



# SUDAN DIVESTMENT

TASK FORCE

A project of the Genocide Intervention Network

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## TESTIMONY: JOINT COMMITTEE ON PUBLIC SERVICE

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March 29, 2007

Re: S1474

Honorable Chairman Kaufman, Chairman Downing and Members of the Joint Committee on Public Service:

My name is Daniel Millenson, national advocacy director of the Sudan Divestment Task Force, a project of the Genocide Intervention Network. 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. We had the honor to help develop Senate Bill 1474 which focuses its efforts on the most problematic companies in Sudan. This approach, termed "targeted divestment", helps to maximize impact on the Sudanese government, while minimizing potential harm to both innocent Sudanese and investment returns.

Thank you for the honor of testifying in support of this issue. I will spend my time answering a few questions you may have regarding the legislation: first, is targeted divestment effective; second, does S1474 protect the state's fiduciary obligations; and finally, will this legislation lead the state down a slippery slope of divestment?

### **Is targeted 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 so 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. S1474 surgically targets those few dozen companies. Moreover, the companies the state chooses as replacements may very well perform better than the offending companies, since an additional 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 typically support divestment, 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.

S1474 would require the state to divest from a very small subset of companies currently operating in Sudan. The majority of these companies are not in the state's portfolios and the companies, in

aggregate, fail to compromise a significant portion of any major international index. The “worst-offending” companies are businesses involved in facilitating arms trades to Sudan, forcing local populations off of oil land, importing labor rather than employing Sudanese, and facilitating Sudan’s genocide by granting permission for military aircraft to launch from company facilities, refueling of military aircraft, and other clearly problematic actions. Furthermore, because of longstanding US sanctions on Sudan, S1474 does not target any companies incorporated in the US.

### **Does S1474 protect the state’s fiduciary obligations?**

While Massachusetts might be interested in doing what it can to prevent humankind’s worst crime, the state has an important obligation to manage retirement assets in a financially prudent manner. Recognizing this obligation, S1474 was designed in close consultation with fiduciaries – including PRIM, asset managers, and legal counsel allowing the state to dissociate the state from genocide while safeguarding the state’s investment portfolios.

The bill limits financial risk in three key ways (thereby setting it far apart from Sudan divestment legislation passed in states like Illinois or New Jersey):

First, the bill limits the number of companies targeted to only the “worst offenders”, representing only a very small fraction – less than one third of one percent – of the state’s total holdings.

Second, the bill precludes divestment from certain types of investments, including private equity and actively managed, commingled funds, that have caused the most problems with divesting fiduciaries.

Third, the bill gives the state’s fiduciaries 12 months to complete divestiture of companies unresponsive to engagement.

### **Will this legislation lead the state down a slippery slope?**

Divestment is an option that should be considered only in the most extreme of circumstances. Heeding every call for divestment is impractical and imprudent. However, the overwhelmingly heinous nature

of genocide, combined with validation of the genocide by official, non-biased, and highly trustworthy sources, makes the call for Sudan divestment truly singular among recent divestment campaigns.

It should also be noted that this is the first time in history that a genocide has been declared while atrocities are still ongoing. This clearly makes a Sudan divestment decision unique and allows fiduciaries to maintain an extraordinarily high benchmark for considering divestment in the future. This month, US Senators John Cornyn and Dick Durbin introduced a federal bill encouraging states to adopt targeted Sudan divestment policies and ensure a high benchmark for any consideration of divestment.

We must draw a line somewhere, and we ought to draw that line at genocide.

I would like to thank the sponsoring representatives and senators, as well as their staffs, for carrying this important piece of legislation.

By passing S1474 you will demonstrate that Massachusetts will not allow its pension funds to facilitate genocide, while simultaneously putting much-needed economic pressure on the government of Sudan—pressure that has already caught the attention of Sudan’s government and changed company behavior in the country. Thank you for your time today, and I would be happy to help answer any additional questions that you may have.