

Office of the Secretary

TO THE MEMBERS OF THE COMMITTEE ON INVESTMENTS/
INVESTMENT ADVISORY COMMITTEE

DISCUSSION/ACTION ITEM

For the Meeting of November 14, 2005

REQUEST FOR A THOROUGH PRESENTATION ON THE DIVESTMENT OF UNIVERSITY HOLDINGS IN FOUR FOREIGN COMPANIES ENGAGED IN SUBSTANTIAL BUSINESS IN SUDAN AND THEREBY ASSISTING THE GOVERNMENT OF SUDAN IN ITS GENOCIDAL CAMPAIGN IN WESTERN DARFUR

Regent Rosenthal recommends that the Committee on Investments request that the President present to The Regents at the January 2006 meeting a comprehensive plan for the University of California Retirement Plan (UCRP) and the General Endowment Pool (GEP) to divest from the following foreign companies engaged in significant business relations with the government of Sudan: **PetroChina, Sinopec, Tatnef, and ABB, Ltd.**¹ Regent Rosenthal further recommends that a policy of divestment from a foreign government shall be adopted by the University only when the United States government declares that a foreign regime is committing acts of genocide.

BACKGROUND

Divestment is a serious decision that should rarely be pursued. Regent Rosenthal believes that the ongoing genocide in Sudan meets the appropriate standards for divestment; therefore, The Regents should consider a policy of divestment from the aforementioned companies in recognition of their ongoing business relations with the government of Sudan.

The Regents of the University of California serve as fiduciaries on behalf of the people of the State of California. In this capacity, The Regents has the responsibility of ensuring the financial success of the University's investments. The Regents entrusts the Treasurer to invest the UCRP and GEP in a manner pursuant to the primary investment goal of maximizing returns. In addition to the established pecuniary goals, The Regents has a proud history of recognizing the merits of socially responsible investing. For example, with respect to The Regents' investment policies, the Treasurer reserves the right to consider social issues in proxy voting.² Moreover, in its power and capacity as a

¹ These are the same four companies that the Stanford University Board of Trustees has divested from pursuant to a June 7, 2005 resolution.

< <http://news-service.stanford.edu/news/2005/june15/divest-060905.html>>

² Office of the Treasurer, "University of California General Endowment Policy Investment Policy Statement," p. 26, Appendix 5: Office of the Treasurer Guidelines for Proxy voting, February 8, 2005.

shareholder, the University may conduct a case-by-case analysis of social matters as they relate to University holdings.³ Along with the Treasurer, The Regents has also directly made investment and divestment decisions based on concerns of social justice and human rights.

For example, in 1986 The Regents voted to divest holdings from South Africa in protest of the government's policy of apartheid.⁴ In 2001, The Regents directed the Treasurer to continue the practice of not directly investing in tobacco products companies during the transfer of a portion of the equity holdings to index funds.⁵ While The Regents has been presented with numerous divestment proposals over the past two decades, the Board has made it clear that a policy of divestment will be pursued only in reaction to the most repugnant governmental policies and industry practices. Up to this point, The Regents has yet to articulate clearly the circumstances under which the University will undertake a divestment policy.

Once again, the Regents face an important decision regarding the status of UC investments. In an unprecedented action, on July 23, 2004, both Houses of Congress unanimously adopted a joint resolution declaring that the atrocities in Darfur are genocide and urging the President and the world community to intervene in order to prevent the continued death and destruction.⁶ On September 9, 2004, former Secretary of State Colin Powell testified before the Senate Foreign Relations Committee that the Government of Sudan and the Janjaweed (armed militia) are responsible for the genocide in Darfur.⁷ Since this time, the United States government as well as international aid groups and media outlets have documented the ongoing murder, rape, and torture that are being committed by government-backed troops against a civilian population.⁸

The time has come for The Regents to declare publicly that it is not financially nor socially acceptable to continue to support the Sudanese regime via foreign investment. If The Regents choose to maintain the status quo, the University will continue to profit from foreign companies who are helping to fund the government of Sudan's genocide campaigns in Western Darfur. The Regents may decide that the time has come to divest the University from several companies that have financially supported the Sudanese government's campaign of mass murder. In choosing the latter option, the University will join Stanford and Harvard Universities, as well as the Illinois, New Jersey, and Oregon legislatures, in sending a clear message that the University of California has no

³ Ibid.

⁴ University of California Board of Regents Meeting, Minutes (June 18, 1986), 46.

⁵ University of California Board of Regents Meeting, Minutes (January 18, 2001) 11-12.

⁶ United States. Cong. House. 108th Congress, 2nd.session. H. Con. Res. 467; United States. Cong. Senate. 108th Congress, 2nd.session. S. Con. Res. 124

⁷ Powell, Colin. "The Crisis in Darfur." Testimony before the Senate Foreign Relations Committee. Testified: September 9th, 2004. <<http://www.state.gov/secretary/former/powell/remarks/36042.htm>>

⁸ For example: *Documenting the Atrocities in Darfur*. U.S. Department of State. State Publication 11182; Sept. 2004. <<http://www.state.gov/g/drl/rls/36028.htm>>; "PHR Calls for Intervention to Save Lives in Sudan: Field Team Compiles Indicators of Genocide." Physicians for Human Rights. Published: June 23, 2004; Kristof, Nicolas. "Day 141 of Bush's Silence." *The New York Times*. Published: May 31, 2005. p. A25.

desire to profit from companies that are closely aligned with the government of Sudan's invidious practices.⁹

Divesting from the aforementioned companies sends a clear symbolic message that the University of California will no longer sit by as these companies assist the government of Sudan as it pursues a policy of genocide. Furthermore, by divesting from these companies, the University could generate considerable momentum to the nationwide divestment movement amongst institutional investors. In the aggregate, the numerous divestment campaigns (both active and pending) will undoubtedly have a considerable impact on those companies who support the government of Sudan, as these foreign companies¹⁰ rely heavily on foreign direct investment.

The situation in Sudan is unique, as it is the first time that the United States government has declared genocide while it is still being committed. Unlike previous genocides over the past century, the ethnic cleansing in Sudan continues to occur well after it has been designated as such. By ignoring this reality, The Regents would be complicit to the continued genocide.

In speaking about the ongoing atrocities in Sudan, Elie Wiesel, a Holocaust survivor, Nobel Peace Prize laureate, and humanitarian, has posed several questions to help guide the Regents in making this important decision. Mr. Wiesel asked, "How can a citizen of a free country not pay attention? How can anyone, anywhere, not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent?"¹¹

In voting to divest from the designated companies engaged in significant business in Sudan, the University of California will answer Wiesel's questions by stating, "We are paying attention to the genocide in Sudan. We are outraged by the government of Sudan's continued campaign of ethnic cleansing. We believe that as investors we can be both financially prudent and socially compassionate. And lastly, we will not remain silent as thousands of innocent civilians and hundreds of communities continue to bear the wrath of government-sponsored mass murder."

⁹ Bhatnagar, Manav K. Collins, Benjamin B. "Human Rights: An Investment." The Harvard Crimson. Feb. 24, 2005; <<http://news-service.stanford.edu/news/2005/june15/divest-060905.html>>; Sudan Divestment Campaigns Nationwide. <<http://www.sudandivestment.com/>>; "Collins and Jones Initiative Suspending State Investment In Sudan Goes To Governor." Illinois State Senator: Jaqueline Y. Collins. Representative: Lou Jones. Press Release. May 18, 2005.

¹⁰ US companies have been prohibited from conducting business in Sudan since 1993. US Department of the Treasury: Office of Foreign Asset Control. *What You Need To Know About U.S. Sanctions. An overview of the Sudanese Sanctions Regulations – Title 31 Part 538 of the U.S. Code of Federal Regulations.* Washington, D.C: 26 July, 2001.
<www.treas.gov/offices/enforcement/ofac/sanctions/t11sudan.pdf>

¹¹ Wiesel, Elie. "On Atrocities in Sudan." Speech at the "Darfur Emergency Summit," convened at the Graduate Center of the City University of New York. July 14, 2004.
<<http://www.usmmm.org/conscience/alert/darfur/wiesel.htm>>