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IRAN REFINED PETROLEUM SANCTIONS ACT OF 2009

NOVEMBER 19, 2009.—Ordered to be printed

Mr. BERMAN, from the Committee on Foreign Affairs, submitted the following

R E P O R T

[To accompany H.R. 2194]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 2194) to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

TABLE OF CONTENTS

THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iran Refined Petroleum Sanctions Act of 2009".

SEC. 2. FINDINGS; SENSE OF CONGRESS; STATEMENT OF POLICY.

(a) FINDINGS.—Congress finds the following:

(1) The illicit nuclear activities of the Government of Iran—combined with its development of unconventional weapons and ballistic missiles, and support for international terrorism—represent a serious threat to the security of the United States and U.S. allies in Europe, the Middle East, and around the world.

(2) The United States and other responsible nations have a vital interest in working together to prevent the Government of Iran from acquiring a nuclear weapons capability.

(3) The International Atomic Energy Agency has repeatedly called attention to Iran's unlawful nuclear activities, and, as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage the Government of Iran to suspend those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (commonly known as the "Nuclear Non-Proliferation Treaty").

(4) As a presidential candidate, then-Senator Obama stated that additional sanctions, especially those targeting Iran's dependence on imported refined petroleum, may help to persuade the Government of Iran to abandon its illicit nuclear activities.

(5) On October 7, 2008, then-Senator Obama stated, "Iran right now imports gasoline, even though it's an oil producer, because its oil infrastructure has broken down. If we can prevent them from importing the gasoline that they need and the refined petroleum products, that starts changing their cost-benefit analysis. That starts putting the squeeze on them.".

(6) On June 4, 2008, then-Senator Obama stated, "We should work with Europe, Japan, and the Gulf states to find every avenue outside the U.N. to isolate the Iranian regime—from cutting off loan guarantees and expanding financial sanctions, to banning the export of refined petroleum to Iran.".

(7) Major European allies, including the United Kingdom, France, and Germany, have advocated that sanctions be significantly toughened should international diplomatic efforts fail to achieve verifiable suspension of Iran's uranium enrichment program and an end to its nuclear weapons program and other illicit nuclear activities.

(8) The serious and urgent nature of the threat from Iran demands that the United States work together with U.S. allies to do everything possible—diplomatically, politically, and economically—to prevent Iran from acquiring a nuclear weapons capability.

(9) The human rights situation in Iran has steadily deteriorated in 2009, as punctuated by the transparent fraud that occurred on June 12, the brutal repression and murder, arbitrary arrests, and show trials of peaceful dissidents, and ongoing suppression of freedom of expression.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) international diplomatic efforts to address Iran's illicit nuclear efforts, unconventional and ballistic missile development programs, and support for international terrorism are more likely to be effective if the President is empowered with the explicit authority to impose additional sanctions on the Government of Iran;

(2) the concerns of the United States regarding Iran are strictly the result of the actions of the Government of Iran;

(3) the revelation in September 2009 that Iran is developing a secret uranium enrichment site on an Islamic Revolutionary Guard Corps base near Qom, which appears to have no civilian application, highlights the urgency for Iran to fully disclose the full nature of its nuclear program, including any other secret locations, and provide the International Atomic Energy Agency (IAEA) unfettered access to its facilities pursuant to Iran's legal obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and Iran's Safeguards Agreement with the IAEA;

(4) because of its involvement in Iran's nuclear program and other destabilizing activities, the President should impose sanctions, including the full range of sanctions otherwise applicable to Iran, on any individual or entity that is an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps or is an individual serving as a representative of the Islamic Revolutionary Guard Corps, or on any person that has conducted any commercial transaction or financial transaction with such entities;

(5) Government to Government agreements with Iran to provide the regime with refined petroleum products, such as the September 2009 agreement under which the Government of Venezuela committed to provide 20,000 barrels of gasoline per day to Iran, undermine efforts to pressure Iran to suspend its nuclear weapons program and cease all enrichment activities; and

(6) the people of the United States—

(A) have feelings of friendship for the people of Iran; and

(B) hold the people of Iran, their culture, and their ancient and rich history in the highest esteem.

(c) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to prevent Iran from achieving the capability to make nuclear weapons, including by supporting international diplomatic efforts to halt Iran's uranium enrichment program;

(2) to fully implement and enforce the Iran Sanctions Act of 1996 as a means of encouraging foreign governments to—

(A) direct state-owned entities to cease all investment in, and support of, Iran's energy sector and all exports of refined petroleum products to Iran; and

(B) require private entities based in their territories to cease all investment in, and support of, Iran's energy sector and all exports of refined petroleum products to Iran;

(3) to impose sanctions on—

(A) the Central Bank of Iran, and any other financial institution in Iran that is engaged in proliferation activities or support of terrorist groups, and

(B) any other financial institution that conducts financial transactions with the Central Bank of Iran or with another financial institution described in subparagraph (A),

including through the use of Executive Orders 13224, 13382, and 13438 and United Nations Security Council Resolutions 1737, 1747, 1803, and 1835;

(4) to persuade the allies of the United States and other countries to take appropriate measures to deny access to the international financial system by Iranian banks and financial institutions involved in proliferation activities or support of terrorist groups;

(5) to support all Iranian citizens who embrace the values of freedom, human rights, civil liberties, and the rule of law; and

(6) for the Secretary of State to make every effort to assist United States citizens held hostage in Iran at any time during the period beginning on November 4, 1979 and ending on January 20, 1981, and their survivors in matters of compensation related to such citizens' detention.

SEC. 3. AMENDMENTS TO THE IRAN SANCTIONS ACT OF 1996.

(a) EXPANSION OF SANCTIONS.—Section 5(a) of the Iran Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

"(a) SANCTIONS WITH RESPECT TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN AND EXPORTATION OF REFINED PETROLEUM TO IRAN.—

"(1) DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN.—

"(A) INVESTMENT.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6(a) if the President determines that a person has knowingly, on or after the date of the enactment of this Act, made an investment of $20,000,000 or more (or any combination of investments of at least $5,000,000 each, which in the aggregate equals or exceeds $20,000,000 in any 12-month period), that directly and significantly contributed to the enhancement of Iran's ability to develop petroleum resources of Iran.

"(B) PRODUCTION OF REFINED PETROLEUM PRODUCTS.—Except as provided in subsection (f), the President shall impose the sanctions described in section 6(b) if the President determines that a person knowingly sells, leases, or provides to Iran any goods, services, technology, information, or support, or enters into a contract to sell, lease, or provide to Iran any goods, services, technology, information, or support, that would allow Iran to maintain or expand its domestic production of refined petroleum products, including any assistance in the construction, modernization, or repair of refineries that make refined petroleum products, if—

"(i) the value of the goods, services, technology, information, or support provided in such sale, lease, or provision, or to be provided in such contract, exceeds $200,000; or

"(ii) the value of the goods, services, technology, information, or support provided in any combination of such sales, leases, or provision

in any 12-month period, or to be provided under contracts entered into in any 12-month period, exceeds $500,000.

"(2) EXPORTATION OF REFINED PETROLEUM PRODUCTS TO IRAN.—

"(A) IN GENERAL.—Except as provided in subsection (f), the President shall impose the sanctions described in section 6(b) if the President determines that a person knowingly provides Iran with refined petroleum products or engages in any of the activities described in subparagraph (B), if—

"(i) the value of such products or of the goods, services, technology, information, or support provided or to be provided in connection with such activity exceeds $200,000; or

"(ii) the value of such products, or of the goods, services, technology, information, or support, provided or to be provided in connection with any combination of providing such products or such activities, in any 12-month period exceeds $500,000.

"(B) ACTIVITIES DESCRIBED.—The activities referred to in subparagraph (A) are the following:

"(i) Providing ships, vehicles, or other means of transportation to deliver refined petroleum products to Iran, or providing services relating to the shipping or other transportation of refined petroleum products to Iran.

"(ii) Underwriting or otherwise providing insurance or reinsurance for an activity described in clause (i).

"(iii) Financing or brokering an activity described in clause (i).".

(b) DESCRIPTION OF SANCTIONS.—Section 6 of such Act is amended—

(1) by striking "The sanctions to be imposed on a sanctioned person under section 5 are as follows:" and inserting the following:

"(a) IN GENERAL.—The sanctions to be imposed on a sanctioned person under subsections (a)(1)(A) and (b)(1) of section 5 are as follows:";

(2) in paragraph (4), by striking "section 5" each place it appears and inserting "subsections (a)(1)(A) and (b) of section 5"; and

(3) by adding at the end the following:

"(b) ADDITIONAL MANDATORY SANCTIONS.—The sanctions to be imposed on a sanctioned person under paragraphs (1)(B) and (2) of section 5(a) are as follows:

"(1) FOREIGN EXCHANGE.—The President shall prohibit any transactions in foreign exchange by the sanctioned person.

"(2) BANKING TRANSACTIONS.—The President shall prohibit any transfers of credit or payments between, by, through, or to any financial institution, to the extent that such transfers or payments involve any interest of the sanctioned person.

"(3) PROPERTY TRANSACTIONS.—The President shall prohibit any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation, or exportation of, dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which the sanctioned person has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States.

"(c) ADDITIONAL MEASURE RELATING TO REFINED PETROLEUM PRODUCTS.—

"(1) IN GENERAL.—The head of each executive agency shall ensure that each contract with a person entered into by such executive agency for the procurement of goods or services, or agreement for the use of Federal funds as part of a grant, loan, or loan guarantee to a person, includes a clause that requires the person to certify to the contracting officer or other appropriate official of such agency that the person does not conduct any activity described in paragraph (1)(B) or (2) of section 5(a).

"(2) REMEDIES.—

"(A) IN GENERAL.—If the head of the executive agency determines that such person has submitted a false certification under paragraph (1) after the date on which the Federal Acquisition Regulation is revised to implement the requirements of this subsection, the head of an executive agency may terminate a contract, or agreement described in paragraph (1), with such person or debar or suspend such person from eligibility for Federal contracts or such agreements for a period not to exceed 15 years.

"(B) INCLUSION ON LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS.—The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation issued under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) each person that is debarred, suspended, proposed for debarment or suspension, or de-

cleared ineligible by the head of an executive agency on the basis of a determination of a false certification under subparagraph (A).

"(C) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a determination of a false certification under paragraph (1).

"(3) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—Not later than 120 days after the date of the enactment of the Iran Refined Petroleum Sanctions Act of 2009, the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall be revised to provide for the implementation of the requirements of this subsection.".

(c) ADDITIONAL MANDATORY SANCTIONS RELATING TO TRANSFER OF NUCLEAR TECHNOLOGY.—Section 5(b) of the Iran Sanctions Act of 1996 is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving such paragraphs 2 ems to the right;

(2) by striking "The President shall impose" and inserting the following:

"(1) IN GENERAL.—The President shall impose";

(3) by striking "section 6" and inserting "section 6(a)"; and

(4) by adding at the end the following:

"(2) ADDITIONAL SANCTION.—

"(A) RESTRICTION.—In any case in which a person is subject to sanctions under paragraph (1) because of an activity described in such paragraph that relates to the acquisition or development of nuclear weapons or related technology or of missiles or other advanced conventional weapons that are capable of delivering a nuclear weapon, then notwithstanding any other provision of law, the following measures shall apply with respect to the country that has jurisdiction over such person, unless the President determines and notifies the appropriate congressional committees that the government of such country has taken, or is taking, effective actions to penalize such person and to prevent a reoccurrence of such activity in the future:

"(i) No agreement for cooperation between the United States and the government of such country may be submitted to the President or to Congress pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), or may enter into force.

"(ii) No license may be issued for the export, and no approval may be given for the transfer or retransfer, directly or indirectly, to such country of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to an agreement to cooperation.

"(B) CONSTRUCTION.—The restrictions in subparagraph (A) shall apply in addition to all other applicable procedures, requirements, and restrictions contained in the Atomic Energy Act of 1954 and other laws.

"(C) DEFINITION.—In this paragraph, the term 'agreement for cooperation' has the meaning given that term in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)).".

(d) STRENGTHENING OF WAIVER AUTHORITY AND SANCTIONS IMPLEMENTATION.—

(1) INVESTIGATIONS.—Section 4(f) of the Iran Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(A) in paragraph (1)—

(i) by striking "should initiate" and inserting "shall immediately initiate";

(ii) by inserting "or 5(b)" after "section 5(a)"; and

(iii) by striking "as described in such section" and inserting "as described in section 5(a)(1) or other activity described in section 5(a)(2) or 5(b) (as the case may be)"; and

(B) in paragraph (2), by striking "should determine, pursuant to section 5(a), if a person has engaged in investment activity in Iran as described in such section" and inserting "shall determine, pursuant to section 5(a) or (b) (as the case may be), if a person has engaged in investment activity in Iran as described in section 5(a)(1) or other activity described in section 5(a)(2) or 5(b) (as the case may be)".

(2) GENERAL WAIVER AUTHORITY.—Section 9(c) of the Iran Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(A) in paragraph (1)—

(i) by inserting after "on a person described in section 5(c)," the following: "or on a country described in section 5(b)(2)(A) (if the President certifies to the appropriate congressional committees that the President

is unable to make the determination described in such section 5(b)(2)(A) with respect to the government of that country),"; and

(ii) by striking "important to the national interest of the United States" and inserting "vital to the national security interest of the United States"; and

(B) in paragraph (2)—

(i) in subparagraphs (A), (B), and (D), by striking "or (b)" each place it appears and inserting "or (b)(1)"; and

(ii) by amending subparagraph (C) to read as follows:

"(C) an estimate of the significance of the provision of the items described in paragraph (1) or (2) of section 5(a) or section 5(b)(1) to Iran's ability to develop its petroleum resources, to maintain or expand its domestic production of refined petroleum products, to import refined petroleum products, or to develop its weapons of mass destruction or other military capabilities (as the case may be); and".

(e) REPORTS ON UNITED STATES EFFORTS TO CURTAIL CERTAIN BUSINESS AND OTHER TRANSACTIONS RELATING TO IRAN.—Section 10 of such Act is amended—

(1) in subsection (a), by amending paragraph (4) to read as follows:

"(4) Iran's use in the Middle East, the Western Hemisphere, Africa, and other regions, of Iranian diplomats and representatives of other government and military or quasi-governmental institutions or proxies of Iran, including, but not limited to, Hezbollah, to promote acts of international terrorism or to develop or sustain Iran's nuclear, chemical, biological, and missile weapons programs."; and

(2) by adding at the end the following:

"(d) REPORTS ON CERTAIN BUSINESS AND OTHER TRANSACTIONS RELATING TO IRAN.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of the Iran Refined Petroleum Sanctions Act of 2009, and every 6 months thereafter, the President shall submit a report to the appropriate congressional committees regarding any person who has—

"(A) provided Iran with refined petroleum products;

"(B) sold, leased, or provided to Iran any goods, services, or technology that would allow Iran to maintain or expand its domestic production of refined petroleum products; or

"(C) engaged in any activity that could contribute to the enhancement of Iran's ability to import refined petroleum products.

"(2) DESCRIPTION.—For each activity set forth in subparagraphs (A) through (C) of paragraph (1), the President shall provide a complete and detailed description of such activity, including—

"(A) the date or dates of such activity;

"(B) the name of any persons who participated or invested in or facilitated such activity;

"(C) the United States domiciliary of the persons referred to in subparagraph (B);

"(D) any Federal Government contracts to which the persons referred to in subparagraph (B) are parties; and

"(E) the steps taken by the United States to respond to such activity.

"(3) ADDITIONAL INFORMATION.—The report required by this subsection shall also include a list of—

"(A) any person that the President determines is an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps or is an individual serving as a representative of the Islamic Revolutionary Guard Corps;

"(B) any person that the President determines has knowingly provided material support to the Islamic Revolutionary Guard Corps or an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps; and

"(C) any person who has conducted any commercial transaction or financial transaction with the Islamic Revolutionary Guards Corps or an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps.

"(4) FORM OF REPORTS; PUBLICATION.—The reports required under this subsection shall be—

"(A) submitted in unclassified form, but may contain a classified annex; and

"(B) published in the Federal Register.

"(e) REPORTS ON GLOBAL TRADE RELATING TO IRAN.—Not later than one year after the date of the enactment of the Iran Refined Petroleum Sanctions Act of 2009

and annually thereafter, the President shall submit to the appropriate congressional committees a report, with respect to the immediately preceding 12-month period, on the dollar value amount of trade, including in the energy sector, between Iran and each country maintaining membership in the Group of Twenty Finance Ministers and Central Bank Governors.".

(f) CLARIFICATION AND EXPANSION OF DEFINITIONS.—Section 14 of such Act is amended—

(1) in paragraph (13)(B)—

(A) by inserting "financial institution, insurer, underwriter, guarantor, any other business organization, including any foreign subsidiary, parent, or affiliate of such a business organization," after "trust,"; and

(B) by inserting ", such as an export credit agency" before the semicolon at the end;

(2) by redesignating paragraphs (15) and (16) as paragraphs (17) and (18), respectively; and

(3) by striking paragraph (14) and inserting the following:

"(14) KNOWINGLY.—The term 'knowingly' means—

"(A) having actual knowledge; or

"(B) having the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

"(15) PETROLEUM RESOURCES.—The term 'petroleum resources' includes petroleum, oil or liquefied natural gas, oil or liquefied natural gas tankers, and products used to construct or maintain pipelines used to transport oil or compressed or liquefied natural gas.

"(16) REFINED PETROLEUM PRODUCTS.—The term 'refined petroleum products' means gasoline, kerosene, diesel fuel, residual fuel oil, and distillates and other goods classified in headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States.".

(g) TERMINATION OF CERTAIN PROVISIONS.—Section 8 of the Iran Sanctions Act of 1996 is amended—

(1) by striking "The requirement under section 5(a)" and inserting "(a) SANCTIONS RELATING TO INVESTMENT.—The requirement under section 5(a)(1)(A)";

(2) by striking "with respect to Iran"; and

(3) by adding at the end the following:

"(b) REFINED PETROLEUM PRODUCTS.—The requirements under paragraphs (1)(B) and (2) of section 5(a) and section 6(b) to impose sanctions shall no longer have force or effect if the President determines and certifies to the appropriate congressional committees that Iran—

"(1) has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology; and

"(2) has ceased nuclear-related activities, including uranium enrichment, that would facilitate the efforts described in paragraph (1).".

(h) EXTENSION OF ACT.—Section 13(b) of the Iran Sanctions Act of 1996 is amended by striking "2011" and inserting "2016".

(i) TECHNICAL AMENDMENTS.—

(1) MULTILATERAL REGIME.—Section 4 of such Act is amended—

(A) in subsection (b)(2), by striking "(in addition to that provided in subsection (d))"; and

(B) by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(2) REFERENCE TO COMMITTEE ON FOREIGN AFFAIRS.—Section 14(2) of such Act is amended by striking "International Relations" and inserting "Foreign Affairs".

(3) CONFORMING AMENDMENTS.—(A) Section 5(c)(1) of such Act is amended by striking "or (b)" and inserting "or (b)(1)".

(B) Section 9(a) of such Act is amended by striking "or 5(b)" each place it appears and inserting "or 5(b)(1)".

SEC. 4. EFFECTIVE DATE; RULE OF CONSTRUCTION.

(a) IN GENERAL.—The amendments made by this Act shall take effect upon the expiration of the 60-day period beginning on the date of the enactment of this Act, except that—

(1) paragraphs (1) and (2) of section 5(a), section 5(b)(2), and section 6(b), of the Iran Sanctions Act of 1996, as amended by this Act, shall apply to conduct engaged in on or after October 28, 2009, notwithstanding section 5(f)(3) of the Iran Sanctions Act of 1996; and

(2) the amendments made by subsection (d) of section 3 of this Act shall apply with respect to conduct engaged in before, on, or after the date of the enactment of this Act.

(b) RULE OF CONSTRUCTION.—

(1) EXISTING SANCTIONS NOT AFFECTED.—The amendments made by subsections (a) and (b) of section 3 of this Act shall not be construed to affect the requirements of section 5(a) of the Iran Sanctions Act of 1996 as in effect before the date of the enactment of this Act, and such requirements continue to apply, on and after such date of enactment, to conduct engaged in before October 28, 2009.

(2) WAIVER AUTHORITY.—The amendments made by subsection (d) of section 3 of this Act shall not be construed to affect any exercise of the authority under section 4(f) or section 9(c) of the Iran Sanctions Act of 1996 as in effect on the day before the date of the enactment of this Act.

SUMMARY AND PURPOSE

H.R. 2194, the Iran Refined Petroleum Sanctions Act of 2009 (IRPSA), amends the Iran Sanctions Act of 1996 to provide additional sanctions specifically related to Iran's production of refined petroleum products and the export to Iran of such products, among other measures. The purpose of the legislation is to pressure the Government of Iran to verifiably suspend, and ultimately dismantle its weapons-applicable nuclear program, including, but not exclusive to, the ceasing of all uranium enrichment activities through the application of targeted sanctions. The sanctions will terminate once the President determines that Iran has ceased its efforts to design, develop, manufacture or acquire a nuclear explosive device or related materials and technology, and has ceased nuclear-related activities, including uranium enrichment, that would facilitate such efforts.

BACKGROUND AND NEED FOR THE LEGISLATION

Iran poses a significant threat to the United States and our allies in the Middle East and elsewhere. Preventing Iran from acquiring weapons of mass destruction, in particular nuclear weapons, and ending its support for international terrorism are vital U.S. national security interests. This legislation is aimed at restricting economic activity that relies on refined petroleum products in Iran, thereby pressuring the Iranian regime to cease its nuclear program.

Iran's economy, and Iran's ability to influence events, is heavily dependent on the revenue derived from energy exports. Accordingly, most recent U.S. efforts to prevent Iran from acquiring nuclear weapons have sought to deter foreign investment in Iran's petroleum sector, thereby limiting Iran's energy sector profits. Legislatively, this goal was first embodied in the Iran and Libya Sanctions Act of 1996, P.L. 104–172 ("ILSA," now referred to as the Iran Sanctions Act, or "ISA"), which was passed in 1996 for a five-year period and has been renewed twice, in 2001 and 2006, for additional five-year periods. Although ISA was enacted more than a decade ago, no Administration has sanctioned a foreign entity for investing $20 million or more in Iran's energy sector, as specified in the legislation, despite several such investments. Indeed, on only one occasion, in 1998, the Administration made a determination regarding a sanctions-triggering investment, but the Administration waived sanctions against the offending persons. The Committee believes that because of the lack of enforcement of relevant enacted

sanctions, measures to date have not prevented or constrained Iran's efforts to pursue nuclear weapons.

Despite the Executive Branch's failure to fully implement the ISA, the legislation has made a positive contribution to United States national security. Arguably, the supply of capital to the Iranian petroleum sector has been constrained by the threat of sanctions. Further, by highlighting the threat from Iran, ISA has emerged as a deterrent to additional investment. For these reasons, in 2006 Congress extended ISA for five years.

Notwithstanding the additional costs imposed on Iran as a result of these sanctions and other measures, such as sanctions imposed by the United Nations Security Council, Iran's development of its nuclear program continues. Iran most likely did not possess a capacity to enrich uranium at the time the ISA became law in 1996, but the International Atomic Energy Agency (IAEA) now estimates that, in the interim, Iran has produced and stockpiled sufficient low-enriched uranium for one nuclear explosive device.

For these reasons, the Committee judged that additional and tougher sanctions are needed in order to persuade Iran to cease its nuclear program. IRPSA is an amendment to the ISA. Its fundamental purpose is to deny Iran the ability to acquire or produce nuclear weapons. The Committee seeks to achieve that goal through limiting the amount of refined petroleum that Iran is able to acquire or produce—especially gasoline for automobiles. Refined petroleum is seen as a critical vulnerability of the Iranian economy. Despite its position as one of the world's leading oil producers, it is estimated that Iran imports between 25 percent and 40 percent of its refined oil needs, due to its limited domestic refining capacity. Accordingly, IRPSA mandates sanctions on a foreign person who (1) knowingly facilitates Iran's domestic production of refined petroleum products, or (2) knowingly provides Iran with refined petroleum products or contributes to Iran's ability to import refined petroleum resources. Such persons would, in effect, be barred from doing business with the United States.

H.R. 2194 strengthens the ISA in the following ways:

(1) It closes existing loopholes regarding investigations of sanctionable activities and subsequent determinations. It requires the President to investigate a person upon receipt of credible information that such person is engaged in sanctionable activity and to make a determination within 180 days of commencing such an investigation. Currently, the President is not required to commence or conclude an investigation, or even to make a determination regarding sanctionable activities.

(2) It mandates a new category of sanctions against persons engaged in assisting Iran's production of refined petroleum products and in exporting such products to Iran, not just persons who make investments that enhance Iran's ability to develop petroleum resources.

IRPSA is the most recent legislative effort to tighten sanctions on foreign companies doing significant business with Iran for the purpose, in whole or in part, of bringing Iran's nuclear program to a complete, verifiable, and irreversible halt.

U.S. individuals and companies have been prohibited from investing in Iran's petroleum sector since Executive Order 12957 was issued on March 15, 1995, by President William J. Clinton as a fol-

low-on to his Administration's assessment that "the actions and policies of the Government of Iran constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States." The White House spokesman at that time, Michael McCurry, made clear that the objectionable activities were Iran's pursuit of weapons of mass destruction, its support of international terrorism, and its efforts to undermine the Middle East peace process. Responding to the same concerns, a subsequent executive order, E.O. 12959, issued on May 8, 1995, banned all "new investment" in Iran by U.S. individuals and companies. The same executive order banned virtually all trade with Iran. In conjunction with the latter executive order, then-Secretary of State Warren Christopher warned the international community that the path Iran was following was a mirror image of the steps taken by other nations that had sought nuclear weapons capabilities. With the U.S. having voluntarily removed itself from the Iran market, Congress passed ILSA in 1996 to encourage foreign persons to withdraw from the Iranian market. On August 3, 2001, President George W. Bush signed into law the "ILSA Extension Act of 2001" (P.L. 107–24).

In September 2006, to further strengthen sanctions targeting foreign investment in Iran's energy sector, Congress passed the "Iran Freedom Support Act" (IFSA), a bill subsequently signed into law (P.L. 109–293) by President George W. Bush. Among other provisions, the IFSA strengthened sanctions under ISA, including by raising certain waiver thresholds to 'vital to the national security interests of the United States,' by enlarging the scope of those who might be subject to sanctions, and by enhancing tools for using financial means to address Iran's activities of concern. Another such effort was H.R.1400, the "Iran Counter-Proliferation Act of 2007," which passed the House in September 2007, but did not become law. A key provision of that bill eliminated the President's ability to waive sanctions under ISA. A modified version of that legislation, H.R. 7112, the "Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008," which did not include the waiver-removal provision, passed the House in September 2008, but did not become law.

The Committee believes that the imminence and seriousness of the threat posed to U.S. interests by Iran's nuclear weapons program warrants the enactment of H.R. 2194. The Committee further believes that the sanctions contained in IRPSA are necessary and proportional, as they are exclusively tied to Iran's nuclear program. The Act specifically provides that the additional sanctions shall terminate once the President certifies that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology; and has ceased nuclear-related activities that would facilitate such efforts. By strengthening the underlying Act, the Committee recognizes the totality of the threat that Iran poses to the United States, Israel, and other U.S. allies.

The Committee urges friends and allies of the United States to adopt similar measures and follow the U.S. lead in cutting off virtually all economic relations with Iran until that country terminates its nuclear program. In the 1990s, many U.S. friends and allies who objected to ILSA asserted that Iran's nuclear efforts were

exclusively focused on the peaceful use of nuclear energy. Clearly, that is no longer the case. In this decade, revelations of secret Iranian nuclear-related facilities, as well as Iran's lack of cooperation with the IAEA and its refusal to comply with repeated UN Security Council demands that it suspend its uranium enrichment activities, have altered the Western world's attitude toward the Iranian nuclear issue. Few, if any, objective observers now dispute that Iran's nuclear program is military-related and represents a threat to global stability. All concur that Iran is pursuing its nuclear program in defiance of the demands of the international community. The Committee believes it is time for responsible nations to cease investing in Iran's energy industry in order to undermine its ability to finance its nuclear weapons.

HEARINGS

The Committee held two hearings directly related to the subject matter of the bill. A Full committee hearing took place on July 22, 2009, entitled, "Iran: Recent Developments and Implications for U.S. Policy," which explored Iran's ongoing nuclear program and U.S. efforts to contain that program. Witnesses included Patrick Clawson, Ph.D., Deputy Director for Research, the Washington Institute for Near East Policy; Suzanne Maloney, Ph.D., Senior Fellow, the Brookings Institution; Abbas Milani, Ph.D., Co-Director, Iran Democracy Project, Hoover Institution, Director, Iranian Studies, Stanford University; Ms. Karim Sadjadpour, Associate, Middle East Program, Carnegie Endowment for International Peace; Michael Rubin, Ph.D., Resident Scholar, the American Enterprise Institute; and Orde F. Kittrie, J.D., Professor of Law, Arizona State University.

The Subcommittee on Middle East and South Asia, in conjunction with the Subcommittees on Western Hemisphere Affairs and Terrorism, Nonproliferation, and Trade, held a hearing entitled "Iran in the Western Hemisphere," which took place on October 27, 2009. Witnesses included Mr. Eric Farnsworth, Vice President, Council of the Americas; Ms. Dina Siegel Vann, Director, Latino and Latin American Institute, American Jewish Committee; Mr. Douglas Farah, Senior Fellow, Financial Investigations and Transparency, International Assessment and Strategy Center; Mohsen M. Milani, Ph.D., Department of Government & International Affairs, University of South Florida; and Norman A. Bailey, Ph.D., Consulting Economist, the Potomac Foundation.

COMMITTEE CONSIDERATION

On October 28, 2009, the Committee marked up H.R. 2194 and reported it favorably to the House, as amended, by a voice vote, with a quorum present.

VOTES OF THE COMMITTEE

There were no recorded votes during consideration of H.R. 2194.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings

and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with Clause 3(c)(2) of House Rule XIII, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 308(a) of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2194, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 18, 2009.

Hon. HOWARD L. BERMAN, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2194, the Iran Refined Petroleum Sanctions Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John Chin, who can be reached at 226–2840.

Sincerely,

DOUGLAS W. ELMENDORF

Enclosure

cc: Honorable Ileana Ros-Lehtinen
Ranking Member

H.R. 2194—Iran Refined Petroleum Sanctions Act of 2009

H.R. 2194 would amend the Iran Sanctions Act of 1996 in several ways. The bill would:

- Require the President to immediately investigate a person once the United States receives credible information that they have supplied refined petroleum products to Iran or supported the domestic production of such products in Iran, and to determine within 180 days whether that person has in fact engaged in such sanctionable activity in Iran,
- Prohibit any foreign exchange, banking, and property transaction with persons engaged in sanctionable activity in Iran unless the President determines it is vital to the national security interest of the United States, and
- Extend the act's sunset date from December 31, 2011, to December 31, 2016.

Enacting the bill would not affect direct spending or revenues. However, the bill would increase spending subject to appropriation to cover the costs of employing additional staff to gather and analyze information, provide advisory opinions, write reports, and administer blocked property. Based on information provided by the Department of State, CBO estimates that those costs would be about $2 million a year.

H.R. 2194 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

By extending and expanding sanctions under the Iran Sanctions Act, the bill could impose private-sector mandates as defined in UMRA on entities in the United States that engage in transactions with businesses or countries sanctioned under that act. The bill would require the President to impose certain sanctions on entities that invest more than a specified amount of money in businesses involved in Iran's petroleum industry. The bill also would require the President to sanction any entity that provides Iran with refined petroleum resources, or engages in an activity that could contribute to Iran's ability to import such resources. Efforts to expand or improve Iran's oil production or refinery capacity, any related shipments, and any technical or material support for its nuclear weapons or missile programs would also be sanctionable activities. Entities sanctioned for those actions would effectively be prohibited from engaging in business with persons in the United States.

Entities in the United States involved in transactions with entities sanctioned under the bill also would be required to cease those transactions. For example, vessel chartering companies as well as financial institutions engaged in transactions related to trade with sanctioned entities could be affected. The cost of the mandate would be the forgone net income from the prohibited transactions, and would depend on the specific sanctions applied by the President in the future. CBO has no basis for predicting when the President might impose such sanctions and thus cannot determine whether the aggregate cost of mandates would exceed the annual threshold established in UMRA for private-sector mandates ($139 million in 2009, adjusted annually for inflation).

On November 17, 2009, CBO transmitted a cost estimate for the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009 as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on October 29, 2009. Section 102 of that act is similar to H.R. 2194, but would not extend the sunset date of the Iran Sanctions Act of 1996 beyond December 31, 2011. Thus, CBO estimated that it would cost about $5 million to implement the previous legislative language over the 2010–2014 period, whereas CBO estimates that it would cost about $10 million to implement H.R. 2194 over those five years.

The CBO staff contacts for this estimate are John Chin for federal budget impacts and Marin Randall for impacts on the private sector. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Act is intended to deprive Iran of the funds it needs to pursue its nuclear program, including its efforts to acquire or develop and produce nuclear weapons.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d) (1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

NEW ADVISORY COMMITTEES

H.R. 2194 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 2194 does not apply to the Legislative Branch.

EARMARK IDENTIFICATION

H.R. 2194 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title.

This section provides that the short title of the Act is the "Iran Refined Petroleum Sanctions Act of 2009."

Section 2. Findings; Sense of Congress; Statement of Policy.

This section articulates the findings, Sense of Congress; and Statement of Policy that frame the basis for the additional sanctions and the purpose of the bill.

Subsection (a) finds that Iran's illicit nuclear activities—combined with its development of unconventional weapons and ballistic missiles, and support for international terrorism—represent a serious threat to the security of the United States and U.S. allies in Europe, the Middle East, and around the world.

Subsection (a) also finds: that the United States and other responsible nations have a vital interest in working together to prevent Iran from acquiring a nuclear weapons capability; that the International Atomic Energy Agency has repeatedly called attention to Iran's unlawful nuclear activities, and, as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage Iran to suspend those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (commonly known as the "Nuclear Non-Proliferation Treaty," or "NPT"); that, as a Presidential candidate in 2008, then-Senator Barack Obama stated that additional sanctions, especially those targeting Iran's dependence on imported refined petroleum, may help to persuade the Government of Iran to abandon its illicit nuclear activities; that, on October 7, 2008, then-Senator Obama stated that "Iran right now imports gasoline, even though it's an oil producer, because its oil infrastructure has broken down.

If we can prevent them from importing the gasoline that they need and the refined petroleum products, that starts changing their cost-benefit analysis. That starts putting the squeeze on them."; that, on June 4, 2008, then-Senator Obama stated, "We should work with Europe, Japan, and the Gulf states to find every avenue outside the U.N. to isolate the Iranian regime—from cutting off loan guarantees and expanding financial sanctions, to banning the export of refined petroleum to Iran."; that major European allies, including the United Kingdom, France, and Germany, have advocated that sanctions be significantly toughened should international diplomatic efforts fail to achieve verifiable suspension of Iran's uranium enrichment program and an end to its nuclear weapons program and other illicit nuclear activities; that the serious and urgent nature of the threat from Iran demands that the United States work together with U.S. allies to do everything possible—diplomatically, politically, and economically—to prevent Iran from acquiring a nuclear weapons capability; and that the human rights situation in Iran has steadily deteriorated in 2009, as punctuated by the transparent fraud that occurred in the June 12 elections, the brutal repression and murder, arbitrary arrests, and show trials of dissidents, and ongoing suppression of freedom of expression.

Subsection (b) expresses the Sense of Congress that international diplomatic efforts to address Iran's illicit nuclear efforts, unconventional and ballistic missile development programs, and support for international terrorism are more likely to be effective if the President is empowered with the explicit authority to impose additional sanctions on the Government of Iran.

Subsection (b) also expresses the Sense of Congress: that the concerns of the United States regarding Iran are strictly the result of the actions of the Government of Iran; that the revelation in September 2009 that Iran is developing a secret uranium enrichment site on an Islamic Revolutionary Guard Corps base near Qom, which appears to have no civilian application, highlights the urgency for Iran to fully disclose the nature of its nuclear program, including any other secret locations, and provide the International Atomic Energy Agency (IAEA) unfettered access to its facilities pursuant to Iran's legal obligations under the NPT and Iran's Safeguards Agreement with the IAEA; that, because of its involvement in Iran's nuclear program and other destabilizing activities, the President should impose sanctions, including the full range of sanctions otherwise applicable to Iran, on any individual or entity that is an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps or is an individual serving as a representative of the Islamic Revolutionary Guard Corps, or on any person that has conducted any commercial transaction or financial transaction with such entities; that government-to-government agreements with Iran to provide the regime with refined petroleum products, such as the September 2009 agreement under which the Government of Venezuela committed to provide 20,000 barrels of gasoline per day to Iran, undermine efforts to pressure Iran to suspend its nuclear weapons program and cease all enrichment activities; and that the people of the United States have feelings of friendship for the people of Iran and hold

the people of Iran, their culture, and their ancient and rich history in the highest esteem.

Subsection (c) asserts that it shall be the policy of the United States to prevent Iran from achieving the capability to make nuclear weapons, including by supporting international diplomatic efforts to halt Iran's uranium enrichment program.

Subsection (c) likewise asserts the following as United States policies: to fully implement and enforce the Iran Sanctions Act of 1996 as a means of encouraging foreign governments to direct state-owned entities to cease all investment in, and support of, Iran's energy sector and all exports of refined petroleum products to Iran; to fully implement and enforce the Iran Sanctions Act of 1996 as a means of encouraging foreign governments to require private entities based in their territories to cease all investment in, and support of, Iran's energy sector and all exports of refined petroleum products to Iran; to impose sanctions, including through the use of Executive Orders 13224, 13382, and 13438 and United Nations Security Council Resolutions 1737, 1747, 1803, and 1835, on the Central Bank of Iran and any other Iranian financial institution engaged in proliferation activities or support of terrorist groups; to impose sanctions, including through the use of Executive Orders 13224, 13382, and 13438 and United Nations Security Council Resolutions 1737, 1747, 1803, and 1835, on any financial institution that conducts financial transactions with the Central Bank of Iran or with another Iranian financial institution engaged in proliferation activities or support of terrorist groups; to persuade U.S. allies and other countries to take appropriate measures to deny access to the international financial system by Iranian banks and financial institutions involved in proliferation activities or support of terrorist groups; to support all Iranian citizens who embrace the values of freedom, human rights, civil liberties, and rule of law; and for the Secretary of State to make every effort to assist United States citizens held hostage in Iran at any time during the period beginning on November 4, 1979, and ending on January 20, 1981, and their survivors in matters of compensation related to such citizens' detention.

Section 3. Amendments to the Iran Sanctions Act of 1996.

Subsection (a) amends section 5(a) of the Iran Sanctions Act of 1996 to restate the requirement that the President shall impose two or more current sanctions under the Iran Sanctions Act of 1996 if a person has knowingly made an investment of $20 million or more (or any combination of investments of at least $5 million each, which in the aggregate equals or exceeds $20 million in any 12-month period) that directly and significantly contributed to Iran's ability to develop its petroleum resources. In the context of investment, H.R. 2194 amends section 5(a) in two key ways: (1) H.R. 2194 shifts the *mens rea* standard for investment in petroleum resources from 'actual knowledge' to "knowingly," which includes actual knowledge and having the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances. In short, the new standard will expand the range of conduct potentially subject to sanctions, thereby making it easier implement sanctions under ISA; and (2) The Act also amends the definition of petroleum resources to include items such

as liquefied natural gas, oil, or liquefied natural gas tankers, the effect of which is to broaden sanctionable investments under ISA.

Subsection (a) further amends section 5(a) of ISA to require that the President impose mandatory sanctions described in section 3(b) of the Act if a person: (1) knowingly sells, leases, or provides to Iran any goods, services, technology, information, or support, or enters into a contract for those activities, that would allow Iran to maintain or expand its domestic production of refined petroleum products, including any assistance in the construction, modernization, or repair of refineries that make refined petroleum products; or (2) if a person knowingly provides Iran with refined petroleum products or engages in an activity that could contribute to Iran's ability to import refined petroleum resources by providing ships, vehicles, or other means of transportation to deliver refined petroleum products to Iran or insurance or financing services for such activities.

The Act further establishes that the value of the goods, services, technology, information, or support provided by such activities must exceed $200,000 to be subject to the requirement of Section 3(a). The combination of such sales, leases, or provision of support in any 12-month period, or to be provided under contracts entered into in any 12-month period, must exceed $500,000.

Subsection (b) of the Act describes the sanctions and establishes additional sanctions to Section 6 of ISA by directing the President to prohibit foreign exchange, banking, and property transactions with persons involved in activities related to refined petroleum products, as specified in paragraphs (1)(B) and (2) of section 5(a) of ISA, as amended.

Subsection 3(b) further amends ISA by adding a new section which requires the head of each executive agency to ensure that each contract with a person entered into by such executive agency for the procurement of goods or services, or agreement for the use of Federal funds as part of a grant, loan, or loan guarantee to a person, includes a clause that requires the person to certify to the contracting officer or other appropriate official of such agency that the person does not conduct any activity described in paragraph (1)(B) or (2) of section 5(a) relating to the production or export of refined petroleum products. The Act authorizes the head of an executive agency that determines that a person has submitted a false certification under paragraph (1) after the date on which the Federal Acquisition Regulation is revised to implement the requirements of this subsection, to terminate a contract or agreement or debar or suspend such person from eligibility for Federal contracts or such agreements for a period not to exceed 15 years. The Act requires the Administrator of General Services to include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs each person that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency on the basis of a determination of a false certification under subparagraph (A) of section 3(c).

Subsection (c) amends section 5(b) of ISA to restrict agreements for nuclear cooperation if a country that has jurisdiction over a person that is subject to sanctions under paragraph (1) of section 5(b) of ISA relating to the acquisition or development of nuclear weapons or related technologies or of missiles or other advanced conven-

tional weapons that are capable of delivering a nuclear weapon fails to take effective actions to penalize such person and prevent a reoccurrence of such activity in the future. The Committee believes that a country that is, as a matter of policy or through willful inaction, allowing its citizens or companies to provide equipment, technology or materials to Iran that make a material contribution to its nuclear capabilities should not at the same time benefit from nuclear cooperation with the United States.

Subsection (d)(1) requires that the President immediately investigate a person upon receipt of credible information that such person is engaged in sanctionable activity as described in section 5. Subsection (d)(1) further requires the President, not later than 180 days after an investigation is initiated, to make a determination whether a person has engaged in sanctionable activity described in section 5.

Subsection (d)(2) of the Act amends section 9(c)(1) of ISA to authorize the President to waive the restriction on nuclear agreements on a person or on a country described in section 5(b)(2)(A) if the President is unable to make the determination that the country is taking the effective actions described in section 5(b)(2)(A). Such actions may include prosecution of persons or companies, suspension of export privileges, financial measures, etc., that will effectively prevent a reoccurrence of the activities subject to sanction.

Subsection (d)(2) amends the standard for the President to waive sanctions under ISA to "vital to the national security interest of the United States" as the standard for a Presidential waiver of sanctions. Section (d)(2) further amends ISA by authorizing the President to waive the restriction relating to transfer of nuclear technology if the President is unable to make the determination described in section 5(b)(2)(A) of ISA.

Subsection (d)(2) further amends the reporting requirements of section 3(c)(2) of ISA relating to a waiver by requiring the President to include an estimate of the significance of a sanctioned action to Iran's ability to develop its petroleum resources and other activities should the President waive the required sanctions.

Subsection (e) amends ISA to require additional reporting on Iran's use in the Middle East, the Western Hemisphere, Africa, and other regions, of Iranian diplomats and representatives of other government and military or quasi-governmental institutions or proxies of Iran, including, but not limited to, Hezbollah, to promote acts of international terrorism or to develop or sustain Iran's nuclear, chemical, biological and missile weapons programs.

Section (e) also directs the President to report to the appropriate congressional committees within 90 days after the date of enactment of this legislation, and every six months thereafter, regarding any person who has: (1) provided Iran with refined petroleum resources; (2) sold, leased, or provided to Iran any goods, services, or technology that would allow Iran to maintain or expand its domestic production of refined petroleum resources; or (3) engaged in any activity that could contribute to the enhancement of Iran's ability to import refined petroleum resources. This subsection requires the President to include in the report a list of any person that the President determines is an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps, or is an individual serving as a representative of the Islamic

Revolutionary Guard Corps, or provided material support or conducted any commercial or financial transactions with such entities. The Committee does not intend for this reporting requirement to in any way conflict with or amend existing designations of persons pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701, etc.).

Finally, this subsection requires the President to transmit a report with respect to the immediately preceding 12-month period after enactment of the Act, on the dollar value amount of trade, including in the energy sector, between Iran and each country maintaining membership in the Group of Twenty Finance Ministers and Central Bank Governors.

Subsection (f) amends ISA to expand the definition of a "person" subject to sanctions to include a financial institution, insurer, underwriter, guarantor, any other business organization, including any foreign subsidiary, parent, or affiliate of such a business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, such as an export credit agency.

Subsection (f) also defines the term "knowingly" to include a person who has actual knowledge of sanctionable activities or has constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances. The Committee intends to prevent persons from evading sanctions by relying on a standard of "actual knowledge."

Subsection (f) expands the term "petroleum resources" to include petroleum, oil or liquefied natural gas, oil or liquefied natural gas tankers, and products used to construct or maintain pipelines used to transport oil or compressed or liquefied natural gas.

Subsection (f) defines the term "refined petroleum products" to include gasoline, kerosene, diesel fuel, residual fuel oil, and distillates and other goods classified in headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States.

Subsection (g) amends Section 8 of the ISA of 1996 to provide that sanctions related to refined petroleum products, as specified in paragraphs (1)(B) and (2) of section 5(a) and section 6(b) shall terminate if the President determines and certifies to the appropriate congressional committees that Iran: (1) has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology; and (2) has ceased nuclear-related activities, including uranium enrichment, that would facilitate the efforts described in paragraph (1).

Subsection (g) also amends ISA to extend the operative date of that legislation from 2011 to 2016.

Section 4. Effective Date; Rule of Construction.

Subsection (a) provides that the amendments to ISA made by the Act shall take effect upon expiration of the 60-day period beginning on the date of the enactment of this Act, except that paragraphs (1) and (2) of section 5(a), section 5(b)(2), and section 6(b), of ISA, as amended by this Act, shall apply to conduct engaged in on or after October 28, 2009, notwithstanding section 5(f)(3) of ISA. The purpose of this exception is to prevent a "rush to contracting" subsequent to the adoption of the Amendment in the Nature of a Substitute on October 28, 2009.

Subsection (a) further provides that the amendments made by subsection (d) of section (3) of the Act related to waiver and investigations shall apply with respect to conduct engaged in before, on, or after the date of the enactment of this Act.

Subsection (b) states that the amendments made by subsections (a) and (b) of section 3 of this Act shall not be construed to affect the requirements of section 5(a) of ISA as in effect before the date of the enactment of this Act, and such requirements continue to apply, on and after such date of enactment, to conduct engaged in before October 28, 2009. The purpose of this rule of construction is to confirm that existing sanctions still apply notwithstanding amendments made by this Act to ISA.

Subsection (b) further provides that the amendments made by subsection (d) of section 3 of this Act shall not be construed to affect any exercise of the authority under section 4(f) or section 9(c) of ISA related to investigations and waiver authority in effect on the day before the date of the enactment of this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

IRAN SANCTIONS ACT OF 1996

* * * * * * *

SEC. 4. MULTILATERAL REGIME.

(a) * * *

(b) REPORTS TO CONGRESS.—The President shall report to the appropriate congressional committees, not later than 1 year after the date of the enactment of this Act, and periodically thereafter, on the extent that diplomatic efforts described in subsection (a) have been successful. Each report shall include—

(1) * * *

(2) the countries that have not agreed to measures described in paragraph (1), and, with respect to those countries, other measures [(in addition to that provided in subsection (d))] the President recommends that the United States take to further the objectives of section 3 with respect to Iran.

* * * * * * *

[(d) ENHANCED SANCTION.—

[(1) SANCTION.—With respect to nationals of countries except those with respect to which the President has exercised the waiver authority of subsection (c), at any time after the first report is required to be submitted under subsection (b), section 5(a) shall be applied by substituting "$20,000,000" for "$40,000,000" each place it appears, and by substituting "$5,000,000" for "$10,000,000".

[(2) REPORT TO CONGRESS.—The President shall report to the appropriate congressional committees any country with respect to which paragraph (1) applies.]

[(e)] *(d)* INTERIM REPORT ON MULTILATERAL SANCTIONS; MONITORING.—The President, not later than 90 days after the date of the enactment of this Act, shall report to the appropriate congressional committees on—

(1) * * *

* * * * * * *

[(f)] *(e)* INVESTIGATIONS.—

(1) IN GENERAL.—The President [should initiate] *shall immediately initiate* an investigation into the possible imposition of sanctions under section 5(a) *or 5(b)* against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran [as described in such section] *as described in section 5(a)(1) or other activity described in section 5(a)(2) or 5(b) (as the case may be)*.

(2) DETERMINATION AND NOTIFICATION.—Not later than 180 days after an investigation is initiated in accordance with paragraph (1), the President [should determine, pursuant to section 5(a), if a person has engaged in investment activity in Iran as described in such section] *shall determine, pursuant to section 5(a) or (b) (as the case may be), if a person has engaged in investment activity in Iran as described in section 5(a)(1) or other activity described in section 5(a)(2) or 5(b) (as the case may be)* and shall notify the appropriate congressional committees of the basis for any such determination.

SEC. 5. IMPOSITION OF SANCTIONS.

[(a) SANCTIONS WITH RESPECT TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of $40,000,000 or more (or any combination of investments of at least $10,000,000 each, which in the aggregate equals or exceeds $40,000,000 in any 12-month period), that directly and significantly contributed to the enhancement of Iran's ability to develop petroleum resources of Iran.]

(a) SANCTIONS WITH RESPECT TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN AND EXPORTATION OF REFINED PETROLEUM TO IRAN.—

(1) DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN.—

(A) INVESTMENT.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6(a) if the President determines that a person has knowingly, on or after the date of the enactment of this Act, made an investment of $20,000,000 or more (or any combination of investments of at least $5,000,000 each, which in the aggregate equals or exceeds $20,000,000 in any 12-month period), that directly and significantly contributed to the enhance-

ment of Iran's ability to develop petroleum resources of Iran.

(B) PRODUCTION OF REFINED PETROLEUM PRODUCTS.—Except as provided in subsection (f), the President shall impose the sanctions described in section 6(b) if the President determines that a person knowingly sells, leases, or provides to Iran any goods, services, technology, information, or support, or enters into a contract to sell, lease, or provide to Iran any goods, services, technology, information, or support, that would allow Iran to maintain or expand its domestic production of refined petroleum products, including any assistance in the construction, modernization, or repair of refineries that make refined petroleum products, if—

(i) the value of the goods, services, technology, information, or support provided in such sale, lease, or provision, or to be provided in such contract, exceeds $200,000; or

(ii) the value of the goods, services, technology, information, or support provided in any combination of such sales, leases, or provision in any 12-month period, or to be provided under contracts entered into in any 12-month period, exceeds $500,000.

(2) EXPORTATION OF REFINED PETROLEUM PRODUCTS TO IRAN.—

(A) IN GENERAL.—Except as provided in subsection (f), the President shall impose the sanctions described in section 6(b) if the President determines that a person knowingly provides Iran with refined petroleum products or engages in any of the activities described in subparagraph (B), if—

(i) the value of such products or of the goods, services, technology, information, or support provided or to be provided in connection with such activity exceeds $200,000; or

(ii) the value of such products, or of the goods, services, technology, information, or support, provided or to be provided in connection with any combination of providing such products or such activities, in any 12-month period exceeds $500,000.

(B) ACTIVITIES DESCRIBED.—The activities referred to in subparagraph (A) are the following:

(i) Providing ships, vehicles, or other means of transportation to deliver refined petroleum products to Iran, or providing services relating to the shipping or other transportation of refined petroleum products to Iran.

(ii) Underwriting or otherwise providing insurance or reinsurance for an activity described in clause (i).

(iii) Financing or brokering an activity described in clause (i).

(b) MANDATORY SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—[The President shall impose]

(1) IN GENERAL.—The President shall impose two or more of the sanctions described in paragraphs (1) through (6) of

[section 6] *section 6(a)* if the President determines that a person has, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Iran any goods, services, technology, or other items knowing that the provision of such goods, services, technology, or other items would contribute materially to the ability of Iran to—

[(1)] *(A)* acquire or develop chemical, biological, or nuclear weapons or related technologies; or

[(2)] *(B)* acquire or develop destabilizing numbers and types of advanced conventional weapons.

(2) ADDITIONAL SANCTION.—

(A) RESTRICTION.—In any case in which a person is subject to sanctions under paragraph (1) because of an activity described in such paragraph that relates to the acquisition or development of nuclear weapons or related technology or of missiles or other advanced conventional weapons that are capable of delivering a nuclear weapon, then notwithstanding any other provision of law, the following measures shall apply with respect to the country that has jurisdiction over such person, unless the President determines and notifies the appropriate congressional committees that the government of such country has taken, or is taking, effective actions to penalize such person and to prevent a reoccurrence of such activity in the future:

(i) No agreement for cooperation between the United States and the government of such country may be submitted to the President or to Congress pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), or may enter into force.

(ii) No license may be issued for the export, and no approval may be given for the transfer or retransfer, directly or indirectly, to such country of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to an agreement to cooperation.

(B) CONSTRUCTION.—The restrictions in subparagraph (A) shall apply in addition to all other applicable procedures, requirements, and restrictions contained in the Atomic Energy Act of 1954 and other laws.

(C) DEFINITION.—In this paragraph, the term "agreement for cooperation" has the meaning given that term in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)).

(c) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—The sanctions described in subsections (a) and (b) shall be imposed on—

(1) any person the President determines has carried out the activities described in subsection (a) [or (b)] *or (b)(1)*; and

* * * * * * *

SEC. 6. DESCRIPTION OF SANCTIONS.

[The sanctions to be imposed on a sanctioned person under section 5 are as follows:]

(a) IN GENERAL.—The sanctions to be imposed on a sanctioned person under subsections (a)(1)(A) and (b)(1) of section 5 are as follows:

(1) * * *

* * * * * * *

(4) PROHIBITIONS ON FINANCIAL INSTITUTIONS.—The following prohibitions may be imposed against a sanctioned person that is a financial institution:

(A) * * *

* * * * * * *

The imposition of either sanction under subparagraph (A) or (B) shall be treated as 1 sanction for purposes of **[**section 5**]** *subsections (a)(1)(A) and (b) of section 5*, and the imposition of both such sanctions shall be treated as 2 sanctions for purposes of **[**section 5**]** *subsections (a)(1)(A) and (b) of section 5*.

* * * * * * *

(b) ADDITIONAL MANDATORY SANCTIONS.—The sanctions to be imposed on a sanctioned person under paragraphs (1)(B) and (2) of section 5(a) are as follows:

(1) FOREIGN EXCHANGE.—The President shall prohibit any transactions in foreign exchange by the sanctioned person.

(2) BANKING TRANSACTIONS.—The President shall prohibit any transfers of credit or payments between, by, through, or to any financial institution, to the extent that such transfers or payments involve any interest of the sanctioned person.

(3) PROPERTY TRANSACTIONS.—The President shall prohibit any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation, or exportation of, dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which the sanctioned person has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States.

(c) ADDITIONAL MEASURE RELATING TO REFINED PETROLEUM PRODUCTS.—

(1) IN GENERAL.—The head of each executive agency shall ensure that each contract with a person entered into by such executive agency for the procurement of goods or services, or agreement for the use of Federal funds as part of a grant, loan, or loan guarantee to a person, includes a clause that requires the person to certify to the contracting officer or other appropriate official of such agency that the person does not conduct any activity described in paragraph (1)(B) or (2) of section 5(a).

(2) REMEDIES.—

(A) IN GENERAL.—If the head of the executive agency determines that such person has submitted a false certification under paragraph (1) after the date on which the Federal Acquisition Regulation is revised to implement the requirements of this subsection, the head of an executive agency may terminate a contract, or agreement described in paragraph (1), with such person or debar or suspend such person from eligibility for Federal contracts or such agreements for a period not to exceed 15 years.

(B) INCLUSION ON LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS.—The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation issued under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) each person that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency on the basis of a determination of a false certification under subparagraph (A).

(C) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a determination of a false certification under paragraph (1).

(3) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—Not later than 120 days after the date of the enactment of the Iran Refined Petroleum Sanctions Act of 2009, the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall be revised to provide for the implementation of the requirements of this subsection.

* * * * * * *

SEC. 8. TERMINATION OF SANCTIONS.

[The requirement under section 5(a)**]** *(a) SANCTIONS RELATING TO INVESTMENT.—The requirement under section 5(a)(1)(A)* to impose sanctions shall no longer have force or effect **[**with respect to Iran**]** if the President determines and certifies to the appropriate congressional committees that Iran—

(1) * * *

* * * * * * *

(b) REFINED PETROLEUM PRODUCTS.—The requirements under paragraphs (1)(B) and (2) of section 5(a) and section 6(b) to impose sanctions shall no longer have force or effect if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology; and

(2) has ceased nuclear-related activities, including uranium enrichment, that would facilitate the efforts described in paragraph (1).

SEC. 9. DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.

(a) DELAY OF SANCTIONS.—

(1) CONSULTATIONS.—If the President makes a determination described in section 5(a) **[**or 5(b)**]** *or 5(b)(1)* with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions under this Act.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue consultations under paragraph (1) with the government concerned, the President may delay imposition of sanctions under this Act for up to 90 days. Following such consultations, the President shall immediately impose sanctions unless the President determines and certifies to the Congress that the government has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the foreign person in the activities that resulted in the determination by the President under section 5(a) [or 5(b)] *or 5(b)(1)* concerning such person.

* * * * * * *

(4) REPORT TO CONGRESS.—Not later than 90 days after making a determination under section 5(a) [or 5(b)] *or 5(b)(1)*, the President shall submit to the appropriate congressional committees a report on the status of consultations with the appropriate foreign government under this subsection, and the basis for any determination under paragraph (3).

* * * * * * *

(c) PRESIDENTIAL WAIVER.—

(1) AUTHORITY.—The President may waive the requirement in section 5 to impose a sanction or sanctions on a person described in section 5(c), *or on a country described in section 5(b)(2)(A) (if the President certifies to the appropriate congressional committees that the President is unable to make the determination described in such section 5(b)(2)(A) with respect to the government of that country),* and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 30 days or more after the President determines and so reports to the appropriate congressional committees that it is [important to the national interest of the United States] *vital to the national security interest of the United States* to exercise such waiver authority.

(2) CONTENTS OF REPORT.—Any report under paragraph (1) shall provide a specific and detailed rationale for the determination under paragraph (1), including—

(A) a description of the conduct that resulted in the determination under section 5(a) [or (b)] *or (b)(1)*, as the case may be;

(B) in the case of a foreign person, an explanation of the efforts to secure the cooperation of the government with primary jurisdiction over the sanctioned person to terminate or, as appropriate, penalize the activities that resulted in the determination under section 5(a) [or (b)] *or (b)(1)*, as the case may be;

[(C) an estimate of the significance of the provision of the items described in section 5(a) or section 5(b) to Iran's ability to, respectively, develop its petroleum resources or its weapons of mass destruction or other military capabilities; and]

(C) an estimate of the significance of the provision of the items described in paragraph (1) or (2) of section 5(a) or section 5(b)(1) to Iran's ability to develop its petroleum resources, to maintain or expand its domestic production of

refined petroleum products, to import refined petroleum products, or to develop its weapons of mass destruction or other military capabilities (as the case may be); and

(D) a statement as to the response of the United States in the event that the person concerned engages in other activities that would be subject to section 5(a) [or (b)] *or (b)(1)*.

* * * * * * *

SEC. 10. REPORTS REQUIRED.

(a) REPORT ON CERTAIN INTERNATIONAL INITIATIVES.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the President shall transmit a report to the appropriate congressional committees describing—

(1) * * *

* * * * * * *

[(4) Iran's use of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran to promote acts of international terrorism or to develop or sustain Iran's nuclear, chemical, biological, and missile weapons programs.]

(4) Iran's use in the Middle East, the Western Hemisphere, Africa, and other regions, of Iranian diplomats and representatives of other government and military or quasi-governmental institutions or proxies of Iran, including, but not limited to, Hezbollah, to promote acts of international terrorism or to develop or sustain Iran's nuclear, chemical, biological, and missile weapons programs.

* * * * * * *

(d) REPORTS ON CERTAIN BUSINESS AND OTHER TRANSACTIONS RELATING TO IRAN.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of the Iran Refined Petroleum Sanctions Act of 2009, and every 6 months thereafter, the President shall submit a report to the appropriate congressional committees regarding any person who has—

(A) provided Iran with refined petroleum products;

(B) sold, leased, or provided to Iran any goods, services, or technology that would allow Iran to maintain or expand its domestic production of refined petroleum products; or

(C) engaged in any activity that could contribute to the enhancement of Iran's ability to import refined petroleum products.

(2) DESCRIPTION.—For each activity set forth in subparagraphs (A) through (C) of paragraph (1), the President shall provide a complete and detailed description of such activity, including—

(A) the date or dates of such activity;

(B) the name of any persons who participated or invested in or facilitated such activity;

(C) the United States domiciliary of the persons referred to in subparagraph (B);

(D) any Federal Government contracts to which the persons referred to in subparagraph (B) are parties; and

(E) the steps taken by the United States to respond to such activity.

(3) ADDITIONAL INFORMATION.—The report required by this subsection shall also include a list of—

(A) any person that the President determines is an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps or is an individual serving as a representative of the Islamic Revolutionary Guard Corps;

(B) any person that the President determines has knowingly provided material support to the Islamic Revolutionary Guard Corps or an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps; and

(C) any person who has conducted any commercial transaction or financial transaction with the Islamic Revolutionary Guards Corps or an agent, alias, front, instrumentality, representative, official, or affiliate of the Islamic Revolutionary Guard Corps.

(4) FORM OF REPORTS; PUBLICATION.—The reports required under this subsection shall be—

(A) submitted in unclassified form, but may contain a classified annex; and

(B) published in the Federal Register.

(e) REPORTS ON GLOBAL TRADE RELATING TO IRAN.—Not later than one year after the date of the enactment of the Iran Refined Petroleum Sanctions Act of 2009 and annually thereafter, the President shall submit to the appropriate congressional committees a report, with respect to the immediately preceding 12-month period, on the dollar value amount of trade, including in the energy sector, between Iran and each country maintaining membership in the Group of Twenty Finance Ministers and Central Bank Governors.

* * * * * * *

SEC. 13. EFFECTIVE DATE; SUNSET.

(a) * * *

(b) SUNSET.—This Act shall cease to be effective on December 31, [2011] *2016*.

SEC. 14. DEFINITIONS.

As used in this Act:

(1) * * *

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations of the Senate and the Committee on Ways and Means, the Committee on Banking and Financial Services, and the Committee on [International Relations] *Foreign Affairs* of the House of Representatives.

* * * * * * *

(13) PERSON.—The term "person" means—

(A) * * *

(B) a corporation, business association, partnership, society, trust, *financial institution, insurer, underwriter, guarantor, any other business organization, including any foreign subsidiary, parent, or affiliate of such a business organization,* any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise*, such as an export credit agency*; and

* * * * * * *

[(14) PETROLEUM RESOURCES.—The term "petroleum resources" includes petroleum and natural gas resources.**]**

(14) KNOWINGLY.—The term "knowingly" means—

(A) having actual knowledge; or

(B) having the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

(15) PETROLEUM RESOURCES.—The term "petroleum resources" includes petroleum, oil or liquefied natural gas, oil or liquefied natural gas tankers, and products used to construct or maintain pipelines used to transport oil or compressed or liquefied natural gas.

(16) REFINED PETROLEUM PRODUCTS.—The term "refined petroleum products" means gasoline, kerosene, diesel fuel, residual fuel oil, and distillates and other goods classified in headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States.

[(15)**]** *(17)* UNITED STATES OR STATE.—The term "United States" or "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

[(16)**]** *(18)* UNITED STATES PERSON.—The term "United States person" means—

(A) * * *

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