolution
21 1590, establishing the United Nations Mission in
22 Sudan (UNMIS), consisting of up to 10,000 military
23 personnel and 715 civilian police and tasked with
24 supporting implementation of the Comprehensive
25 Peace Agreement for Sudan and “closely and con-

1 tinuously liais[ing] and coordinat[ing] at all levels
2 with the African Union Mission in Sudan (AMIS)
3 with a view towards expeditiously reinforcing the ef-
4 fort to foster peace in Darfur”.

5 (10) On March 29, 2005, the United Nations
6 Security Council passed Security Council Resolution
7 1591, extending the military embargo established by
8 Security Council Resolution 1556 to all the parties
9 to the N’djamena Ceasefire Agreement and any
10 other belligerents in the states of North Darfur,
11 South Darfur, and West Darfur, calling for an asset
12 freeze and travel ban against those individuals who
13 impede the peace process, constitute a threat to sta-
14 bility in Darfur and the region, commit violations of
15 international humanitarian or human rights law or
16 other atrocities, are responsible for offensive military
17 overflights, or violate the military embargo, and es-
18 tablishing a Committee of the Security Council and
19 a Panel of Experts to assist in monitoring compli-
20 ance with Security Council Resolutions 1556 and
21 1591.

22 (11) On March 31, 2005, the United Nations
23 Security Council passed Security Council Resolution
24 1593, referring the situation in Darfur since July 1,
25 2002, to the prosecutor of the International Crimi-

1 nal Court and calling on the Government of Sudan
2 and all parties to the conflict to cooperate fully with
3 the Court.

4 (12) In remarks before the G–8 Summit on
5 June 30, 2005, President Bush reconfirmed that
6 “the violence in Darfur is clearly genocide” and “the
7 human cost is beyond calculation”.

8 **SEC. 4. SENSE OF CONGRESS.**

9 It is the sense of Congress that—

10 (1) the atrocities unfolding in the Darfur region
11 of Sudan have been and continue to be genocide;

12 (2) the African Union should rapidly expand
13 the size and amend the mandate of the African
14 Union Mission in Sudan (AMIS) to authorize such
15 action as may be necessary to protect civilians and
16 humanitarian operations, and deter violence in the
17 Darfur region without delay;

18 (3) the international community, including the
19 United Nations, the North Atlantic Treaty Organi-
20 zation (NATO), the European Union, and the
21 United States, should immediately act to mobilize
22 sufficient political, military, and financial resources
23 to support the expansion of the African Union Mis-
24 sion in Sudan so that it achieves the size, strength,
25 and capacity necessary for protecting civilians and

1 humanitarian operations, and ending the continued
2 violence in the Darfur region;

3 (4) if an expanded and reinforced African
4 Union Mission in Sudan fails to stop genocide in the
5 Darfur region, the international community should
6 take additional, dispositive measures to prevent and
7 suppress acts of genocide in the Darfur region;

8 (5) acting under Article 5 of the Charter of the
9 United Nations, the United Nations Security Coun-
10 cil should call for suspension of the Government of
11 Sudan's rights and privileges of membership by the
12 General Assembly until such time as the Govern-
13 ment of Sudan has honored pledges to cease attacks
14 upon civilians, demobilize the Janjaweed and associ-
15 ated militias, and grant free and unfettered access
16 for deliveries of humanitarian assistance in the
17 Darfur region;

18 (6) the President should use all necessary and
19 appropriate diplomatic means to ensure the full dis-
20 charge of the responsibilities of the Committee of
21 the United Nations Security Council and the Panel
22 of Experts established pursuant to section 3(a) of
23 Security Council Resolution 1591 (March 29, 2005);

24 (7) the United States should not provide assist-
25 ance to the Government of Sudan, other than assist-

1 ance necessary for the implementation of the Com-
2 prehensive Peace Agreement for Sudan, the support
3 of the regional Government of Southern Sudan and
4 marginalized areas in northern Sudan (including the
5 Nuba Mountains, Southern Blue Nile, Abyei, East-
6 ern Sudan (Beja), Darfur, and Nubia), as well as
7 marginalized peoples in and around Khartoum, or
8 for humanitarian purposes in Sudan, until such time
9 as the Government of Sudan has honored pledges to
10 cease attacks upon civilians, demobilize the
11 Janjaweed and associated militias, and grant free
12 and unfettered access for deliveries of humanitarian
13 assistance in the Darfur region;

14 (8) the President should seek to assist members
15 of the Sudanese diaspora in the United States by es-
16 tablishing a student loan forgiveness program for
17 those individuals who commit to return to southern
18 Sudan for a period of not less than five years for the
19 purpose of contributing professional skills needed for
20 the reconstruction of southern Sudan;

21 (9) the President should appoint a Presidential
22 Envoy for Sudan to provide stewardship of efforts to
23 implement the Comprehensive Peace Agreement for
24 Sudan, seek ways to bring stability and peace to the
25 Darfur region, address instability elsewhere in

1 Sudan and northern Uganda, and pursue a truly
2 comprehensive peace throughout the region;

3 (10) the international community should
4 strongly condemn attacks against humanitarian
5 workers and demand that all armed groups in the
6 Darfur region, including the forces of the Govern-
7 ment of Sudan, the Janjaweed, associated militias,
8 the Sudan Liberation Movement/Army (SLM/A), the
9 Justice and Equality Movement (JEM), and all
10 other armed groups to refrain from such attacks;

11 (11) the United States should fully support the
12 Comprehensive Peace Agreement for Sudan and
13 urge rapid implementation of its terms; and

14 (12) the Sudan People’s Liberation Movement
15 should seek to play a constructive role in bringing
16 about a political settlement to the crisis in the
17 Darfur region.

18 **SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.**

19 (a) **BLOCKING OF ASSETS AND RESTRICTION ON**
20 **VISAS.**—Section 6 of the Comprehensive Peace in Sudan
21 Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note)
22 is amended—

23 (1) in the heading of subsection (b), by insert-
24 ing “OF APPROPRIATE SENIOR OFFICIALS OF THE
25 SUDANESE GOVERNMENT” after “ASSETS”;

1 (2) by redesignating subsections (c) through (e)
2 as subsections (d) through (f), respectively; and

3 (3) by inserting after subsection (b) the fol-
4 lowing new subsection:

5 “(e) BLOCKING OF ASSETS AND RESTRICTION ON
6 VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE
7 PRESIDENT.—

8 “(1) BLOCKING OF ASSETS.—Beginning on the
9 date that is 30 days after the date of the enactment
10 of the Darfur Peace and Accountability Act of 2005,
11 and in the interest of contributing to peace in
12 Sudan, the President shall, consistent with the au-
13 thorities granted in the International Emergency
14 Economic Powers Act (50 U.S.C. 1701 et seq.),
15 block the assets of any individual who the President
16 determines is responsible, either by commission or
17 omission, for acts of genocide, war crimes, or crimes
18 against humanity in Sudan, including the family
19 members or any associates of such individual to
20 whom assets or property of such individual was
21 transferred on or after July 1, 2002.

22 “(2) RESTRICTION ON VISAS.—Beginning on
23 the date that is 30 days after the date of the enact-
24 ment of the Darfur Peace and Accountability Act of
25 2005, and in the interest of contributing to peace in

1 Sudan, the President shall deny visas and entry to
2 any individual who the President determines is re-
3 sponsible, either by commission or omission, for acts
4 of genocide, war crimes, or crimes against humanity
5 in Sudan, including the family members or any asso-
6 ciates of such individual to whom assets or property
7 of such individual was transferred on or after July
8 1, 2002.”.

9 (b) WAIVER.—Section 6(d) of the Comprehensive
10 Peace in Sudan Act of 2004 (as redesignated by sub-
11 section (a)) is amended by adding at the end the following
12 new sentence: “The President may waive the application
13 of paragraph (1) or (2) of subsection (c) with respect to
14 an individual if, prior to exercising the waiver, the Presi-
15 dent transmits to the appropriate congressional commit-
16 tees a notification of the waiver which includes the name
17 of the individual and the reasons for the waiver.”.

18 **SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUP-**
19 **PRESS GENOCIDE IN DARFUR.**

20 (a) UNITED STATES ASSISTANCE TO SUPPORT
21 AMIS.—Section 7 of the Comprehensive Peace in Sudan
22 Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note)
23 is amended—

1 (1) by striking “Notwithstanding” and insert-
2 ing “(a) GENERAL ASSISTANCE.—Notwithstanding”;
3 and

4 (2) by adding at the end the following new sub-
5 section:

6 “(b) ASSISTANCE TO SUPPORT AMIS.—Notwith-
7 standing any other provision of law, the President is au-
8 thorized to provide assistance, on such terms and condi-
9 tions as the President may determine and in consultation
10 with the appropriate congressional committees, to rein-
11 force the deployment and operations of an expanded Afri-
12 can Union Mission in Sudan (AMIS) with the mandate,
13 size, strength, and capacity to protect civilians and hu-
14 manitarian operations, stabilize the Darfur region of
15 Sudan and dissuade and deter air attacks directed against
16 civilians and humanitarian workers, including but not lim-
17 ited to providing assistance in the areas of logistics, trans-
18 port, communications, materiel support, technical assist-
19 ance, training, command and control, aerial surveillance,
20 and intelligence.”.

21 (b) NATO ASSISTANCE TO SUPPORT AMIS.—The
22 President shall instruct the United States Permanent
23 Representative to the North Atlantic Treaty Organization
24 (NATO) to use the voice, vote, and influence of the United
25 States at NATO to advocate NATO reinforcement of the

1 African Union Mission in Sudan (AMIS), upon the request
2 of the African Union, including but not limited to the pro-
3 vision of assets to dissuade and deter offensive air strikes
4 directed against civilians and humanitarian workers in the
5 Darfur region of Sudan and other logistical, transpor-
6 tation, communications, training, technical assistance,
7 command and control, aerial surveillance, and intelligence
8 support.

9 (c) DENIAL OF ENTRY AT UNITED STATES PORTS
10 TO CERTAIN CARGO SHIPS OR OIL TANKERS.—

11 (1) IN GENERAL.—The President should take
12 all necessary and appropriate steps to deny the Gov-
13 ernment of Sudan access to oil revenues, including
14 by prohibiting entry at United States ports to cargo
15 ships or oil tankers engaged in business or trade ac-
16 tivities in the oil sector of Sudan or involved in the
17 shipment of goods for use by the armed forces of
18 Sudan, to ensure that the Government of Sudan nei-
19 ther directly nor indirectly utilizes any oil revenues
20 to purchase or acquire offensive military equipment
21 or to finance offensive military activities.

22 (2) EXCEPTION.—Paragraph (1) shall not
23 apply with respect to cargo ships or oil tankers in-
24 volved in an internationally-recognized demobiliza-
25 tion program or the shipment of non-lethal assist-

1 ance necessary to carry out elements of the Com-
2 prehensive Peace Agreement for Sudan.

3 (d) PROHIBITION ON ASSISTANCE TO COUNTRIES IN
4 VIOLATION OF UNITED NATIONS SECURITY COUNCIL
5 RESOLUTIONS 1556 AND 1591.—

6 (1) PROHIBITION.—Amounts made available to
7 carry out the Foreign Assistance Act of 1961 (22
8 U.S.C. 2151 et seq.) may not be used to provide as-
9 sistance to the government of a country that is in
10 violation of the embargo on military assistance with
11 respect to Sudan imposed pursuant to United Na-
12 tions Security Council Resolutions 1556 (July 30,
13 2004) and 1591 (March 29, 2005).

14 (2) WAIVER.—The President may waive the ap-
15 plication of paragraph (1) if the President deter-
16 mines and certifies to the appropriate congressional
17 committees that it is in the national security inter-
18 ests of the United States to do so.

19 **SEC. 7. MULTILATERAL EFFORTS.**

20 The President shall direct the United States Perma-
21 nent Representative to the United Nations to use the voice
22 and vote of the United States to urge the adoption of a
23 resolution by the United Nations Security Council which—

24 (1) supports the expansion of the African Union
25 Mission in Sudan (AMIS) so that it achieves the

1 mandate, size, strength, and capacity needed to pro-
2 tect civilians and humanitarian operations, and dis-
3 suade and deter fighting and violence in the Darfur
4 region of Sudan, and urges member states of the
5 United Nations to accelerate political, material, fi-
6 nancial, and other assistance to the African Union
7 toward this end;

8 (2) reinforces efforts of the African Union to
9 negotiate peace talks between the Government of
10 Sudan, the Sudan Liberation Movement/Army
11 (SLM/A), the Justice and Equality Movement
12 (JEM), and associated armed groups in the Darfur
13 region, calls on the Government of Sudan, the SLM/
14 A, and the JEM to abide by their obligations under
15 the N'Djamena Ceasefire Agreement of April 8,
16 2004 and subsequent agreements, urges all parties
17 to engage in peace talks without preconditions and
18 seek to resolve the conflict, and strongly condemns
19 all attacks against humanitarian workers in the
20 Darfur region;

21 (3) imposes sanctions against the Government
22 of Sudan, including sanctions against individual
23 members of the Government of Sudan, and entities
24 controlled or owned by officials of the Government
25 of Sudan or the National Congress Party in Sudan;

1 (4) extends the military embargo established by
2 United Nations Security Council Resolutions 1556
3 (July 30, 2004) and 1591 (March 29, 2005) to in-
4 clude a total prohibition on the sale or supply of of-
5 fensive military equipment to the Government of
6 Sudan, except for use in an internationally-recog-
7 nized demobilization program or for non-lethal as-
8 sistance necessary to carry out elements of the Com-
9 prehensive Peace Agreement for Sudan;

10 (5) calls upon those member states of the
11 United Nations that continue to undermine efforts
12 to foster peace in Sudan by providing military assist-
13 ance and equipment to the Government of Sudan,
14 the SLM/A, the JEM, and associated armed groups
15 in the Darfur region in violation of the embargo on
16 such assistance and equipment, as called for in
17 United Nations Security Council Resolutions 1556
18 and 1591, to immediately cease and desist; and

19 (6) acting under Article 5 of the Charter of the
20 United Nations, calls for suspension of the Govern-
21 ment of Sudan's rights and privileges of membership
22 by the General Assembly until such time as the Gov-
23 ernment of Sudan has honored pledges to cease at-
24 tacks upon civilians, demobilize the Janjaweed and
25 associated militias, and grant free and unfettered ae-

1 cess for deliveries of humanitarian assistance in the
2 Darfur region.

3 **SEC. 8. REPORTS.**

4 (a) REPORT ON AFRICAN UNION MISSION IN SUDAN
5 (AMIS).—Section 8 of the Sudan Peace Act (Public Law
6 107–245; 50 U.S.C. 1701 note) is amended—

7 (1) by redesignating subsection (c) as sub-
8 section (d); and

9 (2) by inserting after subsection (b) the fol-
10 lowing new subsection:

11 “(c) REPORT ON AFRICAN UNION MISSION IN SUDAN
12 (AMIS).—Not later than 30 days after the date of the
13 enactment of the Darfur Peace and Accountability Act of
14 2005, and in conjunction with reports required under sub-
15 sections (a) and (b) of this section thereafter, the Sec-
16 retary of State shall submit to the appropriate congres-
17 sional committees a report, to be prepared in conjunction
18 with the Secretary of Defense, on—

19 “(1) efforts to fully deploy the African Union
20 Mission in Sudan (AMIS) with the size, strength,
21 and capacity necessary to stabilize the Darfur region
22 of Sudan and protect civilians and humanitarian op-
23 erations;

24 “(2) the needs of AMIS to ensure success, in-
25 cluding in the areas of housing, transport, commu-

1 nications, equipment, technical assistance, training,
2 command and control, intelligence, and such assist-
3 ance as is necessary to dissuade and deter attacks,
4 including by air, directed against civilians and hu-
5 manitarian operations;

6 “(3) the current level of United States assist-
7 ance and other assistance provided to AMIS, and a
8 request for additional United States assistance, if
9 necessary;

10 “(4) the status of North Atlantic Treaty Orga-
11 nization (NATO) plans and assistance to support
12 AMIS; and

13 “(5) the performance of AMIS in carrying out
14 its mission in the Darfur region.”.

15 (b) REPORT ON SANCTIONS IN SUPPORT OF PEACE
16 IN DARFUR.—Section 8 of the Sudan Peace Act (Public
17 Law 107–245; 50 U.S.C. 1701 note), as amended by sub-
18 section (a), is further amended—

19 (1) by redesignating subsection (d) (as redesign-
20 nated) as subsection (e); and

21 (2) by inserting after subsection (c) the fol-
22 lowing new subsection:

23 “(d) REPORT ON SANCTIONS IN SUPPORT OF PEACE
24 IN DARFUR.—Not later than 30 days after the date of
25 the enactment of the Darfur Peace and Accountability Act

1 of 2005, and in conjunction with reports required under
2 subsections (a), (b), and (c) of this section thereafter, the
3 Secretary of State shall submit to the appropriate congres-
4 sional committees a report regarding sanctions imposed
5 under subsections (a) through (d) of section 6 of the Com-
6 prehensive Peace in Sudan Act of 2004, including—

7 “(1) a description of each sanction imposed
8 under such provisions of law; and

9 “(2) the name of the individual or entity sub-
10 ject to the sanction, if applicable.”.

11 (c) REPORT ON INDIVIDUALS IDENTIFIED BY THE
12 UNITED NATIONS AS RESPONSIBLE FOR GENOCIDE, WAR
13 CRIMES, AND CRIMES AGAINST HUMANITY IN DARFUR.—

14 Section 8 of the Sudan Peace Act (Public Law 107–245;
15 50 U.S.C. 1701 note), as amended by subsections (a) and
16 (b), is further amended—

17 (1) by redesignating subsection (e) (as redesign-
18 ated) as subsection (f); and

19 (2) by inserting after subsection (d) the fol-
20 lowing new subsection:

21 “(e) REPORT ON INDIVIDUALS IDENTIFIED BY THE
22 UNITED NATIONS AS RESPONSIBLE FOR GENOCIDE, WAR
23 CRIMES, AND CRIMES AGAINST HUMANITY IN DARFUR.—

24 Not later than 30 days after the date on which the United
25 States has access to any of the names of the individuals

1 identified by the International Commission of Inquiry on
2 Darfur (established pursuant to United Nations Security
3 Council Resolution 1564 (2004)), or the names of the indi-
4 viduals designated by the Committee of the United Na-
5 tions Security Council (established pursuant to United
6 Nations Security Council Resolution 1591 (2005)), the
7 Secretary of State shall submit to the appropriate congres-
8 sional committees a report containing the determination
9 of the President as to whether such individuals are subject
10 to sanctions under section 6 of the Comprehensive Peace
11 in Sudan Act of 2004 and the reasons for such determina-
12 tion.”.

Mr. SMITH. I would like to make a very brief statement and, without objection, have a full explanation of that amendment which has been worked out with the Minority. It is primarily a technical amendment, but I will give you an example.

In the section concerning additional authorities to deter and suppress genocide in Darfur, we are delinking this provision from sanctions imposed pursuant to the Sudan Peace Act. Consequently, it will be applicable following the conclusion of the comprehensive peace agreement for Sudan.

We are also adding clarifying language to provide exceptions for internationally recognized demobilization efforts and security and destruction in south Sudan.

We also have consulted with the Department of State and received some very good input from them so that we will not have any unintended consequences from this legislation. Again, this has been completely shared with the Minority, and it has been concurred with.

I would like to ask, are there any amendments to the amendment in the nature of a substitute?

Ms. Lee.

Ms. LEE. Yes, Mr. Chairman. I have an amendment at the desk.

Mr. SMITH. The clerk will report the amendment.

Ms. PLUMLEY. Which amendment?

Ms. LEE. This is amendment number one.

Ms. PLUMLEY. Amendment to H.R. 3127 offered by Ms. Lee—

Mr. SMITH. Without objection, the amendment will be considered as read. The gentlelady is recognized in support of her amendment.

[The amendment referred to follows:]

AMENDMENT TO H.R. 3127**OFFERED BY MS. LEE OF CALIFORNIA**

**(Page and Line Numbers Refer to the Amendment in the
Nature of a Substitute)**

Page 10, line 13, strike “and”.

Page 10, line 17, strike the period at the end and
insert “; and”.

Page 10, after line 17, insert the following new
paragraph:

1 (13) the State of Illinois should be commended
2 for enacting legislation to curb investments in Sudan
3 and other States should be encouraged to follow the
4 model of Illinois.

Ms. LEE. Thank you, Mr. Chairman. This is a very simple amendment. It is really a one-sentence sense of Congress provision which commends the State of Illinois for enacting legislation to curb investments in Sudan, and encourages other States to follow it as a model.

For those of you who may not be familiar with Illinois legislation, on June 25th, the governor signed Senate Bill 23, a measure offered by Senator Collins and Jones to suspend State investment in companies doing business in Sudan. The measure had passed the general assembly with very wide bipartisan support in May. The bill prohibits the State treasury from depositing funds or contracting with any financial institution doing business in the Sudan. The bill also prohibits State retirement systems and pension funds from loaning or investing in any company that invests in or does business with Sudan.

We all know that Federal law currently prohibits United States companies from directly doing business with companies in the Sudan. The Illinois bill goes a necessary step further by targeting investments in foreign companies that do business in Sudan. The bill places responsibility on financial institutions and fund-managing companies by requiring a certificate stating that they are not engaged with any company they are forbidden from doing business within Sudan. The bill exempts companies certified as nongovernmental organizations by the United Nations or ones that are engaged solely in providing goods and services for relieving human suffering or to promote welfare, health, and religious and spiritual activities and education for humanitarian purposes.

We know from our experience, Mr. Chairman, with South Africa, that divestment works, and the Illinois legislation represents an excellent model for States all across the country who are either currently considering legislation or who are drafting legislation to divest from State pension funds. As I have stated before in my ongoing efforts to encourage California pension funds, especially the Nation's largest pension fund, which is our own CalPERS, to take the moral lead in this fight. Pensioners in California and across this land should not have to worry that their investments and their retirements are funded by genocide. They do not want blood on their hands. So I would encourage each of you to join me today in adopting this very simple amendment that encourages States to keep up their efforts to defund the genocide that is taking place in Darfur and use this bipartisan Illinois model to do so.

Thank you, Mr. Chairman. And I hope that we can have bipartisan support for this.

Mr. SMITH. You certainly do have it. We are just upset that you beat us to the punch in terms of Illinois versus New Jersey. I understand your amendment number three will include New Jersey. Our State expects to have this; acting Governor Codey will sign the legislation, I am told, as early as Thursday. We, too, will then join Illinois in this very important endeavor.

Would anyone else like to be heard on the amendment? If not, the question occurs on the amendment. All those in favor, say aye. Those opposed, no. The ayes have it, and the amendment is agreed to.

Are there any other amendments?

Ms. Lee, Ms. McCollum.

Ms. MCCOLLUM. Mr. Chair, I have an amendment at the desk.

Mr. SMITH. The clerk will report the amendment.

Ms. PLUMLEY. Amendment to H.R. 3127 offered by Ms. McCollum.

[The amendment referred to follows:]

AMENDMENT TO H. R. 3127**OFFERED BY MS. MCCOLLUM OF MINNESOTA**

**(Page and Line Numbers Refer to the Amendment in the
Nature of a Substitute)**

Page 7, after line 11, insert the following new paragraphs:

1 (2) the genocide committed in the Darfur re-
2 gion of Sudan is the result of acts of terrorism,
3 mass-murder, and systematic acts of rape and sexual
4 violence committed by the Janjaweed and associated
5 militias with the complicity and support of the Gov-
6 ernment of Sudan;

7 (3) the determination of the Secretary of State
8 that Sudan is a country, the government of which,
9 for purposes of section 6(j) of the Export Adminis-
10 tration Act of 1979, section 620A of the Foreign As-
11 sistance Act of 1961, section 40 of the Arms Export
12 Control Act, or any other provision of law, is a gov-
13 ernment that has repeatedly provided support for
14 acts of international terrorism, should be reaffirmed;

15 (4) the Secretary of State should designate the
16 Janjaweed militia as a foreign terrorist organization

1 under section 219 of the Immigration and Nation-
2 ality Act;

Mr. SMITH. Reserve a point of order.

Ms. MCCOLLUM. Thank you, Mr. Chair.

I want to thank you for holding this hearing, and I want to thank Chairman Royce for the life-moving experience that I had in Sudan. And so, Mr. Chair, I offer this amendment on behalf of the people of Sudan.

Sudan is a rogue state. Sudan is a state-sponsored terrorist designated by the Department of State, and it has held that status since 1993. In Darfur, the Khartoum regime commits acts of terrorism, supports militias that commit acts of terror, mass murder. The systematic rape of girls and women and the destruction of some 20,000 villages—excuse me, 2,000 villages. There is more than 2 million people that have been driven from their homes, and tens of thousands of lives are at risk because of disease and ongoing terrorist acts by Khartoum militias. This is an evil regime.

Mr. Chairman, genocide is not a number of random incidents of violence; genocide is the sum total of horrible systematic acts of terror that are perpetrated against civilians. Genocide is the outcome of this terrorism; murder and rape perpetrated with the support and complicity of the Government of Sudan upon Darfur's children, women, and men.

Mr. Chairman, I believe my amendment should be noncontroversial. I ask for Congress, along with Ms. Lee and Ms. Watson, we ask for Congress to state unequivocally that, first, the genocide in Darfur is the outcome of planned acts of terrorism, mass murder, the systematic acts of sexual violence and rape committed by the Janjaweed and other militias with the support and complicity of the Government of Sudan.

Second, the amendment urges the Department of State to maintain Sudan's designation as a state sponsor of terrorism.

And, third, the amendment urges the Department of State to designate the Janjaweed militia as a foreign terrorist organization.

Mr. Chair, today, in the *New York Times*, under the headline, "Sudan Still Pays Militias that are Harassing Darfur, U.S. says." and the article states, and I quote from it:

"The Sudanese Government . . . is still paying regular salaries to leaders of militias there that continue to attack and kill civilians, say American officials and aid workers stationed in Sudan."

Last week and again today, the President of Sudan called on the United States to lift trade sanctions while his regime continues to support genocide. Today, it was reported that Secretary Rice said she might consider easing some sanctions on rail and aircraft components.

This would be appeasing a terrorist regime. It would not be a diplomatic success. There must be no mixed messages from the United States to Sudan. There must be absolutely no coddling, collaborating with this rogue regime in Khartoum by the U.S. Government. The American people will not tolerate it.

Hundreds of thousands of innocent people are in graves, yet not one single person who perpetrated or supported the terrorism, this mass murder, the genocide, has been prosecuted. The Government of Sudan, the Janjaweed militia must be held accountable for their

crimes against humanity. These crimes have been committed as a result of their direct actions of terrorism, mass murder and genocide.

I respectfully ask my colleagues to support this amendment. I thank you, Mr. Chair, for having this hearing. And, Mr. Chair, I would like to enter into the record the full *New York Times* article in which I referred.

[The information referred to follows:]

The New York Times July 21, 2005 Thursday

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HEADLINE: Sudan Still Paying Militias Harassing Darfur, U.S. Says

BYLINE: By JOEL BRINKLEY

DATELINE: KHARTOUM, Sudan, July 20

BODY:

The Sudanese government, after promising a parade of foreign leaders over the past year to rein in the violence in Darfur, is still paying regular salaries to leaders of militias there that continue to attack and kill civilians, say American officials and aid workers stationed in **Sudan**.

At least 180,000 people in Darfur have died since 2003.

International aid organizations say the attacks have diminished in recent months. But State Department officials say because government-financed militias and others have been so successful at intimidating or killing civilian residents, now almost everyone who might have been a target is either dead or living in a refugee camp. The camps, spread across Darfur and over the western border in Chad, now hold more than two million people.

Yet the militias remain armed and poised in the western provinces, American government officials say. The militias also continue to train and arm recruits. At a recent ceremony for 400 recruits, senior Sudanese military officers applauded the graduates, African peacekeepers who saw it told aid workers.

The International Crisis Group, a private organization, said in a report two weeks ago that militia leaders "remain on the payroll of the state governments," which are branches of the federal government. Colin S. Thomas-Jensen, media assistant for the group, said the information came from "interviews with government officials in Darfur who oversaw the payments to the militias."

A senior administration official traveling with Secretary of State Condoleezza Rice, who arrived here Wednesday evening for talks with Sudanese government leaders about the problems in Darfur, said she intended to raise the issue of the continuing payments to militia leaders and demand they be stopped. Earlier on Wednesday, she repeated the Bush administration's view that the killing in Darfur is genocide.

But given the history of Sudanese pledges to end the violence, Ms. Rice said, she is "unwilling to accept representations" from the Sudanese government on its efforts in Darfur. The Sudanese government has made such promises to the former secretary of state, Colin L. Powell, Secretary General Kofi Annan and Deputy Secretary of State Robert B. Zoellick, among others.

Ms. Rice is also in **Sudan** to encourage the formation of the national unity government, which was set up early this month after a peace agreement in a long civil war with southern rebels.

For some present and former Sudanese officials, her role is part of the problem. Last year the United States helped broker the accord that led to the new government, which took office July 9. That, these officials said, may prevent the United States from being as forceful as it wants because it must depend on the Sudanese government to carry out the north-south accord.

"It is true they wanted the north-south agreement, and therefore they minimized Darfur," Richard C. Holbrooke, United Nations ambassador during the Clinton administration, said in an interview describing the American role. "But I am not sure they were wrong. The north-south conflict killed three million people, more or less. But they" -- the administration -- "stuck with it too long, and that was a mistake."

Mr. Zoellick, who is now the administration's lead official on **Sudan** and has visited three times in three months, dismissed that concern. At least since he first took on the issue in April, Mr. Zoellick said in an interview this week, "I haven't found an impediment" in trying to work both issues at the same time.

Realizing that the government of **Sudan** cannot be counted on to end the violence, the United States, the United Nations and the African Union have tried to create a shadow security force in Darfur to protect the residents.

About 2,300 soldiers from several African nations have been stationed here since late last year, serving as peacekeepers -- or monitors, as they are called. The force is not adequate for the need, though, and poorly armed. Their numbers are far too few to patrol Darfur, which is the size of France.

At a news conference in Dakar, Senegal, on Wednesday, Cheikh Tidiane Gadio, the Senegalese foreign minister, said his country was "totally dissatisfied" with the African Union's response to the Darfur problem. Despite the presence of the African troops (including Senegalese), "the militias are still very active, killing people, burning villages, raping women."

The African Union is increasing its force and hopes to have 7,700 soldiers here by September. In a pointed gesture aimed at **Sudan's** government, the State Department has arranged to have 390 Rwandan peacekeepers greet Ms. Rice on Thursday at El Fashir, on her way to the Abu Shouk refugee camp. United States Air Force planes attached to NATO ferried the troops to El Fashir.

At the news conference in Dakar, Ms. Rice noted that "wherever there is monitoring, there is less violence." Still, she expressed frustration with the pace of deployment, saying, "The A.U. has to move and cannot get caught up in any bureaucratic or political concerns."

Mr. Zoellick, in the interview, did give the government some credit.

"I do think the government of **Sudan** has made some adjustments as we have pressed," he said. "They have welcomed the A.U. They welcomed NATO forces in their own country. Still to come is the problem of the militias. They are still in place, and there is still violence."

Administration officials said the evidence that the government was still paying militia leaders is anecdotal but convincing. Mr. Thomas-Jensen said the International Crisis Group was also present during the briefing by African Union troops who disclosed that they had seen Sudanese government officers "at graduation ceremonies for 400 trainees."

Referring to government support for the militias, a senior administration official maintained that the United States was "gradually hemming this in, but we have a long way to go."

In the meantime, Mr. Zoellick said, after "a terrible phase where people were chased off their land" over the last two years, "that stage of the killing is complete." But Darfur, he added, "is still a very dangerous place."

He was speaking to reporters on July 5, just before his third trip here. During a news conference here a few days later, he said "people still face the dangers" of the militias.

The United States maintains economic sanctions against **Sudan** and has not had an ambassador here since 1997. But by carrying out the north-south peace agreement on July 9, President Omar Hassan A. al-Bashier appeared to believe he had placated the United States. On July 13, he called on Washington to lift economic sanctions.

To that Ms. Rice, speaking to reporters on her plane, said, "We still hold the Sudanese government accountable for what is going on in Darfur."

Mr. SMITH. Without objection, the full *Times* article will be made a part of the record. Also, the Chair lifts the point of order. There is no point of order. We have read your amendment. I think it is a good strengthening amendment and am prepared to accept it. Would anyone else like to be heard on Ms. McCollum's amendment?

Ms. WATSON. Yes, Mr. Chairman.

Mr. SMITH. Ambassador Watson.

Ms. WATSON. Mr. Chairman, I want to thank you for calling this markup so we can move this legislation forward.

This bill permits the United States Government to start taking concrete steps to protect the people of Darfur from the genocide being inflicted on them by leaders of the National Congress Party, formerly known as the National Islamic Front. I am a co-sponsor of this bill, and I support this effort to compel the National Congress Party to end their genocidal campaign.

In the course of putting this bill together, however, we have made some compromises, and I feel there are some significant omissions in the bill which we should seek to ratify before we move forward. And in particular, I am distressed that two important provisions are missing from this bill. The first is the authorization from the President to use the full range of American power to stop the genocide in Darfur. However, with our discussion here at the table today, and I know how strongly my colleagues feel, I am not going to introduce that particular amendment. But I just want to discuss it for a second.

What the provision would have done would be to emphasize the preeminent role of the African Union in solving this crisis. And I do support the idea that the African Union should have a leading role in ending the Darfur genocide. But we, if we are serious about ending the genocide, we should be ready and willing to take the necessary steps to do so. Putting these narrow limits on the authority of the President to intervene to stop the genocide signals to the world that our attention is divided and our devotion to the cause is qualified. We can rectify this situation by giving the President fuller authority to act to stop the crisis while still putting the African Union in the forefront of finding a solution. But I think we have already discussed that, and so I will not be introducing that amendment.

The second amendment is the removal of capital market sanctions from the bill. And what we have done just a few seconds ago on taking up the divestment language that was introduced by Congresswoman Lee and certainly the language that was used to describe the amendment that Congresswoman McCollum just mentioned, I think, takes care of those two areas that we feel were omitted in the bill. And so I feel that we have a good start.

And I just have one more amendment. I think it has already been submitted by Mr. Crowley.

Mr. SMITH. I would advise the gentlelady that we will get to her amendment as soon as we dispense with Ms. McCollum's amendment.

Ms. WATSON. Okay. So I think that one needs some additional language in it based on our recent conversation, so I am going to withdraw my amendment.

Thank you, Mr. Chairman.

Mr. SMITH. I thank you for working very cooperatively with us. Would anybody else like to be heard on the McCollum amendment? If not, the question occurs on the amendment offered by Ms. McCollum. All those in favor, say aye. All those opposed, no. The ayes have it, and the amendment is agreed to.

Are there any other amendments to the amendment?

Ms. LEE. Mr. Chairman, I have an amendment at the desk.

Mr. SMITH. The clerk will report the amendment by Ms. Lee.

Ms. LEE. Amendment number three.

Ms. PLUMLEY. Amendment to H.R. 3127 offered by Ms. Lee of California.

Mr. SMITH. Without objection, the amendment will be considered as read. The gentlelady is recognized.

[The amendment referred to follows:]

AMENDMENT TO H.R. 3127

OFFERED BY MS. LEE OF CALIFORNIA

**(Page and Line Numbers Refer to the Amendment in the
Nature of a Substitute)**

Page 10, line 13, strike “and”.

Page 10, line 17, strike the period at the end and
insert “; and”.

Page 10, after line 17, insert the following new
paragraph:

1 (13) the State of Illinois, the State of New Jer-
2 sey, and other States should be commended for their
3 efforts to curb investments in Sudan.

Ms. LEE. Thank you, Mr. Chairman. This amendment commends and congratulates the State of Illinois and the State of New Jersey and other States in their efforts to curb investments in Sudan.

And let me just say, Mr. Chairman, yes, Illinois was number one, but New Jersey will be number two, and I hope California will be number three. And so—

Mr. PAYNE. Would the gentlelady yield?

Ms. LEE. I would yield.

Mr. PAYNE. The New Jersey legislation goes into effect Friday. Illinois, unfortunately, doesn't go in until January 1st of 2006. And so I do commend them; however, we will be the first.

Ms. LEE. Well, I will call California and see if we can fast track the California legislation.

So let me say, though, Mr. Chairman, I think it is good that we see this movement taking off in our country. And I hope that the Sudanese Government and the people of Sudan and the people of Darfur understand that we are doing everything that we can do to stop this humanitarian disaster which we all recognize as genocide.

Thank you, Mr. Chairman.

And congratulations to you and New Jersey and to Mr. Payne.

Mr. SMITH. The question occurs on the amendment offered by Ms. Lee. All those in favor, say aye. Opposed. The ayes have it. The amendment is agreed to.

Are there any further amendments to the legislation?

Ms. Lee.

Ms. LEE. Mr. Chairman, I have another final amendment at the desk.

Mr. SMITH. The clerk will report the amendment by Ms. Lee on capital markets.

Ms. PLUMLEY. I don't have the amendment. Lee number 2?

Mr. SMITH. Do you want to read it?

Mr. FREEMAN. Amendment offered by Ms. Lee—

Mr. SMITH. Without objection, the amendment will be considered as read. And the gentlelady from California is recognized in support of her amendment.

[The amendment referred to follows:]

AMENDMENT TO H.R. 3127
OFFERED BY MS. LEE OF CALIFORNIA, MS.
MCCOLLUM OF MINNESOTA, AND MS. WATSON
OF CALIFORNIA

*(Page and Line Numbers Refer to the Amendment in the
Nature of a Substitute)*

Page 15, after line 18, insert the following new subsection:

(e) PROHIBITION ON TRADING IN UNITED STATES CAPITAL MARKETS.

- (1) Prohibition- The President shall exercise the authorities he has under the International Emergency Economic Powers Act (without regard to the requirements set forth in section 202 of that Act) to prohibit any entity engaged in any commercial activity in Sudan--
 - (A) from raising capital in the United States; or
 - (B) from trading its securities (or depository receipts with respect to its securities) in any capital market in the United States.
- (2) Penalties- The penalties under section 206 of the International Emergency Economic Powers Act shall apply to violations under paragraph (1) to the same extent as such penalties apply to violations under that Act.
- (3) Waiver- The President may waive the application of sanctions in this section if the President determines and certifies to the appropriate congressional committees that such a waiver is in the national interest of the United States.
- (4) Notification of Waivers of Sanctions- Not later than 30 days before waiving the provisions of any sanctions currently in force with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons therefor.

Ms. LEE. Thank you, Mr. Chairman.

This amendment is sponsored by myself, Congresswomen Watson and McCollum. And, really, it is an amendment that is very important, and it really is a provision that we have taken directly from the previous bill and is critical and provides a very powerful tool to bring accountability and peace to Darfur. It is straightforward. This amendment basically prohibits any entity engaged in any commercial activity in the Sudan from raising capital in the United States or for trading securities in any capital market in the United States.

The amendment further provides for penalties under the International Emergency Economic Powers Act, and also allows for Presidential waivers upon proper notification and certification to the appropriate congressional committees.

Mr. Chairman, this amendment represents a powerful tool, as I said earlier, in our economic arsenal that would complement and would strengthen the bill before us today. Let us be honest: Money talks. Money talks everywhere in the world. And when Khartoum truly feels the pain in its pocket, we can bet they will begin to at least talk about ending genocide, and then hopefully they will act accordingly. We know from experience that economic pressure works. Don't we owe this to the victims, the innocent victims of genocide in Darfur? I think we need to do everything we can do to ensure that they know that we are trying to end their pain and suffering immediately. And so I think the answer is very clear in how we do this, how the United States can take the lead in making sure that this, again, this humanitarian crisis, this disaster, this genocide ends.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Ms. Lee.

I recognize myself briefly to say I strongly support the amendment. In fact, the original Sudan Peace Act, as you may recall, included a similar amendment. It was Tom Tancredo's bill that was added by Spencer Bachus that had this very provision, but regrettably was dropped in conference when the Senate objected vigorously to it. Hopefully, we can take another shot at it. It is a good amendment, and I think it strengthens the bills.

Mr. Payne.

Mr. PAYNE. Yes, Mr. Chairman, will you yield? Let me just indicate that, as you know with the Naivasha peace accords, we have a Southern Sudan that is the new side, is the place that may be its capital. And Dr. John Garang will be President of the new Sudan. I just want to make it clear that, in our legislation, it does not prohibit investment into the south of Sudan, which is not a part of Khartoum. There is a line that separates the two. So we will certainly be encouraging investment into the south of Sudan. And so we want everyone to know that it does restrict even the divestment. We will actually even recommend the money being divested from companies doing business in Khartoum look at Southern Sudan where there are tremendous opportunities. Thank you.

Mr. SMITH. Would anyone else like to be heard?

Mr. Fortenberry.

Mr. FORTENBERRY. I think that is an important point to be made. And if you could clarify that a little bit further, that would be very helpful here.

Mr. PAYNE. Well, the Naivasha accord, the north-south conflict has been going on since the NIF Government took over militarily in 1984. And so we are very sensitive, and I have visited Southern Sudan on several occasions. There is self-governing in south Sudan. They will be installing—Dr. John Garang is actually President of south Sudan and Vice President of the Government of Sudan. That is the reason why there are two separate governments.

As a matter of fact, after the 6 years in the legislation that the north and south have signed, it will be a time, after 6 years, that the Sudanese in the south will have a right to vote on whether they want to secede from the government and the country of Sudan and have as an independent country south Sudan. And so it does not impact—as a matter of fact, we believe that by investing in the south, the government in Khartoum will understand that it needs the south to become a strong unified country and that it will not continue to segment the west and the east.

Mr. FORTENBERRY. If the gentleman would yield.

Mr. PAYNE. Yes.

Mr. FORTENBERRY. Should that distinction be made in this amendment?

Mr. PAYNE. Reclaiming my time. It is being, it is in the legislation that the—it is included in the act itself, was in the previous bill. Mr. Hyde took most of the bill, as we indicated, took out the use of giving the President the authority to use force, it took out the no-fly zone, that we were going to use the Predator and the U2s and so forth. Those were what were removed from the bill. And so it is in the original bill which has not been changed, so it is included.

Mr. FORTENBERRY. And certainly, I am with you in spirit in trying to do whatever you can economically to pressure the regime and not empower the regime further from committing acts of genocide. I just worry here that, given there is only one internationally recognized Government of Sudan, and I am not very clear on the explanation regarding the distinctions that can be made between the south and the north at this point, that is troubling.

Mr. PAYNE. Reclaiming my time. There is a distinction. We have been following this for 18 years. I will be in Southern Sudan at the signing of the new Government of Sudan.

Believe me, I would be the last person in the world to pass legislation that would hurt the south of Sudan that has suffered from Sharia law, have suffered from bombing; 2 million people have died in the south of Sudan because of the Government of Sudan. So, take my word, this does not apply to the Government of Southern Sudan which is called the GoSS. GoSS is the way that GoSS is—it is section—page 9, line 24: The United States should not provide assistance to the Government of Sudan other than assistance necessary for the implementation of the comprehensive peace agreement for Sudan, the support of the regional Government of Southern Sudan in marginalized areas in Sudan including Nuba Mountains, South Blue Nile, Abia, eastern Sudan, Beja, Darfur and Nubia. So the gentleman would look at the amendment in the na-

ture of a substitute on page 8 and 9, and it clearly brings that out. Line 24, section 7.

Mr. SMITH. Dr. Boozman.

Mr. BOOZMAN. No.

Mr. SMITH. I thought you wanted to talk.

Mr. BOOZMAN. Well, I did. I am trying to get this straight, too, if we are talking about language that is in this bill versus language that is in another bill that clearly states what we are trying to do.

Mr. PAYNE. It is the same bill. Mr. Smith is offering an amendment in the nature of a substitute, 3127. And it is on your desk. If anyone—and even the gentleman to your right. If he looks at page 8 and reads it, line 24, section 7, it is about as clear—I think it is very clear.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you.

Would anyone else like to be heard on the amendment by Ms. Lee? If not, the question occurs on the amendment by the gentlelady from California, Ms. Lee. All those in favor, say aye. All those opposed, no. The ayes have it, and the amendment is agreed to.

Are there any other amendments to the bill or to the amendment in the nature of a substitute?

Ambassador Watson.

Ms. WATSON. Yes.

Mr. SMITH. You have an amendment?

Ms. WATSON. Yes.

Mr. SMITH. The clerk will report the Watson amendment.

Ms. PLUMLEY. Amendment to H.R. 3127 offered by Ms. Watson of California—

Mr. SMITH. Without objection, the amendment will be considered as read. The gentlelady is recognized.

[The amendment referred to follows:]

AMENDMENT TO H.R. 3127
MS. WATSON
OFFERED BY ~~MR. CROWLEY~~ OF NEW YORK

**(Page and Line Numbers Refer to the Amendment in the
Nature of a Substitute)**

Page 7, after line 7, insert the following new paragraph:

1 (13) While meeting with Sudanese President
2 Omar el-Bashir in Khartoum, Sudan, on July 21,
3 2005, members of the official delegation of Secretary
4 of State Condoleezza Rice and representatives of the
5 media were physically harassed and mistreated by
6 armed Sudanese guards, actions which are condem-
7 nable and indicative of the historic authoritarian na-
8 ture of the National Congress Party, formerly
9 known as the National Islamic Front, led Govern-
10 ment of Sudan.

Page 10, line 13, strike “and”.

Page 10, line 17, strike the period and insert “;
and”.

Page 10, after line 17, insert the following new
paragraph:

1 (13) Secretary of State Condoleezza Rice
2 should be commended for pressing the new Govern-
3 ment of Sudan to take decisive action to end the
4 atrocities in the Darfur region and for defending
5 United States officials and the freedom of the Amer-
6 ican press during a meeting with President el-Bashir
7 on July 21, 2005, when Sudanese officials forcibly
8 removed American reporters for questioning the poli-
9 cies of the Sudanese Government in relation to the
10 genocide in Darfur.

Ms. WATSON. Thank you, Mr. Chairman. And I offer this amendment today with Mr. Crowley, and in response to events that occurred this morning in Khartoum. I believe it would be a great omission for us to pass this bill today if we fail to include an acknowledgement of the latest example of the thuggery of the National Congress Party in Khartoum.

Earlier today, as we all know, United States Government personnel and American journalists were physically harassed and mistreated by armed Sudanese guards. One State Department official was roughly shoved against the wall. Reporter Andrea Mitchell's microphone was snatched away from her when she tried to ask a question. When American officials protested saying, "We have a free press in America," the answer they received from the Basheer thugs was succinct: "Well, we don't have one here." All this occurred while Secretary Rice was sitting in a meeting with Basheer.

Mr. Chairman, this would be bad enough if it were an isolated incident. Unfortunately, this is standard operating procedure for Basheer and the National Congress Party. The genocide in Darfur is not a unique reaction to a unique political threat. Rather, according to Alex de Waal of the British group, Justice Africa, it is the routine cruelty of a security cabal. It is humanity withered by years in power. It is genocide by force of habit. Genocide for this regime is in its practice method of solving political problems. In the same way Tamany Hall relied on political patronage, in the same way an urban politician, a multiethnic coalition, the National Congress Party relies on genocide to stay in power. Mr. Chairman, this episode reminds us that this is not a regime open to negotiation.

As I have heard Mr. Tancredo say, the Khartoum regime does nothing unless we force them to. So I would urge my colleagues to include this language in the bill to remind ourselves and the world of the true nature of this regime, and I need to hold strong in compelling them to end this genocide.

What I would like to do is add on, Mr. Chairman, another provision, that would be subsection 14; and, in essence, it would say something like this: The Secretary of State, Condoleezza Rice, should not offer normalcy until the Government of the Sudan stops the terrorism and genocide in Darfur, Sudan consistent with—and we have some language.

So I am going to withdraw it for the moment, and I can add it at another time when we work out the language.

Thank you so much, Mr. Chairman.

Mr. SMITH. So the entire amendment, including number 14, which you are working on language, is withdrawn?

Ms. WATSON. Yes. I will submit it at another time, Mr. Chairman.

Mr. SMITH. Are there any other amendments to the amendment in the nature of a substitute?

If not, the question occurs on the amendment in the nature of a substitute as amended.

All those in favor, say aye. All those opposed, no.

The amendment in the nature of a substitute is agreed to.

The question occurs now on the motion to report the resolution H. Res. 3127, the Darfur Peace and Accountability Act of 2005, favorably, as amended.

All those in favor, say aye. Those opposed, no.

The motion is approved, and the resolution is reported favorably. Without objection, the staff is directed to make any technical and conforming amendments.

I want to thank all the Members of the Subcommittee for coming late in the evening, or early evening I should say, for this markup and for producing this bipartisan piece of legislation. The markup is adjourned.

[Whereupon, at 6:57 p.m., the Subcommittee was adjourned.]

