

ILSA EXTENSION ACT OF 2001

JULY 16, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 1954]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1954) to extend the authorities of the Iran and Libya Sanctions Act of 1996 until 2006, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “ILSA Extension Act of 2001”.

SEC. 2. REPORTS REQUIRED.

Section 10 of the Iran and Libya Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) REPORT ON EFFECTIVENESS OF ACTIONS UNDER THIS ACT.—Not later than 18 months after the date of the enactment of the ILSA Extension Act of 2001, the President shall transmit to Congress a report that describes—

“(1) the extent to which actions relating to trade taken pursuant to this Act—

“(A) have been effective in achieving the objectives of section 3 and any other foreign policy or national security objectives of the United States with respect to Iran and Libya; and

“(B) have affected humanitarian interests in Iran and Libya, the country in which the sanctioned person is located, or in other countries; and

“(2) the impact of actions relating to trade taken pursuant to this Act on other national security, economic, and foreign policy interests of the United States, including relations with countries friendly to the United States, and on the United States economy.”.

SEC. 3. EXTENSION OF IRAN AND LIBYA SANCTIONS ACT OF 1996.

Section 13(b) of the Iran and Libya Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended by striking “5 years” and inserting “10 years”.

SEC. 4. RESOLUTION TO TERMINATE IRAN AND LIBYA SANCTIONS ACT OF 1996.

The Iran and Libya Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended by inserting after section 13 the following:

“SEC. 13A. RESOLUTION TO TERMINATE ACT.

“(a) IN GENERAL.—Notwithstanding section 13(b) of this Act, at any time after the date on which the report described in section 10(b) is transmitted to Congress, this Act shall cease to be effective if a joint resolution described in subsection (b) is enacted into law.

“(b) JOINT RESOLUTION DESCRIBED.—For purposes of this section, the term ‘joint resolution’ means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: ‘That the Iran and Libya Sanctions Act of 1996 (50 U.S.C 1701 note; Public Law 104–172) shall cease to be effective beginning on the date of the enactment of this joint resolution.’.

“(c) PROCEDURES IN HOUSE AND SENATE.—The provisions of subsections (b) through (f) of section 152 of the Trade Act of 1974 shall apply to a joint resolution described in this section.”.

Amend the title so as to read:

A bill to extend the authorities of the Iran and Libya Sanctions Act of 1996 until 2006, and for other purposes.

I. INTRODUCTION

A. BACKGROUND AND SUMMARY

The Iran and Libya Sanctions Act (P.L. 104–172), approved August 5, 1996, mandates sanctions against foreign investment in the petroleum sectors of Iran and Libya, as well as exports of weapons, oil equipment, and aviation equipment to Libya in violation of United Nations Resolutions 748 and 883.

In general, ILSA requires the President to impose at least two out of a menu of six sanctions on foreign companies that make an investment of \$20 million in one year in Iran’s energy sector, or \$40 million in one year in Libya’s energy sector. Prior to the suspension of U.N. sanctions against Libya, which was triggered by Libya’s handover of the two Pan Am 103 suspects in April 1999, foreign firms were also subject to sanctions if they exported technology to Libya that could be used to develop its energy sector, to develop weapons of mass destructions (WMD), to enhance its conventional military, or to maintain its aviation capabilities. These exports had been banned under Pan Am 103 related Security Council Resolutions 748 and 883.

There are two grounds on which the President may waive sanctions with respect to Iran. First, under Section 4(c) of P.L. 104–172,

the President may waive sanctions for investment in Iran for firms of countries that join a multilateral sanctions regime, including economic sanctions, against Iran. (Section 4(d) lowers the threshold of permissible investment from \$40 million to \$20 million for firms of countries that do not join such a regime.) Under ILSA, the waiver for a multilateral sanctions regime and the enhanced sanction does not apply to Libya. Second, under Section 9(c) of the law, the President may waive sanctions on the grounds that doing so is important to the U.S. national interest. This waiver applies to Iran and Libya.

H.R. 1954, the “ILSA Extension Act of 2001” was ordered reported by the Committee on International Relations on June 20, 2001, and sequentially referred to the Committee on Ways and Means. As reported by the Committee on Ways and Means, H.R. 1954 would extend the Act for five years. The Committee approved an amendment that would establish a review mechanism to allow Congress to consider termination of the Act after the receiving a Presidential report on the effectiveness of the sanctions and assessing their impact on other foreign policy and national security interest of the United States.

B. LEGISLATIVE HISTORY

H.R. 1954, The “ILSA Extension Act of 1996” was ordered reported by the Committee on International Relations on June 20, 2001 and sequentially referred to the Committee on Ways and Means.

On July 12, 2001, the full Committee met to consider H.R. 1954. At that time, the Committee adopted an amendment in the nature of a substitute offered by Chairman Thomas. The bill, as amended, was ordered favorably reported by voice vote.

II. EXPLANATION OF THE BILL

SECTION 1

The title of the bill is the “Iran and Libya Sanctions Extension Act of 2001.”

SECTION 2—REPORTS REQUIRED

Present law

P.L. 104–172, the Iran and Libya Sanctions Act of 1996, requires the President to report periodically to the appropriate congressional Committees on: (1) multilateral efforts to pressure Iran to cease its weapons of mass destruction and missile weapons programs and support of international terrorism; (2) efforts to persuade other governments to ask Iran to reduce the presence of Iranian diplomats and other personnel and withdraw any of them who participated in the takeover of the United States embassy in Tehran on November 4, 1979; (3) the extent to which the International Atomic Energy Agency has established regular inspections of all nuclear facilities in Iran; and (4) Iran’s use of Iranian diplomats and representatives of other institutions of Iran to promote acts of international terrorism or to develop Iran’s nuclear, chemical, biological, and missile weapons programs. P.L. 104–172 also requires the President to ensure continued reports to the Congress on Iran’s: (1) nuclear and

other military capabilities; and (2) support for acts of international terrorism.

Explanation of the provision

Section 2 requires a Presidential report eighteen months after enactment on the effectiveness of the legislation, after which, Congress may reevaluate results of the Act and consider action to terminate it.

The report would contain an assessment of the effectiveness of the actions relating to trade taken to achieve the objectives of P.L. 104–172, as well as any other U.S. foreign policy or national security objectives with respect to Iran and Libya. The reporting requirement would also instruct the Administration to examine the impact of this law on humanitarian interests and on national security, economic, and foreign policy interests of the United States, including relations with countries friendly to the United States, and on the U.S. economy.

Reason for change

The Members recognize that efforts by Iran and Libya to acquire weapons of mass destruction and the means to deliver them, and their support of acts of international terrorism, are very real problems and endanger the national security and foreign policy interests of the United States. However, the Committee questions the effectiveness of trade-related actions, which are within the Committee's jurisdiction, to achieve the objectives of this law. The Committee agrees with the Administration that trade sanctions should be reviewed frequently and that legislation extending the law for five years without a formal review would perpetuate a sanctions regime of doubtful utility. In addition, the Committee shares the Administration's view that the imposition of sanctions under the Act could precipitate tensions with key allies whose cooperation is needed to achieve changes in the rogue behavior of the Governments of Iran and Libya. The Administration is currently undertaking a policy review that will include examining the cost and effectiveness of sanctions efforts in general and with respect to this law. In addition, the new Administration is also conducting a policy review to assess recent political developments in Iran and to assess the "effectiveness of the range of policies in place" with respect to this country. The Committee looks forward to the results of these reviews and to the President's recommendation on whether the Iran and Libya Sanctions Act should be extended.

In short, the reporting requirement would allow the Administration and Congress to examine the costs, impact, and effectiveness of actions relating to trade in changing Iranian and Libyan behavior with respect to the acquisition of weapons of mass destruction and support for acts of international terrorism. If, after examining the required report, both Houses of Congress enact a joint resolution under the expedited procedures, the legislation would terminate.

It is the Committee's intent that the Administration submit the report no sooner than 18 months after date of enactment and that the resolution be considered only after that point. The Committee believes that this schedule would provide an opportunity for review

of the sanctions regime that maximizes the report's utility and validity.

SECTION 3—EXTENSION OF THE IRAN AND LIBYA SANCTIONS ACT

Present law

P.L. 104–172 expires on August 4, 2001.

Explanation of provision

Section 3 would extend the Iran and Libya Sanctions Act for five years.

Reason for change

The Government of Iran continues to sponsor international terrorism, developing weapons of mass destruction and otherwise engaging in behavior adverse to the national interest of the United States and to world stability. Likewise the failure of the Government of Libya to comply with United Nations Resolution 731, and its efforts to acquire weapons of mass destruction constitute a threat to international peace and security that endangers the national security of the United States.

The Committee's intent is to extend the law but to combine it with a reporting requirement and an opportunity to terminate the sanctions if they are not achieving their purpose. The Committee has long opposed unilateral sanctions and is willing to support an extension here only to give the new Administration an opportunity to develop a policy toward Iran and Libya that is more effective than sanctions. It is the Committee's hope that at the time the report is done, the Administration is able to present a more effective policy so that Congress can then move to terminate the sanctions.

SECTION 4—RESOLUTION TO TERMINATE IRAN AND LIBYA SANCTIONS

Present law

No provision.

Explanation of provision

Section 4 amends section 13 of P.L. 104–172 to establish expedited procedures under which Congress may consider termination of the Act. At anytime after the date on which the report described above relating to the effectiveness of actions taken under this Act is transmitted to Congress, the Iran and Libya Sanctions Act shall cease to be effective if a joint resolution is enacted into law. The procedures of Section 152 of the Trade Act of 1974 would apply to consideration of a resolution to terminate the Act. Under Section 152, any member of Congress may introduce a non-amendable termination resolution. If the House Ways and Means Committee or the Senate Finance Committee has not reported the resolution by the end of 30 days after its introduction, it would be in order to discharge the Committee of the resolution and any other resolution introduced with respect to the same matter. A motion to proceed to consideration of a resolution would be highly privileged and debate on the resolution would be limited to not more than 20 hours.

Reason for change

The Committee believes that efforts by Iran and Libya to acquire weapons of mass destruction and the means to deliver them, and their support of acts of international terrorism, are very real problems which endanger the national security and foreign policy interests of the United States. Recognizing that, after five years, the Iran and Libya Sanctions Act has failed in achieving its stated objectives, the Committee has many questions about the utility of imposing unilateral and extraterritorial trade sanctions against foreign firms (such as allies like Canada and Japan) as a method of achieving behavioral changes by the Governments of Iran and Libya.

The new reporting requirement would allow the Administration and Congress to examine the costs, impact, and effectiveness of actions relating to trade in changing Iranian and Libyan behavior with respect to the acquisition of weapons of mass destruction and support for acts of international terrorism. If, after examining the required report, both Houses of Congress enacts a joint resolution as described above, the legislation would terminate.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee in its consideration of the bill, H.R. 1954.

MOTION TO REPORT THE BILL

H.R. 1954 was ordered favorably reported, with an amendment in the nature of a substitute, by voice vote, on July 12, 2001, with a quorum present.

IV. BUDGET EFFECTS OF THE BILL**A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made:

The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with subdivision 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the provisions of H.R. 1954 do not affect receipts or direct spending and would not be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with subdivision 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 16, 2001.

Hon. WILLIAM "BILL" M. THOMAS,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1954, the ILSA Extension Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Joseph C. Whitehill (for federal costs) and Paige Piper/Bach (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1954—ILSA Extension Act of 2001

H.R. 1954 would extend the authorities of the Iran and Libya Sanctions Act (ILSA) of 1996 for an additional five years through 2006. The bill would require the President to report to the Congress on the effectiveness of actions taken under ILSA within 18 months after enactment, and it would provide for the early termination of that act at any time after submission of the report. CBO estimates that implementing H.R. 1954 would not significantly affect discretionary spending. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

Based on information from the Department of State, CBO estimates that preparing the required report would increase the department's spending by less than \$500,000, assuming the availability of appropriated funds.

By extending the Iran and Libya Sanctions Act, H.R. 1954 could impose a private-sector mandate as defined by the Unfunded Mandates Reform Act (UMRA). The President would be required to impose certain sanctions on U.S. entities or foreign companies that invest over a specific amount of money in developing the petroleum and natural gas resources of Iran or Libya. Among the sanctions available under the act, the President could impose certain restrictions on U.S. offices of a sanctioned company or on entities and financial institutions engaged in business transactions with a sanctioned entity. The act does, however, allow the President the discretion to make exceptions in applying such sanctions. Since passage of ILSA, no such sanctions have been imposed. Consequently, CBO expects that sanctions are unlikely to be imposed under H.R. 1954 and that the direct cost of the mandate would fall below the annual threshold established by UMRA for private-sector mandates (\$113 million in 2001, adjusted annually for inflation).

H.R. 1954 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

On June 21, 2001, CBO prepared an estimate for H.R. 1954 as ordered reported by the House Committee on International Rela-

tions. That version of the bill would lower the threshold of investments in Libya that could trigger sanctions under ILSA from \$40 million to \$20 million and would revise the definition of investment to include any amendment or modification of existing contracts that would exceed the threshold amount. CBO estimated that implementing that version of H.R. 1954 would not significantly affect discretionary spending and that the cost of the private-sector mandate in that version of the bill would fall below the annual threshold established by UMRA.

The CBO staff contact for federal costs is Joseph C. Whitehill. The CBO staff contact for private-sector mandates is Paige Piper/Bach. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on information from the Administration, concluded that it is appropriate and timely to enact the provisions included in the bill as reported.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE GOVERNMENT OPERATIONS COMMITTEE

In compliance with clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee state that no oversight findings and recommendations have been submitted to this Committee by the Committee on Government Operations with respect to the provisions contained in H.R. 1954.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *").

VI. 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 *italic*, existing law in which no change is proposed is shown in roman):

IRAN AND LIBYA SANCTIONS ACT OF 1996

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SEC. 10. REPORTS REQUIRED.

(a) * * *

(b) *REPORT ON EFFECTIVENESS OF ACTIONS UNDER THIS ACT.*—Not later than 18 months after the date of the enactment of the ILSA Extension Act of 2001, the President shall transmit to Congress a report that describes—

(1) the extent to which actions relating to trade taken pursuant to this Act—

(A) have been effective in achieving the objectives of section 3 and any other foreign policy or national security objectives of the United States with respect to Iran and Libya; and

(B) have affected humanitarian interests in Iran and Libya, the country in which the sanctioned person is located, or in other countries; and

(2) the impact of actions relating to trade taken pursuant to this Act on other national security, economic, and foreign policy interests of the United States, including relations with countries friendly to the United States, and on the United States economy.

[(b)] (c) *OTHER REPORTS.*—The President shall ensure the continued transmittal to the Congress of reports describing—

(1) * * *

* * * * *

SEC. 13. EFFECTIVE DATE; SUNSET.

(a) * * *

(b) *SUNSET.*—This Act shall cease to be effective on the date that is [5] 10 years after the date of the enactment of this Act.

SEC. 13A. RESOLUTION TO TERMINATE ACT.

(a) *IN GENERAL.*—Notwithstanding section 13(b) of this Act, at any time after the date on which the report described in section 10(b) is transmitted to Congress, this Act shall cease to be effective if a joint resolution described in subsection (b) is enacted into law.

(b) *JOINT RESOLUTION DESCRIBED.*—For purposes of this section, the term “joint resolution” means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: “That the Iran and Libya Sanctions Act of 1996 (50 U.S.C 1701 note; Public Law 104–172) shall cease to be effective beginning on the date of the enactment of this joint resolution.”

(c) *PROCEDURES IN HOUSE AND SENATE.*—The provisions of subsections (b) through (f) of section 152 of the Trade Act of 1974 shall apply to a joint resolution described in this section.

* * * * *