

110TH CONGRESS
1ST SESSION

S. 1563

To require the disclosure of certain activities relating to the petroleum industry of Sudan, to increase the penalties for violations of sanctions provisions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2007

Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. DODD, Mr. OBAMA, Mr. LIEBERMAN, Ms. KLOBUCHAR, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. WYDEN, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the disclosure of certain activities relating to the petroleum industry of Sudan, to increase the penalties for violations of sanctions provisions, 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 “Sudan Disclosure and
5 Enforcement Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) On July 22, 2004, the Senate passed Sen-
2 ate Concurrent Resolution 133, 108th Congress, and
3 the House of Representatives passed House Concur-
4 rent Resolution 467, 108th Congress, both resolu-
5 tions declaring that “the atrocities unfolding in
6 Darfur, Sudan, are genocide”.

7 (2) On September 9, 2004, President Bush de-
8 clared that “we have concluded that genocide has
9 taken place in Darfur”.

10 (3) On June 30, 2005, President Bush affirmed
11 that “the violence in Darfur region is clearly geno-
12 cide [and t]he human cost is beyond calculation”.

13 (4) On May 8, 2006, President Bush re-
14 affirmed, “We will call genocide by its rightful name,
15 and we will stand up for the innocent until the peace
16 of Darfur is secured.”.

17 (5) On November 20, 2006, the Presidential
18 Special Envoy to Sudan, Andrew S. Natsios, stated
19 in a briefing to members of the press, “And there’s
20 a point—January 1st is either we see a change or
21 we go to Plan B.”.

22 (6) On February 20, 2007, Special Envoy
23 Natsios stated in an interview with the Council on
24 Foreign Relations, “We needed to send a message to
25 the Sudanese government that we were no longer

1 simply going to continue with the situation the way
2 it's been the last four years, that there was a
3 change. We are considering more aggressive meas-
4 ures should we make no progress in the humani-
5 tarian area, in the political negotiations, and in the
6 implementation of Kofi Annan and Ban Ki-moon's
7 plan to introduce . . . additional forces.”.

8 (7) On April 18, 2007, President Bush stated,
9 “It is evil we are now seeing in Sudan—and we’re
10 not going to back down.”.

11 (8) The Government of Sudan, as of the date
12 of the introduction of this Act, has announced its
13 willingness to accept 3,000 United Nations peace-
14 keepers and their equipment, but has continued to
15 obstruct the full-scale joint United Nations-African
16 Union peacekeeping mission authorized under
17 United Nations Security Council Resolution 1706
18 (2006) and to prevent sufficient humanitarian access
19 to meet the urgent needs of the people of Darfur.

20 (9) Congress supports the objectives of a “Plan
21 B” as outlined in the press and elsewhere to in-
22 crease pressure on the Government of Sudan to ac-
23 cept a greatly expanded peacekeeping mission with a
24 mandate to protect the people of Darfur.

1 **SEC. 3. SENSE OF CONGRESS.**

2 It is the sense of Congress that the President
3 should—

4 (1) continue to work with other members of the
5 international community, including the Permanent
6 Members of the United Nations Security Council,
7 the African Union, the European Union, the Arab
8 League, and the Government of Sudan to facilitate
9 the urgent deployment of a peacekeeping force as
10 called for by United Nations Security Council Reso-
11 lution 1706 (2006); and

12 (2) bring before the United Nations Security
13 Council, and call for a vote on, a resolution requir-
14 ing meaningful multilateral sanctions against the
15 Government of Sudan in response to its acts of
16 genocide against the people of Darfur and its contin-
17 ued refusal to allow the implementation of a peace-
18 keeping force as called for by Resolution 1706.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
22 **TEES.**—The term “appropriate congressional com-
23 mittees” means—

24 (A) the Committee on Appropriations, the
25 Committee on Foreign Relations, and the Com-

1 committee on Banking, Housing, and Urban Affairs
2 of the Senate; and

3 (B) the Committee on Appropriations, the
4 Committee on Foreign Affairs, and the Com-
5 mittee on Financial Services of the House of
6 Representatives.

7 (2) PERSON.—The term “person” means an in-
8 dividual, partnership, corporation, or other entity,
9 including a government or an agency of a govern-
10 ment.

11 (3) SUDAN.—

12 (A) SUDAN.—The term “Sudan” means
13 the Republic of Sudan and any territory under
14 the administration or control of the Government
15 of Sudan.

16 (B) SOUTHERN SUDAN AND DESIGNATED
17 AREAS.—The term “Southern Sudan and des-
18 ignated areas” means Southern Sudan, South-
19 ern Kordofan/Nuba Mountains State, Blue Nile
20 State, Abyei, or Darfur.

21 **SEC. 5. DISCLOSURE TO THE SEC OF ACTIVITIES RELATING**
22 **TO THE PETROLEUM INDUSTRY IN SUDAN.**

23 Section 13 of the Securities Exchange Act of 1934
24 (15 U.S.C. 78m) is amended by adding at the end the
25 following new subsection:

1 “(m) DISCLOSURE OF ACTIVITIES RELATING TO THE
2 PETROLEUM INDUSTRY IN SUDAN.—

3 “(1) IN GENERAL.—Not later than 90 days
4 after the date of the enactment of this subsection,
5 the Securities and Exchange Commission shall pro-
6 mulgate rules requiring any person described in
7 paragraph (2) to disclose to the Securities and Ex-
8 change Commission—

9 “(A) activities described in paragraph (3)
10 if such activities result in gross receipts to or
11 total investments from such person of
12 \$1,000,000 or more a year; and

13 “(B) the geographic area within Sudan
14 where such activities occurred, and specifically
15 if such activities took place solely within South-
16 ern Sudan and designated areas.

17 “(2) PERSON DESCRIBED.—A person, as de-
18 fined in paragraph (6)(C), is described in this para-
19 graph if the person—

20 “(A) is an issuer of securities registered
21 under section 12; and

22 “(B) either—

23 “(i) engages in or facilitates activities
24 described in paragraph (3); or

1 “(ii) controls or is controlled by a per-
2 son that engages in or facilitates activities
3 described in paragraph (3).

4 “(3) ACTIVITIES DESCRIBED.—An activity de-
5 scribed in this paragraph is the exploration, develop-
6 ment, extraction, processing, exportation, or sale of
7 petroleum products produced in Sudan.

8 “(4) WAIVER.—The President may waive the
9 disclosure requirements described in paragraph (1)
10 for periods not to exceed 1 year if the President—

11 “(A) determines that such a waiver is in
12 the national interest of the United States; and

13 “(B) not later than 7 days before granting
14 the waiver, reports to the appropriate congres-
15 sional committees regarding the intention of the
16 President to waive the disclosure requirements
17 described in paragraph (1) and the reasons the
18 waiver is in the national interest of the United
19 States.

20 “(5) TERMINATION OF DISCLOSURE REQUIRE-
21 MENTS.—The disclosure requirements described in
22 paragraph (1) shall terminate if the Secretary of
23 State—

1 “(A) determines that the Government of
2 Sudan no longer provides support for acts of
3 international terrorism for purposes of—

4 “(i) section 40 of the Arms Export
5 Control Act (22 U.S.C. 2780);

6 “(ii) section 620A of the Foreign As-
7 sistance Act of 1961 (22 U.S.C. 2371);
8 and

9 “(iii) section 6(j) of the Export Ad-
10 ministration Act of 1979 (50 U.S.C. App.
11 2405(j)), as in effect pursuant to the
12 International Emergency Economic Powers
13 Act (50 U.S.C. 1701 et seq.); and

14 “(B) certifies to the appropriate congres-
15 sional committees that the Government of
16 Sudan has demonstrated significant improve-
17 ment in protecting the civilian population of
18 Darfur, such as by allowing a substantial
19 United Nations-African Union peacekeeping
20 mission with the mandate and means to protect
21 civilians and allow for the safe return of per-
22 sons displaced by the violence in Darfur.

23 “(6) DEFINITIONS.—In this subsection:

1 “(A) APPROPRIATE CONGRESSIONAL COM-
2 MITTEES.—The term ‘appropriate congressional
3 committees’ means—

4 “(i) the Committee on Appropriations,
5 the Committee on Foreign Relations, and
6 the Committee on Banking, Housing, and
7 Urban Affairs of the Senate; and

8 “(ii) the Committee on Appropria-
9 tions, the Committee on Foreign Affairs,
10 and the Committee on Financial Services
11 of the House of Representatives.

12 “(B) CONTROL.—The term ‘control’
13 means—

14 “(i) in the case of a corporation, to
15 hold at least 50 percent (by vote or value)
16 of the capital structure of the corporation;
17 and

18 “(ii) in the case of any other entity, to
19 hold interests representing at least 50 per-
20 cent of the capital structure of the entity.

21 “(C) IS CONTROLLED BY.—The term ‘is
22 controlled by’ means—

23 “(i) in the case of a corporation, to
24 have at least 50 percent (by vote or value)

1 of the capital structure of the corporation
2 held by another person; and

3 “(ii) in the case of any other entity, to
4 have interests representing at least 50 per-
5 cent of the capital structure of the entity
6 held by another person.

7 “(D) FOREIGN PERSON.—The term ‘for-
8 eign person’ means a person—

9 “(i) in the case of an individual, who
10 is an alien; or

11 “(ii) in the case of a partnership, cor-
12 poration, or other entity, that is organized
13 under the laws of a foreign country or that
14 has its principal place of business in a for-
15 eign country.

16 “(E) PERSON.—

17 “(i) IN GENERAL.—The term ‘person’
18 means an individual, partnership, corpora-
19 tion, or other entity, including a govern-
20 ment or an agency of a government.

21 “(ii) EXCEPTION.—The term ‘person’
22 does not include—

23 “(I) any person engaging solely
24 in transactions or activities in Sudan
25 that are authorized or exempted pur-

1 suant to the Sudanese Sanctions Reg-
2 ulations (part 538 of title 31, Code of
3 Federal Regulations);

4 “(II) foreign nongovernmental
5 organizations (except agencies of the
6 Government of Sudan) that—

7 “(aa) have consultative sta-
8 tus with the United Nations Eco-
9 nomic and Social Council; or

10 “(bb) have been accredited
11 by a department or specialized
12 agency of the United Nations; or

13 “(III) a foreign person whose
14 business activities in Sudan are strict-
15 ly limited to providing goods and serv-
16 ices that are—

17 “(aa) intended to relieve
18 human suffering;

19 “(bb) intended to promote
20 welfare, health, religious, or spir-
21 itual activities;

22 “(cc) used for educational or
23 humanitarian purposes;

24 “(dd) used for journalistic
25 activities; or

1 “(ee) used for such other
2 purposes as the Secretary of
3 State may determine serve the
4 foreign policy interests of the
5 United States.

6 “(F) SUDAN.—

7 “(i) SUDAN.—The term ‘Sudan’
8 means the Republic of Sudan and any ter-
9 ritory under the administration or control
10 of the Government of Sudan.

11 “(ii) SOUTHERN SUDAN AND DES-
12 IGNATED AREAS.—The term ‘Southern
13 Sudan and designated areas’ means South-
14 ern Sudan, Southern Kordofan/Nuba
15 Mountains State, Blue Nile State, Abyei,
16 or Darfur.”.

17 **SEC. 6. INCREASED PENALTIES FOR VIOLATIONS OF IEEPA.**

18 (a) IN GENERAL.—Section 206 of the International
19 Emergency Economic Powers Act (50 U.S.C. 1705) is
20 amended to read as follows:

21 **“SEC. 206. PENALTIES.**

22 “(a) UNLAWFUL ACTS.—It shall be unlawful for a
23 person to violate, attempt to violate, conspire to violate,
24 or cause a violation of any license, order, regulation, or
25 prohibition issued under this title.

1 “(b) CIVIL PENALTY.—A civil penalty may be im-
2 posed on any person who commits an unlawful act de-
3 scribed in subsection (a) in an amount not to exceed the
4 greater of—

5 “(1) \$250,000; or

6 “(2) an amount that is twice the amount of the
7 transaction that is the basis of the violation with re-
8 spect to which the penalty is imposed.

9 “(c) CRIMINAL PENALTY.—A person who willfully
10 commits, willfully attempts to commit, or willfully con-
11 spires to commit, or aids or abets in the commission of,
12 an unlawful act described in subsection (a) shall, upon
13 conviction, be fined not more than \$1,000,000, or if a nat-
14 ural person, may be imprisoned for not more than 20
15 years, or both.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) applies to violations described in section
18 206 of the International Emergency Economic Powers Act
19 (50 U.S.C. 1705) with respect to which enforcement ac-
20 tion is pending or commenced on or after the date of the
21 enactment of this Act.

1 **SEC. 7. REPORT ON AND PUBLIC DISCLOSURE OF ACTIVI-**
2 **TIES IN THE PETROLEUM INDUSTRY OF**
3 **SUDAN.**

4 (a) **REPORT ON ACTIVITIES RELATING TO THE PE-**
5 **TROLEUM INDUSTRY OF SUDAN.—**

6 (1) **IN GENERAL.—**Not later than 90 days after
7 the date of the enactment of this Act, the Secretary
8 of the Treasury, in consultation with the Secretary
9 of State, the Secretary of Energy, and the Director
10 of National Intelligence, shall prepare and submit to
11 the appropriate congressional committees a written
12 report on the overall impact of economic sanctions
13 on the Government of Sudan and the crisis in
14 Darfur.

15 (2) **CONTENTS OF REPORT.—**The report re-
16 quired by paragraph (1) shall include—

17 (A) the name of persons identified by the
18 Office of Foreign Assets Control as specially
19 designated nationals; and

20 (B) the economic and political impact of
21 sanctions on the Government of Sudan.

22 (3) **FORM OF REPORT.—**The report shall be
23 submitted in unclassified form, but may contain a
24 classified annex relating to the assessment under
25 paragraph (2)(B).

1 (b) BRIEFING ON REPORT.—Not later than 14 days
2 after submitting the report required by subsection (a), the
3 Secretary of the Treasury, the Secretary of State, the Sec-
4 retary of Energy, the Director of National Intelligence,
5 and representatives of the Securities and Exchange Com-
6 mission shall brief the appropriate congressional commit-
7 tees on the contents of the report.

8 (c) DISCLOSURE ON SEC WEBSITE.—

9 (1) IN GENERAL.—Not later than 14 days after
10 promulgating the rules required by section 13(m) of
11 the Securities Exchange Act of 1934, as added by
12 section 5, the Securities and Exchange Commission
13 shall make available on its website, in an easily ac-
14 cessible and searchable format, the information col-
15 lected pursuant to the disclosure requirements of
16 such section 13(m), including—

17 (A) the names of persons that made disclo-
18 sures under such section 13(m);

19 (B) the specific activities related to the pe-
20 troleum industry of Sudan in which such per-
21 sons engaged; and

22 (C) the geographic area within Sudan
23 where such activities occurred, and specifically
24 if such activities took place solely within South-
25 ern Sudan and designated areas.

1 (2) MAINTENANCE.—The Securities and Ex-
2 change Commission shall maintain and update regu-
3 larly the information on the website of the Commis-
4 sion under paragraph (1).

5 (d) GOVERNMENT PROCUREMENT CONTRACTS.—

6 (1) IN GENERAL.—Not later than 45 days after
7 the submission of the report required by subsection
8 (a), the Administrator of General Services shall de-
9 termine whether the United States Government has
10 in effect a contract for the procurement of goods or
11 services with any person identified in the report re-
12 quired by subsection (a).

13 (2) REPORT.—If the Administrator determines
14 that the United States Government has in effect a
15 contract for the procurement of goods or services
16 with a person identified in the report required by
17 subsection (a), the Administrator shall submit to the
18 appropriate congressional committees a report—

19 (A) naming each person identified in the
20 report required by subsection (a);

21 (B) the nature of the contract; and

22 (C) the dollar amount of the contract.

1 **SEC. 8. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS**
2 **FOR OFAC.**

3 (a) IN GENERAL.—There are authorized to be appro-
4 priated \$2,000,000 to the Office of Foreign Assets Control
5 for fiscal year 2008, to support intelligence gathering, li-
6 censing, compliance, and administrative activities associ-
7 ated with the enforcement of sanctions against Sudan and
8 persons operating in Sudan.

9 (b) SUPPLEMENT NOT SUPPLANT.—Funds appro-
10 priated pursuant to the authority of subsection (a) shall
11 be used to supplement and not supplant other amounts
12 authorized to be appropriated for the Office of Foreign
13 Assets Control.

14 **SEC. 9. NOTIFICATION OF TERMINATION OF SANCTIONS.**

15 (a) IN GENERAL.—Not later than 15 days after the
16 date on which any sanction described in subsection (b) is
17 terminated, the President shall publish in the Federal
18 Register notice that such sanction has been terminated.

19 (b) SANCTIONS DESCRIBED.—A sanction described
20 in this subsection is a sanction imposed pursuant to—

21 (1) the Darfur Peace and Accountability Act of
22 2006 (Public Law 109–344; 50 U.S.C. 1701 note);

23 (2) the Comprehensive Peace in Sudan Act of
24 2004 (Public Law 108–497; 50 U.S.C. 1701 note);

25 (3) the Sudan Peace Act (Public Law 107–245;
26 50 U.S.C. 1701 note);

1 (4) the International Emergency Economic
2 Powers Act (50 U.S.C. 1701 et seq.);

3 (5) chapter 5 of title 31, Code of Federal Regu-
4 lations; or

5 (6) any other provision of law, regulation, or
6 executive order relating to Sudan.

7 **SEC. 10. REPEAL.**

8 Section 6305 of the U.S. Troop Readiness, Veterans'
9 Care, Katrina Recovery, and Iraq Accountability Appro-
10 priations Act, 2007 (Public Law 110–28) is repealed.

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