DESCRIPTION OF AN ORIGINAL BILL TITLED
THE “IRAN SANCTIONS ACT OF 2008”

Scheduled for Markup
by the
Senate Committee on Finance
on June 18, 2008

I. Introduction

The Senate Committee on Finance has scheduled a markup of an original bill titled the “Iran Sanctions Act of 2008.” This document provides a description of the bill.

II. Trade and Economic Sanctions Relating to Iran

A. Trade Sanctions

1. Expansion of export and import bans on goods to and from Iran

Present Law

Current law prohibits the direct or indirect exportation of U.S.-origin goods to Iran, and the direct or indirect importation of Iranian-origin goods into the United States. These prohibitions are set forth in Executive Orders issued by the President pursuant to his authority under the International Emergency Economic Powers Act (“IEEPA”). Notwithstanding the export ban, the President has granted licenses that permit the exportation of U.S. civilian aircraft spare parts; agricultural commodities including food and food products; and medicine and medical devices. Additionally, information materials including publications, films, posters, and other materials may be exported without a license. And donations of articles intended to relieve human suffering, such as food, clothing, and medicine are permitted. Exceptions in existing law also permit Iranian nuts, dried fruits, carpets, and caviar to be imported into the United States.

Description of Proposal

The proposal codifies the direct and indirect export ban on U.S. goods destined for Iran. Additionally, the proposal tightens the export ban so that only agricultural commodities, medicine and medical devices, humanitarian assistance provided to relieve human suffering, and information materials are specifically excepted. The proposal defines agricultural commodities as any agricultural commodity, food, feed, fiber, or livestock. Medicine is defined as articles recognized in the official United States Pharmacopoeia, Homeopathic Pharmacopoeia of the United States, or official National Formulary; articles intended for use in the diagnosis, mitigation, cure, treatment, or prevention of disease in man or animals; articles other than food intended to affect the structure or function of the body of man or animals; and articles intended for use as a component of any of the above articles. Medical devices are defined as an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, which is (1) recognized in the official United States Pharmacopoeia, Homeopathic Pharmacopoeia of the United States, or official National Formulary; (2) intended for use in the diagnosis, mitigation, cure, treatment, or prevention of disease in man or animals; or (3) intended to affect the structure or function of the body of man or animals. The proposal also codifies the direct and indirect import ban on Iranian goods destined for the United States. The proposal does not provide any specific exceptions for the import ban. Under the proposal, the President may waive the export and import prohibitions if he determines that such a waiver is in the national interest of the United States.

2. World Trade Organization accession of Iran

Present Law

Iran is not presently a member of the World Trade Organization ("WTO"), nor does the United States provide any trade preferences to Iran. Under U.S. law, Iran may not benefit from U.S. trade preference programs while it is designated by the State Department as a state sponsor of terrorism. U.S. law does not currently prohibit the United States Trade Representative or other Federal government officials from aiding in the WTO accession of Iran.

Description of Proposal

The proposal prohibits the United States Trade Representative or any other Federal official from taking action that would extend trade preferences or lead to the WTO accession of Iran. The President may waive this prohibition if he determines that such a waiver would be in the national interest of the United States.

B. Financial Sanctions

1. Freezing of assets of certain Iranian persons

Present Law

Under current law, the President has frozen the assets under U.S. jurisdiction of Iranian persons designated as (1) proliferators of weapons of mass destruction and their supporters; or (2) terrorists and their supporters. To date, the President has frozen the assets of several Iranian governmental, military, and quasi-governmental assets, as well as those of Iranian individuals.

Description of Proposal

The proposal removes the President's discretion to freeze the assets under U.S. jurisdiction of certain persons, and instead requires the President to freeze the funds and assets under U.S. jurisdiction of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran if such persons are subject to sanctions under IEEPA or other provisions of U.S. law. Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran include employees, representatives, or affiliates of Iran's Foreign Ministry, Ministry of Intelligence and Security, Revolutionary Guards Corp, Crusade for Reconstruction, Qods (Jerusalem) Forces, Interior Ministry, Foundation for the Oppressed and Disabled, Prophet's Foundation, June 5th Foundation, Martyr's Foundation, Islamic Propagation Organization, and Ministry of Islamic Guidance. The President may waive this requirement if he determines that such a waiver would be in the national interest of the United States.

2. U.S. parent company liability for violations of sanctions by foreign entities

Present Law

Under current law, foreign subsidiaries of U.S. companies may invest in Iran if the foreign subsidiary is independent of the U.S. parent company.

Description of Proposal

The proposal subjects U.S. parent companies to sanctions if the parent company knowingly participates in violations of U.S. sanctions laws by its foreign subsidiaries. A parent company is defined as a U.S. person (1) that owns, directly or indirectly, more than 50 percent of the equity interest in another entity; (2) whose board members or employees hold a majority of board seats of another entity; or (3) that controls or is able to control the actions, policies, or personnel decisions of another entity. A U.S. person is defined as (1) a natural person who is a U.S. citizen or who owes permanent allegiance to the United States; or (2) an entity that is organized under the laws of the United States, a state or territory of the United States, or the District of Columbia, if U.S. natural persons own, directly or indirectly, more than 50 percent of the outstanding stock or interest in that entity. The President may waive this requirement if he determines that such a waiver would be in the national interest of the United States.

III. Nuclear Energy and Cooperation

A. U.S. – Russia Nuclear Cooperation

Present Law

On May 6, 2008, the United States and Russia concluded a nuclear cooperation agreement ("123 Agreement") pursuant to section 123 of the Atomic Energy Act. Once implemented, the 123 Agreement will permit the United States to license exports of nuclear material, facilities, components, or other nuclear-related goods and services to Russia. The Bush Administration submitted the U.S. – Russia 123 Agreement to Congress on May 12, 2008. Under the Atomic Energy Act, the 123 Agreement will enter into force unless Congress passes a disapproval resolution within 90 days.

Description of Proposal

The proposal provides that the Untied States may not enter into a 123 Agreement with Russia. The proposal further provides that the United States may not issue licenses for the export of any nuclear material, facilities, components, or other goods, services, or technology that fall within the scope of the 123 Agreement. Moreover, the United States may not approve the direct or indirect transfer or retransfer to Russia of any nuclear material, facilities, components, or other goods, services, or technology that fall within the scope of the 123 Agreement. These prohibitions remain in place unless the President certifies to Congress that (1) Russia has suspended all nuclear assistance to Iran and all transfers of conventional weapons and missiles to Iran; or (2) Iran has completely, verifiably, and irreversibly dismantled all nuclear enrichment-related and reprocessing-related programs.

B. International Fuel Bank

Current Law

Current law authorized the Department of Energy to contribute $50,000,000 to the International Atomic Energy Agency ("IAEA") for the creation of a nuclear fuel bank. The nuclear fuel bank would stockpile low-enriched uranium to supply nuclear fuel for peaceful means.

Description of Proposal

The proposal expresses the sense of Congress that the United States should support the creation of an international nuclear fuel bank by the IAEA. The proposal further expresses the sense of Congress that the President should ensure that the fuel bank has multilateral support, is under IAEA control, and has necessary safeguards in place prior to making a contribution on behalf of the United States. The proposal also requires the President to report to the Senate Foreign Relations and House Foreign Affairs committees on the activities of the United States to support the establishment of an assured supply of nuclear fuel for peaceful purposes, which may include a report on efforts by the United States to support the nuclear fuel bank.

IV. World Bank Contributions

Present Law

Currently, the Treasury Department is required to oppose World Bank loans to countries that the Secretary of State identifies as supporting international terrorism, or that engages in a pattern of gross violations of internationally recognized human rights. The State Department designated Iran as a state sponsor of terrorism on January 19, 1984. Additionally, the State Department has identified Iran as having a poor human rights record and engaging in systematic violations of human rights. Thus, the United States has opposed World Bank loans to Iran.

Description of Proposal

The proposal provides that for new loans granted to Iran after 2008, the United States must cut its contributions to the World Bank by an amount that is proportional to the total amount of loans the World Bank provided to Iran. The proposal further authorizes the money made available as a result of the United States' reduction in contributions to the World Bank to be appropriated to the U.S. Agency for International Development for its Child Survival and Health Programs. The President may waive this requirement if he determines that such a waiver would be in the national interest of the United States.

V. Exchange Programs with the People of Iran

Current Law

Current law authorizes $431,790,000 for educational and cultural exchange programs, but does not specifically authorize any of this money to be used for cultural and exchange programs with Iran.

Description of Proposal

The proposal authorizes the President to carry out exchange programs with the people of Iran, with a focus on exchange programs with Iranian youth. The proposal further specifically authorizes $15,000,000 to carry out these exchange programs for fiscal year 2009.

VI. Increased Capacity for Terrorist Financing

Current Law

In fiscal year 2008, the Department of Treasury's Office of Terrorism and Financial Intelligence (TFI), of which the Office of Foreign Asset Controls is part, was appropriated $56,775,000. The Department of Treasury's Financial Crimes Enforcement Center (FinCEN) was appropriated $85,844,000. TFI and FinCEN play a critical role in administering U.S. sanctions laws.

Description of Proposal

The proposal authorizes $61,712,000 to be appropriated to the TFI for fiscal year 2009. The proposal further authorizes $91,335,000 to be appropriated to the Department of Treasury's FinCEN for fiscal year 2009.

VII. Radio Broadcasting to Iran

Current Law

The Broadcasting Board of Governors currently operates Radio Farda, which is a joint project of Radio Free Europe and Voice of America. Radio Farda is a 24 hour a day, 7 day a week channel that broadcasts news, information, and Persian and Western music to Iran.

Description of Proposal

The proposal states that the Broadcasting Board of Governors should devote a greater proportion of Radio Farda's programming to news and analysis.

VIII. Reporting Requirements

A. Reports involving foreign entities

1. Foreign investment in Iran

Current Law

The Iran Sanctions Act of 1996 (“ISA”) requires the President to impose sanctions on a U.S. or foreign natural person if the President determines that the person invested $20,000,000 or more in Iran’s petroleum or natural gas sectors. A person is defined as a U.S. or foreign natural person, corporation, business association, partnership, society, trust, any other nongovernmental entity operating as a business enterprise, or a successor to the entities listed above.

Description of Proposal

Although foreign companies have invested more than $20,000,000 a year in Iran’s petroleum and natural gas sectors, the President has never imposed sanctions on such companies pursuant to the ISA. The proposal requires the President to report to the Senate Finance, Banking, and Foreign Relations Committees and House Ways and Means, Financial Services, and Foreign Affairs Committees 180 days after enactment of this Act, and every 180 days thereafter, any foreign investments made in Iran’s energy sector since January 1, 2008 and the determination of the President on whether such investments qualify as sanctionable offenses under the ISA.

The current proposal also expands the definition of “person” to include a financial institution; insurer; underwriter; guarantor; other business organization, including any foreign subsidiary, parent, or affiliate of the foregoing; and an export credit agency.

2. Export Credits

Current Law

Current law does not require the Secretary of Treasury to report to Congress on export credits issued by foreign banks to persons investing in Iran’s energy sector.

Description of Proposal

The proposal requires the Secretary of Treasury to report to the Senate Finance, Banking, and Foreign Relations Committees and House Ways and Means, Financial Services, and Foreign Affairs Committees not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, on export credits issued by foreign banks to persons investing in Iran’s energy sector, and any fines, restrictions, or other actions taken by the President to discourage such export credit guarantees.

B. Report involving U.S. entities

1. Report on U.S. entities that invest in Iran

Current Law

The President is not currently required to provide to Congress a report on companies that have or conduct business in the United States that also invest in Iran.

Description of Proposal

The proposal requires the President to provide Congress with a report not later than 180 days after enactment of this Act, and annually thereafter, on the names of persons that have or conduct business in the United States and also invest in Iran. The President must also provide the amount of each such investment.

2. Thrift Savings Plan

Current Law

The Executive Director of the Federal Retirement Thrift Savings Board is not currently required to report to Congress on whether any investments from the Thrift Savings Plan are in entities that invest in Iran.

Description of Proposal

The proposal includes the sense of Congress that the Executive Director of the Thrift Savings Board should report to the Senate Finance, Banking, and Foreign Relations Committees and House of Representatives Ways and Means, Financial Services, and Foreign Affairs Committees any investments from the Thrift Savings Plan that are in entities that invest in Iran.

IX. Termination and Sunset

A. Termination

The Act terminates if the President determines and certifies to the Senate Finance, Banking, and Foreign Relations Committees and House of Representatives Ways and Means, Financial Services, and Foreign Affairs Committees that Iran has completely, verifiably, and irreversibly dismantled all nuclear enrichment and reprocessing-related programs.

B. Sunset

The Act provides that all provisions in the Act shall cease to have force and effect five years after the date of enactment.