Public Law 107–245
107th Congress

An Act

Oct. 21, 2002
[H.R. 5531]

To facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

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

Sudan Peace Act.

50 USC 1701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sudan Peace Act".

50 USC 1701 note.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Government of Sudan has intensified its prosecution of the war against areas outside of its control, which has already cost more than 2,000,000 lives and has displaced more than 4,000,000 people.

(2) A viable, comprehensive, and internationally sponsored peace process, protected from manipulation, presents the best chance for a permanent resolution of the war, protection of human rights, and a self-sustaining Sudan.

(3) Continued strengthening and reform of humanitarian relief operations in Sudan is an essential element in the effort to bring an end to the war.

(4) Continued leadership by the United States is critical.

(5) Regardless of the future political status of the areas of Sudan outside of the control of the Government of Sudan, the absence of credible civil authority and institutions is a major impediment to achieving self-sustenance by the Sudanese people and to meaningful progress toward a viable peace process. It is critical that credible civil authority and institutions play an important role in the reconstruction of post-war Sudan.

(6) Through the manipulation of traditional rivalries among peoples in areas outside of its full control, the Government of Sudan has used divide-and-conquer techniques effectively to subjugate its population. However, internationally sponsored reconciliation efforts have played a critical role in reducing human suffering and the effectiveness of this tactic.

(7) The Government of Sudan utilizes and organizes militias, Popular Defense Forces, and other irregular units for raiding and enslaving parties in areas outside of the control of the Government of Sudan in an effort to disrupt severely the ability of the populations in those areas to sustain themselves. The tactic helps minimize the Government of Sudan's accountability internationally.

(8) The Government of Sudan has repeatedly stated that it intends to use the expected proceeds from future oil sales

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to increase the tempo and lethality of the war against the areas outside of its control.

(9) By regularly banning air transport relief flights by the United Nations relief operation OLS, the Government of Sudan has been able to manipulate the receipt of food aid by the Sudanese people from the United States and other donor countries as a devastating weapon of war in the ongoing effort by the Government of Sudan to starve targeted groups and subdue areas of Sudan outside of the Government's control.

(10) The acts of the Government of Sudan, including the acts described in this section, constitute genocide as defined by the Convention on the Prevention and Punishment of the Crime of Genocide (78 U.N.T.S. 277).

(11) The efforts of the United States and other donors in delivering relief and assistance through means outside of OLS have played a critical role in addressing the deficiencies in OLS and offset the Government of Sudan's manipulation of food donations to advantage in the civil war in Sudan.

(12) While the immediate needs of selected areas in Sudan facing starvation have been addressed in the near term, the population in areas of Sudan outside of the control of the Government of Sudan are still in danger of extreme disruption of their ability to sustain themselves.

(13) The Nuba Mountains and many areas in Bahr al Ghazal and the Upper Nile and the Blue Nile regions have been excluded completely from relief distribution by OLS, consequently placing their populations at increased risk of famine.

(14) At a cost which has sometimes exceeded $1,000,000 per day, and with a primary focus on providing only for the immediate food needs of the recipients, the current international relief operations are neither sustainable nor desirable in the long term.

(15) The ability of populations to defend themselves against attack in areas outside of the control of the Government of Sudan has been severely compromised by the disengagement of the front-line states of Ethiopia, Eritrea, and Uganda, fostering the belief among officials of the Government of Sudan that success on the battlefield can be achieved.

(16) The United States should use all means of pressure available to facilitate a comprehensive solution to the war in Sudan, including—

(A) the multilateralization of economic and diplomatic tools to compel the Government of Sudan to enter into a good faith peace process;

(B) the support or creation of viable democratic civil authority and institutions in areas of Sudan outside of government control;

(C) continued active support of people-to-people reconciliation mechanisms and efforts in areas outside of government control;

(D) the strengthening of the mechanisms to provide humanitarian relief to those areas; and

(E) cooperation among the trading partners of the United States and within multilateral institutions toward those ends.

50 USC 1701 note.

SEC. 3. 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.—The term "Government of Sudan" means the National Islamic Front government in Khartoum, Sudan.

(3) OLS.—The term "OLS" means the United Nations relief operation carried out by UNICEF, the World Food Program, and participating relief organizations known as "Operation Lifeline Sudan".

50 USC 1701 note.

SEC. 4. CONDEMNATION OF SLAVERY, OTHER HUMAN RIGHTS ABUSES, AND TACTICS OF THE GOVERNMENT OF SUDAN.

The Congress hereby—

(1) condemns—

(A) violations of human rights on all sides of the conflict in Sudan;

(B) the Government of Sudan's overall human rights record, with regard to both the prosecution of the war and the denial of basic human and political rights to all Sudanese;

(C) the ongoing slave trade in Sudan and the role of the Government of Sudan in abetting and tolerating the practice;

(D) the Government of Sudan's use and organization of "murahalliin" or "mujahadeen", Popular Defense Forces, and regular Sudanese Army units into organized and coordinated raiding and slaving parties in Bahr al Ghazal, the Nuba Mountains, and the Upper Nile and the Blue Nile regions; and

(E) aerial bombardment of civilian targets that is sponsored by the Government of Sudan; and

(2) recognizes that, along with selective bans on air transport relief flights by the Government of Sudan, the use of raiding and slaving parties is a tool for creating food shortages and is used as a systematic means to destroy the societies, culture, and economies of the Dinka, Nuer, and Nuba peoples in a policy of low-intensity ethnic cleansing.

50 USC 1701 note.

SEC. 5. ASSISTANCE FOR PEACE AND DEMOCRATIC GOVERNANCE.

(a) ASSISTANCE TO SUDAN.—The President is authorized to provide increased assistance to the areas of Sudan that are not controlled by the Government of Sudan to prepare the population for peace and democratic governance, including support for civil administration, communications infrastructure, education, health, and agriculture.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out the activities described in subsection (a) of this section $100,000,000 for each of the fiscal years 2003, 2004, and 2005.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) of this subsection are authorized to remain available until expended.

SEC. 6. SUPPORT FOR AN INTERNATIONALLY SANCTIONED PEACE PROCESS.

President. 50 USC 1701 note.

(a) FINDINGS.—Congress hereby—

(1) recognizes that—

(A) a single, viable internationally and regionally sanctioned peace process holds the greatest opportunity to promote a negotiated, peaceful settlement to the war in Sudan; and

(B) resolution to the conflict in Sudan is best made through a peace process based on the Declaration of Principles reached in Nairobi, Kenya, on July 20, 1994, and on the Machakos Protocol in July 2002; and

(2) commends the efforts of Special Presidential Envoy, Senator Danforth and his team in working to assist the parties to the conflict in Sudan in finding a just, permanent peace to the conflict in Sudan.

John C. Danforth.

(b) MEASURES OF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—

(A) The President shall make a determination and certify in writing to the appropriate congressional committees within 6 months after the date of enactment of this Act, and each 6 months thereafter, that the Government of Sudan and the Sudan People's Liberation Movement are negotiating in good faith and that negotiations should continue.

Certification. Deadlines.

(B) If, under subparagraph (A) the President determines and certifies in writing to the appropriate congressional committees that the Government of Sudan has not engaged in good faith negotiations to achieve a permanent, just, and equitable peace agreement, or has unreasonably interfered with humanitarian efforts, then the President, after consultation with the Congress, shall implement the measures set forth in paragraph (2).

(C) If, under paragraph (A) the President determines and certifies in writing to the appropriate congressional committees that the Sudan People's Liberation Movement has not engaged in good faith negotiations to achieve a permanent, just, and equitable peace agreement, then paragraph (2) shall not apply to the Government of Sudan.

(D) If the President certifies to the appropriate congressional committees that the Government of Sudan is not in compliance with the terms of a permanent peace agreement between the Government of Sudan and the Sudan People's Liberation Movement, then the President, after consultation with the Congress, shall implement the measures set forth in paragraph (2).

(E) If, at any time after the President has made a certification under subparagraph (B), the President makes a determination and certifies in writing to the appropriate congressional committees that the Government of Sudan has resumed good faith negotiations, or makes a determination and certifies in writing to the appropriate congressional committees that the Government of Sudan is in compliance with a peace agreement, then paragraph (2) shall not apply to the Government of Sudan.

(2) MEASURES IN SUPPORT OF THE PEACE PROCESS.—Subject to the provisions of paragraph (1), the President—

(A) shall, through the Secretary of the Treasury, instruct the United States executive directors to each international financial institution to continue to vote against and actively oppose any extension by the respective institution of any loan, credit, or guarantee to the Government of Sudan;

(B) should consider downgrading or suspending diplomatic relations between the United States and the Government of Sudan;

(C) shall take all necessary and appropriate steps, including through multilateral efforts, to deny the Government of Sudan access to oil revenues to ensure that the Government of Sudan neither directly nor indirectly utilizes any oil revenues to purchase or acquire military equipment or to finance any military activities; and

(D) shall seek a United Nations Security Council Resolution to impose an arms embargo on the Government of Sudan.

(c) REPORT ON THE STATUS OF NEGOTIATIONS.—If, at any time after the President has made a certification under subsection (b)(1)(A), the Government of Sudan discontinues negotiations with the Sudan People's Liberation Movement for a 14-day period, then the President shall submit a quarterly report to the appropriate congressional committees on the status of the peace process until negotiations resume.

(d) REPORT ON UNITED STATES OPPOSITION TO FINANCING BY INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall submit a semiannual report to the appropriate congressional committees describing the steps taken by the United States to oppose the extension of a loan, credit, or guarantee if, after the Secretary of the Treasury gives the instructions described in subsection (b)(2)(A), such financing is extended.

Deadline.

(e) REPORT ON EFFORTS TO DENY OIL REVENUES.—Not later than 45 days after the President takes an action under subsection (b)(2)(C), the President shall submit to the appropriate congressional committees a comprehensive plan for implementing the actions described in such subsection.

(f) DEFINITION.—In this section, the term "international financial institution" means the International Bank for Reconstruction and Development, the International Development Association, the International Monetary Fund, the African Development Bank, and the African Development Fund.

50 USC 1701 note.

SEC. 7. MULTILATERAL PRESSURE ON COMBATANTS.

It is the sense of Congress that—

(1) the United Nations should help facilitate peace and recovery in Sudan;

(2) the President, acting through the United States Permanent Representative to the United Nations, should seek to end the veto power of the Government of Sudan over the plans by OLS for air transport relief flights and, by doing so, to end the manipulation of the delivery of relief supplies to the advantage of the Government of Sudan on the battlefield; and

(3) the President should take appropriate measures, including the implementation of recommendations of the International Eminent Persons Commission contained in the report

issued on May 22, 2002, to end slavery and aerial bombardment of civilians by the Government of Sudan.

SEC. 8. REPORTING REQUIREMENT.

Deadlines. 50 USC 1701 note.

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees a report regarding the conflict in Sudan. Such report shall include—

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

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

(3) the best estimates of the extent of aerial bombardment by the Government of Sudan, including targets, frequency, and best estimates of damage; and

(4) a description of the extent to which humanitarian relief has been obstructed or manipulated by the Government of Sudan or other forces.

SEC. 9. CONTINUED USE OF NON-OLS ORGANIZATIONS FOR RELIEF EFFORTS.

50 USC 1701 note.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should continue to increase the use of non-OLS agencies in the distribution of relief supplies in southern Sudan.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a detailed report describing the progress made toward carrying out subsection (a).

Deadline. President.

SEC. 10. CONTINGENCY PLAN FOR ANY BAN ON AIR TRANSPORT RELIEF FLIGHTS.

President. 50 USC 1701 note.

(a) PLAN.—The President shall develop a contingency plan to provide, outside the auspices of the United Nations if necessary, the greatest possible amount of United States Government and privately donated relief to all affected areas in Sudan, including the Nuba Mountains and the Upper Nile and the Blue Nile regions, in the event that the Government of Sudan imposes a total, partial, or incremental ban on OLS air transport relief flights.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law, in carrying out the plan developed under subsection (a), the President may reprogram up to 100 percent of the funds available for support of OLS operations for the purposes of the plan.

SEC. 11. INVESTIGATION OF WAR CRIMES.

50 USC 1701 note.

(a) IN GENERAL.—The Secretary of State shall collect information about incidents which may constitute crimes against humanity, genocide, war crimes, and other violations of international humanitarian law by all parties to the conflict in Sudan, including slavery, rape, and aerial bombardment of civilian targets.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act and annually thereafter, the Secretary of

Deadline.

State shall prepare and submit to the appropriate congressional committees a detailed report on the information that the Secretary of State has collected under subsection (a) and any findings or determinations made by the Secretary on the basis of that information. The report under this subsection may be submitted as part of the report required under section 8.

(c) CONSULTATIONS WITH OTHER DEPARTMENTS.—In preparing the report required by this section, the Secretary of State shall consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and methods or other vital national security interests.

Approved October 21, 2002.

LEGISLATIVE HISTORY—H.R. 5531:

CONGRESSIONAL RECORD, Vol. 148 (2002):
Oct. 7, considered and passed House.
Oct. 9, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):
Oct. 21, Presidential statement.