

108TH CONGRESS
2D SESSION

H. R. 4364

To amend the Foreign Assistance Act of 1961 to require the governments of low income oil-producing countries to meet certain requirements relating to their oil revenues in order to be eligible to receive United States economic assistance.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2004

Mr. HYDE introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Foreign Assistance Act of 1961 to require the governments of low income oil-producing countries to meet certain requirements relating to their oil revenues in order to be eligible to receive United States economic assistance.

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 “United States Eco-
5 nomic Assistance Conditionality Act of 2004”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The governments of low income oil-pro-
4 ducing countries often do not provide information to
5 the people of such countries regarding their oil reve-
6 nues. Such opacity can hide billions of dollars worth
7 of financial impropriety.

8 (2) The governments of such countries have
9 generally refused to disclose information regarding
10 their oil revenues when pressed by international or-
11 ganizations and others, proclaiming that such dislo-
12 sure is an infringement on national sovereignty.

13 (3) As a result, the people of such countries are
14 left without the necessary information to ensure
15 proper management and accountability regarding
16 such oil revenues. Dispossessed, the people of such
17 countries are often left marginalized and at the
18 mercy of donor assistance. In Angola, for example,
19 one in every four oil dollars earned is unaccounted
20 for. At the same time, one in four Angolan children
21 dies before the age of five from preventable diseases.

22 (4) In some low income oil-producing countries,
23 government-imposed royalties and fees on the reve-
24 nues of business enterprises engaged in oil produc-
25 tion are often misappropriated and squandered.

1 These businesses are then left vulnerable to accusa-
2 tions of complicity with corruption.

3 (5) The governments of low income oil-pro-
4 ducing countries that mismanage oil revenues are
5 often unstable and do not survive, creating further
6 instability that threatens the supply of vital indus-
7 trial commodities and forcing the international com-
8 munity to respond with costly emergency assistance
9 to those countries.

10 (6) A key to promoting political, economic, and
11 social reform in low income oil-producing is trans-
12 parency in public finances.

13 (7) If the governments of such countries tell
14 their people how much oil revenue the government
15 receives and how that revenue is allocated and ex-
16 pended, the resulting transparency will engender
17 more realistic public expectations, more plausible na-
18 tional development programs, and better means to
19 combat corruption and promote democracy, respect
20 for human rights, and the rule of law.

21 (8) Transparency by such foreign governments
22 will benefit United States business enterprises as
23 well. Respect for the rule of law, codified regulatory
24 practices, and transparent bidding and award prac-
25 tices deter corruption and encourage a level playing

1 field in such countries for United States business en-
2 terprises.

3 (9) Export credit activities and other bilateral
4 concessional loan programs of the United States
5 Government for low income oil-producing countries
6 should require that any assistance under such activi-
7 ties and programs be conditional on appropriate
8 transparency by the governments of such countries
9 relating to oil revenues.

10 (10) International financial institutions such as
11 the World Bank should incorporate revenue trans-
12 parency across their lending and technical assistance
13 portfolios by making full transparency a condition of
14 all their financial support and by including it in
15 their national poverty reduction strategy consulta-
16 tions.

17 (11) One bold and promising model is the
18 Chad/Cameroon Pipeline Project, under which the
19 Government of Chad, private investors, and the
20 World Bank Group have established an account-
21 ability and oversight mechanism for the country's
22 revenues derived from oil production.

23 (12) Donald Norland, former United States
24 Ambassador to Chad, in testimony on April 18,
25 2002, before the Committee on International Rela-

1 tions of the House of Representatives stated that the
2 Chad/Cameroon Pipeline Project “has addressed
3 these extraordinarily challenging issues in ways that
4 may well serve as a model for developing natural re-
5 sources in other countries”.

6 (13) Ambassador Norland further testified that:
7 “Success will require keeping the project in the spot-
8 light of public attention as well as under constant
9 scrutiny and monitoring by outside groups . . . Scru-
10 tiny is the key to transparency. Transparency is, in
11 turn, indispensable in guaranteeing that oil re-
12 sources go . . . to projects that reduce poverty while
13 preserving the environment and advancing human
14 rights . . . to make sure that revenues go to benefit
15 the people of Chad and not to private bank ac-
16 counts.”.

17 **SEC. 3. LIMITATION ON UNITED STATES ECONOMIC ASSIST-**
18 **ANCE FOR LOW INCOME OIL-PRODUCING**
19 **COUNTRIES.**

20 Chapter 1 of part III of the Foreign Assistance Act
21 of 1961 (22 U.S.C. 2351 et seq.) is amended—

22 (1) by redesignating the second section 620G
23 (as added by section 149 of Public Law 104–164
24 (110 Stat. 1436)) as section 620J; and

1 (2) by adding at the end the following new sec-
2 tion:

3 **“SEC. 620K. LIMITATION ON UNITED STATES ECONOMIC AS-**
4 **SISTANCE FOR LOW INCOME OIL-PRODUCING**
5 **COUNTRIES.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) LOW INCOME COUNTRY.—The term ‘low
8 income country’ means a country that has a per cap-
9 ita income equal to or less than the historical ceiling
10 of the International Development Association, as de-
11 fined by the International Bank for Reconstruction
12 and Development.

13 “(2) LOW INCOME OIL PRODUCING COUNTRY.—
14 The term ‘low income oil-producing country’ means
15 a low-income country that produces an average of
16 not less than 100,000 barrels of oil or equivalent per
17 day based on the most recent information available
18 by the Energy Information Administration of the
19 Department of Energy.

20 “(3) OIL.—The term ‘oil’ includes crude oil,
21 natural gas plant liquids, other petroleum-based liq-
22 uids, and petroleum-based refinery byproducts.

23 “(4) UNITED STATES ECONOMIC ASSISTANCE.—
24 The term ‘United States economic assistance’ means
25 any of the following:

1 “(A) Bilateral economic, development, or
2 technical assistance (other than military assist-
3 ance, humanitarian assistance, or assistance to
4 prevent, treat, and monitor HIV/AIDS) pro-
5 vided by any department or agency of the
6 United States Government to a foreign country
7 under any program, project, or activity that is
8 contained within the major budget functional
9 category 150 (relating to International Affairs),
10 including assistance under—

11 “(i) chapter 1 of part I of the Foreign
12 Assistance Act of 1961 (relating to devel-
13 opment assistance);

14 “(ii) chapter 10 of part I of that Act
15 (relating to the Development Fund for Af-
16 rica);

17 “(iii) chapter 11 of part I of that Act
18 (relating to assistance for the independent
19 states of the former Soviet Union);

20 “(iv) chapter 12 of part I of that Act
21 (relating to assistance for the countries of
22 the South Caucasus and Central Asia re-
23 gion);

1 “(v) chapter 4 of part II of that Act
2 (relating to the Economic Support Fund);

3 or

4 “(vi) the Support for East European
5 Democracy (SEED) Act of 1989.

6 “(B) Bilateral economic, development, or
7 technical assistance (other than military assist-
8 ance, humanitarian assistance, or assistance to
9 prevent, treat, and monitor HIV/AIDS) pro-
10 vided by any department or agency of the
11 United States Government to a foreign country
12 under any program, project, or activity that is
13 contained within any of the following major
14 budget functional categories:

15 “(i) 270 (relating to Energy).

16 “(ii) 300 (relating to Natural Re-
17 sources and the Environment), including
18 programs, projects, and activities of the
19 Environmental Protection Agency, the De-
20 partment of the Interior, and the United
21 States Army Corps of Engineers).

22 “(iii) 350 (relating to Agriculture), in-
23 cluding assistance provided under title I of
24 the Agricultural Trade Development and
25 Assistance Act of 1954, the Food for

1 Progress program, and other programs ad-
2 ministered by the Department of Agri-
3 culture, such as programs administered by
4 the Commodity Credit Corporation.

5 “(iv) 370 (relating to Commerce and
6 Housing Credit).

7 “(v) 400 (relating to Transportation).

8 “(vi) 500 (relating to Education,
9 Training, Employment, and Social Serv-
10 ices).

11 “(vii) 550 (relating to Health).

12 “(viii) 750 (relating to the Adminis-
13 tration of Justice).

14 “(ix) 800 (relating to the General
15 Government).

16 “(b) IDENTIFICATION; DETERMINATIONS.—Not later
17 than October 1, 2005, and not later than each October
18 1 thereafter, the President, acting through the Board of
19 Directors of the Millennium Challenge Corporation—

20 “(1) shall identify all countries in the world
21 that are low income oil-producing countries (as de-
22 fined in subsection (a)(1)); and

23 “(2) for each country identified under para-
24 graph (1)—

1 “(A) shall determine whether or not the
2 country scores in the top quartile of all low in-
3 come countries in each of the three indicators
4 described in subsection (d), as required under
5 subsection (c)(1)(A); and

6 “(B) shall determine whether or not the
7 government of the country meets the require-
8 ments of subsection (e), as required under sub-
9 section (c)(1)(B).

10 “(c) LIMITATION ON ECONOMIC ASSISTANCE.—

11 “(1) LIMITATION.—Notwithstanding any other
12 provision of law (other than a provision of this sec-
13 tion), United States economic assistance may be pro-
14 vided for fiscal year 2007 and each subsequent fiscal
15 year for a low income oil-producing country only if
16 the President, acting through the Board of Directors
17 of the Millennium Challenge Corporation, determines
18 that—

19 “(A) the country scores in the top quartile
20 of all low income countries in each of the three
21 indicators described in subsection (d); and

22 “(B) the government of the country meets
23 the requirements of subsection (e).

24 “(2) RULE OF CONSTRUCTION.—The limitation
25 on assistance under paragraph (1) shall not apply to

1 a low income oil-producing country that is deter-
2 mined by the Board of Directors of the Millennium
3 Challenge Corporation to be an eligible country
4 under section 607 of the Millennium Challenge Act
5 of 2003 (22 U.S.C. 7706) and is identified as such
6 by the Chief Executive Officer of the Corporation
7 under section 608(d) of such Act (22 U.S.C.
8 7707(d)).

9 “(d) INDICATORS.—The indicators referred to in sub-
10 section (c)(1)(A) are the following:

11 “(1) TOTAL EXPENDITURES ON HEALTH.—The
12 amount expended by the government of the country
13 at all levels on health divided by the gross domestic
14 product of the country.

15 “(2) TOTAL EXPENDITURES ON PRIMARY EDU-
16 CATION.—The amount expended by the government
17 of the country at all levels on primary education di-
18 vided by the gross domestic product of the country.

19 “(3) PRIMARY EDUCATION COMPLETION
20 RATE.—The number of students who complete pri-
21 mary education divided by the total population of in-
22 dividuals of the same age in the country.

23 “(e) REQUIREMENTS.—The requirements referred to
24 in subsection (c)(1)(B) are the following:

1 “(1) TRANSPARENCY RELATING TO OIL REVE-
2 NUES.—The government of the country makes pub-
3 licly available information on—

4 “(A) the amount of revenues received by
5 the government through the production of oil in
6 the country for the preceding calendar year,
7 whether through royalties, rents, taxes, cus-
8 toms, duties, or otherwise; and

9 “(B) the allocation of such revenues among
10 the various departments and agencies of the
11 government.

12 “(2) ALLOCATION AND EXPENDITURE OF OIL
13 REVENUES.—The government of the country allo-
14 cates and expends an appropriate amount of the rev-
15 enues referred to in paragraph (1) on education,
16 food and nutrition assistance, and public health pro-
17 grams for the people of the country.

18 “(3) UN CONVENTION AGAINST CORRUPTION.—
19 The country is a signatory to the United Nations
20 Convention Against Corruption (Document A/58/
21 422), as adopted by the United Nations General As-
22 sembly on October 31, 2003.

23 “(f) REPORT.—

24 “(1) IN GENERAL.—Not later than October 1,
25 2006, and not later than October 1 of each year

1 thereafter, the President, acting through the Board
2 of Directors of the Millennium Challenge Corpora-
3 tion, shall prepare and transmit to Congress a re-
4 port that contains—

5 “(A) for the fiscal year beginning on the
6 applicable October 1—

7 “(i) the identification each low income
8 oil-producing country, as required under
9 subsection (b)(1); and

10 “(ii) the determinations with respect
11 to each such low income oil-producing
12 country, as required under subparagraphs
13 (A) and (B) of subsection (b)(2); and

14 “(B) for the prior fiscal year, an identifica-
15 tion of each low income oil-producing country
16 that received United States economic assistance
17 by reason of the application of subsection (c)(1)
18 and the amounts and purposes of such assist-
19 ance.

20 “(2) SPECIAL RULE FOR INITIAL REPORT.—

21 The requirement to include information described in
22 subparagraph (B) of paragraph (1) shall not apply
23 to the initial report required to be submitted under
24 such paragraph.”.

1 **SEC. 4. LIMITATION ON UNITED STATES SUPPORT FOR**
2 **MULTILATERAL ASSISTANCE FOR CERTAIN**
3 **COUNTRIES.**

4 The Bretton Woods Agreements Act (22 U.S.C. 286–
5 28600) is amended by adding at the end the following:

6 **“SEC. 64. LIMITATION ON UNITED STATES SUPPORT FOR**
7 **MULTILATERAL ASSISTANCE FOR CERTAIN**
8 **COUNTRIES.**

9 “The Secretary of the Treasury shall instruct the
10 United States Executive Directors at the Fund and at the
11 Bank to use the voice, vote, and influence of the United
12 States to oppose the making of a loan by the Fund or
13 the Bank, respectively, to the government of any country
14 not eligible to receive United States economic assistance
15 by reason of section 620K of the Foreign Assistance Act
16 of 1961.”.

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