

DARFUR PEACE AND ACCOUNTABILITY ACT OF 2006

MARCH 14, 2006.—Ordered to be printed

Mr. HYDE, from the Committee on International Relations,
submitted the following

R E P O R T

[To accompany H.R. 3127]

The Committee on International Relations, to whom was referred the bill (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, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Darfur Peace and Accountability Act of 2006” .

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Findings.
- Sec. 4. Sense of Congress.
- Sec. 5. Sanctions in support of peace in Darfur.
- Sec. 6. Additional authorities to deter and suppress genocide in Darfur.
- Sec. 7. Multilateral efforts.
- Sec. 8. Continuation of restrictions.
- Sec. 9. Assistance efforts in Sudan.
- Sec. 10. Reports.
- Sec. 11. Rule of construction.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) GOVERNMENT OF SUDAN.—

(A) IN GENERAL.—The term “Government of Sudan” means the National Congress Party, formerly known as the National Islamic Front, led-government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), except that such term does not include the regional Government of Southern Sudan.

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

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

or

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

(3) COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.—The term “Comprehensive Peace Agreement for Sudan” means the peace agreement signed by the Government of Sudan and the Sudan People’s Liberation Movement/Army (SPLM/A) in Nairobi, Kenya, on January 9, 2005.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that the atrocities occurring in the Darfur region of Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, “genocide has been committed in Darfur,” and “the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring”.

(3) On September 21, 2004, in an address before the United Nations General Assembly, President George W. Bush affirmed the Secretary of State’s finding and stated, “[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide”.

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law, and establishing a ban on the sale or supply of arms and related materiel of all types, including the provision of related technical training or assistance, to all nongovernmental entities and individuals, including the Janjaweed.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of

Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry on Darfur to investigate violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564, including such actions as to affect Sudan's petroleum sector or individual members of the Government of Sudan.

(6) The Report of the International Commission of Inquiry on Darfur, submitted to the United Nations Secretary-General on January 25, 2005, established that the "Government of the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law," that "these acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity," and that Sudanese officials and other individuals may have acted with "genocidal intent".

(7) The Report of the International Commission of Inquiry on Darfur further notes that, pursuant to its mandate and in the course of its work, the Commission had collected information relating to individual perpetrators of acts constituting "violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes" and that a sealed file containing the names of those individual perpetrators had been delivered to the United Nations Secretary-General.

(8) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590, establishing the United Nations Mission in Sudan (UNMIS), consisting of up to 10,000 military personnel and 715 civilian police tasked with supporting implementation of the Comprehensive Peace Agreement for Sudan and "closely and continuously liais[ing] and coordinat[ing] at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur".

(9) On March 29, 2005, the United Nations Security Council passed Security Council Resolution 1591, extending the military embargo established by Security Council Resolution 1556 to all the parties to the N'djamena Ceasefire Agreement of April 8, 2004, and any other belligerents in the states of North Darfur, South Darfur, and West Darfur, calling for an asset freeze and travel ban against those individuals who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, are responsible for offensive military overflights, or violate the military embargo, and establishing a Committee of the Security Council and a Panel of Experts to assist in monitoring compliance with Security Council Resolutions 1556 and 1591.

(10) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593, referring the situation in Darfur since July 1, 2002, to the prosecutor of the International Criminal Court and calling on the Government of Sudan and all parties to the conflict to cooperate fully with the Court.

(11) In remarks before the G-8 Summit on June 30, 2005, President Bush reconfirmed that "the violence in Darfur is clearly genocide" and "the human cost is beyond calculation".

(12) On July 30, 2005, Dr. John Garang de Mabior, the newly appointed Vice President of Sudan and the leader of the Sudan People's Liberation Movement/Army (SPLM/A) for the past 21 years, was killed in a tragic helicopter crash in southern Sudan, sparking riots in Khartoum and challenging the commitment of all Sudanese to the Comprehensive Peace Agreement for Sudan.

(13) Since 1993, the Secretary of State has determined that the Republic of Sudan is a country which has repeatedly provided support for acts of international terrorism and, pursuant to section 6(j) of the Export Administration Act of 1979, section 40 of the Arms Export Control Act, and section 620A of the Foreign Assistance Act of 1961, designated Sudan as a State Sponsor of Terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan;

(2) the Secretary of State should designate the Janjaweed militia as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act;

(3) all parties to the conflict in the Darfur region have continued to violate the N'djamena Ceasefire Agreement of April 8, 2004, and the Abuja Protocols of November 9, 2004, and violence against civilians, humanitarian aid workers, and personnel of the African Union Mission in Sudan (AMIS) is increasing;

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

(5) the international community, including the United Nations, the North Atlantic Treaty Organization (NATO), the European Union, and the United States, should immediately act to mobilize sufficient political, military, and financial resources to support the expansion of the African Union Mission in Sudan so that it achieves the size, strength, and capacity necessary for protecting civilians and humanitarian operations, and ending the continued violence in the Darfur region;

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

(7) acting under Article 5 of the Charter of the United Nations, the United Nations Security Council should call for suspension of the Government of Sudan's rights and privileges of membership by the General Assembly until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize and demilitarize the Janjaweed and associated militias, and grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region;

(8) the President should use all necessary and appropriate diplomatic means to ensure the full discharge of the responsibilities of the Committee of the United Nations Security Council and the Panel of Experts established pursuant to section 3(a) of Security Council Resolution 1591 (March 29, 2005);

(9) 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 and marginalized areas in northern Sudan (including the Nuba Mountains, Southern Blue Nile, Abyei, Eastern Sudan (Beja), Darfur, and Nubia), as well as marginalized peoples in and around Khartoum, or for humanitarian purposes in Sudan, until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for the safe and voluntary return of refugees and internally displaced persons;

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

(11) the President should appoint a Presidential Envoy for Sudan with appropriate resources and a clear mandate to provide stewardship of efforts to implement the Comprehensive Peace Agreement for Sudan, seek ways to bring stability and peace to the Darfur region, address instability elsewhere in Sudan and northern Uganda, and pursue a truly comprehensive peace throughout the region;

(12) to achieve the goals specified in paragraph (10) and to further promote human rights and civil liberties, build democracy, and strengthen civil society, the Presidential Envoy for Sudan should be empowered to promote and encourage the exchange of individuals pursuant to educational and cultural programs, including programs funded by the Government of the United States;

(13) the international community should strongly condemn attacks against humanitarian workers and demand that all armed groups in the Darfur region, including the forces of the Government of Sudan, the Janjaweed, associated militias, the Sudan Liberation Movement/Army (SLM/A), the Justice and Equality Movement (JEM), and all other armed groups refrain from such attacks;

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

(15) the new leadership of the Sudan People's Liberation Movement (SPLM) should—

(A) seek to transform the SPLM into an inclusive, transparent, and democratic body;

(B) reaffirm the commitment of the SPLM to bringing peace not only to southern Sudan, but also to the Darfur region, eastern Sudan, and northern Uganda; and

(C) remain united in the face of efforts to undermine the SPLM.

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

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

(1) in the heading of subsection (b), by inserting “OF APPROPRIATE SENIOR OFFICIALS OF THE SUDANESE GOVERNMENT” after “ASSETS”;

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

(3) by inserting after subsection (b) the following new subsection:

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

“(1) BLOCKING OF ASSETS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.

“(2) RESTRICTION ON VISAS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall deny visas and entry to any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.”.

(b) WAIVER.—Section 6(d) of the Comprehensive Peace in Sudan Act of 2004 (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: “The President may waive the application of paragraph (1) or (2) of subsection (c) with respect to an individual if the President determines that such a waiver is in the national interests of the United States and, prior to exercising the waiver, transmits to the appropriate congressional committees a notification which includes the name of the individual and the reasons for the waiver.”.

(c) SANCTIONS AGAINST CERTAIN JANJAWEEED COMMANDERS AND COORDINATORS.—The President should immediately consider imposing the sanctions described in section 6(c) of the Comprehensive Peace in Sudan Act of 2004 (as added by subsection (a)) against the Janjaweed commanders and coordinators identified by the former United States Ambassador-at-Large for War Crimes before the Subcommittee on Africa of the House International Relations Committee on June 24, 2004.

SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUPPRESS GENOCIDE IN DARFUR.

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

(1) by striking “Notwithstanding” and inserting “(a) GENERAL ASSISTANCE.—Notwithstanding”; and

(2) by adding at the end the following new subsection:

“(b) ASSISTANCE TO SUPPORT AMIS.—Notwithstanding any other provision of law, the President is authorized to provide assistance, on such terms and conditions as the President may determine and in consultation with the appropriate congressional committees, to reinforce the deployment and operations of an expanded African Union Mission in Sudan (AMIS) with the mandate, size, strength, and capacity to protect civilians and humanitarian operations, stabilize the Darfur region of Sudan and dissuade and deter air attacks directed against civilians and humanitarian workers, including but not limited to providing assistance in the areas of logistics, transport, communications, materiel support, technical assistance, training, command and control, aerial surveillance, and intelligence.”.

(b) NATO ASSISTANCE TO SUPPORT AMIS.—The President should instruct the United States Permanent Representative to the North Atlantic Treaty Organization (NATO) to use the voice, vote, and influence of the United States at NATO to advocate NATO reinforcement of the African Union Mission in Sudan (AMIS), upon the request of the African Union, including but not limited to the provision of assets to dissuade and deter offensive air strikes directed against civilians and humani-

tarian workers in the Darfur region of Sudan and other logistical, transportation, communications, training, technical assistance, command and control, aerial surveillance, and intelligence support.

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

(1) IN GENERAL.—The President should take all necessary and appropriate steps to deny the Government of Sudan access to oil revenues, including by prohibiting entry at United States ports to cargo ships or oil tankers engaged in business or trade activities in the oil sector of Sudan or involved in the shipment of goods for use by the armed forces of Sudan until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to cargo ships or oil tankers involved in an internationally-recognized demobilization program or the shipment of non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan.

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

(1) PROHIBITION.—Amounts made available to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may not be used to provide assistance (other than humanitarian assistance) to the government of a country that is in violation of the embargo on military assistance with respect to Sudan imposed pursuant to United Nations Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005).

(2) WAIVER.—The President may waive the application of paragraph (1) if the President determines and certifies to the appropriate congressional committees that it is in the national interests of the United States to do so.

SEC. 7. MULTILATERAL EFFORTS.

The President shall direct the United States Permanent Representative to the United Nations to use the voice and vote of the United States to urge the adoption of a resolution by the United Nations Security Council that—

(1) supports the expansion of the African Union Mission in Sudan (AMIS) so that it achieves the mandate, size, strength, and capacity needed to protect civilians and humanitarian operations, and dissuade and deter fighting and violence in the Darfur region of Sudan, and urges Member States of the United Nations to accelerate political, material, financial, and other assistance to the African Union toward this end;

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

(3) imposes sanctions against the Government of Sudan, including sanctions against individual members of the Government of Sudan, and entities controlled or owned by officials of the Government of Sudan or the National Congress Party in Sudan until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons;

(4) extends the military embargo established by United Nations Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005) to include a total prohibition on the sale or supply of offensive military equipment to the Government of Sudan, except for use in an internationally-recognized demobilization program or for non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan; and

(5) calls upon those Member States of the United Nations that continue to undermine efforts to foster peace in Sudan by providing military assistance and equipment to the Government of Sudan, the SLM/A, the JEM, and associated armed groups in the Darfur region in violation of the embargo on such assistance and equipment, as called for in United Nations Security Council Resolutions 1556 and 1591, to immediately cease and desist.

SEC. 8. CONTINUATION OF RESTRICTIONS.

(a) CONTINUATION OF RESTRICTIONS.—Restrictions against the Government of Sudan that were imposed pursuant to Executive Order 13067 of November 3, 1997 (62 Federal Register 59989), title III and sections 508, 512, 527, and 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006, or any other similar provision of law, shall remain in effect and shall not be lifted pursuant to such provisions of law until the President transmits to the appropriate congressional committees a certification that the Government of Sudan is acting in good faith to—

- (1) peacefully resolve the crisis in the Darfur region of Sudan;
- (2) disarm, demobilize, and demilitarize the Janjaweed and all government-allied militias;
- (3) adhere to United Nations Security Council Resolutions 1556 (2004), 1564 (2004), 1591 (2005), and 1593 (2005);
- (4) negotiate a peaceful resolution to the crisis in eastern Sudan;
- (5) fully cooperate with efforts to disarm, demobilize, and deny safe haven to members of the Lords Resistance Army; and
- (6) fully implement the Comprehensive Peace Agreement for Sudan without manipulation or delay, including by—
 - (A) implementing the recommendations of the Abyei Commission Report;
 - (B) establishing other appropriate commissions and implementing and adhering to the recommendations of such commissions consistent with the terms of the Comprehensive Peace Agreement for Sudan;
 - (C) adhering to the terms of the Wealth Sharing Agreement; and
 - (D) withdrawing government forces from southern Sudan consistent with the terms of the Comprehensive Peace Agreement for Sudan.

(b) WAIVER.—The President may waive the application of subsection (a) if the President determines and certifies to the appropriate congressional committees that it is in the national interests of the United States to do so.

SEC. 9. ASSISTANCE EFFORTS IN SUDAN.

(a) ADDITIONAL AUTHORITIES.—Section 501(a) of the Assistance for International Malaria Control Act (50 U.S.C. 1701 note) is amended—

- (1) by striking “Notwithstanding any other provision of law” and inserting the following:

“(1) IN GENERAL.—Notwithstanding any other provision of law”;

(2) by inserting “civil administrations,” after “indigenous groups,”;

- (3) by striking “areas outside of control of the Government of Sudan” and inserting “southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei”;

(4) by inserting at the end before the period the following: “, including the Comprehensive Peace Agreement for Sudan”; and

- (5) by adding at the end the following new paragraph:

“(2) CONGRESSIONAL NOTIFICATION.—

“(A) IN GENERAL.—Assistance may not be obligated under this subsection until 15 days after the date on which the President has provided notice thereof to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogramming notifications under such section.

“(B) RULE OF CONSTRUCTION.—The notification requirement of subparagraph (A) shall not apply in the case of assistance subject to notification in accordance with section 634A of the Foreign Assistance Act of 1961 pursuant to any provision of an Act making appropriations for foreign operations, export financing, and related programs.”.

(b) EXCEPTION TO PROHIBITIONS IN EXECUTIVE ORDER No. 13067.—Section 501(b) of the Assistance for International Malaria Control Act (50 U.S.C. 1701 note) is amended—

- (1) in the heading, by striking “EXPORT PROHIBITIONS” and inserting “PROHIBITIONS IN EXECUTIVE ORDER No. 13067”;

(2) by striking “any export from an area in Sudan outside of control of the Government of Sudan, or to any necessary transaction directly related to that export” and inserting “activities or related transactions with respect to southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, or Abyei”; and

- (3) by striking “the export or related transaction” and all that follows and inserting “such activities or related transactions would directly benefit the economic recovery and development of those areas and people.”.

SEC. 10. REPORTS.

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

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

“(c) REPORT ON AFRICAN UNION MISSION IN SUDAN (AMIS).—In conjunction with reports required under subsections (a) and (b) of this section, the Secretary of State shall submit to the appropriate congressional committees a report, to be prepared in conjunction with the Secretary of Defense, on—

“(1) efforts to fully deploy the African Union Mission in Sudan (AMIS) with the size, strength, and capacity necessary to stabilize the Darfur region of Sudan and protect civilians and humanitarian operations;

“(2) the needs of AMIS to ensure success, including in the areas of housing, transport, communications, equipment, technical assistance, training, command and control, intelligence, and such assistance as is necessary to dissuade and deter attacks, including by air, directed against civilians and humanitarian operations;

“(3) the current level of United States assistance and other assistance provided to AMIS, and a request for additional United States assistance, if necessary;

“(4) the status of North Atlantic Treaty Organization (NATO) plans and assistance to support AMIS; and

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

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

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—In conjunction with reports required under subsections (a), (b), and (c) of this section, the Secretary of State shall submit to the appropriate congressional committees a report regarding sanctions imposed under subsections (a) through (d) of section 6 of the Comprehensive Peace in Sudan Act of 2004, including—

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

“(2) the name of the individual or entity subject to the sanction, if applicable.”

SEC. 11. RULE OF CONSTRUCTION.

Nothing in this Act (or any amendment made by this Act) or any other provision of law shall be construed to preempt any State law that prohibits investment of State funds, including State pension funds, in or relating to the Republic of the Sudan.

PURPOSE AND SUMMARY

The Darfur Peace and Accountability Act of 2006 (H.R. 3127), as ordered favorably reported out of the House Committee on International Relations with an amendment in the nature of a substitute, expresses the Sense of Congress with respect to the situation in the Darfur region of western Sudan and amends the Comprehensive Peace in Sudan Act of 2004 to promote peace and accountability in Darfur. Inter alia, the bill:

- Amends the Comprehensive Peace in Sudan Act of 2004 to confer upon the President, notwithstanding any other provision of law, the authority to provide assistance to reinforce the deployment and operations of an expanded African Union Mission in Sudan (AMIS), with the mandate, size, strength and capacity to protect civilians and humanitarian operations, stabilize Darfur, and, as necessary, dissuade and deter air attacks directed against civilians and humanitarian operations;
- Calls on the international community, including the UN, the European Union (EU), and the North Atlantic Trea-

ty Organization (NATO), to immediately mobilize political, military and financial resources to support the expansion of AMIS;

- Imposes targeted sanctions against individuals determined by the President to be responsible for acts of genocide, war crimes, or crimes against humanity in Darfur;
- Prohibits the provision of non-humanitarian U.S. assistance to nations violating the military and arms embargo imposed pursuant to UN Security Council resolutions 1556 and 1591;
- Calls for the suspension of Sudan's membership in the United Nations;
- Encourages the President to deny entry at U.S. ports to certain Sudanese cargo ships or oil tankers if the Government of Sudan fails to take specified measures in Darfur;
- Amends the International Malaria Control Act to authorize the President to provide assistance to Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei, provided that Congress is notified pursuant to Section 634A of the Foreign Assistance Act of 1961, and to expand existing exceptions to prohibitions on imports to and exports from Southern Sudan and other marginalized areas;
- Amends the reporting requirements in the Sudan Peace Act of 2002 to include sections on U.S. and NATO efforts to support the deployment of an expanded AU mission in Darfur, the performance of AMIS in Darfur, and the status of the imposition of sanctions pursuant to the Darfur Peace and Accountability Act; and
- Provides that nothing in this Act shall be construed to preempt State laws which prohibit investment of State pension funds in Sudan.

BACKGROUND AND NEED FOR THE LEGISLATION

The Darfur region of western Sudan is home to at least 36 tribes identified within two major groups: Arabs and non-Arabs (the latter known as "Zurga" or indigenous Africans).¹ Both groups are predominantly Sunni Muslim, and years of intermarriage have made racial distinction difficult. Over the years, desertification and competition over scarce resources has triggered sporadic armed conflict between the largely nomadic Arab herders and sedentary African pastoralists. Successive governments in Khartoum exacerbated these tensions by manipulating ethnic divisions and arming tribes of Arab descent to act as proxy forces in the region. This strategy is markedly similar to that which has been pursued by the Government of Sudan (GoS) in Southern Sudan, where over 21 years of war left two million dead and nearly four million displaced.

Citing ethnic, political, and economic marginalization of non-Arabs in Darfur, two rebel groups emerged in February 2003: The Sudan Liberation Army (SLA) and the Justice and Equality Move-

¹ International Crisis Group (ICG), "Darfur Rising: Sudan's New Crisis," 25 March 2004.

ment (JEM). The SLA is composed mainly by the non-Arab Fur, Zaghawa, and Masaalit tribes. It is speculated that the SLA has received support from fellow Zaghawa in Chad and Libya, Darfurian businessmen in the Persian Gulf, and from the Government of Eritrea. The SLA also received early support from the Sudan People's Liberation Army (SPLA) in Southern Sudan.² The JEM is dominated by the Zaghawa and is alleged to have links to Dr. Hassan al Turabi, founder of the National Islamic Front (NIF), former Speaker of Sudan's National Assembly, and potential threat to President Omar Bashir.³

The GoS has dismissed the SLA and JEM as terrorists and claims the conflict is tribal in nature. However, observers consistently assert that the conflict has far more to do with political and economic marginalization—and a war between the center of power and the periphery—than it does with traditional tribal rivalries. Khartoum's concerns over threats emanating from the West reportedly were exacerbated in March 2003, when the SLA joined the National Democratic Alliance (NDA), an umbrella group of southern rebels and northern opponents of the regime in Khartoum.

With the NIF regime in Khartoum weakened by internal turmoil and distracted by mounting international pressure to resolve the North-South conflict, which already had lasted over two decades and claimed more than two million lives, the SLA and JEM exacted a string of victories throughout the spring of 2003. By mid-2003, the GoS had significantly increased its presence in Darfur by arming government-supported militias, collectively known as Janjaweed, and by deploying the Popular Defense Forces (PDF). The Janjaweed, under the direction of regular government forces, unleashed a campaign of terror against civilians reportedly in an effort to forcefully expel non-Arab ethnic groups.⁴ In mid-February 2004, President Bashir declared that the security forces had crushed the SLA and JEM. Despite this claim, the conflict continues.

According to officials from the United States Government and the United Nations (UN), the situation in the Darfur region of western Sudan continues to be one of the greatest humanitarian crises in the world. Out of an estimated pre-conflict population of seven million in Darfur, anywhere between 180,000 and 400,000 already have died and over two million have been displaced.⁵ Reports by refugees and internally displaced persons (IDPs) detail a systematic pattern of attacks against civilians by the Janjaweed, who have employed scorched earth tactics backed by air and land strikes by GoS forces. Entire villages have been razed, crops burned, and wells and irrigation systems destroyed. There are widespread reports of arbitrary killings, abductions, looting, torture, and rape.

On April 2, 2004, UN Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator Jan Egeland character-

²Ibid, page 20.

³Ibid.

⁴United Nations Commission on Human Rights (UNCHO). Report of UNCHO Mission to Chad, April 2004.

⁵Reports on the numbers of deaths resulting both directly by violence and indirectly by disease and malnutrition vary widely. The United Nations reports 180,000 deaths, while groups such as the International Crisis Group (ICG) and the Coalition for International Justice (CIJ) place the figure between 300,000 and 400,000.

ized the situation in Darfur as “ethnic cleansing.”⁶ On April 7, 2004, during a speech reflecting upon the Rwandan genocide before the UN Commission on Human Rights, UN Secretary-General Kofi Annan stated that reports from the region had left him with “a deep sense of foreboding,” and asserted, “The international community must be prepared to take swift and appropriate action.”⁷

The United States Congress declared that the atrocities in Darfur constitute genocide with the passage of H. Con. Res. 467 and S. Con. Res. 133 on July 22, 2004. In testimony before the Senate Committee on Foreign Relations in September 2004, former U.S. Secretary of State Colin Powell affirmed the position of Congress and publicly acknowledged that genocide had occurred in Darfur and may still be occurring. On September 9, 2004, the State Department released a report which concluded that the GoS “promoted systematic killings based on race and ethnic origin,” and that these acts constitute genocide. The report, and the Administration’s subsequent determination of genocide, drew upon information collected by an “Atrocities Documentation Team,” which conducted 1,136 interviews of Sudanese refugees in August of 2004.

Initially, the African Union (AU) was slow to respond to the crisis in Darfur. In late March 2004, the AU sent a team to participate in ceasefire negotiations between the GoS, the SLA, and the JEM in Chad. Under the terms of the April 2004 N’Djamena Ceasefire Agreement, the AU was tasked with creating a Ceasefire Commission and subsequently deployed ceasefire monitors under the African Mission in Sudan (AMIS). The deployment of AMIS, albeit small, took more than four months after the signing of the agreement. In late September 2004, the GoS and the AU finally agreed to expand AMIS, several weeks after the UN Security Council endorsed such an expansion and threatened sanctions if the GoS failed to cooperate. In May 2005, the AU announced that AMIS would expand to 7,700 personnel. With assistance provided by the United States, the European Union, and the North Atlantic Treaty Organization, deployment of these additional troops began in July 2005. Currently, there are over 6,000 African Union forces and monitors on the ground in Darfur.

Though forces and observers deployed under AMIS have performed well to date, the limited size and mandate of the AU mission, as well as logistical and financial troubles of the organization, have severely hampered the work of AMIS in Darfur. The mission is dependent upon funding and logistical support from donors—particularly the United States and the European Union—who have given generously but now face difficulty in sustaining contributions. Further, the mandate does not provide for civilian protection and contains no enforcement mechanisms, aside from reporting the violations to a Joint Commission. Since the signing of the ceasefire agreement and the deployment of AMIS, there have been countless violations by all parties with no apparent consequences.

These constraints have prompted discussion of a United Nations takeover of AMIS. The United States Permanent Representative to the United Nations, Ambassador John Bolton, used the occasion of the United States’ presidency of the Security Council during Feb-

⁶See UN, “Press Briefing on Humanitarian Crisis in Darfur, Sudan,” 2 April 2004.

⁷See UN, “Secretary-General’s Address to the Commission on Human Rights (As Delivered),” 7 April 2004.

ruary 2006 to press for a resolution formally authorizing the “re-hatting” of AMIS. On February 3, 2005, a Statement by the President of the Security Council was issued which authorized the Secretary-General “to initiate contingency planning without delay . . . on a range of options for a possible transition from AMIS to a United Nations operation.” A draft resolution then was circulated by the United States delegation to formalize the proposed UN takeover of AMIS, but was stalled by other Council Members who insisted that the African Union must first make a formal request for AMIS to be taken over by a UN mission, and that the Sudanese Government would have to agree to any such proposal in advance.

To date, the United Nations has approved six United Nations Security Council Resolutions (UNSCR) relating to the situation in Darfur. Pursuant to UNSCR 1564 of September 18, 2004, an International Commission of Inquiry was created to investigate violations of international humanitarian and human rights laws in Darfur. While the report of the Commission of Inquiry, which was submitted to the UN Secretary General on January 25, 2005, effectively dodged the question of genocide, it did assert, “the Government of the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law,” and that Sudanese officials and other individuals may have acted with “genocidal intent.” The report also noted that a sealed file containing information on individuals responsible for war crimes and crimes against humanity had been delivered to the Secretary-General for the purposes of possible future prosecution by the International Criminal Court (ICC). By UNSCR 1593 (March 31, 2005), the UN formally referred the situation in Darfur to the prosecutor of the ICC.

On March 29, 2005, the Security Council passed UNSCR 1591, extending the military embargo established pursuant to UNSCR 1556 (July 30, 2004) to all the parties to the N’Djamena Ceasefire Agreement, calling for an asset freeze and travel ban against those who impede the peace process, constitute a threat to stability in Darfur, commit violations of international humanitarian or human rights law or other atrocities, are responsible for offensive military over-flights or violate the military embargo, and establishing a Committee of the Security Council and a Panel of Experts to assist in monitoring compliance with UNSCRs 1556 and 1591. Though a list of names of such violators has been submitted to the Security Council, the UN has yet to impose any sanctions.

The inability of the United Nations to enforce resolutions of the Security Council calling for sanctions against Sudan, and the apparent inability to get a resolution passed which would immediately enable the United Nations to take over the AMIS mission in Darfur, largely is attributed to China and Russia—two permanent Members of the Security Council with veto power which have significant interests at stake in Sudan. The GoS also reportedly has begun a diplomatic campaign to persuade other nations to oppose any peacekeeping mission in Sudan other than AMIS.

On January 9, 2005, the Government of Sudan and the Sudan People’s Liberation Movement/Army (SPLM/A) signed a Comprehensive Peace Agreement (CPA) in Nairobi, Kenya, ostensibly ending 21 years of civil war between the government in the North and rebels in the South. Pursuant to the CPA, a Government of

National Unity (GONU) has been formed in Khartoum which includes both members of the former National Congress Party-controlled government and members of the SPLM. Simultaneously, a regional government was formed in Southern Sudan which has been tasked with preparing the region for a referendum on the question of independence.

Though it was hoped that the conclusion of the CPA would contribute to a political settlement in Darfur, such a resolution remains elusive and the crisis continues. Thus, the United States Government currently faces at least two critical challenges in Sudan: the confrontation of genocide in Darfur and the consolidation of peace in Southern Sudan. Already, the formation of this new Government of National Unity has prompted Sudan watchers to reconsider the appropriateness of imposing new sanctions against the Government of Sudan in general, versus imposing sanctions against individual perpetrators of genocide, war crimes, or crimes against humanity. In addition, the United States Government now must consider lifting, modifying, or waiving existing sanctions against Sudan in an effort to contribute to reconstruction and recovery efforts in Southern Sudan without inadvertently rewarding members of a genocidal government in Khartoum. Thus, while H.R. 3127 specifically is intended to promote peace and accountability in Darfur, it also attempts to address several of the challenges presented by conclusion of the Comprehensive Peace Agreement and formation of the Government of National Unity.

The Honorable Henry J. Hyde, Chairman of the House Committee on International Relations, accompanied by Reps. Payne, Smith of New Jersey, Lantos, Royce, Tancredo, Wolf, Jackson-Lee and Capuano, introduced H.R. 3127 on June 30, 2005. The substitute amendment, which was ordered adopted and favorably reported by the Committee on March 8, 2006, represents the product of eight months of bipartisan negotiations among Members from the House and Senate, with significant input from the Administration, academics, non-governmental organizations, advocacy groups, and other concerned groups. The United States Senate passed a similar bill, S. 1462, on November 18, 2005.

HEARINGS

The Committee's Subcommittee on Africa, Global Human Rights and International Operations held four hearing on issues relating to Darfur and H.R. 3127 (March 11, 2004, April 22, 2004, June 24, 2004, and November 1, 2005). During the March 11, 2004, hearing, testimony was received from five witnesses, representing the U.S. Department of State, the United States Agency for International Development (USAID), the Center for Strategic and International Studies, Smith College, and Safe Harbor International Relief. During the April 22, 2004, hearing, testimony was received from four witnesses, with one former UN official testifying in a private capacity and others representing Harvard University, Remembering Rwanda, and Human Rights Watch. During the June 24, 2004, hearing, testimony was received from three witnesses, representing the U.S. Department of State, Good Works International, and Human Rights Watch. During the November 1, 2005, hearing, testimony was received from a witness representing the U.S. Department of State.

The Committee on International Relations held two hearings on issues relating to Darfur and H.R. 3127 on March 6, 2004, and June 22, 2005, respectively. During the March 2, 2004 hearing, testimony was received from five witnesses, representing the U.S. Department of State, USAID, the International Crisis Group, Save the Children, and Darfur Peace and Development, with additional materials submitted by one Member of Congress and the United States Conference of Catholic Bishops. During the June 22, 2005, hearing, testimony was received from a witness representing the U.S. Department of State, with additional material submitted by Survivors United to Save the Women of Darfur.

COMMITTEE CONSIDERATION

On July 21, 2005, the Subcommittee on Africa, Global Human Rights and International Operations met in open session and ordered favorably reported to the Full Committee the bill H.R. 3127, as amended, by voice vote, a quorum being present. On February 8, 2006, the Committee met in open session and ordered favorably reported the bill H.R. 3127 with an amendment in the nature of a substitute by voice vote, a quorum being present.

VOTES OF THE COMMITTEE

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the Committee Report.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

The Committee estimates there will be no cost.

PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of H.R. 3127 are to promote peace and accountability in the Darfur region of western Sudan by authorizing expanded support for the African Union Mission in Sudan and imposing targeted sanctions against those determined to be responsible for genocide, war crimes, or crimes against humanity.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, clause 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title; Table of Contents.

Section 1 contains a short title and a table of contents.

Section 2. Definitions.

Section 2 updates the definition of the Government of Sudan (GoS), while clarifying that sanctions previously imposed against “officials of the Government of Sudan” will not apply to individuals who were not party to the government prior to July 1, 2005, or to the regional Government of Southern Sudan.

Unlike the Sudan Peace Act of 2002 or the Comprehensive Peace Act of 2004, the focus of sanctions in this bill is not on the Government of Sudan in general, but on individuals who are responsible for acts of genocide, war crimes, or crimes against humanity, regardless of their affiliation. This shift was necessitated by the fact that since the signing of the Comprehensive Peace Agreement in January 2005, the Government of Sudan now includes members of the Sudan People’s Liberation Movement (SPLM) and other opposition groups who are not necessarily associated with the former government’s genocidal acts. Thus, the Committee sought to avoid punishing the new coalition government across the board, and alternatively focused on individual accountability.

Section 3. Findings.

Section 3 provides updates on developments in the country and actions taken by the United Nations with regard to the crisis in Darfur, including the passage of six Security Council Resolutions, the submission of the Report of the International Commission of Inquiry on Darfur, the referral of the situation in Darfur to the Prosecutor of the International Criminal Court, the death of Dr. John Garang, Vice President of Sudan and leader of the Sudan People’s Liberation Movement/Army (SPLM/A), and the 1993 determination by the Secretary of State that Sudan is a State Sponsor of Terrorism.

Section 4. Sense of Congress.

Section 4 expresses the sense of Congress that:

- The Secretary of State should designate the Janjaweed militia as a Foreign Terrorist Organization;
- All parties to the conflict in Darfur continue to violate the N’Djamena Ceasefire Agreement of April 8, 2004, and attacks against aid workers and AU personnel are increasing;
- The African Union (AU) should rapidly expand the size and amend the mandate of the AU Mission in Sudan (AMIS), to authorize such action as may be necessary to protect civilians and deter violence in Darfur;

- The international community, including the UN, EU, and NATO, should immediately mobilize sufficient political, military, and financial resources to support an expanded AU mission and consider additional measures should the expanded AU mission fail to stop genocide in Darfur;
- The GoS's membership in the UN should be suspended until such time as the GoS has honored pledges to cease attacks on civilians, demobilize the Janjaweed and associated militias, grant unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and IDPs;
- The United States should not provide any assistance to the GoS, other than for implementation of the Comprehensive Peace Agreement, for marginalized areas, or for humanitarian purposes, until the GoS has honored the pledges described above;
- The UN should impose sanctions against Sudan pursuant to UNSCR 1591;
- The President should establish a student loan forgiveness program for members of the Sudanese Diaspora in the United States who commit to return to Southern Sudan for at least five years so they may contribute to reconstruction efforts;
- The President should appoint a Special Envoy for Sudan and northern Uganda;
- The international community should strongly condemn attacks against humanitarian workers and AU monitors in Sudan;
- The United States should support and urge rapid implementation of the Comprehensive Peace Agreement for Sudan;
- The SPLM should transform itself into an inclusive, transparent, and democratic political body and reconfirm its commitment to seek peace in Southern Sudan, Darfur, eastern Sudan, and northern Uganda.

Section 5. Sanctions in Support of Peace in Darfur.

Section 5(a) amends Section 6 of the Comprehensive Peace in Sudan Act of 2004 to block the assets and restrict the travel of any individual whom the President has determined is responsible for acts of genocide, war crimes, or crimes against humanity in the Darfur region. As the Comprehensive Peace in Sudan Act currently only imposes sanctions against senior officials in the government, this section reflects the Committee's resolve to hold individuals accountable for genocidal acts rather than punishing the new coalition government in general.

Section 5(b) provides a national interest waiver for the imposition of sanctions against such individuals, provided that the President notifies Congress in advance.

Section 5(c) calls on the President to immediately consider imposing sanctions against Janjaweed commanders and coordinators identified by the former U.S. Ambassador-at-Large for War Crimes during an Africa Subcommittee hearing on June 24, 2004.

Section 6. Additional Authorities to Deter and Suppress Genocide in Darfur.

Section 6(a) amends the Comprehensive Peace in Sudan Act to authorize the President, notwithstanding any other provision of law, to provide assistance, in consultation with Congress, to reinforce the deployment and operations of an expanded AU mission in Darfur with the mandate, size, strength, and capacity to protect civilians and humanitarian operations, stabilize Darfur, and deter air attacks directed against civilians and humanitarian operations. The Committee notes that the President already has committed significant resources toward this end, including by providing more than \$190 million to date to support AMIS (not including the costs associated with air transport of AMIS personnel from Rwanda and Nigeria or additional funds which shall be made available following Congressional approval of an emergency supplemental budget request for Fiscal Year 2006) and pressing for greater UN and NATO involvement. Therefore, the Committee asserts that this language is consistent with current United States policy and only strengthens the President's ability to take quick and decisive action to support AMIS, particularly in preparation for an eventual takeover of the mission by the United Nations.

Section 6(b) recommends that the US Permanent Representative to NATO use the voice, vote, and influence of the United States at NATO to advocate for NATO reinforcement of the AU mission, upon the request of the AU. Again, the Committee notes that the President and the US Permanent Representative to NATO already have undertaken to encourage greater NATO support for AMIS, but notes that much more could be done to help bridge the gap in capabilities while the United Nations prepares for an eventual takeover of the AMIS mission.

Section 6(c) asserts that the President should take all necessary and appropriate steps to deny the GoS access to oil revenues, including by prohibiting access to United States ports to cargo ships or oil tankers engaged in business or trade activities in Sudan's oil sector or arms industry, until such time as the GoS honors commitments to cease attacks on civilians, disarm and demobilize the Janjaweed and associated militias, grant unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and IDPs. This language is consistent with long-standing efforts to prevent the Government of Sudan from financing genocide with oil revenues. However, the Committee does not intend to punish the regional government of Sudan—which is entitled to a 50% share of oil revenues generated in the region—or to inadvertently undermine implementation of the Comprehensive Peace Agreement. Thus, an exemption specifically has been provided for cargo ships or oil tankers involved in internationally-recognized demobilization programs or deliveries of non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement.

Section 6(d) prohibits the provision of non-humanitarian U.S. assistance to countries which violate the military and arms embargo imposed pursuant to UN Security Council Resolutions 1556 and 1591. This language is intended to encourage governments, particularly those of neighboring countries which have a stake in the conflict, to behave responsibly, adhere to UN resolutions, and cut off

the seemingly endless supply of weapons being provided to both to the Government of Sudan and to the rebel movements in Darfur.

Section 7. Multilateral Efforts.

Section 7 directs the U.S. Permanent Representative to the UN to use the voice, vote and influence of the United States at the UN to urge the adoption of a resolution which supports the expansion of AMIS, reinforces efforts to negotiate peace talks, calls upon all parties to honor obligations under the N'Djamena Ceasefire Agreement, demands an end to attacks against civilians and humanitarian operations; imposes sanctions against the GoS; and expands the military embargo imposed pursuant to UNSCRs 1556 and 1591 to include all arms transactions other than for use in an internationally recognized demobilization program or for non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement.

The Committee recognizes that the U.S. Permanent Representative to the UN, Ambassador John Bolton, has pressed for greater UN action with regard to Darfur but has been met with strong opposition from other Member States. Such resistance became particularly evident during February 2006, as Ambassador Bolton attempted to use the occasion of the United States' presidency of the Security Council to push for a resolution which would authorize a United Nations peacekeeping mission to take over for AMIS in Darfur. The Committee encourages the U.S. Permanent Representative to continue to pursue these efforts, particularly with regard to the imposition of sanctions and the introduction of UN peacekeepers, despite opposition from other Members of the Security Council.

Section 8. Continuation of Restrictions.

Section 8 prohibits the lifting of restrictions against the GoS imposed pursuant to Executive Order 13067, title III and sections 508, 512, 527, and 569 of the Foreign Operations, Export Financing and Related Programs Act of 2006, or any similar provision of law, until the President can certify that the GoS is acting in good faith to: (1) peacefully resolve the crisis in Darfur; (2) disarm and demobilize the Janjaweed and associated militias; (3) adhere to UN Security Council Resolutions; (4) negotiate a peaceful resolution to the crisis in eastern Sudan; (5) cooperate with efforts to disarm, demobilize and deny safe haven the Lord's Resistance Army; and (6) fully implement the Comprehensive Peace Agreement for Sudan without manipulation or delay. This section includes a national interest waiver.

While sympathetic to the challenges which the existing sanctions regime against Sudan presents to the Administration, particularly as the United States seeks to provide greater support for reconstruction and recovery efforts in Southern Sudan, there is a strong, bipartisan consensus among Committee Members that it would be inappropriate to lift sanctions across the board and thereby "reward" a genocidal government and a state sponsor of terrorism. Thus, while legislative relief from existing sanctions may be forthcoming, the Committee asserts that such relief would be carefully considered and targeted in nature.

Section 9. Assistance Efforts in Sudan.

Section 9 amends the International Malaria Control Act to authorize the President to provide assistance to Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei, provided that Congress is notified pursuant to Section 634A of the Foreign Assistance Act of 1961. This section further amends the Malaria Act to expand existing exceptions to prohibitions imposed against Sudan pursuant to Executive Order 13067 to include “such activities or related transactions” that would directly benefit the economic recovery and development of Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei.

The Malaria Act currently authorizes the President to provide certain forms of assistance to areas of Sudan “outside the control of the Government of Sudan.” However, with the signing of the Comprehensive Peace Agreement and subsequent formation of the Government of National Unity, all parts of Sudan presumably are “under the control of the Government.” Thus, this language provides a specific exemption from the sanctions for Southern Sudan and other marginalized areas. Further, it expands the existing exemption for exports from areas formerly defined as being “outside the control of the Government” to include both imports to and exports from Southern Sudan and other marginalized areas.

Section 10. Reports.

Section 10 amends the reporting requirements in the Sudan Peace Act of 2002 to include sections on U.S. and NATO efforts to support the deployment of an expanded AU mission in Darfur, the performance of AMIS in Darfur, and the status of the imposition of sanctions pursuant to the Darfur Peace and Accountability Act. Cognizant of the fact that the U.S. Department of State already is overburdened with onerous and often overlapping reporting requirements, the Committee has opted to incorporate these new requirements within existing annual reports, rather than mandating the issuance of entirely new reports.

Section 11. Rule of Construction.

Section 11 provides that nothing in this Act shall be construed to preempt State laws which prohibit investment of State pension funds in Sudan.

NEW ADVISORY COMMITTEES

H.R. 3127 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 3127 does not apply to the legislative branch.

FEDERAL MANDATES

H.R. 3127 provides no Federal mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

COMPREHENSIVE PEACE IN SUDAN ACT OF 2004

* * * * *

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

(a) * * *

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

(c) **BLOCKING OF ASSETS AND RESTRICTION ON VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE PRESIDENT.**—

(1) **BLOCKING OF ASSETS.**—*Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.*

(2) **RESTRICTION ON VISAS.**—*Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall deny visas and entry to any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.*

[(c)] (d) **WAIVER.**—The President may waive the application of subsection (a) or (b) if the President determines and certifies to the appropriate congressional committees that such a waiver is in the national interest of the United States. *The President may waive the application of paragraph (1) or (2) of subsection (c) with respect to an individual if the President determines that such a waiver is in the national interests of the United States and, prior to exercising the waiver, transmits to the appropriate congressional committees a notification which includes the name of the individual and the reasons for the waiver.*

[(d)] (e) **CONTINUATION OF RESTRICTIONS.**—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Act, 2004 (division D of Public Law 108–199; 118 Stat. 143), or any other similar provision of law, shall remain in effect against the Government of Sudan and may

not be lifted pursuant to such provisions of law unless the President transmits a certification to the appropriate congressional committees in accordance with paragraph (2) of section 12(a) of the Sudan Peace Act (as added by section 5(a)(1) of this Act).

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

SEC. 7. ADDITIONAL AUTHORITIES.

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

(b) *ASSISTANCE TO SUPPORT AMIS*.—*Notwithstanding any other provision of law, the President is authorized to provide assistance, on such terms and conditions as the President may determine and in consultation with the appropriate congressional committees, to reinforce the deployment and operations of an expanded African Union Mission in Sudan (AMIS) with the mandate, size, strength, and capacity to protect civilians and humanitarian operations, stabilize the Darfur region of Sudan and dissuade and deter air attacks directed against civilians and humanitarian workers, including but not limited to providing assistance in the areas of logistics, transport, communications, materiel support, technical assistance, training, command and control, aerial surveillance, and intelligence.*

* * * * *

SECTION 501 OF THE ASSISTANCE FOR INTERNATIONAL MALARIA CONTROL ACT

SEC. 501. ASSISTANCE EFFORTS IN SUDAN.

(a) ADDITIONAL AUTHORITIES.—[Notwithstanding any other provision of law]

(1) *IN GENERAL*.—*Notwithstanding any other provision of law, the President is authorized to undertake appropriate programs using Federal agencies, contractual arrangements, or direct support of indigenous groups, civil administrations, agencies, or organizations in [areas outside of control of the Government of Sudan] southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei in an effort to provide emergency relief, promote economic self-sufficiency, build civil authority, provide education, enhance rule of law and the development of judicial and legal frameworks, support people-to-people reconciliation efforts, or implement any program in support of any viable peace agreement at the local, regional, or national level in Sudan, including the Comprehensive Peace Agreement for Sudan.*

(2) *CONGRESSIONAL NOTIFICATION*.—

(A) *IN GENERAL.*—Assistance may not be obligated under this subsection until 15 days after the date on which the President has provided notice thereof to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogramming notifications under such section.

(B) *RULE OF CONSTRUCTION.*—The notification requirement of subparagraph (A) shall not apply in the case of assistance subject to notification in accordance with section 634A of the Foreign Assistance Act of 1961 pursuant to any provision of an Act making appropriations for foreign operations, export financing, and related programs.

(b) *EXCEPTION TO [EXPORT PROHIBITIONS] PROHIBITIONS IN EXECUTIVE ORDER NO. 13067.*—Notwithstanding any other provision of law, the prohibitions set forth with respect to Sudan in Executive Order No. 13067 of November 3, 1997 (62 Fed. Register 59989) shall not apply to [any export from an area in Sudan outside of control of the Government of Sudan, or to any necessary transaction directly related to that export] *activities or related transactions with respect to southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, or Abyei, if the President determines that [the export or related transaction, as the case may be, would directly benefit the economic development of that area and its people.] such activities or related transactions would directly benefit the economic recovery and development of those areas and people.*

SECTION 8 OF THE SUDAN PEACE ACT

SEC. 8. REPORTING REQUIREMENTS.

(a) * * *

* * * * *

(c) *REPORT ON AFRICAN UNION MISSION IN SUDAN (AMIS).*—In conjunction with reports required under subsections (a) and (b) of this section, the Secretary of State shall submit to the appropriate congressional committees a report, to be prepared in conjunction with the Secretary of Defense, on—

(1) *efforts to fully deploy the African Union Mission in Sudan (AMIS) with the size, strength, and capacity necessary to stabilize the Darfur region of Sudan and protect civilians and humanitarian operations;*

(2) *the needs of AMIS to ensure success, including in the areas of housing, transport, communications, equipment, technical assistance, training, command and control, intelligence, and such assistance as is necessary to dissuade and deter attacks, including by air, directed against civilians and humanitarian operations;*

(3) *the current level of United States assistance and other assistance provided to AMIS, and a request for additional United States assistance, if necessary;*

(4) *the status of North Atlantic Treaty Organization (NATO) plans and assistance to support AMIS; and*

(5) *the performance of AMIS in carrying out its mission in the Darfur region.*

(d) *REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—In conjunction with reports required under subsections (a), (b), and (c) of this section, the Secretary of State shall submit to the appropriate congressional committees a report regarding sanctions imposed under subsections (a) through (d) of section 6 of the Comprehensive Peace in Sudan Act of 2004, including—*

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

(2) the name of the individual or entity subject to the sanction, if applicable.

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

