

A Bill

To ensure and certify that companies operating in the United States that receive U.S. government funds are not conducting business in Iran.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled,

SEC. 1. IRAN BUSINESS CERTIFICATION ACT.

This Act may be cited as the "Iran Business Certification Act".

SEC. 2. SENSE OF CONGRESS REGARDING THE DANGER OF IRAN'S UNACCEPTABLE AND ILLEGAL NUCLEAR PROGRAM

(a) SENSE OF CONGRESS.--It is the sense of Congress that--

- (1) the United States should continue to support diplomatic efforts in the International Atomic Energy Agency and the United Nations Security Council to end Iran's illicit nuclear activities;
- (2) businesses should not aid in Iran's illegal nuclear program;
- (3) the United States, European Union and United Nations Security Council sanctions have had an effect on Iran, and lower oil prices have also adversely affected Iran's economy. As a result Iran is now more susceptible than ever to economic pressure. Iran must feel that its economic isolation and foreign policy isolation has grown to the point of being unbearable to lay the groundwork for a diplomatic resolution of this matter;
- (4) Iran still relies on international companies that do business in Iran to support its fragile economy and changing the behavior of even a few of these companies will result in further stress to Iran's economy;
- (5) the many international companies who do business in Iran must be made to feel the pressure to pull out of Iran. Short-term economic profits cannot be a justification to circumvent even in spirit those international sanctions designed to thwart Iran from developing nuclear weapons;
- (6) with Iran's economy weakened, effective economic measures to isolate the regime may make the difference between a diplomatic resolution and a nuclear standoff. To make a diplomatic solution possible, international firms doing business in Iran must not continue to provide the last crutch of support to the Iranian economy; and
- (7) this Act seeks to prohibit those entities that do business with the United States from doing business with Iran.

SEC. 3. FINDINGS.

Congress makes the following findings:

- (1) On October 29, 1987 the President of the United States issued Executive Order 12613 imposing an import embargo on Iranian-origin goods and services in response to Iran's "actively supporting terrorism as an instrument of state policy" and "aggressive and unlawful military action against U.S.-flag vessels and merchant vessels of other non-belligerent nations engaged in lawful and peaceful commerce in international waters of the Persian Gulf."
- (2) On March 16, 1995 the President of the United States issued Executive Order 12957 prohibiting U.S. persons from entering into contracts that lead to the development of Iran's petroleum sector in response to the "actions and policies of the Government of Iran [that] constitute an

unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.”

- (3) On May 6, 1995, the President of the United States issued Executive Order 12959 substantially tightening sanctions against Iran “to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.”
- (4) On August 5, 1996 the Iran and Libya Sanctions Act was signed into law. In 2006, the title of this legislation was changed to the Iran Sanctions Act (ISA). The ISA notes that “the efforts of the Government of Iran to acquire weapons of mass destruction and the means to deliver them and its support of acts of international terrorism endanger the national security and foreign policy interests of the United States and those countries with which the United States shares common strategic and foreign policy objectives,” and therefore requires the President to sanction U.S. and foreign companies if the President determines that such companies have invested in Iran's petroleum or natural gas sectors.
- (5) On August 19, 1997, the President of the United States issued Executive Order 13059 clarifying Executive Orders 12957 and 12959 and confirming that virtually all trade and investment activities with Iran by U.S. persons, wherever located, are prohibited, “to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States...in response to the actions and policies of the Government of Iran,” and also expanded the import prohibition to cover goods or services owned or controlled by the Government of Iran.
- (6) On March 14, 2000 the Iran Nonproliferation Act was signed into law, “to provide for the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.”
- (7) On September 23, 2001, the President of the United States issued Executive Order EO 13224, allowing the President to block the assets of persons who commit, threaten to commit, or support terrorism. Several Iranian entities have been designated under EO 13224 including the Iranian Revolutionary Guard.
- (8) On June 28, 2005, the President of the United States issued Executive Order 13382 allowing the President to block the assets of proliferators of weapons of mass destruction and their supporters. On October 21, 2007, the President designated several Iranian entities, including the Iranian Revolutionary Guard and several Iranian banks.
- (9) On July 31, 2006 the United Nations Security Council passed Security Council Resolution 1696 noting with “serious concern” the many reports of the International Atomic Energy Agency (IAEA) Director General and resolutions of the IAEA Board of Governors related to Iran’s nuclear program. The resolution demanded that Iran suspend all its uranium enrichment and

reprocessing activities and called on UN Member States to prevent the transfer of goods and services that could assist Iran in its uranium enrichment and reprocessing activities, or ballistic missiles programs.

- (10) On September 30, 2006 the Iran Freedom Support Act (IFSA) was signed into law “to hold the current regime in Iran accountable for its threatening behavior” and also provided that the President should initiate investigations upon the receipt of credible information that a U.S. or foreign person is investing in Iran's petroleum or natural gas sector in violation of the ISA and extended the ISA until December 31, 2011.
- (11) On December 23, 2006 the United Nations Security Council passed Security Council Resolution 1737 “reiterating its serious concern” with respect to Iran’s nuclear program, demanding that Iran halt its uranium enrichment and reprocessing activities and imposing sanctions on Iran. The resolution required Member States to take all necessary measures to prevent the supply of certain goods or technologies that could contribute to Iran's uranium enrichment, reprocessing, or heavy water-related activities, or to the development of a nuclear weapon, and prohibited Member States from procuring such products from Iran.
- (12) On March 24, 2007 the United Nations Security Council passed Security Council Resolution 1747 reemphasizing its “serious concern” with respect to Iran’s nuclear program, demanding that Iran halt its uranium enrichment and reprocessing activities and strengthening the existing sanctions on Iran. The resolution found that Iran had failed to comply with Resolutions 1696 and 1737 and prohibited Member States from procuring arms or related materials from Iran and called on Member States to prevent the export of goods listed on the UN Register on Conventional Arms to Iran. Resolution 1747 further expanded the list of persons whose assets must be frozen by Member States and resolution 1747 expanded the list of persons whose entry Member States must report to the UN Security Council.
- (13) Effective November 10, 2008, the U.S. Treasury Department’s Office of Foreign Assets Control (OFAC) revoked authorization for "U-turn" transfers involving Iran. As of that date, U.S. depository institutions are no longer authorized to process transfers involving Iran that originate and end with non-Iranian foreign banks.
- (14) On March 3, 2008 the United Nations Security Council passed Security Council Resolution 1803 reemphasizing its “serious concern” with respect to Iran’s nuclear program, demanding that Iran halt its uranium enrichment and reprocessing activities and approving a new round of sanctions on Iran. The resolution noted with “serious concern” that Iran had not fully ceased its uranium enrichment and reprocessing activities as previously demanded by the Security Council. It expanded sanctions by prohibiting the export of additional sensitive goods and technologies to Iran. It also prohibited the entry of certain named individuals into Member States and expanded the list of persons whose assets must be frozen by Member States.

#### SEC. 4. CERTIFICATION.

- (a) Any company that has received federal funds since January 1, 2007 shall certify, under penalties of perjury, within 30 days of the effective date of this Act, and within 30 days of the end of each calendar year in which such company receives federal funds, that neither it nor any of its affiliates directly or through an agent, representative or intermediary:
- (1) has engaged in any business or provided any goods or services in Iran other than the provision of goods or services to relieve human suffering in Iran or the dissemination of news and information worldwide via the Internet;
  - (2) has been a party to any agreement with any Iranian entity or the Government of Iran, or the owner of an interest in, any Iranian entity; or
  - (3) the owner or operator of any plant, property, equipment or other assets located in Iran.
- (b) The certification required under Section 4(a) shall be executed on behalf of the applicable company by an authorized officer of the company and shall not deviate from the language set forth therein.
- (c) In the event that a company is unable to make the certification required under Section 4(a) because it or one of its affiliates has engaged in one or more of the activities specified in clauses (1), (2) and (3) thereof, the company shall provide to the secretaries concerned, prior to the deadline for delivery of such certification, a detailed and precise description of such activities, such description to be provided under penalties of perjury.
- (d) The certifications provided under Section 4(a) and disclosures provided under Section 4(c) shall be publicly disclosed by the Secretary of the Treasury.

#### SEC. 5. ADMINISTRATION OF IRAN BUSINESS CERTIFICATION ACT.

- (a) MANAGEMENT.---The Secretaries concerned shall administer this Act.

#### SEC. 6. REPORT REQUIREMENT

- (a) No later than 90 days following the effective date of this Act and 90 days following the end of each calendar year, the Secretary of the Treasury shall submit a report to the Speaker of the House, the President Pro Tempore of the Senate, the Chair and Ranking Members of the House Committee on Financial Services, Senate Banking, Housing and Urban Affairs Committee, and the House and Senate Committees on Appropriations, explaining the extent to which all companies receiving federal funds or any of their affiliates, directly or indirectly:
- (1) has engaged in any business or provided any goods or services in Iran other than the provision of goods or services to relieve human suffering in Iran or the dissemination of news and information worldwide via the Internet;
  - (2) has been a party to any agreement with any Iranian entity or the Government of Iran, or the owner of an interest in, any Iranian entity; or
  - (3) the owner or operator of any plant, property, equipment or other assets located in Iran.

#### SEC. 7. DEFINITIONS.

In this Act:

- (1) SECRETARY CONCERNED.---The term "Secretary concerned" means---

- (a) with respect to administering U.S. federal government funds under the jurisdiction of the Secretary of the Treasury, the Secretary of the Treasury; and
  - (b) with respect to businesses operating in the U.S. under the jurisdiction of the Secretary of Commerce, the Secretary of Commerce.
- (2) COMPANY.---The term “company” means---
- (a) a sole proprietorship, organization, association, corporation, partnership, limited liability company, venture, or other entity, its subsidiary or affiliate; and
  - (b) includes a company owned or controlled, either directly or indirectly, by the government of a foreign country, that is established or organized under the laws of, or has its principal place of business in, such foreign country and includes U.S. subsidiaries of the same.
- (3) AFFILIATE.---The term “affiliate” means any individual or entity that directly or indirectly controls, is controlled by, or is under common control with, the company, including without limitation direct and indirect subsidiaries of the company.
- (4) ENTITY.---The term “entity” means a sole proprietorship, a partnership, limited liability corporation, association, trust, joint venture, corporation, or other organization.
- (5) FEDERAL FUNDS.---The term “federal funds” means a sum of money or other resources derived from U.S. taxpayers, which the U.S. government may provide to companies through government grants or loans, or through the terms of a contract with the federal government, or through the Emergency Economic Stabilization Act of 2008 “Troubled Asset Relief Program” or other similar and related transaction vehicles
- (6) GOVERNMENT OF IRAN.---The term “Government of Iran” includes the Government of Iran, any political subdivision, agency, or instrumentality thereof, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran.
- (7) IRAN.---The term “Iran” means the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements.