H.R. 180, THE DARFUR ACCOUNTABILITY AND DIVESTMENT ACT OF 2007

HEARING

BEFORE THE

SUBCOMMITTEE ON
DOMESTIC AND INTERNATIONAL
MONETARY POLICY, TRADE, AND TECHNOLOGY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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H.R. 180, THE DARFUR ACCOUNTABILITY AND DIVESTMENT ACT OF 2007

Tuesday, March 20, 2007

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC AND
INTERNATIONAL MONETARY POLICY,
TRADE, AND TECHNOLOGY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:05 p.m., in room 2128, Rayburn House Office Building, Hon. Luis Gutierrez [chairman of the subcommittee] presiding.

Present: Representatives Gutierrez, Maloney, Sherman, Meeks, Moore of Kansas, Clay; Paul, Castle, and Roskam.

Chairman GUTIERREZ. Good afternoon. The Subcommittee on Domestic and International Monetary Policy, Trade, and Technology of the Committee on Financial Services will come to order.

Today's hearing is a legislative hearing on H.R. 180, the Darfur Accountability and Divestment Act of 2007, introduced by Representative Barbara Lee. In this hearing, the subcommittee will closely examine divestment strategies for the region and hopefully help this committee and the House in to determine the best way forward.

With violence and atrocities in Darfur getting worse on a daily basis, it is important that we explore all of the available options we have at our disposal to put a stop to the barbaric slaughter of innocent men, women, and children. In my opinion, H.R. 180 should be an integral part of our overall strategy to put an end to genocide in Darfur, and I commend Congresswoman Lee for her efforts on this legislation.

Before I go to our first panel, I ask unanimous consent that all members of the Committee on Financial Services who are not members of this subcommittee be permitted to participate in today's subcommittee hearing. Per committee rules, we have agreed to limit opening statements to 10 minutes per side, but without objection, all members may submit written statements.

I am going to introduce the members of our first panel first, and then we will go back to opening statements, if there is no objection.

Hearing no objection, that's what we will do.

We could not ask for a more distinguished panel on this issue than our first panel today. Joining us we have Congresswoman Barbara Lee, a relentless advocate on Darfur issues, and the author of the Darfur Accountability and Divestment Act of 2007. Thank you, Congresswoman Lee, for all of your work on this issue.

We are also joined by Congressman Frank Wolf, a tireless and widely respected advocate for human rights around the globe. He is a senior member of the House Appropriations Committee, where he serves as ranking member of the State Foreign Operations Subcommittee, which has oversight of the State Department and other international programs and organizations including the Peace Corps.

Congressman Wolf is also co-chairman of the Congressional Human Rights Caucus, a bipartisan organization of over 200 House Members that identifies and works to alleviate human rights abuses worldwide. I welcome you both, and I recognize Congresswoman Lee for her testimony.

STATEMENT OF THE HONORABLE BARBARA LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. LEE. Thank you very much, Mr. Chairman, and let me thank you and the ranking member and Chairman Frank for holding this very important hearing today, and also for your leadership.

As a former member of this very subcommittee, it is truly an honor to come before you today to testify on my bill, H.R. 180, the Darfur Accountability and Divestment Act, better known as DADA.

I also want to thank Congressman Wolf for his steadfast leadership, and for helping to make sure that the world knows that—here, at least, in the House of Representatives—this is a bipartisan issue. Genocide knows no party line, and we have worked together on many, many issues relating to Darfur and genocide. So thank you, Congressman Wolf, and I would also like to thank all of the panelists who will be here shortly.

Twelve years ago, Mr. Chairman, the world stood by as nearly one million people were slaughtered in the genocide in Rwanda. The best our country could do then was, after the fact, to apologize for our failure to act. Many of us swore that another Rwanda would never happen again on our watch. But today, Mr. Chairman, it is happening again.

Nearly 3 years ago, on July 22, 2004, Congress formally declared that the ongoing atrocities in Darfur constituted genocide. Again, this was a bipartisan initiative. Congressman Payne led the way with many Republicans, and we were able to finally do this monumental pronouncement, which—it still, unfortunately, is a genocide that we are witnessing.

Since the start of the conflict, it is estimated that nearly 450,000 people have been killed, and 2.5 million innocent civilians have been displaced. I witnessed this ongoing tragedy firsthand in January of 2005, when I visited the refugee camps in Chad, and went into Darfur with two great humanitarian leaders, Don Cheadle, the brilliant Academy Award nominee, star of Hotel Rwanda, and Paul Rusesabagina, whose courage in Rwanda saved many lives. That delegation was led by Chairman Ed Royce of California. It was a bipartisan delegation. And, again, we all witnessed the horrific acts of genocide, and the results of those acts of genocide in the camps.

In February of 2006, under the very bold leadership of House Speaker Nancy Pelosi, I visited the refugee camps again in another region of Darfur, and we saw all of the suffering around us. It had

not gotten any better. We heard from people who had witnessed, and fled from, the ongoing genocide.

I can remember going into one of the camps where children had drawn pictures of airplanes bombing the refugee camps, of men on horseback with machetes and rifles, and of village huts blowing up in smoke, and in flames. And these kids, of course, were traumatized. The men and women were also traumatized by what they had seen. And I was convinced, then, that these children did not lie. They told the truth. The Khartoum government was coordinating, with the Janjaweed, to conduct the rape and the slaughter that was taking place in these camps.

Although a tentative peace agreement was signed in May of last year, it was not accepted by all parties. Rather than following through on this obligation, the Khartoum government has remained defiant—quite defiant—to this day. Meanwhile, the killings continue, the rapes, the starvation, the dislocation, they all continue.

The genocide is real, and it is happening on our watch. The credibility of the United States is on the line. We have to be about action, not just talk. We must use all of the tools that we have available to end this genocide. And I believe, at this point, that we have to hit Khartoum where it hurts, and that's in their pocketbooks.

As many of you know, divestment was a successful tool in ending apartheid in South Africa. It put our country on the right side of history when we finally, after many, many years, imposed sanctions on the apartheid regime in South Africa. My predecessor, Congressman Dellums, led that fight, and I believe the bill was introduced for at least 12 years before the Congress overrode President Reagan's veto in the early 1980's.

Today, State legislatures, colleges, and universities are all leading targeted divestment campaigns against companies doing business with the Khartoum regime. State legislatures in California, Vermont, Oregon, New Jersey, Maine, Connecticut, and of course, your State, Illinois—which I believe was the first State, or Mr. Payne's State, great competition there; we were a little slow, but California did come, finally—we have all passed legislation mandating divestment of State funds from companies that conduct business in Sudan. And many more States are starting to follow in their lead.

Divestment campaigns are ongoing in over 17 other States. Additionally, students, young people, such as Students Taking Action Now: Darfur, better known as STAND, are driving their respective colleges and universities to divest from companies doing business with investments in the Sudan from Harvard University and Yale, to the University of California, my alma mater, and Stanford University, and many schools have all divested their funds from—or placed restrictions on investments of their funds in—certain companies that conduct business in the Sudan.

In April 2006, the House passed H.R. 3127, the Darfur Peace and Accountability Act, by a near unanimous vote of 416 to 3. And I have to commend Congressman Payne for working so diligently and effectively, in a bipartisan way, to make sure that this did pass and become the law of the land.

Among a number of important provisions, the House went on record in support of specific language that I added in section 11 of the bill, which empowered States to enact divestment legislation targeted at the Sudan, without fear of being pre-empted by Federal laws.

Unfortunately, Mr. Chairman, a single Senator in the other body objected specifically to this language, and in the interest of passing the larger bill, we compromised and pulled it out. Now there are signs that the divestment movement at the States may be in trouble, and may need our help. And so, this bill, the DADA bill, seeks to rectify this problem by including language that protects State divestment efforts from being pre-empted by Federal law.

My bill takes the divestment movement to the next logical step, and that is, of course, the Federal Government. This bill requires the Securities and Exchange Commission to take steps to identify companies listing securities on the U.S. capital markets that are also doing business in the Sudan, and to require these companies to declare the nature of their business operations.

If these companies are propping up the Khartoum government in any way, or if they are engaging in the sale of military equipment or dual-use technology, like radar systems, then my bill would prohibit the Federal Government from entering into new contracts or renewing any existing contracts with those companies.

Already, just the introduction of my bill alone has convinced two companies, Siemens AG and ABB, to suspend their business operations in the Sudan because of this contracting requirement, which is a positive step in the right direction.

Let me be very clear, though. Companies that do not support the government of Sudan or the government-backed militias, or that are working for peace and security, or providing humanitarian assistance in Darfur, will be exempted from this requirement. We want to get at those who are the worst offenders in the Sudan—by and large, those companies that are engaged in, of course, the petrochemical and natural resource extraction industries, and who rely on government complicity to allow them to operate.

My bill would also charge the Government Accountability Office with investigating the investments made by the Federal Retirement Thrift Investment Board, which manages a pension plan for 3.6 million people with over $186 billion in assets. I don't believe the American people, especially Federal employees, want their blood on the hands of those who are getting killed in Darfur.

Think about the potential impact that $186 billion could have on the marketplace. That would be a huge accomplishment, and would guarantee to all of our Federal Government employees that their savings and their pension funds will not be used to fund genocide. We have a moral obligation to do everything in our priority in the genocide in Darfur, and we have a fiduciary responsibility, also.

And this is not a partisan issue. Currently, we have over 80 cosponsors on the DADA bill, and I am willing to work with the committee, Mr. Chairman, and members on both sides of the aisle, to move this legislation forward. I am open to—

Chairman GUTIERREZ. Thank you.

Ms. LEE.—any suggestions to strengthen it. The bottom line is that we must keep up the pressure on the Khartoum government

in any way we can. We must insist on real political settlement, a peace agreement that goes far beyond the May 6th agreement, and we must ensure that Darfurians can return home to their villages and reclaim their lives. We must bring the perpetrators of the state-sponsored genocide to justice.

Thank you, Mr. Chairman. I look forward to answering any questions.

Chairman GUTIERREZ. Thank you. And now we have our distinguished and dear friend, Congressman Frank Wolf.

STATEMENT OF THE HONORABLE FRANK WOLF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. WOLF. Thank you, Mr. Chairman. I also want to thank Congresswoman Lee and Congressman Payne for their efforts on this.

I have been to the Sudan five times. Sam Brownback and I led the first group that went in there, back in the summer of 2004. I think everything that Congresswoman Lee said—there is not much more that you can say.

These people have been living in camps, sometimes for almost 4 years, on 900 or 1,000 calories a day, with no medicine, and human feces and animal feces all over the place. And this institution that we're all honored to be part of has talked a lot about this.

But, really, fundamentally—and I can get into it on everything from the helicopters coming in, the bombers bombing, the Janjaweed outside, coming in and shouting and hollering, and they hang around the camps all morning, early in the morning. When the women go out to the camps, they rape the women. And the U.N. has done fundamentally nothing. China has blocked the security council, so I'm not even going to read my statement.

What she says is true. It's the only thing that made the difference with regard to South Africa. You ought to report this bill out, get it on the Floor, bring it up under suspension, and anyone prepared to vote no, let them vote no, and get it over to the Senate. But we have really done a lot of talk.

It was 3 years ago that Congress called it genocide, Secretary Powell called it genocide, President Bush called it genocide. And in reality, life is no better, and in some respects even worse, because if you've been in a camp for 3- to 3½ years, your system is down, your children haven't had any education, and you have had death and everything else.

So, I think the sanction issue is the only issue. The diplomatic efforts have pretty much failed. President Bush has appointed Andrew Natsios, and Andrew is doing a good job, working his heart out trying, but overall, diplomacy has failed. And other than Barbara Lee's idea, there is nothing facing this Congress that will really bring this thing to a conclusion.

So, I will submit my statement, and I support the passage of the bill quickly, because again, it's been going on now for 4 years.

Chairman GUTIERREZ. Thank you so much, Congressman Wolf.

Congressman Donald Payne is a recognized expert on African issues, and a distinguished member of the House Committee on Foreign Affairs, where he is now chairman of the Subcommittee on Africa and Global Health. Mr. Payne was a driving force behind the passage of a resolution declaring genocide in Darfur, and we ask

him to please give us his statement. We are so happy to have him here this afternoon.

STATEMENT OF THE HONORABLE DONALD M. PAYNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PAYNE. Thank you, Mr. Chairman and Ranking Member Paul. It's a pleasure to be here before your subcommittee, and I appreciate the opportunity to have some comments on this very timely and very important issue of the divestment of public funds from entities doing business with Sudan.

Let me begin by commending Representative Lee for this legislation. She was a very valued member of the Africa subcommittee until her ascension, I guess, to the Appropriations Committee, and we do appreciate the work that she continues to do.

Of course, there is no greater champion on Sudan than Congressman Wolf. He has been fighting the battle of Sudan since before I even came to Congress. He worked on the north/south situation, where for 21 years, it was a civil war where 2 million people died, and 4 million people were displaced, but Congressman Wolf was there the entire time, pushing for what finally became the comprehensive peace agreement. There is no person who has done more over the period of time than he has.

And he has current legislation that will have an institute on agriculture named after the late Dr. John Garang, who actually fought for 21 years to have Sudan recognize the rights of the people of the south, fought for 21 years, and was killed in a helicopter crash, mysteriously, 21 days after the agreement was signed, and the new government went into effect.

So, we have a lot of tragedy in the story of Sudan, but we have to continue. in 2004, I, along with others, introduced a resolution calling the violence in Darfur by its rightful name, genocide. And calling on the international community to take action to stop it, Congresswoman Barbara Lee must certainly be commended for her work on divestment. Her bill, the Darfur Accountability and Divestment Act of 2007, is critical to the fight to end genocide in Darfur.

Included in the bill is language which would protect States who divest from legal action. State senator Jackie Collins championed divestment legislation in Illinois, which has been mentioned. However, the National Foreign Trade Council, a Chicago-based group, Mr. Chairman, filed suit against the State of Illinois, and actually won their case earlier this month. Many States would face the same fate, without the lead bill.

I believe that there are a number of things the Bush Administration can and should do to end genocide, including enforcing, along with our allies, a no-fly zone over Darfur, which I have asked for in a bill that had several hundred sponsors. But then, former-Chairman Hyde had my bill tabled, and a new bill came out that took out the no-fly zone. I think if that legislation would have been able to go through, we would have seen different results in Sudan now. But that's the past, and we have to move forward.

We need to continue to push sending U.N. and NATO troops to help the Africa union. Just yesterday, Bashir said he wants to re-

negotiate the agreement in which he first said that U.N. troops could come in. He said then that it had to be a hybrid force, and now he is saying we have to renegotiate, and maybe there will be no force at all.

And so, we need to continue to push the United Nations to impose international sanctions on leaders of the National Congress Party. I shared these points with President Bush last month, when the Congressional Black Caucus met with him, and he indicated a strong interest in trying to move forward on these issues.

At the same time that we pursue military and diplomatic options to address the crisis in Darfur, we should apply economic pressure on the regime in Khartoum. In 2005, as Ms. Lee mentioned, New Jersey became the first State in the union to introduce legislation, actually offered by my brother, State assemblyman William Payne, which requires New Jersey companies with an equity tie in Sudan to redeem, sell, divest, or withdraw their investments.

New Jersey was really the second State to enact the legislation, but our legislation said in 3 months. And all money, pension funds in New Jersey, and companies doing business with Sudan—17 foreign corporations, $2.16 billion—have been identified, and equity ties have been severed completely in 3 months—90 days. So it can happen.

Six other States have enacted similar legislation, and there are campaigns in 20 more States to do this. Why? Because history has shown that economic pressure helps change policies. You should know that in 1985, New Jersey was the first State in the union to divest from South Africa, divesting over $4 billion in State pension funds from private companies. And as Congressman Wolf mentioned, that really hit where it hurt, in South Africa.

This proved to be a watershed event, as States and universities across the United States also divested. The action, in conjunction with the Congress's—Ron Dellum's Comprehensive Anti-Apartheid Act, the CAAA was widely credited with helping to bring an end to apartheid in South Africa—not only did economic pressure bring change in South Africa, it has caused the Sudanese government to change its behavior.

In 1997, when President Clinton enacted sanctions by executive order due to Sudan's complicity with terrorists, the Sudanese actually took action, shutting down terrorist camps. We are told that the government continues to cooperate with the U.S. counterterrorist effort, though I fear that the counterterrorist assistance is inflated, and our government has grown too close to Khartoum. I think they're telling us what they want to tell us to make us feel they are really cooperating, but I doubt very seriously if that government can tell the truth on anything.

I should mention that the president—that President Omar al-Bashir and the National Congress Party in Khartoum, Sudan, which was formerly known as the National Islamic Front, came to power in a military coup in 1989, and from 1991 to 1996, this regime gave safe haven to Osama bin Laden. So these are some very horrible people we're dealing with, as I conclude, since our Senator is here.

In addition to what I have stated about divestment, the divestment campaign has helped discourage international companies

from investing in Sudan. As Ms. Lee said, I understand that Siemens, a well-known German company, decided to halt its operations in Sudan, and others are questioning going in.

One factor that led to the decision was the effort that doing business in a country against which there is an active divestment campaign had a reputation that was a stain on the company. And so, less investments mean less revenue for the National Congress Party. Less revenue means fewer resources from which they can buy weapons for their military and the murderous Janjaweed militia.

On the issue of weapons, China is a major supplier of weapons to the regime in Khartoum, and the largest oil developer in Sudan. The Congressional Black Caucus has met with the Chinese ambassador, and we will meet with him again after the break to, once again, insist that China stop their holding up of actions in Sudan.

As I conclude, Mr. Chairman, Congress cannot do less in the face of genocide than State governments have done. We must take similar action, and soon. It has been 4 years and 400,000 deaths since the tragedy in Darfur began. It is long past time that decisive action is taken. While we all recognize that divestment will not resolve the conflict by itself, it is important that we keep the pressure on.

I am expecting a call in an hour from Sol Vikir, who is working with, now, the rebel groups, because they have no single leader, and he is trying to bring them together, so that they can negotiate as a unit. That's another issue that we have to get moving. But with that, I appreciate the opportunity, and I yield back. Thank you.

Chairman GUTIERREZ. Thank you very much. Quickly, to Congressman Wolf, this issue of priority—and I know I speak for the chairman of the full committee—we will act on this quickly. I assure you, your comment to us, and your encouragement, was well taken.

I would like to now introduce a colleague from the other body—I don't know why we can't say "the Senate," but anyway, Senator Sam Brownback.

Senator Brownback, also a long-time advocate on this issue, has recently called on State pensions to divest in Darfur, and as a cosponsor of the Darfur divestment legislation, Senate 831, the Sudan Divestment Authorization Act of 2007, a bill introduced by Senator Durbin, that would authorize States and local governments to prohibit investment of a State's assets in any company that has a business relationship with Sudan.

And with that, we are happy to have you, Senator. Thank you so much. Please.

STATEMENT OF THE HONORABLE SAM BROWNBACK, A UNITED STATES SENATOR FROM THE STATE OF KANSAS

Senator BROWNBACK. Thank you, Chairman Gutierrez, it is good to see you. Both Congressmen Wolf and Payne and I have traveled together to the Sudan, and these are the lead individuals who know this topic better than anybody else, and I think probably are more frustrated than anybody else in the entire Congress, and possibly the entire country, about how long this has gone on.

And this is the second genocide; it's not the first one. We didn't call it that in the south, but there were two million people killed by the same murderous government that is in Khartoum, that is doing this now in the west, in Darfur.

So, this just keeps going on. And the frustration level keeps building, and the inaction continues. And now you see that the government in Khartoum is saying, "Well, we're not going to allow U.N. troops in this time. We said we would, we said we would work with people, and now we're not going to do it."

I think this is a simple proposition, this particular bill on divestment, that says, as one of the other people said—and perhaps it has already been quoted—"Not on our watch, not on our dime." We are not going to continue to fund this government in its second genocide off of money and resources from the United States, period. And we should move these forward aggressively.

And the States—and I applaud New Jersey for leading in this area. My State is—now the State senate has voted to divest, and the house is considering it. We need to make sure it's clear that they can do this. I think these are bills intended to clear up any sort of questionable category, if there really is. I don't know that there particularly is, but this is something we need to clear up, and we need to make a clear statement on it.

And if we can get a wave of States doing this, and then encourage private individuals to do the same with the statements that the States are doing, individuals to look at their own resources and see if they are investing in any companies that are doing business in Sudan. And if this government continues to desire to have a genocide conducted, it's not going to be with our money, period. I think we have to be very clear and very strong about that.

I don't think that, in and of itself, is sufficient. I met with my colleague from Illinois last week, twice. Senator Durbin, who—he and I have traveled to Africa, not to the Sudan—but to talk about what else could we put together of action items for as far as supporting of peace-keeping troops, as far as reviewing other possible options of no-fly zones, and looking at other sanctions that we can do of individuals traveling in and out of Sudan, or key individuals.

And I would hope that we could start pulling together a list of these items that we could do together, like Congressmen Payne and Wolf, in particular, in the past have been very successful at getting us pulled together around a series of items that we can and should do, and then let's start hitting it.

Every minute we waste, somebody else gets killed. More people die, and more people are left in the carnage that has been caused by this government. We're not powerless. There are things we can do, even if the Khartoum government doesn't agree with the troops being there, there are things we can do.

And I just—I hope we find the will and the gumption and the time, because that's generally what it is, more than anything, is us just finding the time to get together to figure out what it is we want to do. Because once we do, we can move it, and it can happen. And I just—I pledge my own effort and time to do that, because each minute is somebody else getting killed in a place, a region in the world where it shouldn't happen, and it shouldn't happen on

our watch, and it shouldn't happen on our dime. Thank you, Mr. Chairman.

Chairman GUTIERREZ. Thank you, very much. I will yield myself 5 minutes for questions of the panel, but I will yield the first minute to my friend, Congressman Moore.

Mr. MOORE OF KANSAS. Thank you, Mr. Chairman, and thank you to the four witnesses who are testifying today. I think the American people would be proud to see this, to see two Republicans and two Democrats sitting at this table, all in agreement about what's happening, as far as genocide, and people being killed in Darfur. And I am very proud of all four of you.

I say to the senior Senator from Kansas, we have many political differences, but I have told him before that I am very proud of the position he has taken on human rights violations, and he has been a consistent supporter of trying to stop human rights violations, and especially genocide, in places around the world.

And the same to Congressman Wolf, to Congresswoman Lee, and to Congressman Payne. Thank you very, very much for what you are doing here, and I want to support you.

Chairman GUTIERREZ. Thank you. Let me, first of all, say to the four of you how proud I am to be a member of this institution, being able to see the four of you, the diversity, you know, East Coast, West Coast, middle of the country, and to see all of you come together on this issue of Darfur.

I think I echo the comments of my friend from Kansas—and I say that sincerely—Congressman Moore, to see the four of you working together, I just know we can get this done.

I have a question for Representative Barbara Lee. You know, it's fairly widely acknowledged that divestment and economic sanctions generally do not work, as they are many times intended. Our embargo against Cuba and sanctions against Burma are two examples that come to mind. We can point to success against white rule in South Africa in the 1980's, but even in that instance, one byproduct was greater hardship for black South Africans.

Why is this situation different? Why do you believe that divestment will work in Darfur, Congresswoman Lee?

Ms. LEE. Sure. First, thank you very much, again, for this hearing, Mr. Chairman. And I think divestment will work. It has worked. You cited examples where it hasn't worked, but it has worked throughout the world, really.

When it came to South Africa, I think that is probably the best example of how it did work, and it's very similar to the strategies that we are mounting here. The first States—I believe California was the State to divest of its pension fund holdings in South Africa—then States followed the California model. Subsequent to that, the United States Congress imposed sanctions against South Africa, and this was a long-term process, but it did work.

With regard to Sudan, first of all, there are many foreign-owned companies that are heavily invested because of the petrochemical and resource extraction industries in the Sudan, and many of these companies are considered the worst offenders. We want to find out, first of all, we want to know who they are. I mean, I think—and what we have seen already, with two companies, just with the bill

being introduced, Siemens and ABB having said, "No more," they know that this is going to happen.

I think genocide is taking place, which again, is a big difference, in terms of other divestment efforts. We have 450,000 people who have been killed, and we have major companies that need to be—we need them listed, and the SEC is responsible for listing these companies.

And so, the first step under this bill is just to know who these companies are, first of all, and then, to make sure that they are not afforded Federal contracting opportunities. I think those two factors: one, that genocide is taking place, 450,000 people have been killed; and two, that there are companies that are in these two industries that need to be squeezed, because the Khartoum government is relying on these investments, because of their industrial base. And I think that this is a strategy that will work.

Chairman GUTIERREZ. Thank you. Let me just end with saying this. I have been a Member here for 14 years, this is my 15th year, and I have to say that I will never see Congressman Frank Wolf or Senator Brownback in the same way, after listening and learning a lot more and preparing for this hearing, about what you have done.

That may be a shame of me, and a shame on our lack of relationship, but I just thought I should share that with you. So, if anything else, I think these hearings—like-minded people come together on the situations they might not otherwise. Yes, Congressman Payne?

Mr. PAYNE. Yes, just on the point, as Congresswoman Lee mentioned, you know, you need a number of tools when you come to a complicated situation like we have in Sudan, and no one tool is really going to work. That's why divestment—and it did, it wasn't divestment alone, it was then the boycotts and the isolation from the Olympics—in South Africa—it was a number of issues, and then it started an internal debate with South Africans. They were an island unto themselves. They couldn't participate in international organizations, still, with the divestment going on.

You know what investment does. Taiwan, Korea—people invested in them, and they became strong and robust. So, therefore, the whole question of investment and divestment definitely has its place. If we can hold back investment to slow down and retard the economic growth and development, I think that it's very good.

The question about the poor people suffering, in South Africa we asked South Africans, just like we have asked Sudanese, and they said they're suffering anyway, they're dying anyway. And so, to have a little more pain that indirectly falls on them, they're willing to suffer a little more, because if it means regime change, or weakening their government up in their capitals, whichever country it was, they support that. And so—

Chairman GUTIERREZ. Thank you.

Mr. PAYNE. That's what I would like to say.

Chairman GUTIERREZ. I would now like to recognize my acting ranking member, and my good friend, Mr. Castle, Congressman Castle, please, for questions.

Mr. CASTLE. Well, thank you, Mr. Chairman. Let me—I am also impressed by the knowledge that the four of you have about this,

and I think it's very helpful to know that there are Members of Congress who have taken this kind of interest. I think all four of you deserve tremendous credit for dealing with a very difficult problem.

I would like, Congressman Wolf, to ask you this. You indicated that the U.N. has done nothing, and I think back on Iraq, when the U.N. didn't do much, and various other circumstances. I was wondering if you could expand on that, in terms of if—and I'm assuming your statement is correct, and we are all generally familiar with the problems of Sudan.

But if they have done nothing, why have they done nothing? Is it a lack of will, or a lack of enforcement mechanism? And then you went on to say that diplomacy has failed, as well, and you might comment on that, as well. Based on what's happening there, I assume these statements are absolutely correct. But I am wondering why, when it was such an obvious problem, something hasn't happened before now.

Mr. WOLF. The powerful really just don't hear the powerless, at times. The very reality is when—if you read Samantha Power's book, "A Problem from Hell," it's an—and I will have my office call your office to give you the title, and make sure I have it right—you will see that the U.N. stood by. And Kofi Annan was head of peacekeeping when the Serbs were standing there, and the Muslims were marched out, and they did nothing. And the fact is, the U.N. forces actually pulled back.

In Rwanda, the cables were coming back and forth to the State Department, and also the U.N., with regard to the genocide taking place. In Rwanda, the U.N. peacekeeper wanted to do something and was told to back off. And as a result of that, we lost 700,000 to 800,000 people.

In Sudan, the U.N. pretty much stood by when the north/south—as Senator Brownback said, this is the second genocide. There were 2.1 million—mainly Christians, but a large number of Muslims—who were killed in a north/south war. And as Congressman Payne said, bin Laden lived in Sudan from 1991 to 1996. And like the old Simon and Garfunkel song, "The Boxer,": "The man hears what he wants to hear, and disregards the rest."

The way the U.N. is set up, the Chinese have an absolute veto. When you go to Khartoum, the largest embassy in Khartoum is the Chinese embassy. There are Chinese government officials all over the place. They're getting roughly 6 percent of their oil coming out of Khartoum. They are using that money to buy the Soviet helicopters, the bombers.

So, the U.N. has been just locked up, if you will. When Senator Brownback and I were there, the first call we made when we got back was to ask Kofi Annan to go. He then went, went back again, but still, the security council is set up in such a way that no one wants to take on the Chinese government.

And, quite frankly, this Congress has not been particularly courageous in taking on the Chinese government. The violation of human rights in China is unbelievable. I mean, it is beyond—conditions are worse today in China than they were when they got MFN, and yet the world just doesn't want to go against them.

So, the U.N. is tied up in that way. Security council has a veto. For a long period of time, the Russians weren't cooperating. Now they are beginning to participate.

But read Samantha Power's book, "A Problem from Hell." This genocide, and types of activities like this, have gone on for a long, long period of time—and ethnic cleansing—until it kind of reaches a consensus. And we have a museum down on the mall that says, "Never again," and yet during that period of time, it has taken place over and over and over. And when Sudan and other governments see that nothing really happens to the people, it emboldens others to do it. But I will call your office, Mike, and make sure that you get a copy of the book.

Well, I was going to ask something else, but that leads me to another question, and that is the relationship of China and Sudan. I understand that China is one of their biggest customers, one of their biggest economic factors. What is our relationship, in terms of dealing with China, vis a vis Sudan? Are we engaged in that, ourselves?

Mr. WOLF. Andrew Natsios has spoken to the Chinese. If you recall, President Hu—and maybe Don will have the exact date—was in Sudan about a month or a month-and-a-half ago, and announced—the big announcement was not that they were going to deal with the issue of genocide, but that they were going to build him a new palace. You remember that?

Mr. PAYNE. Yes.

Mr. WOLF. That China is building Bashir a new palace. Parade Magazine did a piece a month ago, saying the number one dictator in the world is President Bashir, and China's activity was that they're going to build him a palace. So they just really haven't really done very much. They get a lot of oil from them.

Mr. CASTLE. Congresswoman Lee?

Ms. LEE. Thank you very much for that question, because I think that is a very key question, and a key policy perspective we have to have, in terms of our foreign policy. I always remind my colleagues and others that we did grant most favored nation status, and there are many trade preferences that we provide, and there are many economic preferences and relationships we have with China. I believe we need to call in a chit, and I don't know why the Administration doesn't use its leverage to call in this chit, when 450,000 people have been killed.

I think we need to up the ante on the Administration, as well as the Chinese government, because the United States should be, given what we have done with regard to China, we should be in the driver's seat.

Senator BROWNBACK. If I could just respond, part of this divestment—not a part of it—a big part of this divestment effort is aimed right at the Chinese. Because this is the leverage point, this is the—the investment is being done primarily by Chinese companies, not exclusively, but primarily by Chinese companies, and sometimes, or a lot of the time, with Western resources.

That's where the pressure point is, and that's what we need to hit, and the Chinese have no hesitancy whatsoever—indeed, it seems as if part of their business model is to associate increasingly with somewhat rogue regimes, where perhaps you can get better

business arrangements, because the rest of the world won't deal with them.

I think we should make them pay a price for their business plan model. This is part of it, and it's something we need to do soon. We need to do it now.

Mr. PAYNE. And they are absolutely right. You know, Talisman Oil Company, from Canada, was a part of the oil movement in Sudan. We started divesting from our State pensions—once again, in New Jersey, we do this sort of thing—so we pulled pension funds out of Talisman, sent the word up to Talisman that we were going to get this moving. Talisman sold. They said, "We're out of here." Of course there was someone to buy it.

But that is a clear example of how pressure really works. And as Ms. Lee said, you know, we had this MFNS, the most favored nation status, which sounded too nice, because we knew China was evil, so they changed the name to PTR, I mean, what is it, permanent trade relations. That doesn't sound so nice, you know. And we have a way of doing that with words, you know.

But we have this relationship with China. The militaries are getting too strong, they send up satellites. But our big corporate entities can't get to China fast enough. They're waiting for that 380, I guess, that holds 500 people, so they could put all the businessmen on the rush to China to get the good deal. On the other hand, China is fueling the worst dictators in the world.

And so, another instance of how this country needs to come up with a policy. Where do we stand? Do we love them or hate them? Is it Defense that hates them and the business that loves them? I mean, we can't have a national position on China. So they are on the security council, they have threatened any time a strong resolution would come up, they say, "We're going to veto it. So, water it down, and we may let it go through." That's what has been happening in the security council, those five permanent members.

Chairman GUTIERREZ. Thank you, Mr. Castle. I want to go quickly to Congressman Roskam, a freshman member from Illinois, for questions, please.

Mr. ROSKAM. Thank you, Mr. Chairman. The—I was pleased to hear State senator, Jackie Collins, mentioned, from Illinois, who really led the charge in the Illinois general assembly, and I was pleased, when I served with her, to co-sponsor that measure.

Just a question to all of you, who have a lot more depth and background on this—anybody who can just answer a couple of questions. How is this distinguished from the South African effort? It seems to me that this bill does two things: number one, it requires disclosure to the Securities and Exchange Commission for those publicly-traded companies that are doing work; and number two, it says that the U.S. Government is not going to contract with any of those companies.

Is that all we did in South Africa? Or was the South African sanction actually a broader sanction, which was an actual prohibition against other companies from doing business in South Africa? Do you understand my question?

In other words, is this incremental? Is this a baby step? Sort of junior varsity sanctions, to put it that way? Or is this as good as it gets?

Mr. PAYNE. In my opinion, this is as good as it gets. It deals with what we have authority over. As you know, because of the 1997 sanctions, U.S. companies can't do business with Sudan, anyway.

Mr. ROSKAM. Okay, that's the piece that I am missing.

Mr. PAYNE. Yes, so—

Mr. ROSKAM. Can you just explain that a little more in detail to me?

Mr. PAYNE. Well, during the Clinton Administration, there was a strike, you recall, on the drug factory. And because Sudan was violating laws, the Executive Branch put sanctions on the government of Sudan. So, that is why there are no U.S. companies in Sudan. Don't you know they would be running around there, too, if it wasn't for our sanctions.

Now, the—so the United States had sanctions on U.S. companies. Also, Charlie Rangel had legislation, a double taxation, that anybody who was in South Africa had to pay double taxes. It was a quiet thing that was there, in addition to the Comprehensive Anti-Apartheid Act, which was another thing, so it was a combination of different sanction bills.

But this is, I believe—and I'm not, you know, a financial guy—but I think this is about as much as we can do, saying that our public pension monies cannot be invested in any of those companies doing business in Sudan. U.S. companies are restricted anyway, so—and one other thing that we have done.

I have been working on language which I am going to introduce, because we have to figure out different ways that would block oil tankers who dock at the port of Sudan from entering U.S. ports. That's where they come.

So, I would like to talk to you about some—yes, language where—it was in our—it was in 1434 last time, last session, which didn't go through. But this would primarily hurt China, because of course, they're off-loading the oil in Sudan, and coming into U.S. ports.

So, if we continue to get the word out—I mean, people never thought about diamonds until blood diamonds, and that whole question about Kimberley Process, and now people are saying, "Well, we want to make sure that these diamonds are real." So, believe me, to bring attention, economic pressure is about the only thing we could do.

I would like to see a force go in, you know, but that is—no one is going to do that.

Mr. ROSKAM. Anybody else, in terms of an observation on that? Yes, ma'am.

Ms. LEE. Yes. Let me say—I was very involved, as a student, in the anti-apartheid movement, and an additional measure in California that we mounted was prohibiting the unloading of cargo through our ports from South Africa. I'm not sure if that became a national effort, but that certainly occurred in California.

Also, with regard to the preemption provision of this legislation—and I will get back to you with regard to how—what the law was at that point—because now, what we're finding is there are lawsuits being—and, you know, that are challenging the States in their divestment efforts. I don't recall those challenges during the anti-apartheid movement. But we decided in this bill that we would

definitely put a provision in that would allow States to do what they need to do.

Finally, Mr. Chairman, let me just say with regard to the bill, I wanted to make this general statement. I think I said earlier, this is going after the bad actors, the companies that are perpetrating genocide, or using their investments, which allow the Khartoum government to perpetrate genocide in the Sudan.

We have a section of the bill on pages 10 and 11 that does allow for some exceptions, and that is for those companies that are not doing this, but also those companies that are working to implement the Darfur peace and accountability—Darfur peace agreement in May of 2006. Also, those companies that are providing humanitarian assistance, that are working with the people in the south.

And so, this is a bill that is very narrowly crafted to go after the bad actors, the most egregious companies that are allowing, either by design or not, or through their investments, you know, the genocide to continue to be perpetrated.

Chairman GUTIERREZ. Thank you—

Mr. PAYNE. One last point on that.

Chairman GUTIERREZ. Oh, sure.

Mr. PAYNE. We had capital market sanctions pass. Congressman Tancredo, Congressman Wolf, all of us supported capital market sanctions, which meant that if you did business on Wall Street, you couldn't—if you did business in Sudan and went to Wall Street, you were out. Now, that was really—that was the hammer. Greenspan came up and met with the Senators and said, "You just can't let this go on. It will just disrupt—it's just too—it's not our place."

And our capital market sanctions, which we passed—we passed it in the House. Like I said, one of my biggest supporters on that bill was Congressman Tancredo, who stood up and fought—you remember, Frank? And we passed it. It took Greenspan from—Wall Street sent him here to say, "Kill that bill that Payne and Tancredo and those guys are pushing."

So, you know, we have a lot of business people that just—

Chairman GUTIERREZ. Thank you.

Mr. PAYNE.—feel that they have to move on.

Chairman GUTIERREZ. We have about 7 minutes left before the next vote on our side. I want to say thank you to Senator Brownback for being here, to Congressmen Payne and Wolf, and my good friend, Barbara Lee, for introducing the bill. We are going to get this done.

We will recess, and 5 minutes after the last vote, we will reconvene for the second panel.

[Recess]

Chairman GUTIERREZ. Let me—the subcommittee will come to order. I want to thank the witnesses for their patience, as we get about voting here, in the House of Representatives. And we will proceed with opening statements by members of the subcommittee before turning to the second panel for their comments.

I would like to yield to the ranking member, Dr. Paul, for any opening statement he might have.

Dr. PAUL. Thank you, Mr. Chairman. I have just a brief statement that I would like to make.

Mr. Chairman, H.R. 180 is premised on the assumption that government-mandated divestment, sanctions, and other punitive measures are always effective in influencing repressive regimes when in fact this has not been proven.

Proponents of such methods fail to remember that where goods and services don't cross borders too often, the troops will. Sanctions against Cuba, Iraq, and numerous other countries failed to topple their governments. Rather than weakening dictators, these sanctions strengthened their hold on power, and led to more suffering on the part of the Cuban and Iraqi people.

So, to the extent that divestment effected changes in South Africa, it was brought about by private individuals working through the market to influence others. No one denies that the humanitarian situation in Darfur is dire. But the United States Government has no business entangling itself in this situation, nor forcing divestment on unwilling parties.

Our witnesses should be commended on their actions to date in publicizing the horrendous situation in Darfur, and influencing people around the world to divest themselves of investment in Sudan. Any further divestment action, however, should be undertaken through voluntary means, and not by government force.

H.R. 180 is an interventionist piece of legislation which will extend the power of the Federal Government over American businesses, force this country into yet another foreign policy debacle, and do nothing to alleviate the suffering of the residents of Darfur.

The exceptions made for contracting with companies that provide arms to NGOs, and with companies operating in the oil-rich Abyei province, would result in the exact opposite of the bill's intended effect.

The regime in Khartoum would see no loss of oil revenues, and the civil conflict would eventually flare up again.

The unintended consequences of this bill on American workers, investors, and companies needs to be considered as well. Cutting American citizens off from any involvement with companies who may be only tangentially related to supporting the Sudanese government could have serious economic repercussions which need to be taken into account.

And that concludes my statement, and I yield back.

Chairman GUTIERREZ. Thank you to my ranking member. And now, our second panel is comprised of some of the most recognized experts on Africa, genocide, and the Darfur region.

Looking down the list of witnesses, I am pleased by the diverse backgrounds our witnesses will bring to this issue, and I look forward to a vibrant debate. I will briefly introduce all of our witnesses now, and then we can proceed to their testimony, uninterrupted.

First, we have Omer Ismail, who was born in the Darfur region of Sudan, and has spent over 20 years working both independently, and with international organizations on relief efforts. Omer fled Sudan in 1989, as a result of his political views. He then helped found the Sudan Democratic Forum, a think tank of Sudanese intellectuals, working for the advancement of democracy in Sudan, as well as co-founding the Darfur Peace and Development organization, to raise awareness about the crisis in his troubled region.

He currently works as policy advisor to several agencies, working in crisis management and conflict resolution in Africa. He is a fellow at the Kennedy School of Government at Harvard University's Carr Center for Human Rights Policy.

Next, we have John Prendergast, senior adviser to the International Crisis Group, and co-founder of the Enough Campaign. Previously, John worked at the White House and the State Department during the Clinton Administration, where he was involved in a number of peace processes throughout Africa.

John has also worked for Members of Congress, the United Nations, human rights organizations, and think tanks. He has co-authored eight books on Africa, the latest of which he co-authored with actor/activist Don Cheadle, entitled, "Not on Our Watch." John travels regularly to Africa's war zones on fact-finding missions, peace-making initiatives, and awareness-raising trips, involving network news programs, celebrities, and politicians.

Next, we are joined by Michael L. Williams, chair of the Texas Railroad Commission. Commissioner Williams was appointed by former Governor George W. Bush, in December 1998, to serve the unexpired term of Carole Keeton Rylander, and he was elected by his fellow commissioners in September 1999 to chair the Commission.

In November 2000, the people of Texas elected him to complete the term expiring in the year 2002, and in November 2002, they re-affirmed their support by electing him to a term expiring in 2008. He is the first African American in Texas history to hold an executive statewide elective post, and is the highest ranking African American in Texas State government.

Our next witness is Kenneth Bacon, president of Refugees International. An expert in international affairs and security issues, Mr. Bacon has concentrated on expanding refugees' international capacity to promote more effective ways for the international community to meet the needs of refugees and displaced people.

Mr. Bacon is co-chairman of the Partnership for Effective Peace Operation, and he serves on the boards of the American University in Cairo, Population Action International and Interaction. He is an emeritus trustee of Amherst College, and Folger Shakespeare Library, and a member of the Council on Foreign Relations and International Institute for Strategic Studies.

Mr. Bacon also serves as Assistant Secretary, Public Affairs, at the United States Department of Defense, and served as Pentagon spokesman from 1994 to 2001.

Next, we have Adam Sterling, the director of the Sudan Divestment Task Force, a project of the Genocide Intervention Network. As the coordinating entity for the Sudan divestment movement, the Sudan Divestment Task Force is actively involved in dozens of successful and developing targeted Sudan divestment campaigns around the world, at the university, asset manager, city, State, and national levels.

Adam is a recent graduate of the University of California, Los Angeles, with degrees in African American studies and political science. Adam has received a number of humanitarian awards, and serves as an advisor on Sudan engagement issues to numerous State pension, State legislators, and Federal representatives.

Finally, we have J. Stephen Morrison, director of the African program at the Center for Strategic & International Studies at CSIS. Mr. Morrison has overseen the revitalization of the Africa program. In his role as director of the Africa program, he has co-chaired two recent CSIS working groups that examine the United States' rising energy states in Africa, and the implications for U.S. foreign policy.

Since late 2001, he has also directed CSIS's task force on HIV Aids, a multi-year project co-chaired by former Senator, Bill Frisk, and Senator Russell Feingold. Currently, he is leading the establishment of CSIS Nigeria, launching a project on China and Africa, and carrying on CSIS work on the Sudan. Please, Mr. Ismail?

STATEMENT OF OMER ISMAIL, FELLOW, KENNEDY SCHOOL OF GOVERNMENT AT HARVARD'S CARR CENTER FOR HUMAN RIGHTS POLICY

Mr. ISMAIL. Thank you, Mr. Chairman, and Ranking Member Paul, for this opportunity. I was born and raised in Al Fashir, the capital of greater Darfur. My personal memories of Darfur are in sharp contrast with the Darfur of today that has been turned into killing fields by the government of Sudan and its proxy militia, known as the Janjaweed.

I grew up in a region that was a picture of tolerance and peaceful co-existence. It is true that environmental degradation and the competition over meager resources has been the cause of clashes between the different communities in the region. These clashes, however, were limited in their scope, and their impact is less destructive than what we have seen today, and in recent years.

Furthermore, the local communities have their own organic mechanism that dealt with the conflicts without extensive intervention. As if the historical neglect of the region by the successive national governments and the lack of meaningful investment and delivery of services were not enough, the current government has applied policies since the mid-1990's that deepen the rift between the Darfurian communities, resulting in the catastrophe that is unfolding there today.

The pressure imposed by the international community on the government of Sudan resulted in the signing of the comprehensive peace agreement between the government of Sudan and the SPLM that has stopped war in the south and the Nuba Mountains. Yet, Darfur is still a gaping wound, and a theater to what is rightly called by this honorable institution, genocide. If left to its own devices, this conflict will not only destroy Darfur, it will threaten the CPA and, hence, the future of the country as a whole.

The current situation in Darfur is like this. Today, killing of civilians, rape, and sexual violence are widespread and systematic. Torture continues, arbitrary arrest and detention are common, as is repression of political dissent and arbitrary restrictions on political freedoms. Mechanisms of justice and accountability, where they exist, are under-resourced, politically compromised, and ineffective.

Since May of last year, I have taken five trips to several countries neighboring Sudan. I met with refugees fleeing the devastated region who spoke of the continuation of the horrors of war and abuse of human rights. I have met with aid workers, human rights

observers, African officials, and rebel leaders. They all agree that the level of violence has increased, and the protection of the refugees and the internally displaced people has become almost impossible.

With access to the victims becoming more and more difficult, and the attacks on the aid workers increasing, as many as 400 of the 1,300 international aid workers in Darfur have been either evacuated or relocated, putting more pressure on an already tenuous situation.

What can we do? And faced with all this? I urge the United States, as the only superpower in the world today, and with the interest that it has in the security and stability of the world, to do the following.

One, to work urgently with the Security Council to ensure the implementation of the three-phased package agreed upon by the government of Sudan and Mr. Kofi Annan in November of last year in Addis Ababa, Ethiopia. The deployment of the United Nations and AU peacekeeping or protection force is essential to provide security to the citizens of Darfur, and the aid workers assisting them.

And two, to consider the—considering the instrumental role of the United States in the outcome of the DPA—that is, the Darfur Peace Agreement—signed in May of last year, the United States should also lead an international effort towards the expansion of the DPA, to include the non-signatory rebel groups, in addition to the representatives of civil society and other stakeholders in the region.

And according to the reports of several human rights groups, the United States has information that will be useful in bringing those who have committed horrendous crimes in Darfur to justice. With the utmost respect, and full understanding of the position of the United States government, vis a vis the ICC, as a Darfurian, who strives for justice for my people, I urge the United States to avail that information to the ICC, should that information in question be in the custody of the United States.

There is no question that divestment also is an effective tool in bringing pressure on the Sudanese government and cutting off the funding that feeds the genocide. Many believe that the campaign against Talisman Energy in 2001 accelerated the signing of the 2003 comprehensive peace agreement with the south.

Mr. Chairman, finally, I thank this committee and I thank this institution. And I believe the freedom and security that are enjoyed by the citizens of this country are universal principles for dignity and the pursuit of happiness. With the help of this body, and the representatives of the people of the United States, I dream that one day the people of Sudan will enjoy the same. Thank you.

[The prepared statement of Mr. Ismail can be found on page 48 of the appendix.]

Mr. CLAY. [presiding] Thank you very much for your testimony, Mr. Ismail. Mr. Prendergast, you may proceed.

STATEMENT OF JOHN PRENDERGAST, SENIOR ADVISOR, INTERNATIONAL CRISIS GROUP

Mr. PRENDERGAST. Thank you very much, Mr. Chairman, and all the members of the subcommittee, for taking time out of your schedules to look at this incredibly important issue.

News flash. After 4 years of unrelenting failure on the part of this Administration's policy towards Darfur, President Bush has finally decided that the present course of U.S. policy is inadequate, and must be buttressed by more robust measures. The heads of U.S. agencies, the principles committee has met 6 times in the last 3 months, and no decisions have been announced yet, though we have been told that targeted sanctions are going to be expanded against a few members of the Sudanese government and rebel and militia—Janjaweed militia leaders and a few companies linked to the Khartoum regime.

Consideration is also being given to how to restrict Sudanese oil transactions, using U.S. dollars, which could add some economic pressure on the regime. However, without significant will and resources to expand and enforce such measures, and without rapid follow-up with European and other allies to prevent the Sudanese regime from switching to the Euro or Yen in their transactions, these measures may prove to be relatively fruitless.

In addition to divestment, I think there are three main economic instruments that the United States and the broader international community have at their disposal, but are not yet utilizing.

Like divestment, none of these is likely, on its own, to actually have a major economic impact. But the objective of these sanctions is not only economic, it's political. These measures would place a scarlet letter on the shirts of senior officials who are responsible for atrocities, and are undermining peace efforts, and hit them where it counts, in their wallets.

The bet, based on empirical evidence from past efforts, is that calculations of regime officials will change with the introduction of real economic costs, combined with increased isolation, globally. This isn't the Taliban. The Khartoum regime wants to play ball internationally, and it doesn't want to be an international pariah.

So, the regime's economic base won't collapse with the introduction of these measures, but their political will to continue will collapse, instead.

Beyond divestment, I think that the United States could lead on three separate tracks. First, the United States can lead on increasing, ramping up targeted sanctions against a number of senior officials in Khartoum through the United Nations Security Council, not just the small handful that the United States is currently considering.

Second, the United States could take the lead in passing a Security Council resolution establishing a panel of experts to quickly ascertain where the assets of the largest Sudanese companies owned by the ruling party officials are located, and quickly move to freeze those assets.

Third, the United States could work with other countries to develop a coalition that would notify certain banking institutions that if they choose to continue conducting business with the government of Sudan, or companies affiliated with the ruling party, they will

be cut off from the financial systems of participating countries by a pre-determined date.

The United States recently imposed similar unilateral measures on banks doing business with the regimes in Iran, and they have had a direct impact. I think even more of an impact would happen in the case of Sudan, if it was multi-lateral.

Finally, the central paradigm shift in U.S. policy must be to move away from the current policy of constructive engagement without any real leverage, to a more muscular policy focused on walking softly and using a much bigger stick. Unfulfilled threats and appeals should be replaced quickly with punitive measures and policies that support a robust peace and protection initiative.

Ultimately, with the right policies and increased levels of engagement regarding Darfur, there is potential for the region to be stabilized within a year. If not, it is almost a foregone conclusion—and Omer and I have traveled together a number of times in rebel-held areas of Darfur—it is a foregone conclusion that if present trends continue with the restriction of humanitarian access and increased insecurity, hundreds of thousands more Darfurians will perish in 2007 on our watch. Thank you.

[The prepared statement of Mr. Prendergast can be found on page 59 of the appendix.]

Mr. CLAY. Thank you for that chilling testimony. Mr. Williams, you may proceed.

STATEMENT OF MICHAEL L. WILLIAMS, COMMISSIONER, RAILROAD COMMISSION OF TEXAS

Mr. WILLIAMS. Mr. Chairman, Congressman Paul, it is good to see you again. It is always good to be in this city and see another Texan.

Thank you for this opportunity to address you and I am grateful that you are considering this most important issue. As you have just mentioned, my name is Michael Williams, for the record.

And back in 1998, as was mentioned in the introduction, my good friend, then the Governor of Texas, George W. Bush, appointed me to a vacancy on the Railroad Commission of Texas. Since that time, I have been elected statewide by the people of Texas, both in 2000 for—to complete the unexpired term of my predecessor, and then in 2002, for the full 6-year term.

And despite our name—and it's probably important to say on the record that the Texas Railroad Commission has absolutely nothing to do with railroads. Since 1981, the Texas Railroad Commission has been, for the State of Texas, the principal oil, natural gas, chemicals, and mining regulatory agency in the State. And it's because of oil and gas, it's because of energy that brings me to this issue.

I have been concerned about what has been happening in Sudan dating back to the beginning of this decade, when I began hearing the heart-wrenching stories of—regarding the decades-long civil war between the government of Khartoum and the southern rebels. That continued with conversations with Sudanese who were living in Texas, regarding their experience either back home, or what they were hearing from home, and continued with the conversations with Dr. John Garang, who obviously is now departed.

And hearing about those, and recognizing that in large part what was fueling the devastation in Sudan was oil, obviously each and every day that I get up I have the opportunity to make sure that Texas and this country has abundant supplies of affordable, clean, and reliable energy—primarily, in large part, coming from crude. But in Sudan, crude is not used for those purposes; crude is used for the propagation of devastation.

And what I would like to do in the short time that I have is to talk about what is happening in Texas today, beginning with the leadership of the Governor of the State of Texas, who, both in his state of the state address and his inaugural address, came out in support of Texas joining a half-dozen other States that have already moved to pass divestment legislation across this country, and almost two-plus dozen States who are now considering similar legislation.

I will also say that just today, as I have been here with you, the Texas senate has taken up senate 247, the Texas divestment bill, and it passed out of the Texas senate 29 to 0. We have one senator who is ill, and who has not been able to join the members of the Texas senate. We have another that I understand was out of the city. So, it unanimously passed the Texas senate.

And I think what it says is that it is extremely important to Texans that we be on the right side in this issue. The Texas divestment legislation impacts two of our large public pension funds, the Teacher Retirement System of Texas—by its name, obviously, all of our State teachers—the Employment Retirement System of Texas, and together, it is estimated there may be some $500 million to $600 million that might be covered there.

And I think it's also important to recognize that this is a narrowly tailored bill that is designed to deal with only the active direct holdings that are in the Texas—those two Texas retirement funds. It does not impact mutual funds, it does not impact the individual accounts that individual Texans have with their 401(k)s, or their 457 plans.

But it is specifically directed at two areas that you heard discussed earlier in your earlier panel, and even thus far in this one. For all contracts, companies that have contracts with the government of Sudan, or companies that have an equity interest with the government of Sudan.

And I think, notably, the Texas divestment statute says that a company that, in terms of its Sudanese activity, is receiving 10 percent or more of its revenue from all activity, and less than 75 percent of its activity is with the southern Sudanese, or the marginal peoples of Sudan, that is a company that would be identified and targeted. Similar, if more than 10 percent of its power generation was with the government of Sudan, and less than 75 percent of the benefit of the generation of that electricity is benefitting the people, marginalized peoples, whether they be in Darfur, southern Sudan, or elsewhere in the country.

The other thing that I think is notable about the Texas legislation is that social development companies, those that have provided humanitarian aid, whether it be medical supplies, or education, or building orphanages are not covered here.

And I think, finally, because we recognize that the construct and the deployment of foreign policy is the priority and the privilege of the national government and not for State government, there are certain exclusions. And one exclusion of coverage would be for any company. The Federal Government affirmatively exempts from its Federal sanctions, from your Federal sanctions.

And, secondly, the law would expire if the President or the Congress were to declare that the genocide has ended for 12 months, or that the United States invokes its sanctions on Sudan.

Mr. CLAY. Excuse me. The gentleman's time has expired.

Mr. WILLIAMS. I look forward to answering your questions.

[The prepared statement of Mr. Williams can be found on page 68 of the appendix.]

Mr. CLAY. Thank you so much, Mr. Williams. Thank you for that testimony.

Mr. Bacon, please.

STATEMENT OF KENNETH H. BACON, PRESIDENT, REFUGEES INTERNATIONAL

Mr. BACON. Thank you very much, Mr. Chairman, Mr. Clay, and Mr. Paul, for holding this hearing. Ever since the United States, led by the House in 2004, declared the government of Sudan guilty of genocide, the world has been waiting for the United States to act.

Article 1 of the 1948 genocide convention says, "The contracting parties confirm that genocide is a crime," which they undertake to prevent and punish. The Darfur Accountability and Divestment Act of 2007 is a small step in that direction. In light of the continuing death and displacement in Darfur, the subcommittee may want to consider other, more painful, financial interventions.

In September 2004, Secretary Powell accused the government of Sudan of genocide, but he said that U.S. policy would not change, meaning that the United States would take no military action to stop the genocide. Instead, we have relied on diplomacy and economic sanctions. So far, our policies have failed.

What message has our inaction sent? Earlier this year, Roger Winter, who advised the State Department on Sudan, told the House subcommittee that impotent reactions to genocide by the United States, the U.N., and Europe had no impact on Sudan's leaders. Talk alone does not work, he said. Only credible threats that cripple their agenda, or deprive them personally of their power and ill-gotten riches will work.

In his classic book, "The Roots of Evil," Ervin Staub, a professor at the University of Massachusetts, says of the Holocaust, "The inaction of other countries, and their unwillingness to help Jews confirmed the Nazis in the rightness of what they were doing."

The United States was silent and inactive in the face of genocide in Rwanda in 1994. General Romeo Dallaire, the commander of the U.N. force there, asked for authority to take action to prevent the killing. On April 21st, after an estimated 100,000 people had been butchered in Rwanda, Dallaire said that with a force of 5,000 well-armed, well-trained soldiers, and a clear mandate to act, he could stop the genocide.

But on that same day, April 21st, the U.N. Security Council voted to cut the U.N. assistance mission in Rwanda from 2,500 to 270. Even this was too large a force for then-United States Secretary of State Warren Christopher. He instructed our ambassador to the U.N. to vote for a full and orderly withdrawal of all U.N. forces as soon as possible.

After Rwanda, a Senator said that if just two people in every congressional district had told their elected representatives that the United States should help stop the genocide, U.S. policy might have been different. Yet, there was silence.

At about the same time, the United States was also averting its gaze to genocide in the Balkans, where 200,000 Muslims were murdered by Serb forces between 1992 and mid-1995. Throughout 1993, confident that the U.N., the United States, and the European community would take no military action, Serbs in Bosnia freely committed genocide against Muslims, according to the United Human Rights Campaign.

It was not until Serb forces systematically slaughtered 7,000 Muslim men and boys in Srebrenica that the United States and its NATO allies employed decisive military force to end the war.

We know today what is happening in Darfur. The estimated number of people dead of war-related causes ranges from 200,000 to 500,000. There were 232,000 refugees from Darfur in Chad, and 2.2 million Darfurians have fled to camps within Sudan. Many of the displaced are Africans, whose villages have been attacked by primarily Arab government and militia forces. The destabilizing impact of the war is spreading to Chad, and the central African republic.

In the last several months, the violence in Darfur has worsened dramatically. Displacement is increasing, not decreasing. Humanitarian workers are facing more attacks and harassment from government forces, allied militias, rebel groups, and bandits. Both the U.N. and major relief agencies have warned that rising danger to their workers and operations may force them to pull out of Darfur.

Every action by Sudan shows that it believes it can get away with murder—and, in fact, it is. It is time to make clear that Sudan will pay a price for the continued death and displacement. H.R. 180 moves in that direction.

However, the subcommittee may also want to explore the possibility of legislation that would directly or indirectly bar banks used by Sudan and its leaders from access to the U.S. financial system. That would sharply increase the cost and risk of financial transactions by the government of Sudan or its top officials.

History shows that we can't leave genocide unanswered, so I encourage the subcommittee to take the strongest possible measures against Sudan as soon as possible.

[The prepared statement of Mr. Bacon can be found on page 44 of the appendix.]

Mr. CLAY. Thank you, Mr. Bacon, for that testimony.

And, Mr. Sterling, your turn.

STATEMENT OF ADAM STERLING, DIRECTOR, SUDAN DIVESTMENT TASK FORCE

Mr. STERLING. Thank you, Mr. Chairman, and members of the subcommittee. My name is Adam Sterling, and I am director of the Sudan Divestment Task Force, a project of the Genocide Intervention Network.

The Sudan Divestment Task Force has developed a unique approach, focusing its efforts on the most egregiously offending companies in Sudan. This approach, termed "targeted divestment," helps to maximize impact on the Sudanese government, while minimizing potential harm to both innocent Sudanese civilians, and investment returns here in the United States.

I would like to first recognize Congressman Sherman, whom I see here today. He was one of the first members to endorse targeted divestment, not only at the University of California, which became the first public school to divest from Sudan in March of last year, but also one of the first members to endorse targeted divestment for the entire State of California.

I would also like to recognize Congresswoman Lee for her continuing efforts to support and encourage the divestment movement. My organization supports H.R. 180, which authorizes but does not mandate States and local entities to adopt divestment programs, which requires further disclosure from companies operating in Sudan, and then would prohibit U.S. contracts only to those companies identified as being worst offenders.

With my testimony today, I would like to briefly address two issues. First, what is the current status of the Sudan divestment movement? And, second, will Sudan divestment be effective in changing the behavior of the Khartoum government? In closing, I would like to highlight aspects of H.R. 180 that I believe require additional attention, and would help address the issues brought out by Congressman Paul.

First, what is the status of the Sudan divestment movement? The States of New Jersey, Illinois, Oregon, Maine, California, and Vermont have all approved divestment plans. North Carolina State treasury and the Kentucky State teachers' retirement system have independently divested a selection of Sudan-related holdings. Many of these States have left open the option of subsequent divestment.

Additionally, over 20 States now have active divestment movements, with varying levels of involvement from State officials. A large number of these have already begun consideration of divestment in this year's legislative session.

Religious international campaigns have also gathered steam, including an examination of the issue by Canadian universities and provinces, and other active campaigns in Europe. Cities and municipalities have begun consideration of divestment, as well.

At the university level, over 30 institutions have enacted restrictions on their Sudan investments. At the company level, engagement and divestment campaigns targeting fidelity in Berkshire and Hathaway have been initiated. Finally, several Sudan-free mutual funds have also recently been introduced.

Second, is divestment from Sudan effective? The Sudanese government has a long history of susceptibility to economic pressure, with a foreign debt nearly as large as its GDP. More than U.S. di-

plomacy, the country has responded to U.S. economic pressure in the past.

Despite this historical responsiveness, the regime has faced little in the way of economic consequences for its perpetuation of genocide in Darfur, heavily protected by a small set of international protectors, whose commercial interests in Sudan are very strong.

Indeed, while the regime has been brutal towards its own citizens, it has been a shrewd attractor of foreign investment. It currently ranks in the top 20 countries in the world in attracting foreign investment dollars as a percentage of its GDP, and it holds international investor conferences, even as the genocide is ongoing.

This is a government acutely attuned to the country's finances, but facing little challenge from the international community. As if to emphasize this point, Sudan's president, Omar Al-Bashir recently stated to the international press, "When countries gave us sanctions, God gave us oil."

Ironically, the number of countries propping up this genocidal regime is relatively limited. While there are over 500 multi-nationals operating in Sudan, only a few dozen play a truly detrimental role in the country. Moreover, the companies that fiduciaries are beginning to choose as replacements may very well perform better than the offending companies, since over 20 U.S. States are currently considering divestment from those very companies.

For example, one of the top targets of the divestment campaign, PetroChina, is down 19 percent for the year. The emerging Sudan divestment movement has already caught the eye of the Sudanese government, which has spent considerable time and energy attacking the campaign, even going so far as to purchase a six-page ad for more than $1 million in the New York Times to counteract the divestment movement.

Several major companies operating in Sudan have also recently altered their business practices, largely in response to the divestment movement.

Chairman GUTIERREZ. Mr. Sterling, you have 30 seconds left.

Mr. STERLING. Okay. While we strongly support the intention of H.R. 180, we believe it would benefit from further attention to the targeting of companies so that the worst offenders are subject to punitive measures, and those companies without any substantive business relationship with the government of Sudan, and companies that may actually be providing tangible benefits to Sudan's underserved periphery, are exempt from them. The companies I have in mind are those already exempted from existing U.S. sanctions by the Office of Foreign Asset Control.

We believe that H.R. 180 can effectively support the growing divestment movement and create important disincentives for companies contemplating or currently engaged in problematic operations in Sudan. Thank you again for the opportunity to address you today.

[The prepared statement of Mr. Sterling can be found on page 64 of the appendix.]

Chairman GUTIERREZ. Thank you, Mr. Sterling.

Mr. Morrison, please.

STATEMENT OF J. STEPHEN MORRISON, DIRECTOR, AFRICA PROGRAM, CENTER FOR STRATEGIC & INTERNATIONAL STUDIES

Mr. MORRISON. Thank you, Mr. Chairman, Mr. Paul, Mr. Sherman. Thank you for the opportunity to be here today. My remarks are going to be focused on China and its economic stakes, and the approach it has taken, diplomatically, with respect to Sudan, and the question of the U.S. dialogue with China on Sudan.

In terms of the economic stakes, in our estimation, Sudan's contribution to China's total energy needs is important, but not strategic. It represents about 5 to 7 percent of China's oil consumption, which translates into about—one of its oil imports—which translates into about 1 percent of its total consumption, total energy consumption. Its oil fields are modest. There have not been major new discoveries. Its oil fields will decline fairly rapidly in the next decade.

China's accumulated economic stakes in Sudan are significant, but not strategic. About $8 billion of sunken investment, about $3 billion in annual 2-way trade—that's in a context in which Africa represents, last year, about $50 billion in 2-way trade, growing very rapidly up to about $100 billion by 2010.

As far as China's evolving approach, the fundamental approach has been one of pretty strong, staunch adherence to the principle of national sovereignty and non-interference, which is fundamental to China's foreign policy globally, and has been the basis for China's tough opposition to U.N. sanctions against the Sudan. And that became most obvious in the Security Council debates, and intensified in the beginning of mid-2004.

What we have seen, though, is stress upon China's adherence to that principle, and that stress has come from several sources. One is internal. There is an internal policy debate that has been ongoing within China over the merits of this, and that is fed by Chinese think tanks, academics, and global business enterprises who are questioning why is it in China's national interests to be an uncritical supporter of Khartoum while China is attempting to establish itself as an ethical global leader, global power?

The current minister of foreign affairs, Li Zhaoxing, former ambassador to the United States, has been very much in the lead, internally, in attempting to air these critical opinions.

Second is the sensitivity and awareness of the power of the—within the United States and northern Europe of many of the representatives here today of the campaigns that they have launched, and the fact that they have voiced allies in Congress, access to media, internal organization, in pressure for sanctions and other measures. This could extend, potentially, to the 2008 Beijing Olympics.

A third factor is simply the opposition that China faces within Africa itself. You have powerful African states—most notably, South Africa, Rwanda, and Nigeria—with troops on the ground in Darfur under AU mandate. They are blocked from converting to more sustainable operations because of Khartoum's intransigence.

Most recently, you have had the appointment of U.S. special envoy Andrew Natsios who has opened a high-level dialogue with the Chinese that did result in a shift in November towards support

of the Annan plan, the three-step phased plan which has shown some minor progress, but more recently been blocked.

We have seen, in this most recent period, an intensification of dialogue around what might be done next. In this regard, we have seen some modest steps taken by the Chinese, most importantly the statement issued after—issued by the Chinese ambassador to the U.N., Wang Guangya, after Bashir's letter was sent to the U.N. Secretary General, backing away from the commitments made in November.

Our—in closing, our view is that there is an important consensus that has taken place as to what needs to happen next with respect to Darfur. That is full implementation of the Annan plan, full deployment of the UN/AU hybrid force, a stable cease fire, and effective political negotiations.

International sanctions that are on the table take many different forms, and could have different impacts, both on Chinese calculations and on the status of the U.S. collaboration with China in trying to bring about greater pressures upon Khartoum. We can go into the different forms of those sanctions. Some are less threatening, and others are more threatening to the Chinese stake.

There are immediate steps that we should be pushing the Chinese on, one of which is to press them to move forward in putting on the table deployment of specialized military units for deployment into Darfur under the AU—in support of the AU/U.N. force, using its public voice in the Security Council to hold Khartoum to account, and adjusting its own economic policies and instruments to distance itself, as it has most recently in one of the downgrading steps it took on the access to credit. Thank you very much.

[The prepared statement of Mr. Morrison can be found on page 53 of the appendix.]

Chairman GUTIERREZ. Thank you very much. I would like to recognize the gentleman from California for unanimous consent, and share with my ranking member, Mr. Paul, that we haven't used any of our 10-minute opening statements, so I would yield to him 5 minutes of opening statements for the majority side.

Mr. SHERMAN. Thank you, Mr. Chairman. First, I would like unanimous consent that the written testimony of the Armenian assembly be entered into the record of today's hearing.

Chairman GUTIERREZ. Without objection, so ordered.

Mr. SHERMAN. Thank you, Mr. Chairman, for allowing me to make an opening statement.

First, putting our country in perspective, there have been three genocides aimed at Muslims in the last decade. They are in Bosnia, Kosovo, and now Darfur. In each case, you can say that America didn't do as much as we should have. But in every one of those cases, we did more than anyone else. And those around the world who claim that America has an anti-Muslim bias will have to explain why, in focusing on Darfur, a Muslim population subject to genocide, other countries aren't doing even more than the United States.

Looking at H.R. 180, we should look at this current draft as a floor, not a ceiling. I look forward to having similar legislation with regard to Iran, and perhaps companies doing business with any of

the countries identified on the State Department list of terrorist-supporting states.

But I will not encumber H.R. 180 with any amendment dealing with any country other than Sudan. We ought to pass this bill as quickly as possible, and then use it as a model, and again, as a floor, not a ceiling, for what we do with other states that are supporting terrorism, genocide, or other terrible acts around the country or around the world.

This bill has two immediately effective provisions: naming and shaming; and a ban on Federal contracts. We can do far more to facilitate individuals who don't want to see their money invested in companies that are investing in Sudan.

With TSP, this bill requires a study. We could, at minimum, do more and say TSP must create a mirror image fund. So, for those Federal employees who want to invest in the S&P 495—that is to say the 500 minus those—and I don't know if it will be 5 or some other number, but whichever S&P 500 companies don't invest in Sudan—that they have an opportunity to do so, rather than waiting until some other mandatory decision is made.

Now, I wish TSP simply stopped investing in these companies, and imposed that on all Federal employees and their pension plans. But until that happens, at least those of us who want to take an affirmative action to stop this ought to be given the opportunity, while still investing in roughly 490 major American companies.

We ought to allow all private pension plans and trust funds to divest, and to do so, we ought to, at the Federal level, indicate that the fiduciary duty that a trustee has to beneficiaries, or to pension plan participants, does not limit that fiduciary in divesting from those who do business. Doing the right thing is not something that you should be subject to a lawsuit for.

We ought to perhaps require private pension plans to create a mirror image fund. So if they don't take all their money out of offending companies, at least where employees are given an option there is a choice between the S&P 500 and what I am calling the S&P 495.

We should change our tax law—I realize that's outside the scope of this committee, by far—but there should not be a capital gains tax if you move money from an offending company into an equivalent investment in a non-offending company, or move money from an S&P 500 fund to what I am calling an S&P 495 fund. We shouldn't tax people for doing the right thing.

We should allow public entities—namely, State and local governments—to not contract with those companies doing business in Sudan, just as we mandate the Federal Government do that, we should at least allow—perhaps require—State and local governments do the same.

Going beyond the voluntary, there are a couple of very strong measures we could take. We could delist any offending company, and not allow them to get any capital from Wall Street, and we could prevent our banks from doing—especially the Federal Reserve Board of New York—from doing dollar business with banks doing business with Sudan, particularly banks based in Sudan.

One thing you can do in China—because we're not going to act on China any time soon—is identify for interested Americans a

particular Chinese company or companies, or a particular Chinese product—you're not going to get Americans to boycott everything made in China. But if you decide to focus on one thing, we can get—you know, if the way to stop genocide is to get the tennis shoes made in Indonesia, rather than the ones made in China, my feet will do whatever you want them to do.

Finally, if sanctions don't work in changing the Sudanese government's policy, or they're not allowed to work, because they're not tried on an effective basis, we may be in a position where we either have to allow continued genocide, or we have to consider such military actions as a no-fly zone, or even more extreme, to arm the rebels. Both of those things are things I would want to avoid, but I hope no one in Khartoum believes that they are impossible. They ought to be negotiating, knowing that those two possible violent actions, or non-peaceful actions are on the table, and they ought to come to the table and stop the genocide. Thank you.

Chairman GUTIERREZ. Thank you very much. Dr. Paul, please?

Dr. PAUL. Thank you, Mr. Chairman. In my opening statement, I expressed some lack of enthusiasm for sanctions. I like the idea of voluntary sanctions, and I know you are willing to work that way, and that is good.

And one of the reasons is there is not absolute proof that they work. Some of the individuals in the Congress who are strongly supportive of the sanctions under these circumstances in Darfur don't like it for Cuba, and they didn't like it for Iraq. So it is not an on-again, off-again.

I sort of think that the consistent position is that we shouldn't do it. But I don't want to debate that issue as much as the type of things, and what I see as a problem, because in supporting certain groups we make a decision, and I think they tend to come back to haunt us. There was a time, of course, when we were allies with Osama bin Laden and Saddam Hussein, and all these things come back to haunt us.

Too often, there are other motives, other than genocide. And I don't know whether that is true or not, but I know that we didn't send much help to Rwanda. We didn't send troops in there to stop it, and we didn't have regime change, but they didn't have oil, either. So I do want to talk about oil a little bit, and Mr. Williams is probably the oil expert here.

The thing is, in this bill there is an exception that would allow the United States to contract with companies that supply arms to combatants, and that bothers me. So that means we're going to pick sides. Now, there was a time when we picked sides in Somalia, and things went badly. And now, just recently, we're back in Somalia. We staged a coup there, and we invaded, through our proxy army of Ethiopia, and we put in charge, once again, the war lords that dragged our men through the streets. And I would like to do my best to avoid those kinds of problems.

And I see this as a potential, because with this military exception—and also there is an exception that allows the government to contract with companies that work in the one area, Abyei, in the oil rich area. And it was mentioned earlier in the testimony by Mr. Morrison that the Chinese are very, very much involved in there, so, it seems to me like oil might be a big issue.

There was a writer on this subject, John Laughlin, who wrote a couple of years ago, whom I consider an expert in this area. He says, "According to Arab sources quoted by the Turkish paper Zaman, 'Oil is the basis of the crisis in Darfur.'"

And so, there is genocide, but it might have started because of oil. We may be going there for oil. And we didn't get into Rwanda, and sometimes we get on the wrong side, and it's already been indicated that if these sanctions don't work we have to consider a regime change. Regime change is pretty serious stuff, in my book. I mean, that's what we have been in the business of doing too often. So, I would want to be careful.

Now, if Mr. Williams, or maybe anybody—or Mr. Morrison might comment on that, I would like to hear from you.

Mr. WILLIAMS. Well, Congressman Paul, let me see if I could do two things. In terms of the way particularly the Texas statute is structured, and I think many of the other State statutes that are now going through their legislative processes are structured, there is an attempt to draw a fairly—to the extent that one can—a fairly bright line as to when we would deploy these kinds of strategies, and when we wouldn't.

In the Texas statute, it says that when there is a declaration of genocide by this body, the Congress, or by the President of the United States—as you know, back home we have had conversations about divestment for tobacco and pornography and other things. But there is an attempt to draw a fairly bright line and say that the only time that we will use this kind of mechanism is in the genocidal area.

As it relates to oil, and as it relates to sort of allowing for contracts that are in the southern region of the country, or in Darfur, or in other parts of the country, but not with the government of Sudan and Khartoum, the idea, quite frankly, I take it, is—sort of shared with your opening comments—that one way that we can be helpful is, obviously, to encourage investment, but to encourage investment that does not benefit the government of Sudan.

And so, when it is with the regional government in the south, or when it's with one of the other areas, that does—that would allow for those crude revenues to be used for the people of Sudan, not for the government of Sudan, in the way that they're using it in order to be warring against the—its own people. That is the way we have tried to structure the Texas bill.

And that is sort of—I think we have to recognize that crude does play a role. But we also, I think, have to recognize that there is a way to use crude, quite frankly, that is beneficial. And we want to allow the beneficial use of crude.

Mr. MORRISON. Yes, Mr. Paul, just a couple of corrections, I think, to the record. I mean, the big oil discoveries were undertaken—Chevron, in the period 1979 to 1983, there was $1 billion invested, about 90 exploratory efforts that were—many of which were successful, and they were able to prove some modest deposits over an area that was a transition zone between the north and the south. And this had a big trip wire effect in setting off the north/south war, which began in 1983.

The oil sector laid dormant until 1996, 1997. Chevron withdrew. It was dormant until the Chinese came in, along with, subse-

quently, the Indians and the Malaysians. There was a Canadian private sector involved. Oil began to flow in the fall of 1999 out of these deposits. Oil is now up to about half-a-million barrels a day.

It is not really emanating in any significant degree from Darfur, and has not been a factor, directly, in stirring conflict in Darfur. It has been a direct factor in stirring the war between the north and the south. It went on between 1983 until January of 2005, when the north/south peace accord was consummated.

The continued production of the oil sector, and the wealth sharing agreement under the north/south peace accord, in which there is a 50/50 split in earnings, the continued production of oil sustains not just players in the north, but the government of southern Sudan, which is the direct beneficiary of 50 percent of the oil earnings coming out of that.

Now, you can argue, as many have, that the implementation of that wealth sharing agreement remains very flawed and ambiguous, and needs much further improvement. And as you move towards full implementation, and the possibility of a vote on secession by the south, you are likely to see quite a bit of conflict around where the border area is demarcated, and some of the actions taken within the three special zones.

But as with respect to Darfur, it's not a driving factor. The Darfur conflict is not an oil-driven conflict. It's much more than a conflict between the north and the south.

Dr. PAUL. I just want to make one brief comment, but I still find it interesting that the one exception is to allow the government to contract with the companies that are in the oil-rich region. It seems to me that if we were dealing with only the genocide, we could delete that part, and just deal with that, as a whole, instead of looking like we're pumping in weapons into an area that we may become obligated to. And I yield back.

Chairman GUTIERREZ. Thank you, Dr. Paul. Mr. Ismail, first of all, I would like to share with you that my grandson, Luisito, I asked him where his mom was last week, and he said, "She is at a meeting about Darfur." And I share that with you, because I know how important it has been to me and to others, as you fight for things, to know that your message is getting out, and that when 4-year-olds report to their grandparents where their daughters are at, and refer to the meeting about Darfur, you know that it's significant.

And so, I wanted to share that with you, that your message—keep working, it's getting out there. People, 4-year-olds, are talking about it. And I think that speaks volumes about where we are going with this issue.

Mr. Ismail, you make several policy suggestions in your testimony, and I want to thank you for being specific in your suggestions. One item you mentioned is having the U.S. State Department develop a list of "worst offenders." What would the criteria be for the list, and would the State Department develop the list on its own, or do you recommend requiring the Department to work with NGOs, or other outside groups?

Mr. ISMAIL. Thank you, Mr. Chairman. And the fact that a lot of people here and outside of this institution are working on the effort of Darfur is refreshing to see.

However, we all understand what is at stake. There is a genocide going on. We hope that this awareness will be translated into policies that are going to stop the genocide. Talking about it is important; doing something to stop it is even more important. And my, you know, respect to your family for being part of this.

Chairman GUTIERREZ. Thank you.

Mr. ISMAIL. Yes. The worst offenders, as alluded to by Mr. Sterling and others, and in the bill itself, these are the people who are doing direct investment or indirect investment with the companies that are working with Sudan. And they are the companies that are feeding this genocide.

If we can—because of the name-calling, or the shaming of these companies is concerned, if we can have that list out there, and people see that these companies are working there.

The criteria can be that these are the companies that are working directly with the oil industry in China, for example, because we understand, from the presentation by everybody here—Dr. Morrison included—that this oil that is coming out of Sudan, shared 50/50 between the government of Sudan to the north and the government of the south, they all report that 70 percent of that money that is coming out of this is used by the government of Sudan in buying arms to kill its own people, and to join in this genocide that is going on.

So, if we can make a direct link between these companies who are working in this very, very important sector, and we publish that out there, and let the investors see it, and even the public, they will know that these are the worst offenders, and then they will stop dealing with these companies. And then we will see the effect of that.

The ad that the government of Sudan took in the New York Times shows clearly that the government of Sudan is paying attention to this divestment campaign. So if we can make the same thing, counter to what the government of Sudan has done, we publish our own information about these companies, I think that will be very effective.

Chairman GUTIERREZ. Let me share with all of the members of this panel that Chairman Barney Frank was working on the bill on the House Floor on Hurricane Katrina. That's why he wasn't here, and he wanted me to express his apologies for not being here, but stated once again—and he is—Mr. Ismail, mark my words, we will work on this quickly. It will be more than—we are gathering the information today, important testimony and work today, we will work on it quickly here, in this committee.

Let me ask Commissioner Williams. In your testimony, you discuss broad support in Texas for a State divestment law. We also had broad support in my State of Illinois for a Darfur divestment law, which was enacted, but in February, was struck down by Federal district court as unconstitutional. Are you concerned that the same fate awaits the eventual Texas law, if the Darfur Accountability Divestment Act is not passed by Congress? And if not, why not?

Mr. WILLIAMS. Mr. Chairman, I am not, but for two reasons. These are things that have happened since the State of Illinois passed its legislation.

The first one is that, obviously, there is a provision in the bill that you are now considering that will provide some degree of—that would remove the cloud over State and local and university divestment programs. So, obviously, we would encourage the passage of that. That is one way that the Congress could surely help States like Texas, and the others that are considering it.

The other thing, as I mentioned in the opening remarks, is that there are a number of things that we have done in the Texas legislation that we think recognize that the Federal Government has the pre-eminent responsibility for foreign policy. And so—and there is language in the bill that says that if there is anything in the bill that conflicts with the Federal Government's responsibility to conduct foreign policy, then that provision of the bill is inapplicable.

And even though I don't think there is anything in there, we say that if the Congress were to remove sanctions, then at that time the bill would expire, that if the President or the Congress were to declare that the genocide has ended, and it has been more than 12 months, then the bill would expire. So I think there have been safeguards built into the bill.

Chairman GUTIERREZ. Let me ask Mr. Morrison. So, China. What advice do you give us? What do we do with China? Specifically, what can the Congress do? What can the Federal Government do? What can the President do? What can the executive branch—ideas of what we can do, if these investments are strategic?

I just kind of look at China, and I can't recall the last time they were affirmative about human rights when it came in conflict with their quest for raw materials. And so I know you have stated that these are—that the oil and the raw materials and the investments are small, but it seems as though China is so hungry for steel and machinery and technology and oil, and its consumption of all of those—and it's only going to expand—what can we do? How do we sit down with the Chinese and reach an agreement?

Because they seem to be, from everything we have heard here today, and everything I have read, a huge impediment to ending the genocide in Darfur. Mr. Morrison?

Mr. MORRISON. I think you need to attempt to intensify the—from multiple directions, intensify the discomfort around an uncritical embrace of Khartoum's position.

I have mentioned that they are vulnerable and sensitive on several fronts. One is the reputational and image damage that has been suffered in North America and Europe, and within Africa. A second is the discontent that is beginning to surface internally, among elite foreign policy circles within China itself.

You can play on that. You can play on the desire to be seen as a rising ethical global power within the Security Council, within major institutional institutions, international institutions. You can begin to put forward incremental critical tests around whether the Chinese are prepared to divert from a rigid adherence to this non-interference respect for sovereignty which has been the sort of blockage, or the ideological, or the veil behind which China could stand and say, "Well, this is too far, we don't want to go there."

You can test that in some of the ways that I have talked about: overt public criticism within the Security Council of the positions that have been taken by Bashir and others in defiance of the

Annan plan; bringing it back into focus around the elements of the Annan plan; the three-phased deployment of the AU/U.N. force; the need for a cease fire; and the need for accelerated political negotiations within Darfur.

There is a consensus around the way forward, and what needs to happen, that is shared by the United States and the Chinese, and others, around what the ultimate fix is going to be for Darfur. We should be pushing the Chinese to get more vocal around those issues, and to begin to use its own internal economic policies and instruments to signal to Sudan that its ardor for the opportunities that are there is declining, and more can be done along those fronts. Thank you.

Chairman GUTIERREZ. Thank you. For a second round, Dr. Paul?

Dr. PAUL. I don't have any questions.

Chairman GUTIERREZ. Dr. Paul doesn't have any more questions. Mr. Sherman, do you have any further questions, sir?

Mr. SHERMAN. Oh, yes. Section three of the proposed bill says that States and cities that have divested or are in the process of divesting State and city funds are recognized and supported by Congress.

Is this enough to eliminate all of the constitutional attacks that could come against cities, counties, and school districts, as well as State governments who choose to divest? Does this solve the legal problem completely, or do we need to make it stronger?

Mr. STERLING. We would encourage the sponsors of this legislation to meet and connect with the sponsors of the legislation in the Senate. Senators Durbin and Cornyn recently introduced the Sudan Divestment Authorization Act, which exclusively looks at the issue of authorization, and deals with it in a more comprehensive manner.

Mr. SHERMAN. Okay.

Mr. STERLING. So I know there has been some—

Mr. SHERMAN. Going on, what I see is missing here is most of these funds that sub-national governments have are pension plans. And the trustees of those pension plans—at least one of you may be a trustee of the pension plans—have a fiduciary duty to seek the highest rate of return.

Do we need a provision in this bill indicating that fiduciaries, at least of governmental pension plans, and perhaps all trusts and all pension plans, may divest without being subject to lawsuits or other claims for, arguably, receiving a lower rate of return?

Mr. STERLING. I think it's definitely something to look at. The legislation that is in Texas that we developed and now is currently the leading model in the country, has a specific section that excludes the fiduciaries for this specific case from conflict with their constitutional fiduciary obligations.

So, we have dealt with that in the State legislation, but it may—in other models, it may be something to look at for—

Mr. SHERMAN. And I do think we have to research whether the Federal Government can change the fiduciary duties of trustees of trusts which are usually established under State law. I would think so, since we do have the constitutional right to create American foreign policy, and that's what we are doing.

Our goal here is kind of to create a chain reaction. The goal is to change the behavior of the government of Sudan by denying it certain foreign investment. And then, we are trying to change the behavior of corporations and business entities by afflicting them with various disadvantages here in the United States if they don't change their behavior in an effort to change the Sudan government's behavior.

First, what is the Achilles heel of the Sudanese government? What kinds of foreign investment—denial of foreign investments—would cause them to come to the negotiating table seriously, to not only accept, but welcome UN-led troops, and to do the other things necessary to stop this genocide?

If we had to take some type of foreign investment away from Sudan, what would it be?

Mr. PRENDERGAST. I want to make—give you a political argument while my colleagues think of the economic one, because it's a great question, it's the central question. Where is the leverage, and where can we influence change?

My view is, having negotiated and worked in Sudan, and negotiated with the Sudanese regime in the last Administration directly with Bashir and Taha, and the rest of them, is that they don't want to be singled out in the way that some of these economic instruments would single them out, target them, tarnish their image internationally, with very specific—particularly, if it's done through the United Nations Security Council. It's much easier for them to dismiss, if it's only the United States doing these things unilaterally. If we work multi-laterally—

Mr. SHERMAN. But the things we're considering in this bill aren't going to pass a U.N. resolution unless we start, I guess, boycotting Chinese companies in an effort to get that government to change its actions. This bill is focused—its naming and shaming is being done by the United States, a country whose naming and shaming is laughed off in some quarters.

Mr. PRENDERGAST. Yes. Some of the instruments that you have mentioned in your own first introductory comments were what I was referring to. But with respect specifically to divestment, as we worked on this 15 years ago, and with respect to South Africa, and globalized the divestment movement, I think the kind of—the naming and shaming actually will take on quite substantial portions if we're only talking about divestment.

Of course, as anyone will tell you, it's not—this isolated and only by itself, divestment will mean very little. But if there is an array of instruments—

Mr. SHERMAN. I will ask whether any of your colleagues have an economic answer. Obviously, the—

Chairman GUTIERREZ. Thirty seconds.

Mr. SHERMAN.—Sudanese government is going to love this bill, because of its political connotations, but economically, what can't they afford to lose?

Mr. STERLING. I mean, as I mentioned in my testimony, they have a debt larger than their GDP. They cannot afford the way oil consortiums are established in Sudan. They don't have the resources or capital to extract, refine, and distribute the revenue on the open market, so they need their partners, the Chinese, Malay-

sians, Indians, to establish these consortiums. So they're definitely dependent—

Mr. SHERMAN. They need cash to be invested in the royal sector. And I yield back.

Mr. STERLING. Correct.

Chairman GUTIERREZ. Thank you, Mr. Sherman. I want to go back to Mr. Bacon, please, for a moment, and especially given your unique situation on the panel, having worked on—at the Pentagon for 7 or 8 years, during the Clinton Administration.

In your testimony, in addition to Darfur, you mentioned Rwanda and Bosnia. I think it's appropriate to mention recent instances of genocide in other parts of the world, and our inaction or delayed actions. Why are we, the United States, the Congress, the White House, so reluctant to stop these genocides? Why are we so slow to respond? And what can we do to change that?

Mr. BACON. Well, it's a very good question, and I think that Mr. Sherman—we should give him credit. He framed it in a very interesting way. He said that we didn't do enough, but we did more than anybody else.

If you look at what happened in the Balkans—we did nothing in Rwanda. I don't think we can give ourselves credit there. But in the Balkans, we finally did act, and we acted relatively quickly in Kosovo. It took us longer to react to protect the Bosnians.

I think, you know, the history shows that there is a great inclination to avert our gaze to ugly events taking place in other parts of the world, to explain them away as age-old political rivalries, tribal rivalries, problems we don't understand and can't influence very well. And then, before we know it, while we're looking away, suddenly the death toll mounts very rapidly, and it's hard to get in.

Clearly, we are learning. We learned in Somalia, and we learned—we are learning today in Iraq, that we shouldn't use force in a casual way. It has to be well thought-out. We have to do it with determination, and we have to do it with a fair amount of skill. So that—of course, force should not be used casually. It should only be used as a last resort.

I think that what is significant today about Darfur is that there is a nationwide movement. If you travel through Washington, D.C., or through Austin, Texas, or through parts of Illinois, you will see signs outside of synagogues and churches for "Save Darfur." As you pointed out, your grandchild is talking about it, and there are children and college students all around the country talking about it.

This Administration is the first Administration ever to use the term "genocide" to describe a contemporaneous killing—not historical, but contemporaneous. And yet, it has found it very difficult to act according to the genocide convention, which obligates signatories to prevent and punish genocide. We haven't been able to do enough.

These aren't easy problems. But the one thing that you can count on is that they always get worse by waiting, and a quick intervention almost always has a much better chance of succeeding than a late intervention. So those are my thoughts on your question, which I think is a very good question—

Chairman GUTIERREZ. Thank you.

Mr. BACON.—a question that I wish more politicians asked.

Chairman GUTIERREZ. Thank you. Mr. Prendergast, in your testimony you mentioned that economic pressure, through the restriction of Sudanese oil transaction using U.S. dollars will not be effective without follow-up to prevent the Sudanese regime from switching to Euro or Yen transactions.

Specifically, how would the United States conduct this follow-up, and is there any risk that Sudan would switch to the—

Mr. PRENDERGAST. I think if we're going to go down this path—and this appears to be the direction that the plan B threatened escalation part of the Administration is going, which is a set of financial measures that would increase pressure and restrict access for Sudanese companies from doing business internationally, I think that we are going to have to dedicate a lot more.

I think the implication from this committee is that there is going to have to be more resources committed to implementing these decisions, because OFAC—the Treasury is stretched to capacity to oversee and monitor the implementations of the sanctions regimes we have against various individuals, terrorist organizations, and some of the state-sponsored terrorists.

So, if we're going to expand the restriction of businesses, Sudanese businesses or transactions by Sudanese companies doing business with international financial institutions, there is going to have to be increased resources to monitor, and we're going to have to do more diplomacy, economic diplomacy, to get other nations to go along with the plan, because it's very simple for the government of Sudan, over time, to use other instruments of economic exchange.

Chairman GUTIERREZ. Mr. Morrison, would you care to comment on this?

Mr. MORRISON. I would like to comment—

Chairman GUTIERREZ. On the previous question. I'm sorry.

Mr. MORRISON.—on what Ken was talking about. Just to emphasize that, we have had this remarkable mobilization within American society around Darfur, and around—it seems to be a fairly broad consensus that what has happened there constitutes genocide.

It has been a difficult sell, outside—well, within the United States, within the professional human rights community, which has not signed on to that notion of genocide, if you look at the careful sort of determinations made by groups like Human Rights Watch, Amnesty International—if you look at international organizations, the international criminal court, the U.N. Investigative Commission, they refrained from reaching that conclusion, and used other language having to do with war crimes, crimes against humanity.

No doubt looking at heinous acts repeated at the instigation of the government of Khartoum, but it didn't push through the threshold of becoming genocide, which evokes another level of emotion and response.

It's not that—the genocide designation has not been taken up by governments within Europe, by the AU, and certainly this has been complicated within the Arab world by the hangover effects of the Iraq debacle, in which this is played to the advantage of Khartoum and its allies in painting this as some sort of regime change proxy.

And so it's been used as a defense against seeing the realities of what has been going on, in terms of the carnage on the ground.

All of these factors have been very important in dulling the response. And it has called into question, you know, what happens when you're in a situation like this, where there is such a concentrated consensus around genocide within our own borders, but it does not extend very effectively outside, even though there is a shared consciousness that there is something horrible that has been happening.

Chairman GUTIERREZ. Thank you.

Mrs. MALONEY. I want to thank the panelists, and I want to thank the chairman, and I would just like to ask any of the panelists how effective do you think this approach will be in influencing the Sudanese government to change its policies, and how will it directly affect the government's standing and tenure?

Mr. BACON. Well, I think it will be a step. It will be one piece of pressure that will, I hope, add up with other pieces of pressure. I said in my testimony that I think it would be great if the committee would look at stronger measures, maybe add stronger measures to H.R. 180.

We have just seen, in the last few months, how effective interventions through the banking system and the payment systems have been on North Korea, a country that many of us thought was beyond influencing. And yet, using section 311 of the Patriot Act, we were able to really shut down their work in the international financial system, and make trade much more difficult for them. It makes all financial transactions much more costly and much riskier.

This would apply not only to the country, but it would apply to people in leadership positions, who may have set up bank accounts around the world with gains, whether honestly gotten or ill-gotten, but it would be a way of increasing pressure dramatically on the country and the regime.

I think we have to look at a galaxy of actions, a constellation of actions, not just one. And I think we need to do it relatively quickly, because the situation in Darfur today is getting worse. The displacement is increasing, the inability to deliver humanitarian aid is increasing. There are many, many more obstacles to the relief organizations and to the U.N., so, if we don't act soon, we could be looking at a much greater death rate in the future than we have seen in the recent past.

Mrs. MALONEY. Would anyone else like to comment?

Mr. ISMAIL. I would like to say that none of these measures taken, in itself, or any of the recommendations that we make, after looking at the reports that are coming from out there, and analyzing them, and talking to the people on the ground almost on a daily basis, then we make these recommendations.

However, isolated from being a package, it is—none of these is going to work. So the divestment has to be working with other things. It's a tool in a tool box that we will have to use together, in order to be effective.

And also, people having in the back of their minds that this divestment campaign is only meant to target companies that are working with China, or just working in the oil industry, that is not

the whole picture. Because being a Sudanese, and knowing the ties of this government with the Arab world, for example, there is a lot of Arab money—hard and soft money—that is being invested inside Sudan, not only in the oil industry, but for example, in tourism. There are two hotels. The best hotels are giving, you know, the Sudan—the first five-star hotels, these are built with Libyan and monies from the United Arab Emirates.

There are other monies that are working in the infrastructure, on the road system, and telecommunication. This is all money that is coming from the other side of the Red Sea. And people don't see that, because it's the direct kind of investment that is coming from across the Red Sea without coming through the bigger financial institutions, or being part of the—of Wall Street, or the—sometimes one single sheik who has billions of dollars can just tell the government of Sudan, "Here is $200 billion. Build the presidential villas" that they spent millions of dollars, or the yacht that Omar Bashir is enjoying today.

So, that is not part of all this. And we have to look at it in that respect, as well.

Mrs. MALONEY. Now, my time is almost up, but I would also like to ask if anyone would like to comment on what are your concerns about how divestment would affect the people of Sudan, from an economic point of view.

Do you think it will hurt the people, or—what are your comments on that?

Mr. ISMAIL. If I may?

Mrs. MALONEY. Sure. Anyone.

Mr. ISMAIL. I don't think—because the investment that the government of Sudan is investing in the rest of the country outside of Khartoum is almost meager. If you look at the figures from the Bank of Sudan, for example, last year the government of Sudan invested .5 percent in the south, .5 percent. Not even 1 percent in southern Sudan.

So, if you look at the education, if you are looking at the health care sector, if you are looking at any other—the infrastructure sector, there is none of that. That has been invested in the rest of the country outside of Khartoum, and that is where 80 percent to 90 percent of the Sudanese are, and these are the lower income groups, anyway.

Mrs. MALONEY. Any other comments?

Okay. My time is expired. Thank you.

Chairman GUTIERREZ. I thank the gentlelady for joining us. Let me just share that Congresswoman Maxine Waters sends her regrets. Unfortunately, the Financial Services Committee has under its charge Katrina, and the bill was marked up and it's on the House Floor today. So there is a lot of conflict between, obviously, Darfur and taking care of our own domestic issues in Louisiana that we want to—and Mississippi—that we want to—and Louisiana that we want to address today, too.

I want to thank you all for being here. You have been wonderfully educational to all of us. And on behalf of this subcommittee, and everyone on the full committee, thank you so much. And Godspeed to you, Mr. Ismail, and your people. Thank you.

[Whereupon, at 4:22 p.m., the hearing was adjourned.]

A P P E N D I X

March 20, 2007

Legislating to Stop Genocide

Statement by
Kenneth H. Bacon
President, Refugees International
Washington, DC

March 20, 2007

Before

The Subcommittee on Domestic and Internal Monetary Policy, Trade and Technology
Committee on Financial Services
U.S. House of Representatives

I want to thank Rep. Gutierrez and the Subcommittee for holding this hearing on ways to increase pressure on the government of Sudan to stop genocide in Darfur.

Ever since the United States, led by the House of Representatives in July of 2004, declared the government of Sudan guilty of genocide, the world has been waiting for the U.S. to act. Article 1 of the 1948 Genocide Convention says: "The contracting parties confirm that genocide…is a crime under international law which they undertake to prevent and punish." The Darfur Accountability and Divestment Act of 2007 is a step—although a small step—in that direction. In light of the gravity of the death and displacement taking place in Darfur, the Subcommittee may want to explore if other, more painful financial interventions are possible.

In September 2004, Colin Powell, then Secretary of State, accused the government of Sudan of genocide. But he said that the identification of that crime against humanity would not change U.S. policy, meaning that the U.S. would make no military move to stop the genocide. Instead, we have relied diplomacy and economic sanctions to stop the government orchestrated death and displacement in Darfur. So far our policies have failed.

What message has our inaction sent? Earlier this year, Roger Winter, who served as Special Representative on Sudan to former Deputy Secretary of State Robert Zoellick, testified before a House subcommittee on the weakness of U.S. policy. Referring to the National Islamic Front, or NIF, which controls the government of Sudan, Winter said:

Entreaties to the NIF do not work. Talk alone does not work. ... Only credible threats that can cripple their agenda or deprive them personally of their power and ill-gotten riches will work. The NIF has been at war with the majority of the people of Sudan every single day since it came to power by coup on June 30, 1989. It will not change now when all their acts of death and destruction have cost them nothing. In fact, it seems that President Bashir and the NIF, having seen the impotent reactions of the U.S., U.N. and EU, have even stopped pretending and have shown their true aggressively anti-Western colors.

Ervin Staub, a professor at the University of Massachusetts, examines the cost of passivity in the face of genocide in his classic book, The Roots of Evil: The Origins of Genocide and Other Group Violence. He writes of the Holocaust:

The inaction of other countries and their unwillingness to help Jews confirmed the Nazis in the rightness of what they were doing. "At bottom," Goebbels [the Nazi propaganda chief] wrote in his diary in December 13, 1942, "I believe that the English and the Americans are happy that we are exterminating the Jewish riff-raff." [Staub observes that] Resistance and pressure might have focused the attention of the Nazis on moral values and caused them to worry about the effects of their actions on themselves.

The U.S. was silent and inactive in the face of genocide in Rwanda in 1994. Gen. Romeo Dallaire, the commander of the UN force there, saw the genocide coming and asked for authority to take action to prevent the killing. On April 21st after an estimated 100,000 people had been butchered in Rwanda, Dallaire said that with a force of 5,000 well armed, well trained soldiers and a clear mandate to act, he could stop the genocide. But on that same day, April 21st, the UN Security Council voted to cut the UN Assistance Mission in Rwanda, called UNAMIR, from 2,500 to 270. That's right: the UN cut the force from 2,500 to 270 in the middle of a genocide that was on the front page of major newspapers every day.

Even this was too large a force for then U.S. Secretary of State Warren Christopher. He sent these instructions to Madeline Albright, Washington's ambassador to the UN:

The international community must give the highest priority to full, orderly withdrawal of all UNAMIR personnel as soon as possible....Our opposition to retaining a UNAMIR presence in Rwanda is firm. It is based on our conviction that the Security Council has an obligation to ensure that peacekeeping operations are viable, that they are capable of fulfilling their mandates and that UN peacekeeping personnel are not placed or retained, knowingly, in an untenable situation.

The small UN force managed to save thousands of lives, but 800,000 people were slaughtered in eight weeks—10% of Rwanda's population. After Rwanda, a U.S. Senator said that if just two people in every congressional district had told their elected

representatives that the U.S. should help stop the genocide, U.S. policy might have been different, yet there was silence.

At about the same time, the U.S. also was averting its gaze to genocide in the Balkans, where 200,000 Muslims were murdered by Serb forces between 1992 and mid 1995. Executions, mass graves, concentration camps, ethnic cleansing, and the use of rape as a weapon of war all were well reported in the press. The killers were emboldened by the West's failure to act. "Throughout 1993, confident that the U.N., United States and the European Community would not take militarily action, Serbs in Bosnia freely committed genocide against Muslims," according to the United Human Rights Campaign.

It was not until Serb forces systematically slaughtered 7,000 Muslim men and boys in Srebrenicia that the U.S. and its NATO allies employed decisive military force that led to the end of the war.

We know today what is happening in Darfur. Since early 2003 the government and allied militias have launched attacks against innocent civilians in hundreds of villages. The estimated number of people dead from war related causes ranges from 200,000 to 500,000. There are 232,000 refuges from Darfur in Chad, and 2.2 million Darfurians have fled to camps within Sudan. Many of the displaced are Africans whose villages have been attacked by primarily Arab government and militia forces. The destabilizing impact of the war is spreading to Chad and the Central African Republic, meaning that the conflict in Darfur is causing regional instability.

In the last several months, the violence in Darfur has worsened dramatically. Displacement is increasing, not decreasing. Humanitarian workers are facing more attacks and harassment from government forces, allied militias, rebel groups and bandits. Both the U.N. and major relief agencies have warned that rising danger to their workers and operations may force them to pullout of Darfur. This would cripple—and perhaps end--the world's largest humanitarian operation.

The government of Sudan is acting with total disregard for efforts by the UN, the U.S. and other countries to stop the violence and begin peace talks. Every action by the government shows that it believes it can get away with murder, and, in fact, it is.

It is time to make it clear that Sudan will pay a price for the continued death and displacement. H.R. 180 moves in that direction. However, the Subcommittee may also want to explore the possibility of legislation that would directly or indirectly bar banks used by Sudan and its leaders for access to the U.S. financial system. That would sharply increase the cost and risk of financial transactions by the government of Sudan or its top officials.

History shows that we can't leave genocide unanswered, so I encourage the Subcommittee to take the strongest possible measures against Sudan as soon as possible.

-v-(www.refugeesinternational.org)

KENNETH H. BACON is the president of Refugees International, an advocacy organization in Washington, DC. Refugees International helps save lives by generating support and protection for refugees and displaced people around the world. Refugees International is an independent agency that receives no funds from the U.S. or any other government.

From 1994 – 2001, he was Assistant Secretary, Public Affairs, at the U.S. Department of Defense, where he advised the Secretary of Defense and other top officials on public affairs strategy, served as Pentagon spokesman and managed a large internal communications operation for the U.S. military. From 1969 – 1994, he was a reporter, editor and columnist for the Wall Street Journal based in Washington, DC. There he concentrated on defense, banking, economics and international finance.

He received his BA from Amherst College and an MBA and MA in Journalism from Columbia University.

Bacon is the co-chairman of the Partnership for Effective Peace Operations, and he serves on the boards of The American University in Cairo, Population Action International and InterAction, the umbrella group for international relief, development and advocacy agencies. He is an emeritus trustee of Amherst College and the Folger Shakespeare Library. He is a member of the Council on Foreign Relations and the International Institute for Strategic Studies.

He has published articles and op-ed pieces on humanitarian issues in *The New York Times, The Washington Post, The Boston Globe, Newsday, The Bulletin of the Atomic Scientists, The Columbia Journalism Review* and *World Policy Journal.* He appears frequently on radio and television, including CNN, the BBC and National Public Radio, to discuss refugees and other humanitarian topics.

Testimony of Omer Ismail
before the Subcommittee on Domestic and International Monetary Policy, Trade, and Technology
U.S. House of Representatives
3/19/2007

I was born and raised in El Fashir, the capital of Greater Darfur. My personal memories of Darfur are in sharp contrast with the Darfur of today that has been turned into killing fields by the Government of Sudan (GOS) and its proxy militia, the Janjaweed. I grew up in a region that was a picture of tolerance and peaceful co-existence. It is true that the environmental degradation and the competition over meager resources has been the cause of clashes between the different communities in the region. These clashes however, were limited in scope and their impact is less destructive than we have witnessed in recent years. Furthermore, the local communities have their own organic mechanisms that dealt with the conflicts without external intervention. As if the historical neglect of the region by the successive National Governments and the lack of meaningful investment and delivery of services was not enough, the current Government has applied policies, since the mid nineties that deepened the rifts between the Darfurian Communities resulting in the catastrophe that is still unfolding there.

The policy of forced Arabization and Islamization on a multi-ethnic, multi-religious Sudan, combined with a divide-and-conquer style of governance led the GOS to form an unholy alliance with some ethnic groups in the form of tribal militias to fight its wars by proxy. The final product of that policy was the ethnic cleansing that ravaged southern Sudan and the Nuba Mountains and later, Darfur. The pressure imposed by the international community on the GOS resulted in signing of the Comprehensive Peace Agreement (CPA) between the GOS and the Sudan Peoples' Liberation Movement (SPLM) that stopped the war in the south and the Nuba Mountains. Yet Darfur is still a gaping wound and a theater to what is rightly called by this honorable Institution, genocide. If left to its own devices, this conflict will not only destroy Darfur, it will threaten the CPA, and hence the future of the country as a whole.

The Current Situation in Darfur:

1- Pursuant to the signing of the Darfur Peace Agreement (DPA), the still-born attempt to find a negotiated settlement to the crisis in Darfur, the GOS continued its genocidal acts in the region, and the majority of the rebel groups who rejected the DPA re-grouped to continue the arms struggle against the GOS. The current situation is best described by the High-Level Mission of the Human Rights Council of the United Nations in its report released last week: "Today, millions are displaced, at least 200,000 are dead, and conflict and abuse are spilling over the border into Chad. Making matters worse, humanitarian space continues to shrink, and humanitarian and human rights actors are increasingly targeted. Killing of civilians remains widespread, including in large-scale attacks. Rape and sexual violence are widespread and systematic. Torture continues. Arbitrary arrest and detention are common, as is repression of political dissent, and arbitrary restrictions on political freedoms. Mechanisms of justice and accountability where they exist are under-resourced, politically compromised, and ineffective. The region is heavily armed, further undercutting the rule of law, and meaningful disarmament and demobilization of the Janjaweed, other militia and rebel movements is yet to occur. Darfur suffers from longstanding economic marginalization and underdevelopment, and

the conflict has resulted in further impoverishment. As violations and abuses continue unabated, a climate of impunity prevails."

2- Since May of last year, I have taken five trips to several countries neighboring Sudan and met with refugees fleeing the devastated region who spoke of the continuation of the horrors of war and abuse of human rights. I have met with aid workers, human rights observers, African Union (AU) officials and rebel leaders. The one common observation shared by all is the fact that the level of violence has increased and the protection of the refugees and the internally displaced peoples (IDP) has become almost impossible.

3- More and more people are seeking refuge in the IDP camps inside Darfur, hence becoming prey to the Janjaweed militias waiting outside the camps that attack the women in their daily practice of gathering fire wood or grass to thatch their huts. Delivering the necessary services to the increasing numbers of IDP's has become the new challenge for the aid workers who themselves have become targets of the indiscriminate violence. With access to the victims becoming more and more difficult and the attacks on the aid workers increasing, as many as 400 of the 1300 international aid workers in Darfur have been either evacuated or re-located, putting more pressure on an already tenuous situation.

What can be done?

The pursuit of justice and dignity and the adherence to the rule of law constitute the essence of the demands of the people of Darfur. The respect for human rights and the equality of all citizens in a unified democratic country is part of the aspirations of all the Sudanese, Darfurians included. That can only be achieved through a negotiated settlement that ends the war, and puts the Sudanese people on the road to healing. The GOS, being the instigator of the destruction in Darfur, should be pressured to come to the negotiation table. The suggestions argued below can only work if taken as a package, for none of them applied as an end in itself can achieve our objective. This package is of an international and domestic nature. In implementing this package however, we should remember that Khartoum responds well when pressed to take action. As International Crisis Group expert Colin Thomas-Jensen has observed, "In the past, strong punishment has forced the Sudanese government to change course. When the Clinton administration pushed to impose U.N. sanctions and unilateral trade restrictions on Sudan for supporting international terrorism, Khartoum responded by dismantling terrorist networks and cooperating with U.S. intelligence agencies. Last January, when the U.S. put the full court press on Khartoum to sign a peace agreement with rebels in southern Sudan, the Bush administration scored a rare foreign policy victory."

A. **The International Package:**

As the sole super power in the world today, the United States has a moral responsibility to work with the international community to ensure the safety of the citizens of Darfur and to use whatever

resources and leverage at its disposal to see to it that peace and security are provided to the victims and the affected communities in Darfur. The United States should:

1- Work urgently through the Security Council to ensure the implementation of the three-phased package agreed upon between the GOS and the Former Secretary General of the United Nations Mr. Kofi Annan in November 2006 in Addis Ababa, Ethiopia. The deployment of the UN/AU peacekeeping/protection force is essential to provide security to the citizens of Darfur and the aid workers assisting them.

2- Considering the instrumental role of the US in the outcome of the DPA, the US should lead an international effort towards the expansion of the DPA to include non-signatory rebel groups in addition to the representatives of civil society and other stakeholders. The main antagonists have signaled their interest in the process, and the joint Envoys of the UN and the AU have made progress in their wide consultations with both parties.

3- With the spillover of the conflict into the Sahel sub-region, the US should spear-head the efforts to organize a regional conference on peace and security with the participation of Sudan's neighbors, the European Union and other concerned countries. The UN and the AU should facilitate such a conference.

B- **The Domestic Package:**

1- Upon filing an application against two of the alleged perpetrators of crimes against humanity in Darfur, the Chief Prosecutor of the International Criminal Court (ICC) alluded to the fact that his office did not seek, and the US did not offer any information that helped in determining the indictments. According to the reports of several human rights groups, the US does have information that would be useful in bringing those who have committed horrendous crimes in Darfur to justice. With the utmost respect and full understanding of the position of the US Government on the ICC, as a Darfurian who strives for justice for my people, I urge the United States to avail that information to the ICC, should that information in question be in the custody of the US.

2- There is no question that divestment is an effective tool in bringing pressure on the Sudanese government and cutting off the funding that feeds the genocide. Many believe that the campaign against Talisman Energy in 2001 accelerated the signing of the 2003 Comprehensive Peace Agreement with the rebels from the South.

As The Nation magazine noted in its May 8, 2006 issue "The Sudanese government is starting to feel the pressure from the divestment movement. It took out an estimated $1 million in ads in the New York Times in March, and the Sudanese embassy recently published a press release decrying

divestment efforts." It quotes Smith College professor and Sudan expert Eric Reeves as saying "The fact that the regime is responding so distinctly to the [divestment] movement means they certainly understand the implications."

Divestment is occurring at two levels: institutional and individual. The Sudan Divestment Task Force has spent the last several years encouraging state governments and colleges / universities to divest. Recently the Fidelity- Out- of -Sudan campaign has enlarged the campaign to include encouraging individuals, and the large mutual funds that represent them, to also divest.

Divestment has come a long way from the approach used in South Africa. As the Sudan Divestment Task Force states, the current program is "targeted to those companies that have a business relationship with the government or a government-created project, impart minimal benefit to the country's underprivileged, and have expressed no significant corporate governance policy regarding the Darfur genocide. Such targeted divestment implicitly excludes companies involved in agriculture, the production and distribution of consumer goods, or the provision of goods and services intended to relieve human suffering or to promote health, religious and spiritual activities, or education."

What specific steps can the United States Congress take to help the targeted divestment movement succeed in influencing the Government of Sudan? I suggest the following:

2.1- **Remove barriers to state divestment.** The recent court decision striking down the Illinois Sudan Act covered an extreme example and most proposals now being considered by the states present no constitutional issues. However, an explicit statement by the Congress that divestment is a lawful approach to responding to genocide would remove any residual concerns and doubts.

2.2- **Explicitly address the claim that fiduciary responsibility creates a barrier to divestment.** Fund managers can clearly fulfill their fiduciary responsibilities while still making socially responsible investments. However, to completely eliminate this specious argument, that some fund managers use to justify their actions, Congress should make it explicit that it is reasonable and practical to be socially responsible while still maximizing profit.

2.3- **Identify the worst offenders.** Private groups, notably the Sudan Divestment Task Force, have been researching and publicizing the "worst offenders" (i.e., the targeted companies described earlier) so that responsible individuals and institutions can take appropriate action. The State Department should be tasked with applying its greater resources into formalizing this list and making it available to the public on a periodic basis.

2.4- **Restrict investments in the worst offenders.** In 1997 President Clinton issued Executive Order 13067 to block property and assets held by the Sudanese government in the U.S. and to prohibit most transactions with Sudan. In October 2006, President Bush issued an Executive Order that prohibited "all transactions by United States persons relating to the petroleum or petrochemical

industries in Sudan, including, but not limited to, oilfield services and oil or gas pipelines". Despite these orders, investment companies, like Berkshire Hathaway and Fidelity Investments are free to make huge investments in foreign companies that do exactly that. This leads to the irony that US companies, like Exxon Mobil, are prevented from operating in Sudan but American investors are helping Chinese companies to do so. Investment companies should be prohibited from investing in the "worst offenders" identified by the State Department.

2.5- **Force investment companies to explain their behavior.** The House Committee on Financial Services should require that the Chairman of Berkshire Hathaway, and the Chairman of FMR Corp, and other fund managers with large Sudanese investments appear before you to explain why they believe it is acceptable to continue their investments in companies that are funding the genocide. Thus far, public pressure has failed to create any meaningful response from Fidelity and only a self serving and inaccurate response from Berkshire.

Finally, thanks very much for affording me the honor of testifying before your honorable Committee. The freedom and security that are enjoyed by the citizens of this country are universal principles for dignity and the pursuit of happiness. With the help of this body, as the representative of the People of the United States, I dream that one day, the People of Sudan will enjoy the same.

Testimony before the
Subcommittee on Domestic and International
Monetary Policy, Trade, and Technology
Committee on Financial Services
United States House of Representatives

"H.R. 180, Darfur Accountability and Divestment Act of 2007"

March 20, 2007
1:00 p.m.
Room 2128 Rayburn House Office Building

A Statement by

J. Stephen Morrison
Director, Africa Program
Center for Strategic and International Studies

CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, 1800 K STREET, NW, WASHINGTON, DC 20006
TELEPHONE: (202) 887-0200; FACSIMILE: (202) 775-3199 WWW.CSIS.ORG

Chairman Gutierrez and Congressman Paul:

I am grateful to you both for the opportunity to appear here today at this important hearing on *H.R. 180, the Darfur Accountability and Divestment Act of 2007*, held by the House Financial Services Subcommittee on Domestic and International Monetary Policy, Trade, and Technology. As we agreed, I will make my remarks brief and concentrate on China's economic stakes in Sudan, its evolving approach to Darfur, and options for achieving greater collaboration with the United States that result in more effective pressures upon Khartoum.

Notwithstanding China's important economic ties with Sudan and public adherence to the principle of non-interference, the last year has seen a subtle shift in China's approach to Sudan, a greater willingness to raise the issue of Darfur with senior Sudanese leaders, and an emerging consensus with the United States that implementation of the three-phase "Annan Plan" is the best way forward to achieving peace and stability in Darfur. This shift has been driven in part by China's wish to promote itself as an ethical global power, in part by discussions with other African leaders invested in seeing the Darfur issue resolved, and in part by the threat of increasing international pressures and tensions. While the United States and China will continue to differ on respective assessments of the situation in Darfur and on appropriate tactics in its resolution, the United States should seek to build on China's emerging openness to play a constructive role in ending the crisis in Darfur.

I am indebted to my CSIS colleagues, Chin hao Huang and Bates Gill, for their assistance in preparing my remarks.

China's economic stakes in Sudan

Sudan's contribution to China's total energy needs is important but not strategic. Sudan accounts for 5-7 percent of China's total oil imports, and less than 1 percent of China's total energy consumption. Angola is presently China's largest source of external energy (exceeding Saudi Arabia). Sudan's producing oil fields are aging, and its proven oil deposits modest by global standards. Production is projected to decline in the next decade. There have been some recent new discoveries, but not on a scale to sustain current production (at approximately 500,000 bpd) indefinitely.

China's accumulated economic stakes in Africa are significant but also fall short of strategic. Since the late 1990s, China's expansive economic engagement in Sudan has been concentrated in the energy sector. Aggregate sunken investment now stands at an estimated $8 billion, the largest in Africa. According to Chinese officials, bilateral trade reached $3 billion in 2006. This is in a context in which total two-way Chinese trade with Africa reached $50 billion in 2006, and is projected to reach $100 billion by 2010. Chinese oil companies have made significant headway in constructing pipelines, refineries, and securing exploration and production rights in seven major blocks throughout Sudan. China's contractual projects in Africa in 2004 totaled $6.43 billion, of which 23 percent went to Sudan, the single, largest recipient in Africa. Sudan also accounted for $145 million, or nearly half of China's total outward (non-financial institution) investment in Africa in 2004. Chinese officials estimate that of the 8,100 Chinese employed in

Sudan (out of an official total of 45,000 Chinese employed throughout Africa), approximately 3,000 work for Chinese companies implementing contracted projects in Darfur.

China's evolving approach on the Darfur question

Beijing's commitment to protecting the principle of national sovereignty and non-interference is a central dimension of China's global foreign policy and has been the basis for China's tough opposition to UN sanctions against Sudan, seen when discussions on Darfur intensified in the UN Security Council beginning in mid-2004.

An evolving debate has been under way within Beijing's policy circles over whether and how to modify the approach to the crisis in Sudan's Darfur region. Chinese think tanks, academics, and global business enterprises are conscious that China's uncritical embrace of Khartoum has damaged China's standing in much of the world, particularly in important parts of Africa, in Western Europe and North America, in a period in which China is promoting itself as an ethical, rising global power. Within the Chinese Foreign Ministry, under the leadership of Minister Li Zhaoxing (former Ambassador to Washington), there has been an effort to air the views of critical Chinese opinion leaders.

There is also recognition within foreign policy circles that direct pressures on China and its economic stakes in Sudan could escalate in North America and Europe. In the United States, the broad movement led by the Save Darfur Campaign and encompassing churches, universities, advocacy groups, and states and municipalities, has gained a strong voice, acquired strong allies in Congress and is actively pressing for sanctions and other measures that could impact Chinese interests in Sudan. One outstanding question is whether there will be increasing calls for a boycott of the 2008 Beijing Olympics.

No less important, Chinese views on Darfur are shaped by discussions with African states. Many leaders in sub-Saharan African states find Khartoum's actions in Darfur offensive on human rights, religious, and racial grounds. Khartoum's continued obstruction of an AU/UN force, and the inability of the international community to bring greater stability to Sudan, mean in practice that African Union peacekeeping forces, including troops from South Africa, Rwanda, and Nigeria, remain under grave strain, cannot be reliably sustained and for these reasons are placed at considerable risk. China for its part is vulnerable to being called to account within Africa for enabling Khartoum's intransigence and impeding the AU's efforts.

In 2006, the United States and China deepened their discussions on how to coordinate actions on Sudan. After his appointment as the U.S. President's Special Envoy to Sudan, Andrew Natsios stepped up U.S. engagement with China in the latter part of 2006, traveling to China January 8-12, 2007, where he met with State Councilor Tang Jiaxuan and Vice Minister of Foreign Affairs Yang Jiechi. This step significantly elevated the level of dialogue.

Partly as a result of the intensifying U.S.-China dialogue, a shift in China's position took place in late 2006. The Chinese ambassador to the United Nations Wang Guangya became very active, and was widely credited in gaining Sudanese acceptance for the November 16, 2006, Addis

Agreement (the 'Annan Plan') committing Khartoum to a ceasefire and three phase expansion of a hybrid AU/UN force in Darfur. In this same period, senior Chinese officials publicly acknowledged the need for a negotiated political settlement in Darfur and greater protection of humanitarian operations.

Despite this shift, Chinese President Hu Jintao's visit in February 2007 with President Bashir in Khartoum fell short of impressing Washington and much of the international community with any significant breakthroughs. There were hopes, perhaps unrealistically high, that President Hu might forcefully press for – and win new overt commitments to – renewed efforts to achieve a negotiated political settlement in Darfur and accelerated deployment of the AU/UN force.

In public, on the occasion of President Hu Jintao's visit, China emphasized its economic ties with Sudan and made new pledges of support, including aid in building a presidential palace. Understandably, these announcements drew international opprobrium.

In private, President Hu reportedly intervened personally to press President Bashir to comply with his commitments to the Annan Plan. And prior to leaving Sudan, President Hu delivered a rare public statement that outlined "four principles" as the basis for an international approach to Darfur. The first principle, not unexpectedly, reaffirmed the principle of non-interference. But the fourth principle seems to contradict the first, saying: "it is imperative to improve the situation in Darfur and living conditions of local people." That is about as close as a Chinese leader has come publicly to supporting the emerging notion in the United Nations and the broader international community that governments have a "responsibility to protect" their citizens from harm.

The change in Beijing's mood became more apparent when, shortly after President Hu's visit, it announced that some economic leverage would be applied to exert additional pressure on Sudan. The Chinese National Development and Reform Commission, the main economic planning agency in Beijing, released a public document in conjunction with the Ministry of Foreign Affairs and the Ministry of Commerce, that Sudan has been removed from the latest list of countries with preferred trade status. According to the announcement, Beijing will no longer provide financial incentives to Chinese companies to invest in Sudan. This latest move appears to be a signal of Chinese disaffection with President Bashir's unwillingness to comply with his commitments to implement the Annan Plan.

The announcement was welcomed by the State Department and came shortly before Chinese Assistant Minister Zhai Jun arrived in Washington to meet with Assistant Secretary of State for African Affairs Jendayi Frazer for the second round of U.S.-China subdialogue on Africa on March 9, 2007. The inaugural dialogue was formally launched in November 2005 under the auspices of the U.S.-China Senior Dialogue process initiated by former Deputy Secretary of State Robert Zoellick. While the first bilateral meeting on Africa focused largely on formalities, the second dialogue in early March focused on the specific issues of debt sustainability, peacekeeping operations, Chinese companies' reputational risks in Africa, and transparency in the extractive industries. On Sudan, the Chinese side reportedly acknowledged the need for the international community to step up efforts and become more active in leveraging their respective influences on Darfur.

Last week, Beijing expressed public disappointment with President Bashir when he issued a formal letter to UN Secretary General Ban Ki Moon rejecting the deployment of the AU/UN hybrid force in Darfur. Chinese Ambassador to the UN Wang Guangya responded with open frustration over Khartoum's reversal of its commitment to implement the Annan Plan.

Looking ahead

There is today an important consensus between the United State and China as to what priority actions are now urgently required to achieve peace and stability in Darfur. That consensus focuses on full implementation of the three-phase Annan Plan to put in place a sizeable UN/AU peace operation; a stable ceasefire; internal political negotiations that lead to a durable accord between Khartoum and armed insurgents, including non-signatories to the May 2006 pact; and continued efforts to protect and expand humanitarian operations. That consensus has been achieved, in part, because the United States made the commitment to invest at a high diplomatic level to understand the Chinese perspective and begin to test China's intentions systematically.

Efforts should be made to preserve and build upon this consensus. The United States' recent experience in North Korea has demonstrated that a patient and sustained high-level collaboration with China can deliver substantial results. In the case of Sudan, the Chinese government has moved in the last year from obstruction to modest but important forms of collaboration with the United States in pressing Khartoum to comply with its commitments to end the crisis in Darfur. This is a development that we should continue to leverage systematically to our advantage.

The United States and China differ and will continue to differ in important respects in their respective assessments of the current situation in Darfur: how dire it is; how egregious and intransigent Khartoum's behavior is; what time line is appropriate in gauging Khartoum's behavior and prospects for reforms; and whether new sanctions are warranted and have hope of achieving meaningful results. These differences have up to now been manageable. We should work to ensure that they remain manageable and do not become a new obstacle that obscures the real problems, which continue to lie in Sudan.

International sanctions on Sudan could take different forms, and it is difficult to predict with precision how different sanctions might impact Chinese behavior and the ongoing dialogue between the United States and China on Darfur.

If, for example, the United States were to begin soon to impose unilateral 'smart' sanctions, under 'Plan B,' focused on select individuals and commercial entities, and these measures did not directly or indirectly target Chinese economic interests, it might be possible to raise pressures upon Khartoum through sanctions while preserving the existing U.S.-Chinese consensus and pursuing more robust U.S.-Chinese collaborative pressures upon Khartoum.

If, on the other end of the spectrum, actions were taken that overtly vilify China, directly target its economic stakes in Sudan, and threaten broader interests such as the 2008 Olympics, that would risk undermining the present U.S.-China dialogue.

In between these two scenarios are intermediate options where sanctions might be put in place that do directly impact Chinese economic interests in Sudan and where the impact on Chinese behavior and the U.S.-China dialogue might be mixed.

Looking forward, we should continue to give high priority in our evolving dialogue with China in seeking greater Chinese commitments that support in concrete terms the consensus on Darfur that has been forged between the United States and China. The Chinese can and should press for deployment of special Chinese military units to strengthen the AU/UN force. China can and should use its leadership and public voice in the UN Security Council to hold Khartoum to account. China can and should further adjust its economic policies and instruments to signal that it is systematically distancing itself from Khartoum and deliberately lowering the priority of Sudan in its overall expansive engagement in Africa. These are a few of the immediately available options. I am confident there are other worthy choices.

Thank you for your consideration.

H.R. 180, the Darfur Accountability and Divestment Act of 2007

John Prendergast, Senior Adviser to the International Crisis Group

Statement Before the Subcommittee on Domestic and International Monetary Policy, Trade, and Technology

Washington, DC
March 20, 2007

Thank you, Mr. Chairman, Chairman Frank of the Financial Services Committee, Ranking Member Congressman Paul and Members of the Subcommittee, for this opportunity to discuss the strategy of the United States to resolve the ongoing crisis in Darfur.

Though Darfur has garnered the concern and condemnation of governments worldwide and triggered unprecedented grassroots activism in the U.S., the crisis continues to intensify. Until now, the Bush administration has employed more threats than actions in response to what both the legislative and executive branches of our government have repeatedly called genocide. U.S. policy and that of the international community is centered on a strategy of constructive engagement with the Khartoum regime, but four years into the Darfur crisis, it is time to take another look – at what has led to successful outcomes in past efforts to affect the Khartoum regime, and what is needed today.

A policy of gentle persuasion – punctuated occasionally with misleadingly strong public statements and resolutions that suggest but do not lead to increased pressure on Khartoum – has allowed the Sudanese regime to intensify its divide and destroy policy against rebel groups and civilians in Darfur, particularly in the aftermath of the May 2006 signing of the deeply flawed Darfur Peace Agreement. President Omar Hassan al-Bashir has felt so emboldened that earlier this month he wrote a letter to Secretary General Ban Ki Moon clearly rejecting an internationally negotiated plan – and an agreement he made with former Secretary-General Kofi Annan – to deploy a United Nations/African Union hybrid force with UN command and control structures.

President Bush has finally decided that the present course of U.S. policy is inadequate, and must be buttressed by more robust measures. The heads of U.S. agencies mandated to deal with foreign policy reportedly have met roughly six times in the past three months, but no decisions have been announced, although we have been told that targeted sanctions are planned against a few more Sudanese officials (government, rebel and Janjaweed militia leaders) and companies linked to the Khartoum regime. Consideration is also reportedly being given to how to restrict Sudanese oil transactions using U.S. dollars – which could add some economic pressure on the regime. However, without significant will and resources to expand and enforce such measures, and without rapid follow up with European and other allies to prevent the Sudanese regime from switching to Euro or Yen transactions, these measures may prove to be fruitless.

Hope and unrealized intent are insufficient to influence the Khartoum regime, and "Plan B," as currently configured, is too little, too unilateral, and very, very late. In order to break the logjam on more meaningful action, President Bush must act decisively and instruct his Cabinet to finalize a much more robust plan that rapidly ratchets up the pressure in response to continuing obstruction and destruction by Khartoum. Such a plan – which must be implemented multilaterally – would mark an important reversal from an approach that Khartoum now views as all bark and little bite. It would also reflect the fact that no single punitive measure in and of itself is likely to have much economic or legal impact. However, the political impact of a set of steadily augmenting measures that pressure Khartoum and gradually isolate regime officials would force a change in behavior in due course. Such pressures would aim to support a peace and protection initiative that would seek a new or significantly amended peace deal and an international force focused on protecting civilian populations.

The stakes could not be higher. Time is running out for huge swathes of Darfur. Humanitarian access is shrinking rapidly, and insecurity remains the norm. The State Department recently reported that a staggering 1,500 villages have been damaged or destroyed in Darfur. Mortality rates are set to skyrocket as the crisis metastasizes into Chad and the Central African Republic. Furthermore, the Comprehensive Peace Agreement (CPA) between the government and the southern-based Sudan People's Liberation Movement (SPLM) is increasingly put at risk because of profound disagreements over what to do about Darfur between the ruling party and the SPLM. Perhaps most ominously, recent withdrawals of aid personnel – in response to targeted violence – threaten to result in widespread famine and increased epidemics, as well as much more violence as the last external witnesses are removed from the scene.

Economic Sanctions as Part of a Comprehensive Plan

A global divestment campaign such as that which my colleagues will address today is an essential part of any U.S. strategy in Darfur, particularly because it vests local communities throughout the U.S. in the larger struggle. However, as requested, I will use my time to focus on other tools in the financial arsenal beyond divestment. So far, none of the tools I will describe have been utilized in any significant way, despite four years having passed since the advent of the catastrophe in Darfur. For the millions of Darfurians facing a bleak future in the absence of U.S.-led multilateral action, however, it is still not too late to begin implementing effective measures now.

It is my strongly held view that robust targeted financial and economic sanctions – once applied and combined with support to the International Criminal Court's (ICC) efforts to build cases against senior regime officials and planning for multilateral military options – are going to be a central element of the strategy to end the killing in Darfur. The ICC has acted against Ahmed Muhammed Harun, who was the junior Minister of Interior in charge of the Darfur file when the atrocities began, and Ali Mohammed Ali Abd-al-Rahman, a Janjaweed paramilitary commander. But we have not seen any strategy for helping the ICC expand its targets to other more senior officials, or to move forward to

require those men to stand trial before the court, while the Khartoum government predictably announced it would not cooperate.

There is plenty of empirical evidence to support the effectiveness of economic tools. Multilateral punitive measures combined with robust diplomacy have effectively persuaded the Khartoum regime to change its behavior on three particular occasions in the past decade: its transformation from a state sponsor of terrorism in the early 1990s to a partner in the global war on terrorism; its acceptance of a peace agreement with rebels in Southern Sudan in 2005; and its almost total cessation of the slave-raiding it was encouraging through support for the *murahaliin* militias in the 1990s, in starkly similar terms to the support the regime is giving to the Janjaweed militias today.

Punitive measures are essential to building the leverage necessary to gain Khartoum's compliance with our twin goals in Darfur: a durable peace deal for Darfur and the deployment of an effective international force to protect civilians. Similar measures should be imposed against leading rebel commanders and political leaders if they are deemed to have committed atrocities or are obstructing real peace efforts.

As stated, the Bush administration has begun to move towards its threatened "Plan B" policy of sticks instead of carrots, with targeted sanctions on a few officials and a few companies combined with still-vague proposals to restrict Sudanese oil transactions using U.S. dollars. Agencies tasked with implementing these sanctions, however, have yet to commit the resources or staff to do the job. These efforts to move towards a more aggressive policy are a step in the right direction, but further decisions concerning more robust actions must be reached quickly and additional staff must be tasked to work full time to ensure swift implementation. The cumulative aim of these actions should be to achieve a political impact in the form of policy change in Khartoum to respect the supposed ceasefire, agree to the hybrid UN force and reach a political agreement with the rebels. Without a clear strategy of rapidly escalating pressure through a variety of economic and legal measures, then the deadly status quo will no doubt prevail.

The Bush administration must overcome these inter-agency divisions and pursue four simultaneous tracks of economic/financial sanctions against the Khartoum regime. Like divestment, none of these is likely on its own to actually have a major economic impact on the regime or its senior officials in the short term. But the objective of these sanctions is not only economic: it is primarily political. These measures would place a scarlet letter on the shirts of senior officials responsible for atrocities and/or undermining peace efforts. The bet – based on empirical evidence from past efforts – is that the calculations of regime officials will change with the introduction of real economic costs combined with increased isolation globally. This is not the Taliban; the Khartoum regime wants to play ball internationally, and does not want to be multilaterally named and shamed while being called out as an international pariah. So while the regime's economic base won't collapse due to these measures, their political will to continue the killing will.

The Four Economic Tracks

Beyond divestment, the U.S. should lead international efforts to ramp up economic pressure on Khartoum on the following four tracks:

First, the U.S. should lead the international community in imposing targeted sanctions through the United Nations Security Council against a wide array of senior regime officials, as authorized in previous Security Council resolutions, and called for in multiple reports from the Council's Sanctions Committee Panel of Experts. Currently the U.S. and UK have different lists of officials that should be sanctioned, but the U.S. list is very small and will not achieve the requisite impact. A larger list should be produced and broadened so that the Security Council can rapidly expand targeted sanctions against a number of senior officials to demonstrate international seriousness.

Secondly, the U.S. should take the lead in passing a UN Security Council resolution establishing a Panel of Experts to quickly ascertain where the assets of the largest Sudanese companies owned by ruling party officials are located, and quickly move to freeze those assets. In addition, the U.S. should work build a coalition of states willing to impose measures affecting Sudanese companies that the U.S. is contemplating as part of its "Plan B", and implement these measures multilaterally with as wide an international support base as possible. Ideally, these measures too would be implemented through the UN Security Council.

Thirdly, the U.S. should work with its international partners to freeze the assets of the Government of Sudan and government-related commercial entities– such as the main oil consortium – that pass through their banking systems. The administration should work assiduously to ensure that these assets are frozen domestically and by our allies, which would require significant additional staff and resources at the Treasury Department and within the intelligence community.

Finally, the U.S. should work with other countries to develop a coalition that would notify certain international banking institutions that if they choose to continue conducting business with the Government of Sudan or companies affiliated with the ruling party, they will be cut off from the financial systems of participating countries by a predetermined date. The U.S. has recently imposed similar unilateral measures on banks doing business with the regimes in North Korea and Iran, and they have had a direct impact.

These punitive measures could be implemented immediately without major cost beyond the buttressing of staff to properly implement them. Multilateral measures are far more effective than unilateral ones since the government of Khartoum cannot simply ignore a unified international community willing to impose a cost for Khartoum's intransigence, and multilateral measures make it more difficult for Khartoum to score propaganda points against the U.S. Thus the U.S. should work through the UN Security Council to the maximum extent possible. The U.S. also should pursue a coalition of the willing among our European, African and Asian allies to parallel U.S. action in seeking to cut off Khartoum's oil companies from being able to sell their oil for dollars or Euros. All efforts should be expended to engage members of the European Union, the Arab League and the

African Union in planned initiatives, if not to secure their total support then at least to neutralize or soften opposition.

Just as rebel unity is a prerequisite for ending the crisis, so is the use of punitive measures to demonstrate to those committing atrocities and those undermining peace efforts – whether they are part of the government or members of a rebel group – that there will be a cost, and that cost will increase as major human rights or diplomatic violations continue. Until the international community rebuilds its leverage over the Sudanese government by enacting punitive measures, both the government and the rebels will continue to fight it out in the sands of Darfur, while the Janjaweed and other armed groups continue to kill, rape, maim, and loot with impunity.

Balancing Our Strategic Interests

For the U.S., though officials routinely deny it, the cooperative counter-terrorism relationship the U.S. has forged with the Khartoum regime has undermined efforts to pursue a more robust policy regarding Darfur. At this point, maintaining the CIA's close relationship with members of the regime's security apparatus is more important than punishing those individuals for their role in orchestrating mass atrocities in Darfur. Until these dual policy objectives are reconciled and equal priority is given to ending the atrocities in Darfur, it is unlikely the U.S. will do enough to change the equation there.

Ultimately, President Bush will have to decide that the U.S. must pursue multiple objectives in Sudan with singular intensity. It is clearly desirable that the Sudanese government remains a source of information for the war on terrorism, but this objective cannot be allowed to prevent the U.S. and others from taking the steps necessary to end the crisis in Darfur and ensure the full implementation of the peace deal for southern Sudan.

A Comprehensive Approach

While divestment initiatives and economic sanctions are very important pieces of any robust U.S. response to the crisis in Darfur, we must be clear that no single policy or initiative will work in isolation. The U.S. must adopt a holistic approach whereby high-level diplomacy coupled with credible threats and multilateral punitive measures can change the calculations and actions of the Sudanese government.

The central paradigm shift in U.S. policy must be to move away from the current policy of constructive engagement without any real leverage (with gentle persuasion being the preferred tool) to a more muscular policy focused on walking softly and using a bigger stick. Unfulfilled threats and appeals should be replaced quickly with punitive measures in support of a robust peace and protection initiative. Ultimately, with the right policies and increased levels of engagement regarding Darfur, there is potential for the region to be stabilized within a year. If not, it is almost a foregone conclusion that, if present trends continue, hundreds of thousands more Darfurians will perish in 2007, on our watch.

SUDAN DIVESTMENT
TASK FORCE
A project of the Genocide Intervention Network
1333 H Street NW, Washington, DC 20005

PHONE (202) 481-8220
FAX (800) 991-2024
E-MAIL info@SudanDivestment.org
WEB SITE www.SudanDivestment.org

TESTIMONY: FINANCIAL SERVICES

19 March 2007

Honorable Chairman Gutierrez:

Cc: Members of the Subcommittee on Domestic and International Policy, Trade, and Technology

Re: H.R. 180, The Darfur Accountability and Divestment Act of 2007

My name is Adam Sterling, director of the Sudan Divestment Task Force, a project of the Genocide Intervention Network. As the coordinating entity for the Sudan divestment movement, our organization is actively involved in dozens of successful and developing targeted Sudan divestment campaigns around the world at the university, asset manager, city, state, and national levels. The Sudan Divestment Task Force has developed a unique approach to shareholder engagement and divestment, focusing its efforts on the most egregiously offending companies in Sudan. This approach, termed "targeted divestment", helps to maximize impact on the Sudanese government, while minimizing potential harm to both innocent Sudanese civilians and investment returns.

I'd like to recognize Congresswoman Lee's continuing efforts to support and encourage the divestment movement. My organization supports H.R. 180 and the effort to establish federal authorization for public and private entities that divest from companies whose operations in Sudan are particularly problematic. I would like to address two questions with my testimony: first, what is the current status of the Sudan divestment movement; and second, will Sudan divestment be effective in changing the behavior of the Khartoum government. In closing, I would like to highlight aspects of H.R. 180 that I believe require additional attention.

What is the status of the Sudan divestment movement?

The states of New Jersey, Illinois, Oregon, Maine, California and Vermont have all approved divestment plans. Non-binding divestment resolutions have passed in Ohio, and Connecticut. North Carolina's state treasury and the Kentucky State Teacher's Retirement System independently divested a selection of Sudan-related holdings. Many of these states have left open the option of subsequent divestment. Finally, over twenty states have active divestment movements with varying levels of involvement from state officials. A large number of these have already begun consideration of divestment in this year's legislative session. Religious and international campaigns have also gathered steam, including examination of the issue by the Presbyterian Church, National Ministries, Canadian universities and provinces, and other active campaigns in Europe. Cities have begun consideration of divestment as well: San Francisco, CA; Providence, RI; New Haven, CT; and Philadelphia, PA have passed measures prohibiting certain Sudan investments while the fiduciaries of Buffalo, NY, Los Angeles, CA; Newton, MA, and other smaller cities are considering the issue. At the university level, over thirty institutions have enacted restrictions on Sudan investments. There are emerging or active Sudan divestment campaigns at over two dozen other colleges and universities. At the company level, engagement and divestment campaigns targeting Fidelity Investments and Warren Buffet's holding company, Berkshire Hathaway, have been initiated. Berkshire Hathaway holds over $3 billion of shares of PetroChina, one of the highest targets of the divestment campaign, making it the largest single shareholder in the company. At the private pension fund level, there is an active divestment campaign for TIAA-CREF, the nation's largest such fund. Finally, ex-Sudan investment tools have been developed or are being developed by asset managers such as Northern Trust, Barclays Global Investors, State Street Global Advisors as well as several socially responsible investing firms. Several Sudan-free mutual funds have also been recently introduced.

Is Sudan divestment effective?

The Sudanese government has a long history of susceptibility to economic pressure, with a foreign debt nearly as large as its GDP. More than US diplomacy, the country has responded to US economic pressure in the past. Despite this historical responsiveness, the regime has faced

little in the way of economic consequences for its perpetuation of genocide in Darfur, heavily protected by a small set of international protectors whose commercial interests in Sudan are very strong. Indeed, while the regime has been brutal towards its own citizens, it has been a shrewd attracter of foreign investment- it currently ranks in the top 20 countries in the world in attracting foreign investment dollars as a percentage of its GDP and it holds international investor conferences, even as the genocide is ongoing, with amazing regularity. This is a government acutely attuned to the country's finances but facing little challenge from the international community. As if to emphasize this point, Sudan's President, Omar Al-Bashir, recently stated to the international press, "When countries gave us sanctions, God gave us oil."

Ironically, the number of companies propping up this genocidal regime is relatively limited. While there are over 500 multinationals operating in Sudan, only a few dozen play a truly detrimental role in the country. Moreover, the companies fiduciaries will choose as replacements may very well perform better than the offending companies, since 19 US states are currently considering divestment from those very companies. For example, one of the highest offending companies, PetroChina, is down 19% this year.

The emerging Sudan divestment movement has already caught the attention of the Sudanese government, which has spent considerable time and energy attacking the campaign, even going so far as to purchase a six page ad for more than $1 million in the New York Times to counteract the divestment movement. Several major companies operating in Sudan, including ABB, Siemens and Total, have also recently altered their business practices, largely in response to the divestment movement. Both ABB and Siemens recently decided to suspend all non-humanitarian operations in the country.

Prominent foreign policy experts and think tanks which do not classically support blanket sanctions, including experts from the International Crisis Group, the Council on Foreign Relations, Harvard University, and the Heritage Foundation, have all endorsed targeted sanctions, including divestment, on the Sudanese regime, calling it a critical tool for influencing the behavior of the Sudanese government and bringing long-term peace and security to the region.

H.R. 180

While we strongly support the intention of H.R. 180, we believe it would benefit from further attention to the targeting of companies so that the "worst offenders" are subject to punitive measures and those companies without any substantive business relationship with the Government of Sudan and companies who may actually be providing tangible benefits to Sudan's under-served periphery are exempt from them.

We believe that H.R. 180 can effectively support the growing divestment movement and create important disincentives for companies contemplating or currently engaged in problematic operations in Sudan.

Thank you for the opportunity to address you.

MICHAEL L. WILLIAMS
RAILROAD COMMISSIONER

THE HONORABLE MICHAEL L. WILLIAMS
TESTIMONY BEFORE THE U.S. HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON INTERNATIONAL MONETARY POLICY, TRADE AND TECHNOLOGY
IN SUPPORT OF
H.R. 180 – THE DARFUR ACCOUNTABILITY AND DIVESTMENT ACT

TUESDAY, MARCH 20, 2007

Mr. Chairman, members of the Committee, thank you for the opportunity to address you. I'm grateful that you are considering this most important issue.

My name is Michael Williams. In 1998, my friend, then Governor George W. Bush appointed me to a vacancy on the Railroad Commission of Texas. In November 2000 and again in 2002, the people of Texas elected me to continue as Railroad Commissioner. I am the first African American in Texas history to hold an executive statewide elected post and the highest-ranking African American in Texas state government.

The title "Railroad Commission" is a misnomer. We have nothing to do with railroads. The Railroad Commission of Texas is our state's principle energy regulatory agency.

My interest in Sudan dates back to the beginning of this decade when I began to hear heart-wrenching stories of the two decades-long civil war between the Government in Khartoum and the Southern rebels. The war claimed two million lives and caused the massive displacement and enslavement of civilians in Southern Sudan. The murderous campaign against the people of Southern Sudan was fueled by oil revenues. Perversely, the land from which Southern Sudanese were forcibly displaced yielded thousands of barrels of oil a day and the profits from the oil sales were used to wage a brutal campaign against those same people. In June 2001, I wrote the following in an op-ed that appeared in all of the major Texas newspapers –

> More than 200,000 barrels of crude are produced in southern Sudan daily. While that represents less than 3 percent of world daily crude consumption, the $500 million annual revenue from crude sales earned by the Sudanese government gives it an enormous advantage of resources and power.

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MICHAEL L. WILLIAMS
RAILROAD COMMISSIONER

Williams, cont'd.

> Further, the search for crude is driving the fighting further into southern Sudan. As new oil fields are discovered and infrastructure developed, even more Southern Sudanese are being driven from their homes, killed or enslaved.

I am proud that during that difficult time in Sudan's history, Texans took action to bring about peace. Along with a number of public and private institutions, the Texas teachers' pension fund divested from the Canadian oil firm, Talisman Energy, which was aiding the Government of Sudan in its murderous campaign. Talisman's exit from Sudan is hailed by many observers as helping to pressure the Government of Sudan to end the war and sign the Comprehensive Peace Agreement in 2005. It is just one of numerous examples that demonstrate the power of economic pressure to change the behavior of Sudanese President Omar Al-Bashir's government.

As you all know, that historic agreement which ended the longest-running and most deadly conflict in the world was overshadowed by the Government of Sudan's deadly assault against its own civilians in the western-most region of the country, Darfur. The facts of the conflict which Congress and President Bush rightly determined to be genocide are well known to all of us here and, in fact, to most Americans. What is beginning to be understood by Americans is that this genocide is fueled by the same oil revenues as were used to terrorize the people of Southern Sudan.

To date, seven states have divested and an additional nineteen states are considering divestment from the companies that are enabling the Government of Sudan to carry out genocide in Darfur. I'm proud to say that Texas is one of the states considering divestment of its public pension funds. The support for the identical House and Senate divestment bills is overwhelming. Evangelical Christians are joining hands with liberal college students and previously unimaginable bipartisan coalitions have formed in the Texas legislature. Nearly every major Texas publication has editorialized in support of the divestment campaign.

Texas Governor Rick Perry might have best expressed the feeling of Texans in his February State of the State Address when he said, ***"I also believe that the example we set in Texas can have international ramifications. I join…a bipartisan group of legislators in protesting . . . in protesting strongly. . . the ethnic genocide occurring in Darfur, by calling on the state of Texas to divest of companies doing business in the Sudan."***

As a state official with the privilege of observing some of the wonderful benefits that petroleum can bring to our world, it is deeply distressing to see this precious natural resource used in Sudan

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RAILROAD COMMISSIONER

Williams, cont'd.

not for progress and prosperity but for pain. I beseech the Congress to formally authorize and encourage "targeted divestment" from the worst-offending companies doing business with the Government of Sudan. In addition, I urge this committee and the Congress to consider divestment of the federal pension funds and to invite your international counterparts to take similar action.

I invite members of the committee to travel to Texas and witness the passion with which Texans of all stripes have embraced this campaign. We sincerely believe that our actions will reverberate internationally and will help protect innocent civilians by changing the behavior of a murderous regime.

I thank you for the opportunity to share my story. I trust that you will embrace the opportunity to support our campaign and that together our efforts might help save the grandparents, the cousins, the children who could be the next victims of this genocide.

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Economist.com WORLD MIDDLE EAST & AFRICA

Darfur

Turning the screw

Jan 3rd 2007
From Economist.com

Pressure on Sudan over Darfur may, possibly, get results

THE pressure on Sudan's government to put an end to violence in the western region of Darfur is continuing. On Tuesday January 2nd the UN's new secretary-general, Ban Ki-moon, said he would pay particular attention to the situation. In recent weeks aid groups have protested that attacks on their staff make it impossible to operate there. A UN human-rights watchdog says it plans to send a team this month to investigate abuses against civilians. Added to complaints about the situation in Darfur come accusations that Khartoum is exporting violence across Sudan's borders to Chad and the Central African Republic.

In mid-December Britain's prime minister, Tony Blair, said he favoured "tougher action" against Khartoum if it continued to resist the deployment of a full UN peacekeeping force. A group of 15 former foreign ministers, from Europe, Asia and America, added that sanctions might be imposed on Khartoum. The outsiders' sound and fury may, possibly, have had an impact on Sudan's rulers. Late in December it emerged that Khartoum had agreed that a hybrid force of African Union (AU) soldiers and a small number of UN peacekeepers could operate in Darfur. But so far it is unclear how strong that force will be, or what it might achieve.

A small AU peacekeeping force, in Darfur since 2004, has proved hopelessly inadequate. For the past year President Omar al-Bashir has refused to accept 20,000 UN soldiers for Darfur. Although other UN troops are serving in the south of Sudan, Mr Bashir says that any deployed to Darfur would be agents of Western "imperialism". So the violence continues: more than 200,000 people are thought to have died in Darfur in the past four years. Many have been killed by militias, known as the *janjaweed*, which are directed by the government in Khartoum.

What would it take for outsiders to persuade Khartoum to accept an effective UN force? Some Western (and other) ministers have begun to propose detailed military and economic sanctions that could be used against Khartoum—often referred to as the Plan B. Nobody is contemplating an invasion of Sudan, but there has been talk of enforcing a no-fly zone over Darfur. This would ground the government's attack helicopters and Antonov bombers that have killed and terrorised so many. Another military option would be the deployment of UN troops along the Chadian-Darfur border, cauterising the violence in Darfur. Either plan could be carried out from French bases in Chad, avoiding the need to confront Sudanese soldiers on the ground in Darfur.

Some non-military options may otherwise be proposed. Travel bans may be imposed on military and civilian leaders, while assets held by Sudanese leaders overseas may be frozen. Most effective might be measures to target Sudan's oil revenues, which provide the

government with most of its cash. Sales of equipment to maintain the country's oil infrastructure could be limited, for instance. And *in extremis* Port Sudan could be blockaded, thus choking off all of Sudan's oil exports at one stroke.

But this would depend on getting an international consensus. China, Malaysia, India and Russia are all deeply involved in Sudan's booming oil industry. These are unlikely to support any sanctions that would hurt their own considerable interests. China, which imports about 5% of its oil from Sudan, has been a staunch supporter of Khartoum. Western countries might try unilateral action, but this is rarely effective. America has maintained comprehensive economic sanctions against Sudan since the mid-1990s, yet the economy is booming.

Nor, even if outsiders could agree on rhetoric for a plan B, is there any guarantee that action would follow. Too often, foreign (and in particular Western) countries have talked tough on Darfur but done nothing. In the past the West has bullied the Sudanese government into making commitments, such as to disarm the *janjaweed*, but when Khartoum failed to do so there was no follow-up. One reason for Khartoum's assertiveness against the UN in Darfur is that it has learnt that the West, bogged down in Iraq and Afghanistan, seems to be full of empty threats on this issue. If that perception does not change, nothing else will move fast.

# # # #

The New York Times

Death By Dollars

By NICHOLAS D. KRISTOF
11 February 2007

So is your Fidelity account underwriting genocide in Sudan? Is your pension fund helping finance the janjaweed militias that throw babies into bonfires in Darfur and Chad?

The answer to both questions is complicated but may be yes, and that's one reason a divestment campaign is gaining strength around America and abroad. Six states (including California) have already begun divesting from companies active in Sudan, and legislation is pending in 23 more states, including New York.

More than 30 universities, beginning with Harvard in 2005, have sold certain Sudan-related investments. Five cities have divested, and New York is considering doing so. A bill before Congress would bar certain companies active in Sudan from receiving federal contracts.

Let's start by acknowledging that divestment and economic sanctions generally fail. The closest thing to a success was the way they helped topple white rule in South Africa in the 1980s, but even there one result was greater hardship for ordinary blacks.

Elsewhere, divestment and economic sanctions have mostly been counterproductive. Our Cuban embargo has hurt Cubans but cemented Fidel Castro in power; our sanctions against Myanmar have inflicted tremendous pain on Burmese without dislodging the brutal government.

So I'm against economic sanctions in almost every case. But Sudan is an exception, a rare instance where narrowly focused divestment makes practical as well as moral sense.

Partly that's because Sudan's economy depends on foreign oil companies, giving the outside world leverage. And 70 percent of Sudan's oil revenue goes to weaponry, like bayonets used to gouge out people's eyes.

The oil companies in Sudan aren't American; the biggest players are Chinese companies. Pressure on them is also one way to get the attention of the Chinese government, which is Sudan's main protector in the U.N. Security Council.

So in this case pressure on a small number of foreign companies could help get Sudan's attention, and that of its protectors in China, without hurting ordinary people. And Sudan has shown that it can be nudged and embarrassed into behaving better: the best example is the way that pressure (including economic sanctions) led Sudan's leaders to end their brutal war in southern Sudan in 2005.

Fortunately, the Darfur divestment campaign has been remarkably restrained in choosing targets. Organizers are not seeking divestment from all of the more than 400 foreign companies that operate in Sudan, but only from a few dozen that are complicit in genocide without helping ordinary Sudanese. (See the guidelines at www.SudanDivestment.org , developed largely by a recent U.C.L.A. graduate, Adam Sterling.)

"People are surprised to find out that Royal Dutch Shell is not a targeted company by us, even though they are an oil firm and operate in Sudan," notes Mark Hanis, who runs the Genocide Intervention Network (which has a divestment hot line, 1-800-GENOCIDE). That's because Shell sells gas in Sudan at a retail level, rather than enriching the army through production, Mr. Hanis said, and less than 5 percent of those sales are believed to be to the government.

More than other money managers, Fidelity has resisted the pressure and clung firmly to Sudan-related investments. So Darfur campaigners are urging investors to avoid Fidelity mutual funds: more information is at www.FidelityOutofSudan.com .

The biggest U.S. investor in Class H shares of PetroChina, a Chinese oil concern whose parent company is active in Sudan, is Warren Buffett's Berkshire Hathaway. I have huge respect for Mr. Buffett, and he may be thinking: My obligation is to make money for shareholders, not to use their investments in a dubious attempt to save the world. But surely if Berkshire Hathaway and Fidelity mutual funds saw lucrative opportunities in selling bayonets to the janjaweed, they would balk at that. We do have limits; the question is where we draw them.

In this case, the cost of divestment to fund managers or investors is negligible, and there is a real prospect that the strategy will add enough attention, embarrassment and pressure that Sudan will stop slaughtering Darfuris -- just as it has stopped massacring people in southern Sudan.

It's not a sure thing. But remember that in Darfur and Chad, aid workers -- some of them Americans -- are being killed, raped and beaten as they try to alleviate the slaughter. So shouldn't we make the minimal sacrifice of divestment, rather than blithely continue to invest in ways that provide grenades and guns to kill aid workers and Darfuris alike?

SUDAN DIVESTMENT
TASK FORCE
A project of the Genocide Intervention Network

PHONE (202) 481-8220
FAX (800) 991-2024
E-MAIL info@SudanDivestment.org
WEB SITE www.SudanDivestment.org

EFFICACY OF TARGETED DIVESTMENT: AT A GLANCE

The government of Sudan has been historically responsive to economic pressure.

US sanctions declared in 1997 caused the Sudanese government to drop its support for terror and cooperate with the US on counter-terrorism. Also, a previously successful divestment campaign against Talisman Energy of Canada helped force the Sudanese government to negotiate with southern rebels—negotiations that ultimately resulted in the Comprehensive Peace Agreement of 2005. Unlike isolated countries that tend to shrug off sanctions, the Sudanese government is desperately trying to attract foreign investment. Threats to these efforts are taken very seriously by Sudan.

Divestment makes genocide costly.

Under current political and diplomatic pressure the Sudanese government incurs virtually no cost for continuing its genocide in Darfur, beyond further damage to its image in the West. Divestment, however, forces the Sudanese government to pay a price for its refusal to restore peace and security to Darfur.

Widespread divestment causes share price depreciation.

While the effect of divestment on offending companies' share prices thus far remains unclear, the divestment movement is spreading with enormous speed, both in the US and internationally. It is only a matter of time before enough assets have been divested to actually make a substantial impact on share prices. There is precedent for share price depreciation vis-à-vis Sudan divestment—Talisman Energy's share price was estimated to have dropped roughly a third on account of the divestment campaign against it.

Foreign direct investment enables the Sudanese government to carry out genocide in Darfur.

Recent increases in foreign direct investment in Sudan, particularly in the oil industry, have disproportionately benefited Sudan's military and elite. Since oil was first extracted in 1999, Sudan's military budget has more than doubled. It is estimated that 70-80% of oil revenue is now funneled into Sudan's military.

The Sudanese government is paying attention to the divestment movement.

The Sudanese embassy authored a press release and an op-ed condemning divestment, and the Sudanese ambassador actually spoke by phone with activists in an attempt to discourage divestment. The Sudanese government even took out a six-page ad in the New York Times this past March extolling Sudan as a peaceful country worthy of foreign direct investment.

Companies in Sudan are already responding to shareholder pressure.

The Swiss power giant ABB decided to halt its non-humanitarian business activities in Sudan. ABB cited economic, legislative, and political factors, including divestment, in its decision. Siemens, a German electronics and electrical engineering company, also recently decided to halt all operations in the country, naming the reputational cost created by the divestment movement as a factor. Total, a large French oil company that owns (but does not currently drill on) oil blocks in Sudan has responded to shareholder pressure and the specter of divestment by hiring a non-profit to evaluate their business activities in Sudan. Some American firms exempted from US sanctions, including Xerox and 3M, have decided to curtail all non-humanitarian operations in the country. Companies have also begun to go so far as to list the divestment movement as a potential concern on SEC filings.

SUDAN DIVESTMENT
TASK FORCE
A project of the Genocide Intervention Network

PHONE (202) 481-8220
FAX (800) 991-2024
E-MAIL info@SudanDivestment.org
WEB SITE www.SudanDivestment.org

Sudan divestment keeps the media focused on Darfur.

Divestment continues to keep Darfur in the public eye and sends a clear message to both the Federal government and the international community that the crisis warrants attention. Coverage for divestment has appeared in the New York Times, Wall Street Journal, Washington Post, International Herald Tribune, LA Times, BBC, Financial Times, NPR, Christian Science Monitor, and many other media outlets. See www.sudandivestment.org/inthenews.asp for a representative listing.

For a full report on the efficacy of targeted divestment and complete references, visit www.sudandivestment.org/position.asp.

Testimony

By Bryan Ardouny
Executive Director of the Armenian Assembly of America

Before the House Financial Services Committee
Subcommittee on Domestic and International Monetary Policy, Trade and Technology

March 20, 2007

The Darfur Accountability and Divestment Act

Chairman Guiterrez, Ranking Member Paul and Members of the Subcommittee, thank you for holding this important hearing on this compelling human rights issue. The Armenian Assembly of America is pleased to offer testimony in support of H.R. 180, the Darfur Accountability and Divestment Act of 2007. We would also like to take this opportunity to commend the sponsor of the legislation, Congresswoman Barbara Lee.

H.R. 180 prohibits U.S. government contracts with companies that conduct business operations in Sudan, with the purpose of exerting economic pressure against the government of the Republic of Sudan for its role in, and responsibility for, the continuing grave abuses of human rights on the territory of its Darfur province, including the crime of genocide, and with a goal to stop the atrocities.

This legislation sets forth a laudable precedent of taking practical action against the financial and economic interests of a regime engaged in the systematic killing of an entire people. The implementation of this measure will provide for important further steps toward identifying and undermining the financial nexus of the genocidal war in Darfur, and toward bringing long-sought stability, relief and rehabilitation to its people.

The United States has a proud record of humanitarian intervention in various parts of the world, to save lives and bring relief to millions of people – victims of crimes against humanity. In the early 20th century, the U.S. led the humanitarian effort to save the survivors of the Armenian Genocide. In fact, the Honorable Henry Morgenthau, U.S. Ambassador to the Ottoman Empire from 1913 to 1916, organized and led protests by officials of many countries, among them the allies of the Ottoman Empire, against the Armenian Genocide. Ambassador Morgenthau explicitly described to the Department of State the policy of the Government of the Ottoman Empire as "a campaign of race extermination," and was instructed on July 16, 1915, by Secretary of State Robert Lansing that the "Department approves your procedure ... to stop Armenian persecution."

Our interventions in Kosovo and Bosnia helped arrest the ethnic cleansing associated with these wars and helped bring stability and rehabilitation to the Balkans. International action in Kosovo and Bosnia, however, came largely as a result of the bitter lesson learned in an earlier crisis in Rwanda, where the tragic inaction of the world community led to the commission of some of the most heinous crimes against innocent populations.

H.R. 180 answers in part the questions raised about Darfur by actor and activist Don Cheadle in his testimony in February of this year before the Senate Judiciary Subcommittee on Human Rights and the Law: "I ask you what *will* be done – not what *can* be done, for *that* question has

been asked ad nauseam and contains within it connotations of powerlessness and surrender. What *will* be done is a very different query."

The U.S. can and should do everything it can to stem the loss of life and end the cycle of genocidal violence. Nicholas Kristof, of *The New York Times*, who has written extensively, passionately and with clear-sighted pragmatism on this matter enumerated in his November 29, 2005 editorial, "What's To Be Done About Darfur?" six policy recommendations (a copy of this article is attached) and concluded that "Finding the right policy tools to confront genocide is an excruciating challenge, but it's not the biggest problem. The hardest thing to find is the political will."

Armenian-Americans, as descendants of the survivors of the Armenian Genocide, cannot remain indifferent to the suffering of the people of Darfur. Inaction is not an acceptable course of action. Therefore, we support the current effort to bring legitimate pressure on the government of Sudan, to affect change in its domestic and international conduct, toward addressing the dire humanitarian situation in Darfur, and preventing future violence in that region.

The Armenian Assembly of America strongly endorses the Darfur Accountability and Divestment Act, and urges all parties of good will to follow its recommendations in full.

Thank you.

The New York Times

What's to Be Done About Darfur? Plenty
By NICHOLAS D. KRISTOF

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In 1915, Woodrow Wilson turned a blind eye to the Armenian genocide. In the 1940's, Franklin Roosevelt refused to bomb the rail lines leading to Auschwitz. In 1994, Bill Clinton turned away from the slaughter in Rwanda. And in 2005, President Bush is acquiescing in the first genocide of the 21st century, in Darfur.

Mr. Bush is paralyzed for the same reasons as his predecessors. There is no great public outcry, there are no neat solutions, we already have our hands full, and it all seems rather distant and hopeless.

But Darfur is not hopeless. Here's what we should do.

First, we must pony up for the African Union security force. The single most disgraceful action the U.S. has taken was Congress's decision, with the complicity of the Bush administration, to cut out all $50 million in the current budget to help pay for the African peacekeepers in Darfur. Shame on Representative Jim Kolbe of Arizona -- and the White House -- for facilitating genocide.

Mr. Bush needs to find $50 million fast and get it to the peacekeepers.

Second, the U.S. needs to push for an expanded security force in Darfur. The African Union force is a good start, but it lacks sufficient troops and weaponry. The most practical solution is to "blue hat" the force, making it a U.N. peacekeeping force built around the African Union core. It needs more resources and a more robust mandate, plus contributions from NATO or at least from major countries like Canada, Germany and Japan.

Third, we should impose a no-fly zone. The U.S. should warn Sudan that if it bombs civilians, then afterward we will destroy the airplanes involved.

Fourth, the House should pass the Darfur Peace and Accountability Act. This legislation, which would apply targeted sanctions and pressure Sudan to stop the killing, passed the Senate unanimously but now faces an uphill struggle in the House.

Fifth, Mr. Bush should use the bully pulpit. He should talk about Darfur in his speeches and invite survivors to the Oval Office. He should wear a green "Save Darfur" bracelet -- or how about getting a Darfur lawn sign for the White House? (Both are available, along with ideas for

action, from www.savedarfur.org .) He can call Hosni Mubarak and other Arab and African leaders and ask them to visit Darfur. He can call on China to stop underwriting this genocide.

Sixth, President Bush and Kofi Annan should jointly appoint a special envoy to negotiate with tribal sheiks. Colin Powell or James Baker III would be ideal in working with the sheiks and other parties to hammer out a peace deal. The envoy would choose a Sudanese chief of staff like Dr. Mudawi Ibrahim Adam, a leading Sudanese human rights activist who has been pushing just such a plan with the help of Human Rights First.

So far, peace negotiations have failed because they center on two groups that are partly composed of recalcitrant thugs: the government and the increasingly splintered rebels. But Darfur has a traditional system of conflict resolution based on tribal sheiks, and it's crucial to bring those sheiks into the process.

Ordinary readers can push for all these moves. Before he died, Senator Paul Simon said that if only 100 people in each Congressional district had demanded a stop to the Rwandan genocide, that effort would have generated a determination to stop it. But Americans didn't write such letters to their members of Congress then, and they're not writing them now.

Finding the right policy tools to confront genocide is an excruciating challenge, but it's not the biggest problem. The hardest thing to find is the political will.

For all my criticisms of Mr. Bush, he has sent tons of humanitarian aid, and his deputy secretary of state, Robert Zoellick, has traveled to Darfur four times this year. But far more needs to be done.

As Simon Deng, a Sudanese activist living in the U.S., puts it: "Tell me why we have Milosevic and Saddam Hussein on trial for their crimes, but we do nothing in Sudan. Why not just let all the war criminals go. When it comes to black people being slaughtered, do we look the other way?"

Put aside for a moment the question of whether Mr. Bush misled the nation on W.M.D. in Iraq. It's just as important to ask whether he was truthful when he declared in his second inaugural address, "All who live in tyranny and hopelessness can know: the United States will not ignore your oppression, or excuse your oppressors."

Mr. Bush, so far that has been a ringing falsehood -- but, please, make it true.

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