



State of Connecticut

Office of the Treasurer

DENISE L. NAPIER
TREASURER

HOWARD G. RIFKIN
DEPUTY TREASURER

June 4, 2007

Members of the Investment Advisory Council

Re: Report on the Connecticut Retirement Plans and Trust Funds' Sudan Initiative

Dear Fellow IAC Member:


As you recall, I reported to you at the May meeting my decision to take action under Connecticut's Sudan statute, Conn. Gen. Stat. §3-21e, and divest CRPTF funds from one company and prohibit direct investment in five other companies. Enclosed is a full report, prepared by Shelagh McClure, Director of Compliance, regarding the activities undertaken by Treasury staff in fulfillment of the Sudan law. This report is provided to you pursuant to the statute, which requires the State Treasurer to report to the IAC at least once per fiscal year on actions taken under the law.

In addition, attached to the report is a copy of a letter I recently sent to Senator Christopher Dodd expressing my support for S. 831, a bill currently pending in the U.S. Senate, which clarifies that state laws authorizing divestment from companies doing business in Sudan do not violate the U.S. Constitution. S. 831 was introduced in the Senate after the U.S. District Court in Illinois declared the Illinois Sudan law unconstitutional, and the bill is currently awaiting a public hearing before Senator Dodd's Committee on Banking, Housing and Urban Affairs. Although I do not believe that Connecticut's Sudan law, which is markedly different from the Illinois law, is in jeopardy under the District Court's ruling, it would still be beneficial to have clarity on the issue of the states' authority to enact legislation regarding investment of state pension funds in companies doing business in Sudan, so I am urging Senator Dodd to support the bill.

Finally, it is my intention to prepare an informational report to the Legislature on my office's Sudan-related activities, and I would welcome your feedback for consideration in preparing that report.

I look forward to your comments on these documents.

Sincerely,


Denise L. Nappier
State Treasurer

OFFICE OF THE STATE TREASURER
MEMORANDUM



TO: Honorable Denise L. Nappier
FROM: Shelagh P. McClure, Director of Compliance *SPM*
DATE: June 4, 2007
SUBJECT: Sudan

The purpose of this memo is to inform you of current efforts of Treasury staff in relation to implementation of Public Act 06-51, *An Act Concerning Divestment of State Funds Invested in Companies Doing Business in Sudan*, which is codified at Conn. Gen. Stat. §3-21e.

The Current Situation

➤ **Darfur**

The situation in Darfur remains dire for its people.

A Peace Agreement, brokered by the U.S. and several European governments, was signed on May 5, 2006, between the Government of Sudan and one of the rebel groups in Darfur. While originally viewed as a positive first step, the inability to achieve the agreement of all rebel groups has impeded implementation of the agreement and, particularly, disarmament of the government-financed Janjaweed militias and the rebel groups. While the Janjaweed continue to perpetrate much of the violence, the rebel groups are not without blame – with the civilians continuing to take the brunt of this humanitarian tragedy. Currently, violence among rebel groups is increasing and gravely threatens the prospect that the Peace Agreement will be implemented. The U.S. State Department recently issued a report on Darfur in which it reaffirmed its earlier conclusion that genocide was occurring there.

African Union peace-keeping forces have been ineffective, due to their small size and lack of funding. The United Nations Security Council agreed to take over the peace keeping from the African Union forces, subject to the agreement of the Government of Sudan. The Government of Sudan has refused to give such consent although recently it agreed to greater UN support for the African Union forces. While it is far from certain, there are some signs that the Chinese government, which as the largest customer of Sudan's oil is acknowledged as having the greatest ability to influence the Sudanese Government, may be applying some pressure behind the scenes on the Sudanese Government to resolve the Darfur crisis. There is a nascent movement to put pressure on the Chinese by proposing a boycott of the 2008 Beijing Olympics, and early signs indicate the Chinese may be concerned enough of about the threat to step up their behind the scenes efforts regarding Darfur.

The genocide is now as much the result of the living conditions in Darfur as it is from the brutal armed attacks, with a growing death toll from disease and malnutrition. Aid workers, without sufficient funding and subjected to attacks by rebel and government fighters, have pulled out of much of Darfur, leaving people there without access to health care, clean water or enough food. Two and one-half million people have been displaced by the conflict, which has spilled over the border into Chad and the Central African Republic.

➤ Oil Revenue

Oil production in Sudan has risen steadily since 1999, and in 2005 stood at 363,000 barrels a day. Net of domestic consumption, exports in 2005 were 279,000 barrels a day. In 2005, 70% of Sudan's export revenues came from oil. Production is expected to reach 520,000 barrels a day in 2007. **The importance of the oil industry to Sudan's economy cannot be overstated.**

As Sudan's oil revenues have increased, so have the Government of Sudan's military expenditures. Two non-governmental organizations, Human Rights Watch, which released a report in 2003¹, and the Coalition for International Justice², which released a report in February 2006, have documented the increase in military expenditures by the Government of Sudan as its oil revenue has increased.

Connecticut's Legislation

U.S. law prohibits U.S. companies from engaging in most business activity in Sudan and, accordingly, companies that are conducting business in Sudan are largely foreign entities. Connecticut's legislation endorses an engagement/targeted divestment approach when reviewing the activities of companies doing business in Sudan. This legislation was adopted in May 2006 with the leadership of the Treasurer in collaboration with a number of groups and legislators, including the Anti-Defamation League, the Lowenstein Human Rights Law Clinic at Yale, and Senators Looney and Schlossberg.

The legislation provides for an engagement process, during which information on the business activities of companies is gathered and evaluated against factors that are set out in the legislation. During the engagement process, the Treasurer is to encourage companies "to act responsibly and not take actions that promote or otherwise enable human rights violations in Sudan." The legislation provides that the Treasurer's decision whether to take any action with respect to a company doing business in Sudan, up to and including divestment, can only be made after consideration of the following factors:

(A) Revenues paid by such company directly to the Government of Sudan, (B) whether such company supplies infrastructure or resources used by the Government of Sudan to implement its policies of genocide in Darfur or other regions of Sudan, (C) whether such company knowingly obstructs lawful inquiries into its operations and investments in Sudan, (D) whether such company attempts to circumvent any applicable sanctions of the United States, (E) the extent of any humanitarian activities undertaken by such company in Sudan, (F) whether such company is engaged solely in the provision of goods and services intended to relieve human suffering, or to promote welfare, health, education, religious or spiritual activities, (G) whether such company is authorized by the federal

¹ Human Rights Watch, Sudan, Oil, and Human Rights (2003).

² Coalition for International Justice, Soil and Oil: Dirty Business in Sudan (2006).

government of the United States to do business in Sudan, (H) evidence that such company has engaged the Government of Sudan to cease its abuses in Darfur or other regions in Sudan, (I) whether such company is engaged solely in journalistic activities, and (J) any other factor that the Treasurer deems prudent.

These factors allow the Treasurer to make judgments that the presence of some companies doing business in Sudan is more positive than negative and, conversely, that withdrawal would hurt ordinary Sudanese citizens. From the fiduciaries' perspective, the approach allows the Treasurer to make judgments as to whether a company's presence in Sudan may harm its long-term share value, from such factors as risks due to ongoing conflicts or risks due to reputational harm, and through engagement, to try to influence companies to act in a responsible manner that may obviate or lessen those risks.

To implement the statute, Treasury staff has taken a number of steps:

1. Conduct of research to create a list of companies that, based on publicly available information, are thought to be conducting business in Sudan. Staff monitors media reports, activities of other institutional investors and divestment groups as a part of this research process.
2. Determination of whether the Connecticut Retirement Plans and Trust Funds (CRPTF) hold any interest in companies on the list.
3. Contact of companies by letter, conveying the Treasurer's concern about Darfur and seeking to open dialogue with the companies about their business activities in Sudan. The letter contains a series of questions that are designed to elicit information about the extent and nature of the companies' activities, as well as any humanitarian activities of the companies in Sudan.
4. Follow up to responses, either with additional correspondence or meetings with company representatives.
5. Analysis of information on companies' business activities based on statutory criteria. Possible outcomes include (1) recommend divestment or prohibition on future investment; (2) continue active engagement; (3) discontinue active engagement.

While Treasury staff has found that many companies are willing to open a dialogue when contacted about their business in Sudan, that is not always the case. In February, the Treasurer wrote to eight companies requesting information on their current activities in Sudan and encouraging the companies to open a dialogue with our office. The companies were selected based upon reports of significant business activity in Sudan, largely in the oil sector. The companies contacted were:

Bharat Heavy Electricals, Ltd.	PECD Group
China Petroleum and Chemical Corp.	Sudan Telecom Co. Ltd.
Nam Fatt Co. Bhd.	OAO Tatneft
Oil and Natural Gas Corp. Ltd.	Videocon Industries Ltd.

Of these companies, CRPTF held shares only in China Petroleum and Chemical Corp., with such shares having a market value of \$11,132,871 as of April 30. Only China Petroleum, OAO Tatneft and Videocon Industries responded to our letters, and complete

information was not provided. Based upon the responses received as well as the failure to respond, the Treasurer made the following determinations, announced on May 9, 2007.

1. CRPTF managers have been directed to divest all holdings in China Petroleum and Chemical Corp. and to refrain from future investment until further notice.
2. CRPTF managers have been directed to refrain from direct investing in the following companies until further notice:

Bharat Heavy Electricals, Ltd.
Nam Fatt Co. Bhd.
Oil and Natural Gas Corp. Ltd.
PECD Group
Sudan Telecom Co. Ltd.

Of note, the above companies are companies from which a number of other public funds have divested or prohibited investment (see Attachment A).

Treasury staff has contacted an additional 17³ companies, some of them multiple times, regarding their activities in Sudan. Some are the subject of ongoing engagement; others have either withdrawn from doing business in Sudan or are not currently engaged in business activities that warrant active engagement at this time:

Ongoing Engagement	
Alcatel (now Alcatel/Lucent)	Reliance Industries
Alstom	Schlumberger Ltd.
Marathon Oil Corp.	Total SA
Petronas	Videocon Industries

Inactive		
ABB Ltd.	OAQ Tatneft	Stolt-Nielsen SA
Daewoo Engineering	Rolls Royce	Thyssen Krupp
Ericsson	Royal Dutch Shell	Vodafone
Finmeccanica	Siemens AG	

CRPTF's holdings in the above companies are valued in the aggregate at \$404,828,439 million as of 05/29/07.

Treasury staff is currently exploring the possibility of conducting additional shareholder engagement in cooperation with other domestic and non-U.S. institutional investors. Our earliest engagement activities were conducted in concert with other U.S. public funds. However, a number of factors caused joint engagement activities to wane. Now, as other states have considered and, in some cases, passed legislation, and as the international

³ CRPTF has barred its managers from investing in PetroChina since the company's initial public offering in 2000, based on, among other factors, its activities in Sudan.

community has become more aware of the Darfur crisis, interest in joint engagement has revived. Engagement by public funds with a combined value of hundreds of billions of dollars would send a strong message to companies that currently are ignoring public opinion on the Darfur crisis.

Finally, the Treasurer recently sent a letter to Senator Dodd in support of proposed federal legislation that would clarify that state laws authorizing divestment from companies doing business in Sudan does not violate the U.S. Constitution. Recently, the U.S. District Court in Illinois declared Illinois' state law mandating divestment of state funds from companies doing business in Sudan unconstitutional. The court decision did not affect the validity of Connecticut's law, which is very different from the Illinois statute. However, the Treasurer wrote in support of the federal legislation, which has been referred to the Senate Committee on Banking, Housing and Urban Affairs which Senator Dodd chairs, to bring clarity to the issue of states' authority to legislate regarding investment of state pension funds in companies doing business in Sudan. Currently, legislation authorizing divestment from companies doing business in Sudan has passed or is pending in over 20 states. A copy of the letter to Senator Dodd is attached as Exhibit B.

Attachments

Exhibit A

1. China Petroleum and Chemical Corp (Sinopec Corp)

Divested by: State of Oregon, City of New Haven, CalPERS, CalSTRS, Amherst, Brown, Columbia, Dartmouth, Emory, Harvard, Princeton, U. California, U. Maryland, U. Pennsylvania, U. Southern California, Stanford, Williams, and Yale.

2. Nam Fatt Co. Bhd

Divested by: City of New Haven, Amherst, Columbia, U. California, U. Maryland, U. Pennsylvania, Williams and Yale.

3. Oil and Natural Gas Corporation Ltd. (ONGC)

Divested by: CalPERS, City of New Haven, Amherst, Columbia, U. California, U. Maryland, U. Pennsylvania, Williams, and Yale.

4. PECD Group

Divested by: Columbia, U. California, Williams.

5. Bharat Heavy Electricals Ltd (BHEL)

Divested by: CalPERS, Columbia University, Princeton, U. California, Williams.

6. Sudan Telecom Co. Ltd. (Sudatel)

Divested by: Columbia, U. California, Williams.



EXHIBIT B

State of Connecticut

Office of the Treasurer

DENISE L. NAPPIER
TREASURER

HOWARD G. RIFKIN
DEPUTY TREASURER

May 14, 2007

VIA FACSIMILE AND US MAIL

The Honorable Christopher J. Dodd
United States Committee on Banking, Housing & Urban Affairs
448 Russell Senate Office Building
Washington, DC 20510

Chris
Dear Senator Dodd:

I am writing to urge your support for S. 831, the *Sudan Divestment Authorization Act of 2007*. This proposed federal legislation, which has been referred to your Committee on Banking, Housing and Urban Affairs, authorizes states to adopt measures to prohibit investment of state assets in the Government of Sudan or in any company that has a "qualifying business relationship with Sudan" as defined in the law.

This legislation is needed due to a recent decision of the United States District Court for the Northern District of Illinois in *National Foreign Trade Council v. Giannoulis*.¹ In that case, the federal court ruled that the Illinois *Act to End Atrocities and Terrorism in Sudan*, which among other provisions mandated divestment of state funds from companies doing business in Sudan, was unconstitutional under the Supremacy Clause, the Foreign Affairs Clause and the Foreign Commerce Clause of the United States Constitution.

As you know, the situation in the Darfur region of Sudan is grim. Violence perpetrated by the Government-sponsored Janjaweed militias as well as conflicts among the rebel groups have dimmed the prospects for peace. The Sudanese Government's continued refusal to permit United Nations peacekeeping forces to replace the undermanned and under-funded African Union forces ensures that violence will continue. The U.S. State Department's recent report on Darfur, in which it reaffirmed its earlier conclusion that genocide was occurring there, underscores the gravity of the situation and the urgency for action.

International diplomacy has been ineffective to date in pressuring the Sudanese Government to end its support of the Janjaweed and to pursue peace with the help of the

¹ 06-C-4251 (N.D. Ill. Feb. 23, 2007).

The Honorable Christopher J. Dodd

May 14, 2007

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UN. In the face of this continued intransigence, several states, including Connecticut and Illinois, passed legislation relating to investment of state assets in companies doing business in Sudan. Connecticut's legislation, which was adopted in May 2006, authorizes but does not require the State Treasurer to divest from or prohibit investment in companies doing business in Sudan. At this time, over 20 states are considering some form of divestment legislation relating to Sudan.

These state measures, which have caused some companies to withdraw from Sudan or otherwise change their business activities, are intended to put economic pressure on the Government of Sudan. They reflect the horror of state legislators and their constituents at the death and displacements occurring in Darfur daily, and their frustration at the inability of world governments to bring about an end to the genocide. They represent the collective view that States do not want their money, mostly pension fund investments, to be seen as supporting, even indirectly, the genocidal policies of the Sudanese Government.

The legality of state Sudan laws has been placed in doubt by the Illinois federal court ruling, and therefore, S. 831 is critically needed to affirm states' authority to enact these important measures. I not only urge you to give the bill your support, but also expeditious consideration.

Sincerely,



Denise L. Nappier
State Treasurer

