

1 **Subtitle _____—Sudan Claims**
2 **Resolution**

3 **SEC. ____01. SHORT TITLE.**

4 This subtitle may be cited as the “Sudan Claims Res-
5 olution Act”.

6 **SEC. ____02. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) the United States should support Sudan’s
9 democratic transition, particularly in light of the
10 country’s dire economic situation, and this is a crit-
11 ical moment to address longstanding issues in the
12 relationship between the United States and Sudan;

13 (2) as part of the process of restoring normal
14 relations between Sudan and the United States,
15 Congress supports efforts to provide meaningful
16 compensation to individuals employed by or serving
17 as contractors for the United States Government, as
18 well as their family members, who personally have
19 been awarded by a United States District Court a
20 judgment for compensatory damages against Sudan;
21 and

1 (3) the terrorism-related claims of victims and
2 family members of the September 11, 2001, terrorist
3 attacks must be preserved and protected.

4 **SEC. ___ 03. DEFINITIONS.**

5 In this subtitle:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
7 **TEES.**—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Foreign Relations
10 and the Committee on the Judiciary of the Sen-
11 ate; and

12 (B) the Committee on Foreign Affairs and
13 the Committee on the Judiciary of the House of
14 Representatives.

15 (2) **CLAIMS AGREEMENT.**—The term “claims
16 agreement” means the Claims Settlement Agreement
17 Between the Government of the United States of
18 America and the Government of the Republic of the
19 Sudan, done at Washington, D.C., on October 30,
20 2020, including all annexes, appendices, side letters,
21 related agreements, and instruments for implemen-
22 tation, including the escrow agreement among the
23 Central Bank of Sudan, the Federal Reserve Bank
24 of New York, and the escrow agent appointed there-
25 by, as well as the escrow conditions release agree-

1 ment, set out in an exchange of diplomatic notes be-
2 tween the United States and Sudan on October 21,
3 2020, and subsequently amended on December 19,
4 2020.

5 (3) FOREIGN NATIONAL.—The term “foreign
6 national” means an individual who is not a citizen
7 of the United States.

8 (4) SECRETARY.—The term “Secretary” means
9 the Secretary of State.

10 (5) STATE SPONSOR OF TERRORISM.—The term
11 “state sponsor of terrorism” means a country the
12 government of which the Secretary has determined
13 is a government that has repeatedly provided sup-
14 port for acts of international terrorism, for purposes
15 of—

16 (A) section 1754(c)(1)(A)(i) of the Export
17 Control Reform Act of 2018 (50 U.S.C.
18 4813(c)(1)(A)(i));

19 (B) section 620A of the Foreign Assistance
20 Act of 1961 (22 U.S.C. 2371);

21 (C) section 40(d) of the Arms Export Con-
22 trol Act (22 U.S.C. 2780(d)); or

23 (D) any other provision of law.

24 (6) SUDAN.—The term “Sudan” means the
25 Government of the Republic of the Sudan.

1 **SEC. ____04. RECEIPT OF ADEQUATE FUNDS; IMMUNITIES**
2 **OF SUDAN.**

3 (a) IMMUNITY.—

4 (1) IN GENERAL.—Subject to [section
5 ____06], and notwithstanding any other provision
6 of law, upon submission of a certification described
7 in paragraph (2)—

8 (A) Sudan, an agency or instrumentality of
9 Sudan, and the property of Sudan or an agency
10 or instrumentality of Sudan, shall not be sub-
11 ject to the exceptions to immunity from juris-
12 diction, liens, attachment, and execution under
13 section 1605(a)(7) (as such section was in ef-
14 fect on January 27, 2008) or section 1605A or
15 1610 (insofar as section 1610 relates to a judg-
16 ment under such section 1605(a)(7) or 1605A)
17 of title 28, United States Code;

18 (B) section 1605A(c) of title 28, United
19 States Code, section 1083(c) of the National
20 Defense Authorization Act for Fiscal Year 2008
21 (Public Law 110–181; 28 U.S.C. 1605A note),
22 section 589 of the Foreign Operations, Export
23 Financing, and Related Programs Appropria-
24 tions Act, 1997 (Public Law 104–208; 28
25 U.S.C. 1605 note), and any other private right
26 of action relating to acts by a state sponsor of

1 terrorism arising under Federal, State, or for-
2 eign law shall not apply with respect to claims
3 against Sudan, or any of its agencies, instru-
4 mentalities, officials, employees, or agents in
5 any action in a Federal or State court; and

6 (C) any attachment, decree, lien, execution,
7 garnishment, or other judicial process brought
8 against property of Sudan, or property of any
9 agency, instrumentality, official, employee, or
10 agent of Sudan, in connection with an action
11 that is precluded by subparagraph (A) or (B)
12 shall be void.

13 (2) CERTIFICATION.—A certification described
14 in this paragraph is a certification by the Secretary
15 to the appropriate congressional committees stating
16 that—

17 (A) the August 12, 1993, designation of
18 Sudan as a state sponsor of terrorism has been
19 formally rescinded;

20 (B) Sudan has made final payments with
21 respect to the private settlement of the claims
22 of victims of the U.S.S. Cole attack; and

23 (C) the United States Government has re-
24 ceived funds pursuant to the claims agreement
25 that are sufficient to ensure—

1 (i) payment of the agreed private set-
2 tlement amount for the death of a citizen
3 of the United States who was an employee
4 of the United States Agency for Inter-
5 national Development in Sudan on Janu-
6 ary 1, 2008;

7 (ii) meaningful compensation for
8 claims of citizens of the United States
9 (other than individuals described in [sec-
10 tion ____07(a)(1)]) for wrongful death or
11 physical injury in cases arising out of the
12 August 7, 1998, bombings of the United
13 States embassies located in Nairobi,
14 Kenya, and Dar es Salaam, Tanzania; and

15 (iii) funds for compensation through a
16 fair process to address compensation for
17 terrorism-related claims of foreign nation-
18 als for wrongful death or physical injury
19 arising out of the events referred to in
20 clause (ii).

21 (b) SCOPE.—Subject to [section ____06], subsection
22 (a) of this section shall apply to all conduct and any event
23 occurring before the date of the certification described in
24 subsection (a)(2), regardless of whether, or the extent to

1 which, application of that subsection affects any action
2 filed before, on, or after that date.

3 (c) **AUTHORITY OF THE SECRETARY.**—The certifi-
4 cation by the Secretary referred to in subsection (a)(2)
5 may not be delegated and may not be subject to judicial
6 review.

7 **SEC. ___ 05. REAUTHORIZATION OF AND MODIFICATIONS**
8 **TO UNITED STATES VICTIMS OF STATE SPON-**
9 **SORED TERRORISM FUND.**

10 (a) **IN GENERAL.**—The Justice for United States
11 Victims of State Sponsored Terrorism Act (34 U.S.C.
12 20144) is amended—

13 (1) in subsection (c)(2)(A)(i), by striking “state
14 sponsor of terrorism” and inserting “foreign state
15 that was designated as a state sponsor of terrorism
16 at the time the acts described in clause (ii) occurred
17 or was so designated as a result of such acts”;

18 (2) in subsection (e)(6), by striking “January
19 2, 2030” each place it appears and inserting “Janu-
20 ary 2, 2039”; and

21 (3) in subsection (j)(6), in the first sentence, by
22 inserting after “final judgment” the following: “, ex-
23 cept that the term does not include payments re-
24 ceived in connection with an international claims
25 agreement to which the United States is a state

1 party or any other settlement of terrorism-related
2 claims against Sudan”.

3 (b) LUMP SUM CATCH-UP PAYMENTS FOR 9/11 VIC-
4 TIMS, 9/11 SPOUSES, AND 9/11 DEPENDENTS.—Sub-
5 section (d)(4) of the Justice for United States Victims of
6 State Sponsored Terrorism Act (34 U.S.C. 20144) is
7 amended—

8 (1) in subparagraph (A), by striking “subpara-
9 graph (B)” and inserting “subparagraphs (B) and
10 (C)”; and

11 (2) by adding at the end the following:

12 “(C) LUMP SUM CATCH-UP PAYMENTS FOR
13 9/11 VICTIMS, 9/11 SPOUSES, AND 9/11 DEPEND-
14 ENTS.—

15 “(i) IN GENERAL.—Not later than 90
16 days after the date of enactment of this
17 subparagraph, and in accordance with
18 clauses (i) and (ii) of subsection (d)(3)(A),
19 the Comptroller General of the United
20 States shall conduct an audit and publish
21 in the Federal Register a notice of pro-
22 posed lump sum catch-up payments to 9/
23 11 victims, 9/11 spouses, and 9/11 depend-
24 ents who have submitted applications in
25 accordance with subparagraph (B) in

1 amounts that, after receiving the lump
2 sum catch-up payments, would result in
3 the percentage of the claims of 9/11 vic-
4 tims, 9/11 spouses, and 9/11 dependents
5 received from the Fund being equal to the
6 percentage of the claims of 9/11 family
7 members received from the Fund, as of the
8 date of enactment of this subparagraph.

9 “(ii) PUBLIC COMMENT.—The Comp-
10 troller General shall provide an opportunity
11 for public comment for a 30-day period be-
12 ginning on the date on which the notice is
13 published under clause (i).

14 “(iii) REPORT.—Not later than 30
15 days after the expiration comment period
16 in clause (ii), the Comptroller General of
17 the United States shall submit to the Com-
18 mittee on the Judiciary and the Committee
19 on Appropriations of the Senate, the Com-
20 mittee on the Judiciary and the Committee
21 on Appropriations of the House of Rep-
22 resentatives, and the Special Master a re-
23 port that includes the determination of the
24 Comptroller General on—

1 “(I) the amount of the lump sum
2 catch-up payment for each 9/11 vic-
3 tim;

4 “(II) the amount of the lump
5 sum catch-up payment for each 9/11
6 spouse;

7 “(III) the amount of the lump
8 sum catch-up payment for each 9/11
9 dependent; and

10 “(IV) the total amount of lump
11 sum catch-up payments described in
12 subclauses (I) through (III).”.

13 **SEC. ____ 06. PRESERVATION OF CERTAIN PENDING INTER-**
14 **NATIONAL TERRORISM CLAIMS AGAINST**
15 **SUDAN.**

16 (a) FINDINGS.—Congress makes the following find-
17 ings:

18 (1) It is the long-standing policy of the United
19 States that civil lawsuits against those who support,
20 aid and abet, and provide material support for inter-
21 national terrorism serve the national security inter-
22 ests of the United States by deterring the sponsor-
23 ship of terrorism and by advancing interests of jus-
24 tice, transparency, and accountability.

1 (2) Neither the claims agreement, nor any other
2 aspect of the effort to normalize relations with
3 Sudan—

4 (A) resolved claims against Sudan involv-
5 ing victims and family members of the Sep-
6 tember 11, 2001, terrorist attacks; or

7 (B) otherwise advanced the interests of the
8 victims and family members of the September
9 11, 2001, terrorist attacks.

10 (3) The claims referenced in paragraph (2)(A)
11 remain pending in the multidistrict proceeding 03–
12 MDL–1570 in the United States District Court for
13 the Southern District of New York, and subsection
14 (c) preserves and protects those claims.

15 (b) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that the executive branch should not file a Statement
17 of Interest or any other submission, or intervene in any
18 other way, in the multidistrict proceeding 03–MDL–1570,
19 in connection to the rescission of the designation of Sudan
20 as a state sponsor of terrorism or the restoration of Su-
21 dan’s immunities from jurisdiction and execution in con-
22 formity with this subtitle, if such action would disadvan-
23 tage terrorism victims.

24 (c) IN GENERAL.—Nothing in this subtitle shall
25 apply to, be construed to apply to, or otherwise affect—

1 (1) any claim in any of the proceedings com-
2 prising the multidistrict proceeding 03-MDL-1570 in
3 the United States District Court for the Southern
4 District of New York brought by any person who, as
5 of the date of the enactment of this Act, has a claim
6 pending against Sudan (including as a member of a
7 class certified under Rule 23 of the Federal Rules
8 of Civil Procedure or as a putative member of such
9 a class pending certification); or

10 (2) the enforcement of any judgment in favor of
11 such person entered in such proceeding.

12 (d) APPLICABLE LAW.—Proceedings described in
13 subsection (c) shall be governed by applicable law in effect
14 before the date of the enactment of this Act, including—

15 (1) chapter 97 of title 28, United States Code
16 (commonly known as the “Foreign Sovereign Immu-
17 nities Act of 1976”), including 28 U.S.C. 1605A
18 note;

19 (2) section 201 of the Terrorism Risk Insur-
20 ance Act of 2002 (Public Law 107–297; 28 U.S.C.
21 1610 note), with respect to any asset that, on or
22 after the date of enactment of this Act, is designated
23 as a blocked asset (as defined in subsection (d)(2)
24 of that section);

1 (3) rules governing the rights of parties to
2 amend pleadings; and

3 (4) other relevant provisions of law.

4 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion shall alter, impact the interpretation of, or otherwise
6 affect—

7 (1) any section of chapter 97 of title 28, United
8 States Code; or

9 (2) any other provision of law.

10 **SEC. ___07. COMPENSATION FOR CERTAIN NATURALIZED**

11 **UNITED STATES CITIZENS AND FOREIGN NA-**

12 **TIONALS.**

13 (a) COMPENSATION.—

14 (1) IN GENERAL.—There is authorized to be
15 appropriated \$150,000,000 for payment of com-
16 pensation, notwithstanding any other provision of
17 law, to any individual who—

18 (A) has been awarded a judgment in any
19 of the cases set forth in section (c) of the
20 Annex to the claims agreement; and

21 (B) is—

22 (i) a United States employee or con-
23 tractor injured in connection with the
24 bombings of the United States embassies
25 located in Nairobi, Kenya, and Dar es Sa-

1 laam, Tanzania, who became a United
2 States citizen after August 7, 1998, and
3 before the date of the enactment of this
4 Act;

5 (ii) a family member—

6 (I) of a United States employee
7 or contractor injured in connection
8 with the bombings of the United
9 States embassies located in Nairobi,
10 Kenya, and Dar es Salaam, Tanzania;
11 and

12 (II) who is a United States citi-
13 izen as of the date of the enactment
14 of this Act; or

15 (iii) a family member—

16 (I) of a foreign national United
17 States employee or contractor killed
18 during those bombings; and

19 (II) who is a United States citi-
20 izen as of the date of the enactment
21 of this Act.

22 (2) PAYMENTS.—With the requirement of
23 achieving parity in compensation between individuals
24 who became United States citizens after August 7,
25 1998, and individuals who were United States citi-

1 zens on or before August 7, 1998, payment of com-
2 pensation under paragraph (1) to—

3 (A) an individual described in paragraph
4 (1)(B)(i) shall be based on the same standards
5 used to determine the compensation for an em-
6 ployee or contractor injured in connection with
7 the bombings described in that paragraph who
8 was a United States citizen on or before August
9 7, 1998;

10 (B) an individual described in paragraph
11 (1)(B)(ii) shall be on an equal basis to com-
12 pensation provided to a family member of an
13 individual described in subparagraph (A); and

14 (C) an individual described in paragraph
15 (1)(B)(iii) shall be on an equal, or, where appli-
16 cable, a pro rata basis to compensation pro-
17 vided to a family member of a United States
18 employee or contractor who was a United
19 States citizen killed during such bombings.

20 (b) DISTRIBUTION AND REQUIREMENTS.—

21 (1) DISTRIBUTION.—The Secretary shall dis-
22 tribute payments from funds made available to carry
23 out subsection (a)(1) to individuals described in that
24 subsection.

1 (2) AUTHORIZATION LETTER.—Not later than
2 December 31, 2021, the Secretary shall send a letter
3 to each individual who will receive payment under
4 paragraph (1) informing the individual of the
5 amount of compensation the individual will receive
6 pending the execution of any writings under para-
7 graph (3), and the standards used to determine com-
8 pensation under subsection (a)(2), taking into ac-
9 count the individual’s final judgment amount.

10 (3) REQUIREMENT BEFORE DISTRIBUTION.—
11 Before making a payment to an individual under
12 paragraph (1), and after the delivery of the author-
13 ization letter under paragraph (2), the Secretary
14 shall require the individual to execute a writing that
15 includes a waiver and release of all the individual’s
16 rights to assert claims for compensatory or other re-
17 lief in any form or to enforce any judgment against
18 Sudan in connection with, and any claims against
19 the United States related to, any claim, suit, or ac-
20 tion specified in Article II of the claims agreement.

21 (c) FOREIGN NATIONALS.—Notwithstanding any
22 other provision of law or the claims agreement—

23 (1) individuals described in subsection (a)(1)
24 are not eligible to receive any compensation as pro-

1 vided by Sudan pursuant to Article III of the claims
2 agreement; and

3 (2) the funds provided by Sudan for distribu-
4 tion of compensation to such individuals pursuant to
5 the Annex of the claims agreement shall be redistrib-
6 uted—

7 (A) among all other individuals eligible for
8 compensation under section (c) of the Annex to
9 the claims agreement consistent with the prin-
10 ciples set out in that Annex; or

11 (B) if Sudan and the foreign nationals eli-
12 gible for compensation reach a private settle-
13 ment, then pursuant to the terms of that settle-
14 ment.

15 (d) DEPARTMENT OF STATE REPORTING REQUIRE-
16 MENTS.—

17 (1) INITIAL REPORT.—Not later than 90 days
18 after the date of the enactment of this Act, the Sec-
19 retary shall submit to the appropriate congressional
20 committees a report that includes a detailed descrip-
21 tion of the plan of the Department of State for the
22 distribution of payments to each category of indi-
23 vidual described in subsection (a)(1), including how
24 the Department is arriving at compensation levels
25 for each individual and the amount of compensation

1 each such individual will receive from funds made
2 available to carry out that subsection.

3 (2) UPDATED REPORT.—Not later than Decem-
4 ber 31, 2021, the Secretary shall submit to the ap-
5 propriate congressional committees a report describ-
6 ing—

7 (A) whether the distribution plan described
8 in paragraph (1) was carried out; and

9 (B) whether compensation levels were pro-
10 vided as described in the report required by
11 paragraph (1).

12 (e) COMPTROLLER GENERAL REPORT.—Not later
13 than December 31, 2022, the Comptroller General of the
14 United States shall submit to the appropriate congres-
15 sional committees a report assessing the implementation
16 of this section by the Department of State, including
17 whether—

18 (1) all distributions were made in accordance
19 with the requirements of subsections (a), (b), and
20 (c); and

21 (2) all individuals described in subsection (a)(1)
22 received compensation from amounts made available
23 to carry out that subsection in the manner described
24 in subsection (a)(2).

1 **SEC. ____ 08. TREATY AND EXECUTIVE AGREEMENT PRAC-**
2 **TICE.**

3 (a) FINDINGS.—Congress makes the following find-
4 ings:

5 (1) Congress and the executive branch share re-
6 sponsibility for the foreign relations of the United
7 States pursuant to Article I and Article II of the
8 Constitution of the United States.

9 (2) All legislative powers of the Federal Govern-
10 ment, including on matters of foreign relations, are
11 vested in the Congress of the United States pursu-
12 ant to section 1 of Article I of the Constitution.

13 (3) The executive branch may not direct Con-
14 gress to take any action, nor may it convey any leg-
15 islative or other power assigned to Congress under
16 the Constitution to any entity, domestic or foreign.

17 (4) The original escrow release conditions
18 agreement prescribed specific legislative text and
19 purported both to require enactment of such text
20 and provide a veto to Sudan over exceptions to that
21 text.

22 (5) Congress rejected the approach described in
23 paragraph (4).

24 (6) The executive branch and Sudan subse-
25 quently amended the escrow release conditions
26 agreement to eliminate the specific legislative text as

1 well as the purported requirement for enactment and
2 the purported veto over exceptions to that text.

3 (b) AMENDMENT TO CASE-ZABLOCKI ACT.—Section
4 112b of title 1, United States Code, is amended by adding
5 at the end the following:

6 “(g) It is the sense of Congress that the executive
7 branch should not prescribe or otherwise commit to or in-
8 clude specific legislative text in a treaty or executive agree-
9 ment unless Congress has authorized such action.”.