

**PROPOSED AMENDMENTS TO S.2799 -
THE COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT**



JANUARY, 2010

For questions or further information, contact Patrick Disney, Assistant Policy Director, at PDisney@niacouncil.org, or (202) 386-6325

NIAC - Proposed Amendments to S.2799

Summary: *NIAC has identified several problems in Titles I and IV of S.2799 that seriously undermine US Iran policy.*

- **Problem:** The bill reduces, rather than enhances, the President's options with Iran

As written, many of the sections in S.2799 would actually diminish the President's authority and flexibility in carrying out his Iran strategy by forcing him to impose new, **mandatory** sanctions on a wide range of activities, many of which are strategically insignificant.

Solution:

- 1) *Raise the threshold for sanction-able activities*
- 2) *Provide the President with options rather than mandatory actions*
- 3) *Remove the embargo codification that would constrain the President's flexibility at the negotiating table*

- **Problem:** The bill would hurt US companies and alienate our allies

By imposing harsh penalties on US and allied companies, S.2799 would make it harder to foster cooperation among international partners dealing with Iran. Additionally, the bill requires companies to be "blacklisted" even when the President determines it is in the national interest **NOT** to apply sanctions to them. This imposes a heavy cost to potential investors, and undermines the President's judgment.

Solution:

- 1) *Amend provisions of the bill that "blacklist" companies upon whom sanctions are not even applied*
- 2) *Reinstate current exceptions on imports that have little effect on Iran but which fuel US small businesses*
- 3) *Remove counterproductive language that punishes US exporters for activities unrelated to Iran.*

- **Problem:** Current sanctions have unintentionally harmed the Iranian people instead of their government

Two Decades of broad, indiscriminate Iran sanctions have punished Iranians rather than the government. Strict prohibitions have stifled US activities, including providing humanitarian assistance, promoting people-to-people exchanges, ensuring civilian passenger aircraft safety, and fostering Internet freedom. The US has missed out on significant opportunities to increase **soft power** among the Iranian people and to take advantage of existing good will.

Solution:

- 1) *Identify US sanctions that are counterproductive and penalize the Iranian people rather than the government*
- 2) *Relax restrictions on humanitarian assistance, people-to-people exchanges, and safety of flight exports*
- 3) *Eliminate restrictions on Internet communication software and anti-censorship software going to Iranians*

NIAC - Proposed Amendments to S.2799

Title I -- Sanctions

Section	Original Text	Proposed Amendment	Explanation
Sec. 101. DEFINITIONS.	<p>In this title:</p> <p>(1) AGRICULTURAL COMMODITY- The term `agricultural commodity' has the meaning given that term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).</p> <p>(2) APPROPRIATE CONGRESSIONAL COMMITTEES- The term `appropriate congressional committees' has the meaning given that term in section 14(2) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).</p> <p>(3) EXECUTIVE AGENCY- The term `executive agency' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).</p> <p>(4) FAMILY MEMBER- The term `family member' means, with respect to an individual, the spouse, children, grandchildren, or parents of the individual.</p> <p>(5) INFORMATION AND INFORMATIONAL MATERIALS- The term `information and informational materials' includes publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.</p> <p>(6) INVESTMENT- The term `investment' has the meaning given that term in section 14(9) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).</p> <p>(7) IRANIAN DIPLOMATS AND REPRESENTATIVES OF OTHER GOVERNMENT AND MILITARY OR QUASI-GOVERNMENTAL INSTITUTIONS OF IRAN- The term `Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran' has the meaning given that term in section 14(11) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).</p> <p>(8) MEDICAL DEVICE- The term `medical device' has the meaning given the term `device' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).</p> <p>(9) MEDICINE- The term `medicine' has the meaning given the term `drug' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).</p>	<p>(5) Strike <i>“and news wire feeds”</i> and insert <i>“news wire feeds, and free mass-market software essential for the exchange of personal communications and/or sharing of information over the internet.”</i></p>	<p>Reflecting State Dept decision on Dec. 15 to waive sanctions on export of free mass-market software necessary for personal communication and/or sharing of information over the Internet.</p>

Section	Original Text	Proposed Amendment	Explanation
<p>SEC. 102. EXPANSION OF SANCTIONS UNDER THE IRAN SANCTIONS ACT OF 1996.</p>	<p>(a) In General- Section 5 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note) is amended by striking subsection (a) and inserting the following:</p> <p style="padding-left: 40px;">(a) Sanctions With Respect to the Development of Petroleum Resources of Iran, Production of Refined Petroleum Products in Iran, and Exportation of Refined Petroleum Products to Iran-</p> <p style="padding-left: 80px;">(1) DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN-</p> <p style="padding-left: 120px;">(A) IN GENERAL- 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) with respect to a person if the President determines that the person, with actual knowledge, on or after the effective date of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009--</p> <p style="padding-left: 160px;">(i) makes an investment described in subparagraph (B) of \$20,000,000 or more; or</p> <p style="padding-left: 160px;">(ii) makes a combination of investments described in subparagraph (B) in a 12-month period if each such investment is at least \$5,000,000 and such investments equal or exceed \$20,000,000 in the aggregate.</p> <p style="padding-left: 80px;">(B) INVESTMENT DESCRIBED- An investment described in this subparagraph is an investment that directly and significantly contributes to the enhancement of Iran's ability to develop petroleum resources.</p>	<p>No change</p>	

Section	Original Text	Proposed Amendment	Explanation
	<p>(2) PRODUCTION OF REFINED PETROLEUM PRODUCTS-</p> <p>(A) IN GENERAL- Except as provided in subsection (f), the President shall impose the sanctions described in section 6(b) (in addition to any other sanctions imposed under this subsection) with respect to a person if the President determines that the person, with actual knowledge, on or after the effective date of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009, sells, leases, or provides to Iran any goods, services, technology, information, or support described in subparagraph (B)--</p> <p>(i) any of which has a fair market value of \$200,000 or more; or</p> <p>(ii) that, during a 12-month period, have an aggregate fair market value of \$1,000,000 or more.</p>	<p>Change:</p> <p>(A) "...the President shall impose the sanctions described in section 6(b) 2 or more of the sanctions described in paragraphs (1) through (9) of section 6..."</p> <p>(i) "any of which has a fair market value of \$200,000 \$5,000,000 or more"</p> <p>(ii) "that, during a 12-month period, have an aggregate fair market value of \$1,000,000 \$10,000,000 or more."</p>	<p>Previous sanctions have given the President a menu of options, yet this section mandates the President's response for sanctioning commercial activities that are far less significant than the investment activities under previous measures.</p> <p>This change would raise the monetary threshold to cover only commercial activities that are significant for Iran's economy and energy sector. It would merge the enforcement mechanisms into one menu of options, and bring this section in line with the mechanism already in place for enforcing Iran sanctions. We believe this change more appropriately reflects this bill's stated intention of strengthening the President's flexibility.</p>
	<p>(B) GOODS, SERVICES, TECHNOLOGY, INFORMATION, OR SUPPORT DESCRIBED- Goods, services, technology, information, or support described in this subparagraph are goods, services, technology, information, or support that could directly and significantly facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products, including any assistance with respect to construction, modernization, or repair of petroleum refineries.</p>	<p>No change</p>	

Section	Original Text	Proposed Amendment	Explanation
	<p>(3) EXPORTATION OF REFINED PETROLEUM PRODUCTS TO IRAN-</p> <p>(A) IN GENERAL- Except as provided in subsection (f), the President shall impose the sanctions described in section 6(b) (in addition to any other sanctions imposed under this subsection) with respect to a person if the President determines that the person, with actual knowledge, on or after the effective date of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009--</p> <p>(i) provides Iran with refined petroleum products--</p> <p>(I) that have a fair market value of \$200,000 or more; or</p> <p>(II) that, during a 12-month period, have an aggregate fair market value of \$1,000,000 or more; or</p> <p>(ii) sells, leases, or provides to Iran any goods, services, technology, information, or support described in subparagraph (B)--</p> <p>(I) any of which has a fair market value of \$200,000 or more; or</p> <p>(II) that, during a 12-month period, have an aggregate fair market value of \$1,000,000 or more.</p>	<p>Change:</p> <p>(A) "...the President shall impose the sanctions described in section 6(b) 2 or more of the sanctions described in paragraphs (1) through (9) of section 6..."</p> <p>(i) "that have a fair market value of \$200,000 \$5,000,000 or more"</p> <p>(ii) "that, during a 12-month period, have an aggregate fair market value of \$1,000,000 \$10,000,000 or more."</p> <p>(I) "any of which has a fair market value of \$200,000 \$5,000,000 or more;"</p> <p>(II) "that, during a 12-month period, have an aggregate fair market value of \$1,000,000 \$10,000,000 or more."</p>	<p>Previous sanctions have given the President a menu of options, yet this section mandates the President's response for sanctioning commercial activities that are far less significant than the investment activities under previous measures.</p> <p>This change would raise the monetary threshold to cover only commercial activities that are significant for Iran's economy and energy sector. It would merge the enforcement mechanisms into one menu of options, and bring this section in line with the mechanism already in place for enforcing Iran sanctions. We believe this change more appropriately reflects this bill's stated intention of strengthening the President's flexibility.</p>
	<p>(B) GOODS, SERVICES, TECHNOLOGY, INFORMATION, OR SUPPORT DESCRIBED- Goods, services, technology, information, or support described in this subparagraph are goods, services, technology, or support that could directly and significantly contribute to the enhancement of Iran's ability to import refined petroleum products, including--</p> <p>(i) underwriting or otherwise providing insurance or reinsurance for the sale, lease, or provision of such goods, services, technology, information, or support;</p> <p>(ii) financing or brokering such sale, lease, or provision; or</p> <p>(iii) providing ships or shipping services to deliver refined petroleum products to Iran.'</p>	<p>No Change</p>	

Section	Original Text	Proposed Amendment	Explanation
<p>SEC. 102. EXPANSION OF SANCTIONS UNDER THE IRAN SANCTIONS ACT OF 1996.</p>	<p>(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) and (b) of section 5 are as follows:'; and (2) by adding at the end the following: `(b) Additional Sanctions- The sanctions to be imposed on a sanctioned person under paragraphs (2) and (3) of section 5(a) are as follows: `(1) FOREIGN EXCHANGE- The President shall, pursuant to such regulations as the President may prescribe, prohibit any transactions in foreign exchange by the sanctioned person. `(2) BANKING TRANSACTIONS- The President shall, pursuant to such regulations as the President may prescribe, 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, pursuant to such regulations as the President may prescribe and subject to the jurisdiction of the United States, prohibit any person from-- `(A) acquiring, holding, withholding, using, transferring, withdrawing, transporting, importing, or exporting any property with respect to which the sanctioned person has any interest; `(B) dealing in or exercising any right, power, or privilege with respect to such property; or `(C) conducting any transactions involving such property.'</p>	<p>Strike subsection '(b) Additional Sanctions- The sanctions to be imposed on a sanctioned person under paragraphs (2) and (3) of section 5(a) are as follows:'</p> <p>Redesignate paragraphs (1), (2), and (3) in subsection '(b)' as "(7), (8), and (9)" respectively. Strike "shall" in these paragraphs, and insert "may".</p> <p>As a result of the above, this section will read:</p> <p><i>(b) Description of Sanctions- Section 6 of such Act is amended--</i> <i>(1) by striking 'The sanctions to be imposed on a sanctioned person under section 5 are as follows:'</i> <i>and inserting the following:</i> <i>(a) In General- The sanctions to be imposed on a sanctioned person under subsections (a)(1) and (b) of section 5 are as follows:'; and</i> <i>(2) by adding at the end the following:</i> <i>(7) FOREIGN EXCHANGE- The President may, pursuant to such regulations as the President may prescribe, prohibit any transactions in foreign exchange by the sanctioned person.</i> <i>(8) BANKING TRANSACTIONS- The President may, pursuant to such regulations as the President may prescribe, 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.</i> <i>(9) PROPERTY TRANSACTIONS- The President may, pursuant to such regulations as the President may prescribe and subject to the jurisdiction of the United States, prohibit any person from-- "...</i></p>	<p>Previous sanctions have given the President a menu of options, yet this section mandates the President's response for sanctioning commercial activities that are far less significant than the investment activities under previous measures.</p> <p>This change would merge the enforcement mechanisms into one menu of options, and bring this section in line with the mechanism already in place for enforcing Iran sanctions. We believe this change more appropriately reflects this bill's stated intention of strengthening the President's flexibility.</p>

Section	Original Text	Proposed Amendment	Explanation
	<p>(c) Report Relating to Presidential Waiver- Section 9(c)(2) of such Act is amended by striking subparagraph (C) and inserting the following:</p> <p> `C) an estimate of the significance of the conduct of the person in contributing to the ability of Iran to, as the case may be--</p> <p> `i) develop petroleum resources, produce refined petroleum products, or import refined petroleum products; or</p> <p> `ii) acquire or develop--</p> <p> `I) chemical, biological, or nuclear weapons or related technologies; or</p> <p> `II) destabilizing numbers and types of advanced conventional weapons; and'.</p>	No Change	
	<p>(d) Clarification and Expansion of Definitions- Section 14 of such Act is amended--</p> <p> (1) in paragraph (13)(B)--</p> <p> (A) by inserting `financial institution, insurer, underwriter, guarantor, and any other business organization, including any foreign subsidiary, parent, or affiliate thereof,' after `trust,`; and</p> <p> (B) by inserting `, such as an export credit agency' before the semicolon at the end;</p> <p> (2) in paragraph (14), by striking `petroleum and natural gas resources' and inserting `petroleum, refined petroleum products, oil or liquefied natural gas, natural gas resources, oil or liquefied natural gas tankers, and products used to construct or maintain pipelines used to transport oil or liquefied natural gas';</p> <p> (3) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and</p> <p> (4) by inserting after paragraph (14) the following:</p> <p> `15) REFINED PETROLEUM PRODUCTS- The term `refined petroleum products' means diesel, gasoline, jet fuel (including naphtha-type and kerosene-type jet fuel), and aviation gasoline.'</p> <p>(e) Conforming Amendment- Section 4 of such Act is amended--</p> <p> (1) in subsection (b)(2), by striking `(in addition to that provided in subsection (d))';</p> <p> (2) by striking subsection (d); and</p> <p> (3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.</p>	Strike “(B) by inserting `, such as an export credit agency' before the semicolon at the end;”	<p>Paragraph B would seriously harm the US Export-Import Bank by barring it from cooperating with other countries’ export credit agencies, even on projects unrelated to Iran.</p> <p>It would harm US companies that have no business dealings with Iran’s energy sector, and result in job losses for US industries.</p>

Section	Original Text	Proposed Amendment	Explanation
<p>SEC. 103. ECONOMIC SANCTIONS RELATING TO IRAN.</p>	<p>(a) In General- Notwithstanding any other provision of law, and in addition to any other sanction in effect, beginning on the date that is 15 days after the effective date of this Act, the economic sanctions described in subsection (b) shall apply with respect to Iran.</p> <p>(b) Sanctions- The sanctions described in this subsection are the following:</p>	<p>Strike Sec. 103. ECONOMIC SANCTIONS RELATING TO IRAN.</p>	<p>The sanctions proposed in this section largely already exist under Executive Orders 12957, 12959, 13059, and existing presidential authority, and are therefore redundant.</p> <p>The main effect of this section would be to restrict the president’s flexibility in a potential future agreement with Iran over its nuclear program.</p> <p>Though we feel this section is unnecessary as a whole, we offer below substantive changes that would minimize its negative effects.</p>
	<p>(1) PROHIBITION ON IMPORTS-</p> <p>(A) IN GENERAL- Except as provided in subparagraph (B), no article of Iranian origin may be imported directly or indirectly into the United States.</p> <p>(B) EXCEPTION- The prohibition in subparagraph (A) does not apply to imports from Iran of information and informational materials.</p>	<p>Change ‘(B) Exception’- to read as follows:</p> <p><i>“(B) Exception.--The prohibition in subparagraph (A) does not apply to the following:</i></p> <p><i>(i) imports from Iran of information and informational materials.</i></p> <p><i>(ii) foodstuffs intended for human consumption that are classified under chapters 2–23 of the Harmonized Tariff Schedule of the United States;</i></p> <p><i>(iii) Carpets and other textile floor coverings and carpets used as wall hangings that are classified under chapter 57 or heading 9706.00.0060 of the Harmonized Tariff Schedule of the United States.</i></p> <p><i>(iv) Goods, services, or technologies that the President determines to be necessary to the national interest of the United States</i></p>	<p>The current US embargo on imports from Iran provides for certain limited exceptions, including information and informational materials, foodstuffs, and carpets.</p> <p>Reimposing sanctions on these imports will have a negligible effect on Iran while only harming US small businesses.</p> <p>An exception should also be made to provide the President with flexibility to authorize the import of goods, services, and technologies that further US national interests. (Consistent with a similar exception already included in section (2) for exports.)</p>

Section	Original Text	Proposed Amendment	Explanation
	<p>(2) PROHIBITION ON EXPORTS-</p> <p>(A) IN GENERAL- Except as provided in subparagraph (B), no article of United States origin may be exported directly or indirectly to Iran.</p> <p>(B) EXCEPTIONS- The prohibition in subparagraph (A) does not apply to exports to Iran of--</p> <p>(i) agricultural commodities, food, medicine, or medical devices;</p> <p>(ii) articles exported to Iran to provide humanitarian assistance to the people of Iran;</p> <p>(iii) except as provided in subparagraph (C), information or informational materials;</p>	No change	
	<p>(iv) goods, services, or technologies necessary to ensure the safe operation of commercial passenger aircraft produced in the United States if the exportation of such goods, services, or technologies is approved by the Secretary of the Treasury, in consultation with the Secretary of Commerce, pursuant to regulations promulgated by the Secretary of the Treasury regarding the exportation of such goods, services, or technologies, if appropriate; or</p> <p>(v) goods, services, or technologies that--</p> <p>(I) are provided to the International Atomic Energy Agency and are necessary to support activities of that Agency in Iran;</p> <p>(II) are necessary to support activities, including the activities of nongovernmental organizations, relating to promoting democracy in Iran; or</p> <p>(III) the President determines to be necessary to the national interest of the United States.</p>	<p>Change (iv) as follows:</p> <p>“(iv)goods, services, or technologies necessary to ensure the safe operation of commercial passenger aircraft produced in the United States if the exportation of such goods, services, or technologies is approved by the Secretary of the Treasury, in consultation with the Secretary of Commerce, pursuant to regulations promulgated by the Secretary of the Treasury regarding the exportation of such goods, services, or technologies, if appropriate; notified to the Secretary of the Treasury and the Secretary of Commerce or their designated representatives within twenty-four (24) hours in advance of said export. The exporter of record shall ensure that all appropriate record keeping with regard to said exports is in accordance with the record-keeping provisions of the Export Administration Regulations, as amended.”</p>	<p>As written, this section replicates the current procedure for safety of flight exports. Yet the current procedure is wholly inadequate, oftentimes taking well over one or two years for an application to be processed--if it is processed at all. Even for non-dual-use technology, American parts are simply not being exported.</p> <p>This has contributed to Iran’s abysmal passenger aircraft safety record, and Tehran has been only too happy to blame US sanctions every time another plane falls out of the sky.</p> <p>The proposed change would require exporters to notify the Secretaries of Commerce and Treasury in advance of the export of non-dual-use products, but remove the requirement for a specific license.</p>

Section	Original Text	Proposed Amendment	Explanation
	<p>(C) SPECIAL RULE WITH RESPECT TO INFORMATION AND INFORMATIONAL MATERIALS- Notwithstanding subparagraph (B)(iii), information and informational materials of United States origin may not be exported directly or indirectly to Iran--</p> <p>(i) if the exportation of such information or informational materials is otherwise controlled--</p> <p>(I) under section 5 of the Export Administration Act of 1979 (50 U.S.C. App. 2404) (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)); or</p> <p>(II) under section 6 of that Act (50 U.S.C. App. 2405), to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or</p> <p>(ii) if such information or informational materials are information or informational materials with respect to which acts are prohibited by chapter 37 of title 18, United States Code.</p>	No change	
	<p>(3) FREEZING ASSETS-</p> <p>(A) IN GENERAL- At such time as the United States has access to the names of persons in Iran, including Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran (including Iran's Revolutionary Guard Corps and its affiliates), that satisfy the criteria for designation with respect to the imposition of sanctions under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or are otherwise subject to sanctions under any other provision of law, the President shall take such action as may be necessary to freeze, as soon as possible, the funds and other assets belonging to anyone so named and any family members or associates of those so named to whom assets or property of those so named were transferred on or after January 1, 2009. The action described in the preceding sentence includes requiring any United States financial institution that holds funds and assets of a person so named to report promptly to the Office of Foreign Assets Control information regarding such funds and assets.</p> <p>(B) ASSET REPORTING REQUIREMENT- Not later than 14 days after a decision is made to freeze the property or assets of any person under this paragraph, the President shall report the name of such person to the appropriate congressional committees. Such a report may contain a classified annex.</p>	No Change	

Section	Original Text	Proposed Amendment	Explanation
	<p>(4) UNITED STATES GOVERNMENT CONTRACTS- The head of an executive agency may not procure, or enter into a contract for the procurement of, any goods or services from a person that meets the criteria for the imposition of sanctions under section 5 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).</p>	<p>Change (4) to read: “The head of an executive agency may not procure, or enter into a contract for the procurement of, any goods or services from a person that meets the criteria for the imposition of <i>on whom the</i> sanctions under section 5 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 USC 1701 note) <i>have been imposed.</i>”</p>	<p>This section fails to take into account the Presidential waiver authority given in Section 103 (c). The amended text would more closely align with the stated purpose of this bill as providing the President with greater authority to sanction companies without unnecessarily binding the President's hands.</p>
	<p>(c) Waiver- The President may waive the application of the sanctions described in subsection (b) if the President--</p> <p>(1) determines that such a waiver is in the national interest of the United States; and</p> <p>(2) submits to the appropriate congressional committees a report describing the reasons for the determination.</p>	<p>No change</p>	

Section	Original Text	Proposed Amendment	Explanation
<p>SEC. 104. LIABILITY OF PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY FOREIGN SUBSIDIARIES.</p>	<p>(a) Definitions- In this section:</p> <p>(1) ENTITY- The term `entity' means a partnership, association, trust, joint venture, corporation, or other organization.</p> <p>(2) OWN OR CONTROL- The term `own or control' means, with respect to an entity--</p> <p>(A) to hold more than 50 percent of the equity interest by vote or value in the entity;</p> <p>(B) to hold a majority of seats on the board of directors of the entity; or</p> <p>(C) to otherwise control the actions, policies, or personnel decisions of the entity.</p> <p>(3) SUBSIDIARY- The term `subsidiary' means an entity that is owned or controlled, directly or indirectly, by a United States person.</p> <p>(4) UNITED STATES PERSON- The term `United States person' means--</p> <p>(A) a natural person who is a citizen, resident, or national of the United States; and</p> <p>(B) an entity that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own or control the entity.</p> <p>(b) In General- A United States person shall be subject to a penalty for a violation of the provisions of Executive Order 12959 (50 U.S.C. 1701 note) or Executive Order 13059 (50 U.S.C. 1701 note), or any other prohibition on transactions with respect to Iran imposed under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), if--</p> <p>(1) the President determines, pursuant to such regulations as the President may prescribe, that the United States person establishes or maintains a subsidiary outside of the United States for the purpose of circumventing such provisions; and</p> <p>(2) that subsidiary engages in an act that, if committed in the United States or by a United States person, would violate such provisions.</p> <p>(c) Waiver- The President may waive the application of subsection (b) if the President--</p> <p>(1) determines that such a waiver is in the national interest of the United States; and</p> <p>(2) submits to the appropriate congressional committees a report describing the reasons for the determination.</p> <p>(d) Effective Date-</p> <p>(1) IN GENERAL- Subsection (b) shall take effect on the date of the enactment of this Act and apply with respect to acts described in subsection (b)(2) that are--</p> <p>(A) commenced on or after the date of the enactment of this Act; or</p> <p>(B) except as provided in paragraph (2), commenced before such date of enactment, if such acts continue on or after such date of enactment.</p> <p>(2) EXCEPTION- Subsection (b) shall not apply with respect to an act described in paragraph (1)(B) by a subsidiary owned or controlled by a United States person if the United States person divests or terminates its business with the subsidiary not later than 90 days after the date of the enactment of this Act.</p>	<p>No Change</p>	

Section	Original Text	Proposed Amendment	Explanation
<p>SEC. 105. PROHIBITION ON PROCUREMENT CONTRACTS WITH PERSONS THAT EXPORT SENSITIVE TECHNOLOGY TO IRAN.</p>	<p>(a) In General- Notwithstanding any other provision of law, and pursuant to such regulations as the President may prescribe, the head of an executive agency may not enter into or renew a contract for the procurement of goods or services with a person that exports sensitive technology to Iran.</p> <p>(b) Waiver- The President may waive the application of the prohibition under subsection (a) if the President--</p> <p style="padding-left: 40px;">(1) determines that such a waiver is in the national interest of the United States; and</p> <p style="padding-left: 40px;">(2) submits to Congress a report describing the reasons for the determination.</p> <p>(c) Sensitive Technology Defined- The term `sensitive technology' means hardware, software, telecommunications equipment, or any other technology that the President determines is to be used specifically--</p> <p style="padding-left: 40px;">(1) to restrict the free flow of unbiased information in Iran; or</p> <p style="padding-left: 40px;">(2) to disrupt, monitor, or otherwise restrict speech of the people of Iran.</p>	<p>No change</p>	
<p>SEC. 106. INCREASED CAPACITY FOR EFFORTS TO COMBAT UNLAWFUL OR TERRORIST FINANCING.</p>	<p>(a) Finding- Congress finds that the work of the Office of Terrorism and Financial Intelligence of the Department of the Treasury, which includes the Office of Foreign Assets Control and the Financial Crimes Enforcement Network, is critical to ensuring that the international financial system is not used for purposes of supporting terrorism and developing weapons of mass destruction.</p> <p>(b) Authorization of Appropriations for Office of Terrorism and Financial Intelligence- There are authorized to be appropriated to the Secretary of the Treasury for the Office of Terrorism and Financial Intelligence--</p> <p style="padding-left: 40px;">(1) \$64,611,000 for fiscal year 2010; and</p> <p style="padding-left: 40px;">(2) such sums as may be necessary for each of the fiscal years 2011 and 2012.</p> <p>(c) Authorization of Appropriations for the Financial Crimes Enforcement Network- Section 310(d)(1) of title 31, United States Code, is amended by striking `such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005' and inserting `\$104,260,000 for fiscal year 2010 and such sums as may be necessary for each of the fiscal years 2011 and 2012'.</p>	<p>No change</p>	

Section	Original Text	Proposed Amendment	Explanation
<p>SEC. 107. REPORTING REQUIREMENTS.</p>	<p>(a) Report on Investment and Activities That May Be Sanctionable Under Iran Sanctions Act of 1996-</p> <p>(1) IN GENERAL- Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report containing--</p> <p>(A) a description of--</p> <p>(i) any foreign investments of \$20,000,000 or more that contribute directly and significantly to the enhancement of Iran's ability to develop petroleum resources made during the period described in paragraph (2);</p> <p>(ii) any sale, lease, or provision to Iran during the period described in paragraph (2) of any goods, services, technology, information, or support that would facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products; and</p> <p>(iii) any refined petroleum products provided to Iran during the period described in paragraph (2) and any other activity that could contribute directly and significantly to the enhancement of Iran's ability to import refined petroleum products during that period;</p> <p>(B) with respect to each investment or other activity described in subparagraph (A), an identification of--</p> <p>(i) the date or dates of the investment or activity;</p> <p>(ii) the steps taken by the United States to respond to the investment or activity;</p> <p>(iii) the name and United States domiciliary of any person that participated or invested in or facilitated the investment or activity; and</p> <p>(iv) any Federal Government contracts to which any person referred to in clause (iii) are parties; and</p> <p>(C) the determination of the President with respect to whether each such investment or activity qualifies as a sanctionable offense under section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).</p> <p>(2) PERIOD DESCRIBED- The period described in this paragraph is the period beginning on January 1, 2009, and ending on the date on which the President submits the report under paragraph (1).</p>	<p>Strike subsection (a) and insert the following:</p> <p>"Report on Impact and Effectiveness of Sanctions on Iran"</p> <p>(1) IN GENERAL.--Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report containing--</p> <p>(A) a list of all entities on whom sanctions under the Iran Sanctions Act of 1996 (Public Law 104-172; 50 USC 1701 note) have been imposed;</p> <p>(B) an assessment of the impact and effectiveness of the Iran Sanctions Act of 1996 in achieving United States goals;</p> <p>(C) a detailed description of the effect of US sanctions on the Iranian people, including civil society in Iran;</p> <p>(D) a description of the effect of US sanctions on the provision of US humanitarian assistance to the Iranian people;</p> <p>(E) a description of the effect of US sanctions on Iranians' access to information and communications on the Internet;</p> <p>(F) a list of actions that the United States Government could take to promote Internet freedom in Iran;</p> <p>(G) a list of actions that the United States Government could take to reduce the unintended harm of sanctions on the Iranian people;</p> <p>(H) an assessment of the impact and effectiveness of US sanctions on the political leadership of Iran "</p>	<p>Two decades of broad sanctions have not forced the changes in Iran's behavior that US policymakers have sought. Instead, they have created conditions in Iran that allow the regime and the IRGC to get rich off of the black market, while stifling the middle class.</p> <p>An assessment should be made of all US sanctions imposed on Iran, focusing on whom they impact and how that impact serves US interests.</p>

Section	Original Text	Proposed Amendment	Explanation
<p><i>Proposed New Title I, Sec. 112. Humanitarian and People-To-People Assistance to Iran.</i></p>	<p>NEW SECTION</p>	<p>Sec. 112. AUTHORIZATION OF UNITED STATES NON-PROFIT ORGANIZATIONS' ACTIVITIES IN IRAN FOR THE PROVISION OF HUMANITARIAN AND PEOPLE-TO-PEOPLE ASSISTANCE.</p> <p>(a) Authorization.-- Notwithstanding any other provision of law, the establishment and carrying out of operations in Iran for the direct provision of humanitarian and people-to-people assistance described in subsection (b) by any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 may not be prohibited or otherwise restricted.</p> <p>(b) Assistance Described- The humanitarian and people-to-people assistance referred to in subsection (a) is assistance to--</p> <ol style="list-style-type: none"> (1) promote adequate and reliable nutrition; (2) advance child survival and maternal health; (3) improve access to safe water, sanitation, and shelter; (4) prepare for and respond to natural disasters; (5) improve access to basic health care; (6) prevent and treat drug addiction; (7) strengthen education and literacy; (8) promote equal rights for women and minorities; (9) support human rights and representative governance; (10) foster international and religious understanding and tolerance; <p>and</p> <ol style="list-style-type: none"> (11) facilitate international people-to-people exchanges. <p>(c) Exception- Subsection (a) shall not apply with respect to an organization described in subsection (a) if such organization provides services or conducts transactions with any organization or entity that appears on the Department of the Treasury's Specially Designated Nationals List.</p> <p>(d) Notification and Waiver- The Secretary of the Treasury may require organizations authorized under subsection (a) to notify the Department of the Treasury up to 14 days in advance of commencing operations in Iran. The Secretary of the Treasury may waive the application of subsection (a) if the Secretary determines that it is in the national security interests of the United States to do so.</p> <p>(e) Effective Date- This section shall apply with respect to the establishment and carrying out of operations described in subsection (a) on or after the date of the enactment of this Act."</p>	<p>Over the past three decades, broad, indiscriminate sanctions have had the unintended effect of outlawing cooperation between private Americans and Iranians on projects like hospital construction, education and health programs, and even promoting human rights. Inefficiencies in the bureaucratic process have become so costly that American charities have largely given up on trying to procure a license for providing basic humanitarian services to the Iranian people--activities that have been endorsed by Republican and Democratic administrations alike. This has caused us to lose out on the vast pool of goodwill that the United States enjoys among the Iranian people, and has indirectly contributed to the suffering of innocent Iranians.</p> <p>This section would remove the licensing restrictions that have effectively barred legitimate charitable organizations from providing humanitarian and people-to-people assistance to Iran. It maintains effective safeguards that prevent Americans from providing illicit support to the regime in Tehran.</p> <p>The goal of this section is to ensure that US sanctions do not unintentionally aid the government of Iran in its repression of the innocent Iranian people.</p>

Section	Original Text	Proposed Amendment	Explanation
<p><i>Proposed New Title I, Sec. 113. Authorization of exports of certain software and related services to Iran</i></p>	<p>NEW SECTION</p>	<p>SEC. 113. AUTHORIZATION OF EXPORTS OF CERTAIN SOFTWARE AND RELATED SERVICES TO IRAN.</p> <p>(a) Authorization- Notwithstanding any other provision of law, the export of software and related services described in subsection (b) to Iran by United States persons may not be prohibited or otherwise restricted.</p> <p>(b) Software and Related Services Described- The software and related services referred to in subsection (a) are the following:</p> <p>(1) Software and related services that allow private Iranian citizens to circumvent online censorship and monitoring efforts imposed by the Government of Iran.</p> <p>(2) Software and related services that enable personal communication by the Iranian people.</p> <p>(c) Exception-</p> <p>(1) IN GENERAL- Subsection (a) shall not apply with respect to the export of software and related services described in subsection (b) to the Government of Iran.</p> <p>(2) DEFINITION-</p> <p>(A) IN GENERAL- In this subsection, the term `Government of Iran' includes the government of any political subdivision of Iran, and any agency or instrumentality of the Government of Iran.</p> <p>(B) AGENCY OR INSTRUMENTALITY- For purposes of subparagraph (A), the term `agency or instrumentality of the Government of Iran' means an agency of instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to `a foreign state' deemed to be a reference to `Iran'.</p> <p>(d) Effective Date- This section shall apply with respect to the export of software and related services referred to in subsection (a) on or after the date of the enactment of this Act.</p>	<p>Due to outdated language in U.S. sanctions, restrictions on information services have had the unintended consequence of denying the Iranian people the tools necessary to communicate freely and circumvent government monitors online. In two recent instances, Microsoft and Google each determined that they must deny instant messaging services to the Iranian people that were previously available, citing their duty to comply with US sanctions.</p> <p>This change would drop US-imposed barriers to Iranians' access to the free flow of information online. Enacting this provision through Congress would codify the Dec. 15 State Department decision to waive sanctions on export of free mass-market software necessary for personal communication and/or sharing of information over the Internet.</p>

Title IV - EFFECTIVE DATE; SUNSET

Section	Original Text	Proposed Amendment	Explanation
<p>SEC. 401. EFFECTIVE DATE; SUNSET.</p>	<p>(a) Effective Date- Except as provided in sections 104, 202, and 303(b)(2), the provisions of, and amendments made by, this Act shall take effect on the date that is 120 days after the date of the enactment of this Act.</p> <p>(b) Sunset- The provisions of this Act shall terminate on the date that is 30 days after the date on which the President certifies to Congress that--</p> <p style="padding-left: 40px;">(1) the Government of Iran has ceased providing support for acts of international terrorism and no longer satisfies the requirements for designation as a state sponsor of terrorism under--</p> <p style="padding-left: 80px;">(A) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or any successor thereto);</p> <p style="padding-left: 80px;">(B) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)); or</p> <p style="padding-left: 80px;">(C) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)); and</p> <p style="padding-left: 40px;">(2) Iran has ceased the pursuit, acquisition, and development of nuclear, biological, and chemical weapons and ballistic missiles and ballistic missile launch technology.</p>	<p>Change:</p> <p>Change (b) to read:</p> <p><i>(b) Sunset- A sanction imposed under Titles I through III shall remain in effect--</i></p> <p style="padding-left: 40px;"><i>(1) for a period of not less than 2 years from the date on which it is imposed; or</i></p> <p style="padding-left: 40px;"><i>(2) until such time as the President determines and certifies to the Congress that the person whose activities were the basis for imposing the sanction is no longer engaging in such activities and that the President has received reliable assurances that such person will not knowingly engage in such activities in the future, except that such sanction shall remain in effect for a period of at least 1 year.</i></p>	<p>This certification requirement is so categorical that it would be difficult if not impossible for a President to make under any circumstances. It could also conflict with a potential future agreement with Iran over its nuclear program.</p> <p>Changes should be made to make the certification requirement reasonable and to take into account the possibility of an international agreement with Iran on its nuclear program.</p> <p>This proposed change is consistent with the equivalent section in the Iran Sanctions Act of 1996 (Public Law 104-172; 50 USC 1701 note).</p>