

105TH CONGRESS
1ST SESSION

H. R. 1786

To impose sanctions against Nigeria, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 1997

Mr. PAYNE (for himself, Mr. HOUGHTON, Mr. CHABOT, Ms. MCKINNEY, Mr. SMITH of New Jersey, Mr. FALEOMAVAEGA, Mr. LANTOS, Mr. ACKERMAN, Ms. NORTON, Mr. PORTER, Ms. PELOSI, Ms. WATERS, Mr. BROWN of Ohio, Mr. OLVER, Mr. MANTON, Mr. SHAYS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. DELAURO, Mr. FILNER, and Mr. CLAY) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Banking and Financial Services, Transportation and Infrastructure, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose sanctions against Nigeria, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nigeria Democracy
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) The November 10, 1995, execution by hang-
2 ing of Ken Saro-Wiwa and eight other Ogoni envi-
3 ronmental activists was carried out by the Govern-
4 ment of Nigeria after a trial that ignored the fun-
5 damental standards of legal process, and despite the
6 pleas for clemency by the African and international
7 community, as well as the United States Administra-
8 tion, the Chairman and ranking minority member of
9 the Committee on International Relations of the
10 House of Representatives, and the Chairman of the
11 Congressional Black Caucus and the co-chairs of the
12 Human Rights Caucus of the House of Representa-
13 tives.

14 (2) The United Nations recommended in both
15 March and April of 1996 that the Government of
16 Nigeria release the bodies of the Ogoni Nine for
17 proper burial and paid compensation to the families
18 of the deceased.

19 (3) This heinous action followed an October 1,
20 1995, ambiguous statement by Nigerian military
21 leader General Sani Abacha, that the country would
22 be returned to civilian democratic rule in three
23 years, and a lifting of the ban on political parties
24 while at the same time not repealing the Treason-

1 able Offenses Decree which allows the arrest of any-
2 one speaking against the government.

3 (4) General Abacha's announcement was pres-
4 sured by the outrage of the international community
5 for his March 1995 arrest and conviction to long
6 prison terms by secret trial of some 43 persons for
7 involvement in a so-called coup. Among those con-
8 victed and still incarcerated are former President
9 General Olusegun Obasanjo, the only military leader
10 in Nigeria to return power to democratic civilian
11 rule, General Shehu Musa Yar-Adua, deputy to the
12 President in Abaasanjo's Administration, and later,
13 human rights activist Beko Ransome-Kuti.

14 (5) The people of Nigeria and the international
15 community had been led to believe that the presi-
16 dential election held in Nigeria on June 12, 1993,
17 would result in a return to full democratic civilian
18 rule in Nigeria.

19 (6) General Ibrahim Babangida, the head of Ni-
20 geria's military government at the time of the June
21 12, 1993, election interrupted the release of the elec-
22 tion results on June 23, 1993, and later annulled
23 the election, thereby preventing a return to civilian
24 rule.

1 (7) The election process indicated that voters in
2 Nigeria—a country with a population of approxi-
3 mately 90,000,000 persons comprising 250 ethnic
4 groups and spread across 357,000 square miles—
5 were expressing a spirit of national unity that tran-
6 scended ethnic, religious, and regional allegiances.

7 (8) The reported returns suggested that Chief
8 M.K.O. Abiola of the Social Democratic Party was
9 receiving a substantial majority of the votes cast,
10 leading the poll in 20 of the 30 States in Nigeria.

11 (9) The annulment of the presidential elections
12 resulted in various forms of civil unrest, which in
13 turn led to the deaths of more than 100 persons.

14 (10) An interim government established by
15 General Babangida on August 27, 1993, and headed
16 by Ernest Shonekan, failed to win the support of the
17 Nigerian people.

18 (11) General Sani Abacha took power on No-
19 vember 17, 1993, appointing an unelected Provi-
20 sional Ruling Council to govern Nigeria.

21 (12) Chief M.K.O. Abiola was imprisoned in
22 solitary confinement for over one year for pressing
23 his claim as the elected democratic leader of Nigeria,
24 and still remains incarcerated today.

1 (13) The political and economic conditions in
2 Nigeria have continued to deteriorate in the months
3 since Abacha took control of the country.

4 (14) The faith of the Nigerian people in the vi-
5 ability of the nation as a unified whole must be pre-
6 served, and the balkanization of Nigeria guarded
7 against.

8 (15) The people of Nigeria have not accepted
9 the continuation of military rule and have coura-
10 geously spoken out in favor of the rapid return of
11 democratic and civilian rule.

12 (16) On May 15, 1994, a broad coalition of Ni-
13 gerian democrats formed the National Democratic
14 Coalition calling upon the military government to
15 step down in favor of the winner of the June 12,
16 1993 election.

17 (17) The confidence of the Nigerian people and
18 the international community in the Provisional Rul-
19 ing Council's commitment to the restoration of de-
20 mocracy can only be established by a sustained dem-
21 onstration of a commitment to human rights, due
22 process, and the return of civilian rule.

23 (18) The United States would prefer to have a
24 relationship with Nigeria based upon cooperation
25 and mutual support but cannot, and will not, con-

1 done or overlook the denial of democratic civilian
2 rule, against the clear wishes of the Nigerian people,
3 by the Provisional Ruling Council or any other body
4 in Nigeria.

5 (19) The lack of support from the Nigerian au-
6 thorities on drug trafficking issues forced the United
7 States for the last 2 years to place Nigeria on the
8 list of countries penalized for failure to seriously ad-
9 dress the narcotics proliferation issue, thus endan-
10 gering vulnerable youth in our communities.

11 (20) Continuing credible reports of widespread
12 corruption and questionable business practices in the
13 Nigerian Government and “scams” in the United
14 States, and the lack of cooperation in addressing
15 these problems by the Nigerian Government, further
16 undermines Nigeria’s credibility in the international
17 community, and is a constant embarrassment to ap-
18 proximately 1,000,000 law-abiding Nigerian Ameri-
19 cans.

20 (21) Nigeria’s leadership role on the African
21 continent, especially in the area of peacekeeping, will
22 be severely compromised by its failure to rejoin the
23 world community of democratic nations.

24 (22) Nigeria was recently suspended from the
25 Commonwealth, a forum linking Britain and former

1 colonies, and African countries like South Africa
2 have already called for diplomatic, economic, and
3 sports sanctions, since the limited sanctions imposed
4 by the United States Administration have had little
5 effect in safeguarding the lives of the people of Nige-
6 ria and moving Nigeria toward democracy.

7 **SEC. 3. DECLARATIONS OF POLICY.**

8 (a) **COMMITMENT TO UNITY AND DEMOCRACY BY**
9 **THE NIGERIAN PEOPLE.**—The Congress continues to sup-
10 port the Nigerian people in their commitment to unity and
11 democracy as evidenced by their participation in the June
12 12, 1993, presidential election in Nigeria, and in their
13 subsequent insistence on the return to full civilian and
14 democratic rule.

15 (b) **ACTIONS TAKEN BY THE UNITED STATES.**—
16 While the Congress endorses the limited steps taken by
17 the Administration to demonstrate United States opposi-
18 tion to the annulment of the June 12, 1993, presidential
19 election in Nigeria, more needs to be accomplished to en-
20 courage the restoration of fully democratic and civilian
21 rule in Nigeria.

22 (c) **SANCTIONS TO BE IMPLEMENTED IN COORDINA-**
23 **TION WITH INTERNATIONAL COMMUNITY.**—The Congress
24 declares that the sanctions against Nigeria contained in
25 this Act should be taken in concert with the international

1 community and the United Nations to the maximum ex-
2 tent possible.

3 (d) INCREASE IN DEMOCRACY BUILDING AND RULE
4 OF LAW ASSISTANCE.—The Congress declares that the fi-
5 nite foreign assistance resources of the United States Gov-
6 ernment provided to Nigeria should be re-prioritized with-
7 in present budget levels in order that more funds can be
8 expended for democracy building and the promotion of the
9 rule of law through nongovernmental organizations in
10 Nigeria.

11 **SEC. 4. SANCTIONS AGAINST THE GOVERNMENT OF NIGE-**
12 **RIA.**

13 (a) UNITED STATES MEASURES TO PROMOTE DE-
14 MOCRACY AND HUMAN RIGHTS.—

15 (1) NO ASSISTANCE.—

16 (A) IN GENERAL.—Except as provided in
17 subparagraph (B), no assistance may be made
18 available under the Foreign Assistance Act of
19 1961 or the Arms Export Control Act to the
20 Government of Nigeria.

21 (B) EXCEPTIONS.—The prohibition in sub-
22 paragraph (A) shall not apply to assistance for
23 democracy building and the promotion of the
24 rule of law through nongovernmental organiza-
25 tions.

1 (2) INTERNATIONAL FINANCIAL INSTITU-
2 TIONS.—The President shall instruct the United
3 States Executive Director of each international fi-
4 nancial institution to vote against any loan or other
5 utilization of the funds of the respective institution
6 to or from Nigeria.

7 (3) AIR TRANSPORTATION.—Air transportation
8 with Nigeria shall be prohibited in accordance with
9 subsection (b).

10 (4) DEFENSE ARTICLES AND SERVICES.—No
11 defense article or defense service may be sold or fi-
12 nanced with respect to Nigeria, and no license to ex-
13 port to Nigeria a defense article or service may be
14 issued.

15 (5) EXCLUSION OF NIGERIANS FROM ADMIS-
16 SION TO THE UNITED STATES.—Except as required
17 by United States treaty obligations, any Nigerian
18 national who formulates, implements, or benefits
19 from policies which hinder Nigeria's transition to de-
20 mocracy and members of their immediate families
21 shall be ineligible to receive a visa and shall be ex-
22 cluded from admission into the United States.

23 (6) EXIMBANK, OPIC, AND TDA.—No funds
24 available to the Export-Import Bank of the United
25 States, the Overseas Private Investment Corpora-

1 tion, or the Trade and Development Agency may be
2 used with respect to Nigeria.

3 (7) PROHIBITION OF NEW INVESTMENT.—

4 (A) IN GENERAL.—No national of the
5 United States may, directly or through another
6 person, make any new investment in Nigeria,
7 including new investments in the energy sector.

8 (B) EFFECTIVE DATE.—The prohibition
9 contained in subparagraph (A) shall take effect
10 45 days after the date of enactment of this Act.

11 (8) ASSETS FREEZE.—The President, acting
12 through the Secretary of the Treasury, shall exercise
13 the authority of the International Emergency Eco-
14 nomic Powers Act to block the assets of any Nige-
15 rian national who formulates, implements, or bene-
16 fits from policies which hinder Nigeria's transition
17 to democracy and members of their immediate fami-
18 lies.

19 (b) PROHIBITION OF AIR TRANSPORTATION WITH
20 NIGERIA.—

21 (1) PROHIBITION ON NIGERIAN AIR CARRIER.—

22 (A) IN GENERAL.—Not later than 10 days
23 after the date of the enactment of this Act, the
24 President shall direct the Secretary of Trans-
25 portation to revoke the right of any air carrier

1 designated by the Government of Nigeria under
2 any air transport agreement between the
3 United States and Nigeria to service the routes
4 provided in the agreement.

5 (B) NOTIFICATION.—The President shall
6 immediately notify the Government of Nigeria
7 of his intention to suspend, in accordance with
8 subparagraph (A), the rights of any air carrier
9 designated by the Government of Nigeria under
10 any such air transport agreement.

11 (2) PROHIBITION ON UNITED STATES AIR CAR-
12 RIER.—Not later than 10 days after the date of the
13 enactment of this Act, the President shall direct the
14 Secretary of Transportation not to permit or other-
15 wise designate any United States air carrier to pro-
16 vide service between the United States and Nigeria
17 pursuant to any air transport agreement between
18 the United States and Nigeria.

19 (3) TERMINATION OF AIR TRANSPORT AGREE-
20 MENTS.—

21 (A) IN GENERAL.—Not later than 10 days
22 after the date of the enactment of this Act, the
23 Secretary of State shall terminate any air
24 transport agreement between the Government
25 of the United States and the Government of Ni-

1 geria in accordance with the provisions of that
2 agreement.

3 (B) PROHIBITION ON NIGERIAN AIR-
4 CRAFT.—Upon termination of such agreement,
5 the Secretary of Transportation shall prohibit
6 any aircraft of a foreign air carrier owned, di-
7 rectly or indirectly, by the Government of Nige-
8 ria or by Nigerian nationals from engaging in
9 air transportation with respect to the United
10 States.

11 (C) PROHIBITION ON UNITED STATES AIR-
12 CRAFT.—The Secretary of Transportation shall
13 prohibit the takeoff and landing in Nigeria of
14 any aircraft by an air carrier owned, directly or
15 indirectly, or controlled by a national of the
16 United States or by any corporation or other
17 entity organized under the laws of the United
18 States or of any State.

19 (4) WAIVERS.—The President may waive the
20 prohibitions contained in paragraph (1), (2), or (3)
21 if the President determines and certifies to the Con-
22 gress that the air transportation prohibited under ei-
23 ther such paragraph is important to the national in-
24 terest of the United States, including emergencies in

1 which the safety of an aircraft or its crew or pas-
2 sengers is threatened.

3 (5) DEFINITIONS.—For the purposes of this
4 subsection, the terms “aircraft”, “air transpor-
5 tation”, and “foreign air carrier” have the meanings
6 given those terms in section 101 of the Federal
7 Aviation Act of 1958 (49 U.S.C. 1301).

8 (c) MULTILATERAL MEASURES TO PROMOTE DE-
9 MOCRACY AND HUMAN RIGHTS.—The President shall in-
10 struct the United States Permanent Representative to the
11 United Nations to actively pursue the passage of any reso-
12 lution by the United Nations Security Council that en-
13 hances the cooperation of other nations in the application
14 of the spirit and intent of the sanctions contained in this
15 section.

16 (d) WAIVER OF SANCTIONS.—The President may
17 waive any of the sanctions contained in this section if the
18 President determines and certifies to the Congress that
19 such a waiver is important to the national interest of the
20 United States.

21 **SEC. 5. SENSE OF THE CONGRESS.**

22 It is the sense of the Congress that—

23 (1) the United States should follow the prece-
24 dent of the Federation of International Football As-
25 sociations which withdrew its invitation for Nigeria

1 to host the World Youth Soccer Championships in
2 1995 by excluding Nigerian sporting teams from
3 participating in any sporting event in the United
4 States; and

5 (2) the President should work with the Govern-
6 ment of Australia prior to the opening of the 2000
7 Olympic Games to be held in Sydney, Australia, to
8 determine the appropriateness of issuing visas for
9 Nigerian participants in those Olympic Games based
10 upon the progress made by Nigeria toward democ-
11 racy.

12 **SEC. 6. REPORT.**

13 Not later than 3 months after the date of the enact-
14 ment of this Act, and every 6 months thereafter, the Presi-
15 dent shall prepare and transmit to the Congress a report
16 on the extent to which Nigeria has made progress toward
17 democracy, civilian rule, and respect for internationally
18 recognized human rights.

19 **SEC. 7. DEFINITIONS.**

20 As used in this Act:

21 (1) INTERNATIONAL FINANCIAL INSTITU-
22 TION.—The term “international financial institu-
23 tions” includes the International Bank for Recon-
24 struction and Development, the International Devel-
25 opment Association, the International Finance Cor-

1 poration, the Mutual Investment Guarantee Agency,
2 the African Development Bank, the African Develop-
3 ment Fund, and the International Monetary Fund.

4 (2) NATIONAL OF THE UNITED STATES.—The
5 term “national of the United States” means—

6 (A) a natural person who is a citizen of the
7 United States or is an alien lawfully admitted
8 for permanent residence in the United States,
9 as defined by section 101(a)(20) of the Immi-
10 gration and Nationality Act; or

11 (B) a corporation, partnership, or other
12 business association which is organized under
13 the law of the United States, any State or terri-
14 tory thereof, or the District of Columbia.

15 (3) NEW INVESTMENT.—The term “new invest-
16 ment”—

17 (A) means—

18 (i) a commitment or contribution of
19 funds or other assets, and

20 (ii) a loan or other extension of credit,
21 and

22 (B) does not include—

23 (i) the reinvestment of profits gen-
24 erated by a controlled Nigerian entity into
25 that same controlled Nigerian entity or the

1 investment of such profits in a Nigerian
2 entity; and

3 (ii) contributions of money or other
4 assets where such contributions are nec-
5 essary to enable a controlled Nigerian en-
6 tity to operate in an economically sound
7 manner, without expanding its operations.

8 (4) NIGERIAN ENTITY.—The term “Nigerian
9 entity” means—

10 (A) a corporation, partnership, or other
11 business association or entity organized in Ni-
12 geria; or

13 (B) a branch, office, agency, or sole propri-
14 etorship in Nigeria of a person that resides or
15 is organized outside Nigeria.

○