

IRAN FREEDOM SUPPORT ACT

APRIL 25, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HYDE, from the Committee on International Relations,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 282]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 282) to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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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 Freedom Support Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

- Sec. 101. Codification of sanctions.
- Sec. 102. Liability of parent companies for violations of sanctions by foreign entities.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

- Sec. 201. Multilateral regime.
- Sec. 202. Imposition of sanctions.
- Sec. 203. Termination of sanctions.
- Sec. 204. Sunset.
- Sec. 205. Clarification and expansion of definitions.
- Sec. 206. United States pension plans.
- Sec. 207. Report by Office of Global Security Risks.
- Sec. 208. Technical and conforming amendments.

TITLE III—DIPLOMATIC EFFORTS TO CURTAIL IRANIAN NUCLEAR PROLIFERATION AND SPONSORSHIP OF INTERNATIONAL TERRORISM

- Sec. 301. Diplomatic efforts.
- Sec. 302. Strengthening the Nuclear Nonproliferation Treaty.

TITLE IV—DEMOCRACY IN IRAN

- Sec. 401. Declaration of Congress regarding United States policy toward Iran.
- Sec. 402. Assistance to support democracy in Iran.
- Sec. 403. Waiver of certain export license requirements.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

SEC. 101. CODIFICATION OF SANCTIONS.

(a) **CODIFICATION OF SANCTIONS.**—United States sanctions, controls, and regulations with respect to Iran imposed pursuant to Executive Order 12957, Executive Order 12959, and sections 2 and 3 of Executive Order 13059 (relating to exports and certain other transactions with Iran) as in effect on January 1, 2006, shall remain in effect until the President certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the Government of Iran has verifiably dismantled its weapons of mass destruction programs.

(b) **NO EFFECT ON OTHER SANCTIONS RELATING TO SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.**—Subsection (a) shall have no effect on United States sanctions, controls, and regulations relating to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) relating to support for acts of international terrorism by the Government of Iran, as in effect on January 1, 2006.

SEC. 102. LIABILITY OF PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY FOREIGN ENTITIES.

(a) **IN GENERAL.**—In any case in which an entity engages in an act outside the United States which, if committed in the United States or by a United States person, would violate Executive Order 12959 of May 6, 1995, Executive Order 13059 of August 19, 1997, or any other prohibition on transactions with respect to Iran that is imposed under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and if that entity was created or availed of for the purpose of engaging in such an act, the parent company of that entity shall be subject to the penalties

for such violation to the same extent as if the parent company had engaged in that act.

(b) DEFINITIONS.—In this section—

(1) an entity is a “parent company” of another entity if it owns, directly or indirectly, more than 50 percent of the equity interest in that other entity and is a United States person; and

(2) the term “entity” means a partnership, association, trust, joint venture, corporation, or other organization.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

SEC. 201. MULTILATERAL REGIME.

(a) REPORTS TO CONGRESS.—Section 4(b) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

“(b) REPORTS TO CONGRESS.—Not later than six months after the date of the enactment of the Iran Freedom Support Act and every six months thereafter, the President shall submit to the appropriate congressional committees a report regarding specific diplomatic efforts undertaken pursuant to subsection (a), the results of those efforts, and a description of proposed diplomatic efforts pursuant to such subsection. Each report shall include—

“(1) a list of the countries that have agreed to undertake measures to further the objectives of section 3 with respect to Iran;

“(2) a description of those measures, including—

“(A) government actions with respect to public or private entities (or their subsidiaries) located in their territories, that are engaged in Iran;

“(B) any decisions by the governments of these countries to rescind or continue the provision of credits, guarantees, or other governmental assistance to these entities; and

“(C) actions taken in international fora to further the objectives of section 3;

“(3) a list of the countries that have not agreed to undertake measures to further the objectives of section 3 with respect to Iran, and the reasons therefor; and

“(4) a description of any memorandums of understanding, political understandings, or international agreements to which the United States has acceded which affect implementation of this section or section 5(a).”.

(b) WAIVER.—Section 4(c) of such Act (50 U.S.C. 1701 note) is amended to read as follows:

“(c) WAIVER.—

“(1) IN GENERAL.—The President may, on a case by case basis, waive for a period of not more than six months the application of section 5(a) with respect to a national of a country, if the President certifies to the appropriate congressional committees at least 30 days before such waiver is to take effect that—

“(A) such waiver is vital to the national security interests of the United States; and

“(B) the country of the national has undertaken substantial measures to prevent the acquisition and development of weapons of mass destruction by the Government of Iran.

“(2) SUBSEQUENT RENEWAL OF WAIVER.—If the President determines that, in accordance with paragraph (1), such a waiver is appropriate, the President may, at the conclusion of the period of a waiver under paragraph (1), renew such waiver for subsequent periods of not more than six months each.”.

(c) INVESTIGATIONS.—Section 4 of such Act (50 U.S.C. 1701 note) is amended by adding at the end the following new subsection:

“(f) INVESTIGATIONS.—

“(1) IN GENERAL.—The President shall initiate an investigation into the possible imposition of sanctions against a person upon receipt by the United States of credible information indicating that such person is engaged in activity related to investment in Iran as described in section 5(a).

“(2) DETERMINATION AND NOTIFICATION.—

“(A) IN GENERAL.—Not later than 180 days after an investigation is initiated in accordance with paragraph (1), the President shall determine, pursuant to section 5(a), whether or not to impose sanctions against a person

engaged in activity related to investment in Iran as described in such section as a result of such activity and shall notify the appropriate congressional committees of the basis for such determination.

“(B) EXTENSION.—If the President is unable to make a determination under subparagraph (A), the President shall notify the appropriate congressional committees and shall extend such investigation for a subsequent period, not to exceed 180 days, after which the President shall make the determination required under such subparagraph and shall notify the appropriate congressional committees of the basis for such determination in accordance with such subparagraph.

“(3) DETERMINATIONS REGARDING PENDING INVESTIGATIONS.—Not later than 90 days after the date of the enactment of this Act, the President shall, with respect to any investigation that was pending as of January 1, 2006, concerning a person engaged in activity related to investment in Iran as described in section 5(a), determine whether or not to impose sanctions against such person as a result of such activity and shall notify the appropriate congressional committees of the basis for such determination.

“(4) PUBLICATION.—Not later than 10 days after the President notifies the appropriate congressional committees under paragraphs (2) and (3), the President shall ensure publication in the Federal Register of the identification of the persons against which the President has made a determination that the imposition of sanctions is appropriate, together with an explanation for such determination.”.

SEC. 202. IMPOSITION OF SANCTIONS.

(a) SANCTIONS WITH RESPECT TO DEVELOPMENT OF PETROLEUM RESOURCES.—Section 5(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in the heading, by striking “TO IRAN” and inserting “TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN”;

(2) by striking “(6)” and inserting “(5)”; and

(3) by striking “with actual knowledge.”.

(b) SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—Section 5(b) of such Act (50 U.S.C. 1701 note) is amended to read as follows:

“(b) MANDATORY SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—Notwithstanding any other provision of law, the President shall impose two or more of the sanctions described in paragraphs (1) through (5) of section 6 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 to the ability of Iran to—

“(1) acquire or develop chemical, biological, or nuclear weapons or related technologies; or

“(2) acquire or develop destabilizing numbers and types of advanced conventional weapons.”.

(c) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—Section 5(c)(2) of such Act (50 U.S.C. 1701 note) is amended—

(1) in subparagraph (B), by striking “, with actual knowledge,” and by striking “or” at the end;

(2) in subparagraph (C), by striking “, with actual knowledge,” and by striking the period at the end and inserting “; or”; and

(3) by adding after subparagraph (C) the following new subparagraph:

“(D) is a private or government lender, insurer, underwriter, or guarantor of the person referred to in paragraph (1) if that private or government lender, insurer, underwriter, or guarantor engaged in the activities referred to in paragraph (1).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions taken on or after March 15, 2006.

SEC. 203. TERMINATION OF SANCTIONS.

Section 8(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (1)(C), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(3) poses no significant threat to United States national security, interests, or allies.”.

SEC. 204. SUNSET.

Section 13 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

- (1) in the section heading, by striking “; **SUNSET**”;
- (2) in subsection (a), by striking the subsection designation and heading;
- and
- (3) by striking subsection (b).

SEC. 205. CLARIFICATION AND EXPANSION OF DEFINITIONS.

(a) **PERSON.**—Section 14(14)(B) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

- (1) by inserting after “trust,” the following: “financial institution, insurer, underwriter, guarantor, any other business organization, including any foreign subsidiaries of the foregoing,”; and
- (2) by inserting before the semicolon the following: “, such as an export credit agency”.

(b) **PETROLEUM RESOURCES.**—Section 14(15) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by inserting after “petroleum” the second place it appears, the following: “, petroleum by-products,”.

SEC. 206. UNITED STATES PENSION PLANS.

(a) **FINDINGS.**—Congress finds the following:

(1) The United States and the international community face no greater threat to their security than the prospect of rogue regimes who support international terrorism obtaining weapons of mass destruction, and particularly nuclear weapons.

(2) Iran is the leading state sponsor of international terrorism and is close to achieving nuclear weapons capability but has paid no price for nearly twenty years of deception over its nuclear program. Foreign entities that have invested in Iran’s energy sector, despite Iran’s support of international terrorism and its nuclear program, have afforded Iran a free pass while many United States entities have unknowingly invested in those same foreign entities.

(3) United States investors have a great deal at stake in preventing Iran from acquiring nuclear weapons.

(4) United States investors can have considerable influence over the commercial decisions of the foreign entities in which they have invested.

(b) **PUBLICATION IN FEDERAL REGISTER.**—Not later than six months after the date of the enactment of this Act and every six months thereafter, the President shall ensure publication in the Federal Register of a list of all United States and foreign entities that have invested more than \$20,000,000 in Iran’s energy sector between August 5, 1996, and the date of such publication. Such list shall include an itemization of individual investments of each such entity, including the dollar value, intended purpose, and current status of each such investment.

(c) **SENSE OF CONGRESS RELATING TO DIVESTITURE FROM IRAN.**—It is the sense of Congress that, upon publication of a list in the relevant Federal Register under subsection (b), managers of United States Government pension plans or thrift savings plans, managers of pension plans maintained in the private sector by plan sponsors in the United States, and managers of mutual funds sold or distributed in the United States should immediately initiate efforts to divest all investments of such plans or funds in any entity included on the list.

(d) **SENSE OF CONGRESS RELATING TO PROHIBITION ON FUTURE INVESTMENT.**—It is the sense of Congress that, upon publication of a list in the relevant Federal Register under subsection (b), there should be no future investment in any entity included on the list by managers of United States Government pension plans or thrift savings plans, managers of pension plans maintained in the private sector by plan sponsors in the United States, and managers of mutual funds sold or distributed in the United States.

(e) **DISCLOSURE TO INVESTORS.**—

(1) **IN GENERAL.**—Not later than 30 days after the date of publication of a list in the relevant Federal Register under subsection (b), managers of United States Government pension plans or thrift savings plans, managers of pension plans maintained in the private sector by plan sponsors in the United States, and managers of mutual funds sold or distributed in the United States shall notify investors that the funds of such investors are invested in an entity included on the list. Such notification shall contain the following information:

- (A) The name or other identification of the entity.
- (B) The amount of the investment in the entity.
- (C) The potential liability to the entity if sanctions are imposed by the United States on Iran or on the entity.
- (D) The potential liability to investors if such sanctions are imposed.

(2) FOLLOW-UP NOTIFICATION.—

(A) **IN GENERAL.**—Except as provided in subparagraph (C), in addition to the notification required under paragraph (1), such managers shall also include such notification in every prospectus and in every regularly provided quarterly, semi-annual, or annual report provided to investors, if the funds of such investors are invested in an entity included on the list.

(B) **CONTENTS OF NOTIFICATION.**—The notification described in subparagraph (A) shall be displayed prominently in any such prospectus or report and shall contain the information described in paragraph (1).

(C) **GOOD-FAITH EXCEPTION.**—If, upon publication of a list in the relevant Federal Register under subsection (b), such managers verifiably divest all investments of such plans or funds in any entity included on the list and such managers do not initiate any new investment in any other such entity, such managers shall not be required to include the notification described in subparagraph (A) in any prospectus or report provided to investors.

SEC. 207. REPORT BY OFFICE OF GLOBAL SECURITY RISKS.

Not later than 30 days after the date of publication of a list in the relevant Federal Register under section 206(b), the Office of Global Security Risks within the Division of Corporation Finance of the United States Securities and Exchange Commission shall issue a report containing a list of the United States and foreign entities identified in accordance with such section, a determination of whether or not the operations in Iran of any such entity constitute a political, economic, or other risk to the United States, and a determination of whether or not the entity faces United States litigation, sanctions, or similar circumstances that are reasonably likely to have a material adverse impact on the financial condition or operations of the entity.

SEC. 208. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **FINDINGS.**—Section 2 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking paragraph (4).

(b) **DECLARATION OF POLICY.**—Section 3 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

- (1) in subsection (a), by striking “(a) POLICY WITH RESPECT TO IRAN.—”; and
- (2) by striking subsection (b).

(c) **TERMINATION OF SANCTIONS.**—Section 8 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

- (1) in subsection (a), by striking “(a) IRAN.—”; and
- (2) by striking subsection (b).

(d) **DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.**—Section 9(c)(2)(C) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

“(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”.

(e) **REPORTS REQUIRED.**—Section 10(b)(1) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking “and Libya” each place it appears.

(f) **DEFINITIONS.**—Section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (9)—

(A) in the matter preceding subparagraph (A), by—

(i) striking “, or with the Government of Libya or a nongovernmental entity in Libya,”; and

(ii) by striking “nongovernmental” and inserting “nongovernmental”; and

(B) in subparagraph (A), by striking “or Libya (as the case may be)”;

(2) by striking paragraph (12); and

(3) by redesignating paragraphs (13), (14), (15), (16), and (17) as paragraphs (12), (13), (14), (15), and (16), respectively.

(g) **SHORT TITLE.**—

(1) **IN GENERAL.**—Section 1 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking “and Libya”.

(2) **REFERENCES.**—Any reference in any other provision of law, regulation, document, or other record of the United States to the “Iran and Libya Sanctions Act of 1996” shall be deemed to be a reference to the “Iran Sanctions Act of 1996”.

TITLE III—DIPLOMATIC EFFORTS TO CURTAIL IRANIAN NUCLEAR PROLIFERATION AND SPONSORSHIP OF INTERNATIONAL TER- RORISM

SEC. 301. DIPLOMATIC EFFORTS.

(a) SENSE OF CONGRESS RELATING TO UNITED NATIONS SECURITY COUNCIL AND THE INTERNATIONAL ATOMIC ENERGY AGENCY.—It is the sense of Congress that the President should instruct the United States Permanent Representative to the United Nations to work to secure support at the United Nations Security Council for a resolution that would impose sanctions on Iran as a result of its repeated breaches of its nuclear nonproliferation obligations, to remain in effect until Iran has verifiably dismantled its weapons of mass destruction programs.

(b) PROHIBITION ON ASSISTANCE TO COUNTRIES THAT INVEST IN THE ENERGY SECTOR OF IRAN.—

(1) WITHHOLDING OF ASSISTANCE.—If, on or after April 13, 2005, a foreign person (as defined in section 14 of the Iran Sanctions Act of 1996 (50 U.S.C. 1701 note), as renamed pursuant to section 208(g)(1)) or an agency or instrumentality of a foreign government has more than \$20,000,000 invested in Iran's energy sector, the President shall, until the date on which such person or agency or instrumentality of such government terminates such investment, withhold assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) to the government of the country to which such person owes allegiance or to which control is exercised over such agency or instrumentality.

(2) WAIVER.—Assistance prohibited by this section may be furnished to the government of a foreign country described in subsection (a) if the President determines that furnishing such assistance is important to the national security interests of the United States, furthers the goals described in this Act, and, not later than 15 days before obligating such assistance, notifies the Committee on International Relations of the House of Representatives, the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate of such determination and submits to such committees a report that includes—

- (A) a statement of the determination;
- (B) a detailed explanation of the assistance to be provided;
- (C) the estimated dollar amount of the assistance; and
- (D) an explanation of how the assistance furthers United States national security interests.

SEC. 302. STRENGTHENING THE NUCLEAR NONPROLIFERATION TREATY.

(a) FINDINGS.—Congress finds the following:

(1) Article IV of the Treaty on the Non-Proliferation of Nuclear Weapons (commonly referred to as the “Nuclear Nonproliferation Treaty” or “NPT”) states that countries that are parties to the Treaty have the “inalienable right . . . to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty.”.

(2) Iran has manipulated Article IV of the Nuclear Nonproliferation Treaty to acquire technologies needed to manufacture nuclear weapons under the guise of developing peaceful nuclear technology.

(3) Legal authorities, diplomatic historians, and officials closely involved in the negotiation and ratification of the Nuclear Nonproliferation Treaty state that the Treaty neither recognizes nor protects such a per se right to all nuclear technology, such as enrichment and reprocessing, but rather affirms that the right to the use of peaceful nuclear energy is qualified.

(b) DECLARATION OF CONGRESS REGARDING UNITED STATES POLICY TO STRENGTHEN THE NUCLEAR NONPROLIFERATION TREATY.—Congress declares that it should be the policy of the United States to support diplomatic efforts to end the manipulation of Article IV of the Nuclear Nonproliferation Treaty, as undertaken by Iran, without undermining the Treaty itself.

TITLE IV—DEMOCRACY IN IRAN

SEC. 401. DECLARATION OF CONGRESS REGARDING UNITED STATES POLICY TOWARD IRAN.

(a) IN GENERAL.—Congress declares that it should be the policy of the United States to support independent human rights and peaceful pro-democracy forces in Iran.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as authorizing the use of force against Iran.

SEC. 402. ASSISTANCE TO SUPPORT DEMOCRACY IN IRAN.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President is authorized to provide financial and political assistance (including the award of grants) to foreign and domestic individuals, organizations, and entities that support democracy and the promotion of democracy in Iran. Such assistance may include the award of grants to eligible independent pro-democracy radio and television broadcasting organizations that broadcast into Iran.

(2) LIMITATION ON ASSISTANCE.—In accordance with the rule of construction described in subsection (b) of section 401, none of the funds authorized under this section shall be used to support the use of force against Iran.

(b) ELIGIBILITY FOR ASSISTANCE.—Financial and political assistance under this section may be provided only to an individual, organization, or entity that—

(1) officially opposes the use of violence and terrorism and has not been designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) at any time during the preceding four years;

(2) advocates the adherence by Iran to nonproliferation regimes for nuclear, chemical, and biological weapons and materiel;

(3) is dedicated to democratic values and supports the adoption of a democratic form of government in Iran;

(4) is dedicated to respect for human rights, including the fundamental equality of women;

(5) works to establish equality of opportunity for people; and

(6) supports freedom of the press, freedom of speech, freedom of association, and freedom of religion.

(c) FUNDING.—The President may provide assistance under this section using—

(1) funds available to the Middle East Partnership Initiative (MEPI), the Broader Middle East and North Africa Initiative, and the Human Rights and Democracy Fund; and

(2) amounts made available pursuant to the authorization of appropriations under subsection (g).

(d) NOTIFICATION.—Not later than 15 days before each obligation of assistance under this section, and in accordance with the procedures under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1), the President shall notify the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate. Such notification shall include, as practicable, the types of programs supported by such assistance and the recipients of such assistance.

(e) SENSE OF CONGRESS REGARDING DIPLOMATIC ASSISTANCE.—It is the sense of Congress that—

(1) contacts should be expanded with opposition groups in Iran that meet the criteria under subsection (b);

(2) support for a transition to democracy in Iran should be expressed by United States representatives and officials in all appropriate international fora;

(3) efforts to bring a halt to the nuclear weapons program of Iran, including steps to end the supply of nuclear components or fuel to Iran, should be intensified, with particular attention focused on the cooperation regarding such program—

(A) between the Government of Iran and the Government of the Russian Federation; and

(B) between the Government of Iran and individuals from China and Pakistan, including the network of Dr. Abdul Qadeer (A. Q.) Khan; and

(4) officials and representatives of the United States should—

(A) strongly and unequivocally support indigenous efforts in Iran calling for free, transparent, and democratic elections; and

(B) draw international attention to violations by the Government of Iran of human rights, freedom of religion, freedom of assembly, and freedom of the press.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of State such sums as may be necessary to carry out this section.

SEC. 403. WAIVER OF CERTAIN EXPORT LICENSE REQUIREMENTS.

The Secretary of State may, in consultation with the Secretary of Commerce, waive the requirement to obtain a license for the export to, or by, any person to whom the Department of State has provided a grant under a program to promote democracy or human rights abroad, any item which is commercially available in the United States without government license or permit, to the extent that such export would be used exclusively for carrying out the purposes of the grant.

PURPOSE AND SUMMARY

Iran is the state which poses the most critical security threat to the United States. Iran's program to develop weapons of mass destruction, in particular nuclear weapons and the means to deliver them, is a special concern to the American people and should alarm the entire international community. As Under Secretary of State for Arms Control and International Security Robert Joseph testified before the Committee on March 8, 2006: "Iran is at the nexus of weapons of mass destruction and terrorism, pursuing nuclear, chemical, and biological programs and actively supporting terrorist movements. If Iran has fissile material or nuclear weapons, the likelihood of their transfer to a third party would increase—by design or through diversion."

The United States has sought to prevent Iran from acquiring weapons of mass destruction by a number of means. One principal means has been a series of Executive Orders under the International Emergency Economic Powers Act which forbid American firms from engaging in many routine transactions with Iran, and which, in particular, forbid investments in Iran and its petroleum sector. The petroleum sector is Iran's main foreign currency earner. In addition, other administrative and legislative provisions are designed to prevent specific components of weapons of mass destruction systems from falling into Iran's hands.

A major weakness of the United States system of laws and regulations concerning Iran is and has been the ability of entities outside the jurisdiction of the United States to enter into transactions that "fill in behind" United States entities which do not engage in those transactions because of United States domestic law. Allowing this situation to continue would have had the effect of allowing Iran access to capital and future streams of petroleum revenue that could expedite Iran's development of weapons of mass destruction and expand their ability to fund, train, and supply terrorist organizations around the world. In October, 1995, then-Under Secretary of State Peter Tarnoff underscored that "a straight line links Iran's oil income and its ability to sponsor terrorism and build weapons of mass destruction . . . and any private company that helps Iran to expand its oil [sector] must accept that it is indirectly contributing to this menace." Finally, allowing foreign firms to act where American firms could not would have strengthened those foreign firms at the expense of American firms, their employees, suppliers, and investors.

Recognizing this, in 1996 the Congress passed and President Clinton signed into law Public Law 104-172, "the Iran and Libya Sanctions Act" (ILSA) which was designed to dissuade foreign enti-

ties from investing in the Iranian petroleum sector by providing for the imposition of certain sanctions on such entities.

No firms have been sanctioned under this law. However, there have been certain favorable aspects of its operation from the perspective of United States national security. First, certain concessions from major powers were made with respect to those powers' dealings with Iran, in exchange for waivers of the law's operation, pursuant (in the view of the Administration) to the statute as enacted. In 1998, then-Secretary of State Madeleine Albright found that an investment by Total, a French firm, in Iran violated ILSA but waived sanctions and indicated that additional waivers would be forthcoming if there was cooperation from European Union states on non-proliferation matters with respect to Iran. The view of the importance of those concessions and promises of future cooperation vary greatly. Second, the supply of capital to the Iranian petroleum sector has been constrained by the threat of sanctions, driving up the cost of capital—to the disadvantage of Iran. ILSA was in fact a deterrent to investment and served to help highlight the threat from Iran. In 2001, Iranian economic experts themselves noted that “sanctions result in contracts with second [-rate] companies and “at least double the cost of [Iran’s] oil extraction,” requiring “that a significant part of [Iran’s] economic and financial resources are expended to compensate for such limitations.” This is one explanation for the widely disparate rate of investment in the petroleum sector in Iran, on the one hand, and its immediate neighbors, such as Qatar, on the other. For this reason, in 2001, the Congress extended ILSA, as mentioned above, for five years. It would have otherwise expired. It will now expire in August, 2006. The Administration testified in March, 2006, that ILSA is a useful tool and supports its renewal for five years. Nevertheless, the lack of imposition of sanctions has, over time, greatly diminished ILSA’s impact and, given the growing concern over Iranian WMD capabilities, particularly its nuclear program, led the Committee to recommend the enactment of H.R. 282 as amended.

In the years since ILSA was last amended, Libya’s behavior with respect to its weapons of mass destruction program has changed radically. The President has certified that Libya has met the requirements of United Nations Security Council resolutions relating to Libyan involvement in the bombing of Pan Am 103 in 1988, and accordingly, Administrative action restrictions on investment in Libya have been removed. The Committee deems it appropriate to remove references to Libya from Public Law 104–172 at this time.

In brief, H.R. 282, as amended, would extend Public Law 104–172 indefinitely, remove former restrictions on investments in Libya from its scope and change its title to the Iran Sanctions Act (“ISA”), and entrench certain domestically-applicable sanctions into law until specified conditions were met. Also, as an additional means to deter investment in Iran, language is included to inform pension funds and mutual funds that they may be investing in entities which themselves invest in Iran’s petroleum sector, and is designed, in general, to discourage such investments. The bill also requires the President to investigate, on a schedule fixed in law, whether credible evidence of an investment in the Iranian petroleum sector exists, and if it does exist, whether sanctions should

be imposed or waived. Finally, the bill authorizes appropriations for a program to help promote democracy in Iran.

SUMMARY OF PROVISIONS OF THE BILL AS REPORTED

Codification of U.S. Sanctions on Iran

Existing sanctions, controls and regulations under the International Economic Emergency Powers Act relating to Iran are codified and will remain in effect until the President can certify to Congress that Iran has verifiably dismantled its weapons of mass destruction and related programs.

The termination of sanctions for WMD reasons does not affect sanctions imposed on Iran for state-sponsorship of terrorism.

Amends the original Iran and Libya Sanctions Act, with respect to Iran

1) Requires a twice-annual report to Congress detailing specific diplomatic efforts toward the imposition of multilateral sanctions against Iran.

2) Investigation into violations of ILSA will be triggered by the discovery of credible evidence of investment in the petroleum sector of Iran.

3) No later than 180 days after beginning an investigation, the President shall determine if sanctions are to be imposed. A determination to impose sanctions shall be reported to Congress and published in the Federal Register. The investigation may be extended for one additional period of 180 days.

4) A decision on investigations pending on January 1, 2006, must be made within 90 days of the date of enactment and such a decision shall be reported to Congress and, if it results in the imposition of sanctions, shall be published in the Federal Register.

5) A waiver by the President shall be effective for six months, on an entity basis, and will be based on a determination that the waiver is *vital to the national security interests* of the United States and that the country of the person who would be subject to sanctions has undertaken substantial measures to prevent Iran's acquisition of weapons of mass destruction. Waivers may be renewed for subsequent six-month periods.

6) Liability for sanctioned parties is expanded to private or government lenders, insurers, underwriters, and guarantors. A government export credit agency can help ensure the success of an investment deal, and the provision of support by such an agency would make that agency subject to sanctions.

7) The Sunset provision is eliminated. However, the requirement to impose sanctions will no longer have force or effect when the President determines and reports to the Congress that Iran no longer poses a significant threat to the national security of the United States, its interests, or allies.

8) ILSA provides a set of criteria which, if met, would result in the termination of sanctions. H.R. 282 adds: Iran will have to be determined not to pose a significant threat to United States national security, interests, or allies.

Definitions Expanded

1) The sorts of enterprises that may be deemed to “invest” in the Iranian petroleum sector are specified to include entities such as guarantors, insurers, and the like.

2) The term “petroleum resources” shall now include petroleum by-products.

Supporting a Change to Democratic Rule in Iran

1) Provides authorization of assistance for human rights and peaceful pro-democracy organizations and individuals meeting a certain criteria.

2) Authorizes assistance for independent broadcasts into Iran. Funding for this provision could be derived from existing programs relating to the Middle East region.

3) It formally articulates that United States policy should be to support independent human rights and pro-democracy forces in Iran, and that contacts should be expanded with opposition groups in Iran that support the values articulated in the bill.

Additional provisions

1) Expresses the Sense of Congress that U.S. Government pension funds and other similar funds should divest from existing investments in companies subject to ILSA sanctions and should not enter into any future investments in such entities.

2) Requires managers of these public and private pension plans and mutual funds to notify investors that the funds are invested in entities that are subject to ILSA sanctions because of their activities in Iran’s energy sector.

3) Calls for a series of reports documenting all companies subject to ILSA sanctions since the enactment of ILSA in 1996.

4) Calls for a series of diplomatic efforts to curtail Iranian terrorism and proliferation activities.

5) Requires the withholding of U.S. assistance to countries that directly help Iran, or permit commercial entities subject to their laws, help Iran, by investing in its energy sector. (Can be waived by the President.)

6) Provides that nothing in H.R. 282 shall be construed as authorizing the use of force against Iran.

BACKGROUND AND NEED FOR THE LEGISLATION

Iran has been the subject of considerable Congressional attention over the past dozen years.

The Committee is aware of abundant evidence of Iran’s misbehavior on all fronts: its pursuit of weapons of mass destruction, its support for terrorism, its efforts to undermine United States interests in Iraq and Afghanistan, its denial of Israel’s right to exist, its actions to try to defeat the Middle East peace process, and its extreme mistreatment of its own people. This record has been made in the public hearings detailed in the section “Hearings” set out below, as well as in dozens of meetings between Members or staff of the House International Relations Committee, Administration officials and members of the public. Diplomatic engagement by friends (or rivals) of the United States, and on occasion by the

United States itself, aimed at moderating Iranian behavior, has had little, if any, positive result.

In May 1995, 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 others who have sought nuclear weapons capabilities. After numerous House and Senate hearings, the Iran and Libya Sanctions Act (ILSA) was signed on August 5, 1996. In May 1998, the Congress passed the Iran Missile Proliferation Sanctions Act of 1998. President Clinton vetoed the Act. Congress did not override the veto but the Administration issued an Executive Order addressing the Iranian missile threat.

Executive Order 13094 was issued in July 1998 and seven Russian entities were sanctioned for assisting Iran in developing its missile program. The decision came just days after Iran test-fired a missile with an 800-mile range. Hearings on and attention to Iran continued, and the Iran Nonproliferation Act was signed into law on March 14, 2000. The ILSA Extension Act was signed into law on August 3, 2001.

Representatives Ros-Lehtinen and Lantos introduced an earlier version of the Iran Freedom Support Act in 2004; H.R. 282 was introduced on January 6, 2006, and has attracted 355 cosponsors. Further information on the bill's consideration is set out in other sections of this report.

Other resolutions or provisions of law addressing Iran not mentioned elsewhere are: H. Con. Res. 398, expressing the concern of Congress over Iran's development of the means to produce nuclear weapons (passed by the House on May 6, 2004); and H. Con. Res. 341, condemning the Government of Iran for violating its international nuclear nonproliferation obligations and expressing support for efforts to report Iran to the United Nations Security Council (passed by the House on February 16, 2006).

The Committee believes that the laws which have been enacted, as enforced, and other steps taken by current and past Administrations, have proven inadequate. They have not succeeded in ending Iran's efforts to produce weapons of mass destruction or ending Iran's other, considerable threats to American national interests.

Specifically with respect to ILSA, the Committee is deeply dismayed that the current Administration, like the prior Administration, has not acted to sanction a single enterprise for investing in Iran, but has delayed its decisions on "alleged" investments well past the point of failing the "laugh test." Even so, the Administration does support continuing the present law (ILSA) in effect, albeit only for an additional five years. The Administration, the Committee, and some outside observers believe that the existing sanctions regime has had some ongoing impact on Iran's ability to raise investment capital. It is time, however, to either gain diplomatic leverage to deal with the current emergency (by exercising a waiver in an appropriate case) or to come down hard on enterprises which choose to invest in Iran regardless of the impact of those investments on world peace.

It is necessary, of course, that existing and strengthened provisions be administered flexibly in appropriate cases. In particular, the Committee acknowledges that the Administration, after a long and arduous effort, has been able to move the question of Iran's nu-

clear arms from the International Atomic Energy Agency (IAEA) to the United Nations Security Council (UNSC). This is a remarkable diplomatic feat, but it must now be followed up by decisive action either in the UNSC or by like-minded countries that share, in whole or in part, our concerns about Iran. During its consideration of H.R. 282, the Committee adjusted the various mechanisms contained within the bill in part to provide the Administration the option to use the newly-dubbed ISA as a lever in our current diplomatic efforts, and not just as a weapon against states, or entities, which invest in Iran's petroleum sector. The Committee underlines the appropriateness of using all available leverage, in addition to diplomatic efforts, to hold together the diplomatic coalition that might be able to alter Iran's behavior. It is ironic that the more dangerous Iran is, the more appropriate it might be to decide that marshalling effective diplomatic forces is critical to the national security interests of the United States.

Current ILSA legislation would impose wide-ranging trade and investment sanctions on firms involved in Libya until such time as the President certified that Libya is in compliance with UN Security Council (UNSC) Resolutions 731, 748, and 883, all of which related to the involvement of Libyans in the terrorist bombing of Pan Am Flight 103 in 1988. On April 23, 2004, President Bush certified that Libya had met the requirements of the UNSC resolutions, thereby removing the ILSA restrictions on trade with Libya. H.R. 282 would codify this Presidential determination by removing all reference to Libya from ILSA and changing the name of the law to "Iran Sanctions Act." The Committee believes that the U.S. willingness to terminate sanctions contained in ILSA based on Libya's decision to comply with its obligations under these Security Council resolutions, as well as its December 2003 decision to verifiably eliminate its weapons of mass destructions program, is an incentive for Iran to modify its own behavior regarding weapons of mass destruction and terrorism.

HEARINGS

In recent years, the Full Committee has held several hearings regarding Iran: 1) February 26, 2003 (Russia's Policies Toward the Axis of Evil: Money and Geopolitics in Iraq and Iran); 2) June 4, 2003 (U.S. Nonproliferation Policy After Iraq); 3) March 30, 2004 (The Bush Administration and Nonproliferation: A New Strategy Emerges); and 4) February 15, 2006 and March 8, 2006 (both entitled "United States Policy Toward Iran—Next Steps").

The Subcommittee on the Middle East and Central Asia has held several hearings and briefings on or related to Iran, including: June 25, 2003 (Enforcement of the Iran-Libya Sanctions Act and Increasing Security Threats from Iran); and June 24, 2004 (Iranian Proliferation: Implications for Terrorists, their State-Sponsors and U.S. Counter-proliferation Policy).

The Subcommittee on International Terrorism and Nonproliferation held hearings on April 14, 2005 (Averting Nuclear Terrorism); April 28, 2005 (Previewing the Nuclear Nonproliferation Treaty Review Conference); and June 30, 2005 (Nonproliferation and the G-8); and March 2, 2006 (Assessing 'Rights' under the Nuclear Nonproliferation Treaty).

The Subcommittees on the Middle East and Central Asia and on International Terrorism and Nonproliferation held a joint hearing on February 16, 2005 (Iran: A Quarter-Century of State-Sponsored Terror).

COMMITTEE CONSIDERATION

On April 13, 2005, the Subcommittee on the Middle East and Central Asia met in open session and ordered favorably reported the bill H.R. 282, as amended, by unanimous consent, a quorum being present. On March 15, 2006, the Committee met in open session and ordered favorably reported the bill H.R. 282, with an amendment, by a recorded vote of 37 to 3, a quorum being present.

VOTES OF THE COMMITTEE

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the Committee Report.

The Committee considered an amendment in the nature of a substitute offered by Ms. Ros-Lehtinen (for herself and Mr. Lantos). The amendment was modified by unanimous consent, and was agreed to by voice vote. On the motion to report the bill, H.R. 282, as amended, the vote was as follows:

Voting for (37): Hyde, Smith (NJ), Burton, Gallegly, Ros-Lehtinen, Rohrabacher, Royce, Chabot, Tancredo, Issa, Davis, Green, Weller, Pence, McCotter, Boozman, Barrett, Mack, Fortenberry, Poe, Lantos, Berman, Ackerman, Brown, Sherman, Wexler, Delahunt, Meeks, Lee, Crowley, Berkley, Napolitano, Schiff, Watson, Smith (WA), Chandler, and Carnahan.

Voting against (3): Leach, Paul, and Blumenauer.

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

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

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. 282, 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, April 7, 2006.

Hon. HENRY J. HYDE, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 282, the Iran Freedom Support Act.

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

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure

cc: Honorable Tom Lantos
Ranking Member

H.R. 282—Iran Freedom Support Act

SUMMARY

H.R. 282 would codify certain sanctions currently imposed by executive order with respect to Iran. Additionally, the bill would require the President to publish in the Federal Register a list of all foreign and domestic entities that have invested more than \$20 million in Iran's energy sector. If an agency or instrumentality of a country, or a person owing allegiance to that country, has invested more than \$20 million in Iran's energy sector, the bill would prohibit the provision of assistance to that country, unless the President certifies that such assistance is important for national security. Finally, the bill would authorize the appropriation of such sums as may be necessary for the President to provide assistance to individuals and organizations that support the establishment of democracy in Iran.

CBO estimates that implementing H.R. 282 would cost \$1 million in 2006 and \$81 million over the 2007–2011 period, assuming appropriation of the estimated amounts over the next several years. Enacting the bill would not affect direct spending or receipts.

H.R. 282 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 282 would impose a private-sector mandate, as defined in UMRA. It would require managers of pension plans and mutual funds to notify investors if their plans or funds are invested in firms that have invested more than \$20 million in Iran's energy sector. CBO expects that the direct cost of the mandate would not exceed the annual threshold established by UMRA for private-sector mandates (\$128 million in 2006, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 282 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

By Fiscal Year, in Millions of Dollars						
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for						
Democracy Programs with Respect to Iran						
Estimated Budget Authority ¹	5	0	0	0	0	0
Estimated Outlays	10	1	1	0	0	0
Proposed Changes						
Estimated Authorization Level	15	20	20	20	20	20
Estimated Outlays	1	9	16	17	19	20
Spending Under H.R. 282 for Democracy						
Programs with Respect to Iran						
Estimated Authorization Level	20	20	20	20	20	20
Estimated Outlays	11	10	17	17	19	20

¹The 2006 level is the estimated amount appropriated for that year for programs that promote democracy in Iran.

BASIS OF ESTIMATE

H.R. 282 would authorize the appropriation of such sums as may be necessary to fund organizations and individuals that support democracy in Iran. Public Law 109–102, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006, specified that \$6.5 million be spent on programs that promote democracy in Iran and Syria, of which CBO estimates about \$5 million would be for Iran. Additionally, the Administration has requested \$15 million for programs to promote democracy in Iran in its request for a supplemental appropriation for 2006. Based on this and information from the Office of Management and Budget, CBO estimates that an appropriation of \$20 million a year would be sufficient to meet the aims of H.R. 282. CBO expects that maintaining and publishing the list of entities that have invested more than \$20 million in Iran’s energy sector would have no significant effect on the budget.

For the purposes of this estimate, CBO assumes that H.R. 282 would be enacted before the end of the fiscal year. Accordingly, CBO estimates that implementing this legislation would increase spending by \$1 million in 2006 and \$81 million over the 2007–2011 period, assuming appropriation of the estimated amounts.

INTERGOVERNMENTAL AND PRIVATE–SECTOR IMPACT

H.R. 282 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

H.R. 282 would impose a private-sector mandate, as defined in UMRA. It would require managers of pension plans and mutual funds sold or distributed in the United States to notify investors of any funds that are invested in United States or foreign entities on the list to be published in the Federal Register that have invested more than \$20 million in Iran’s energy sector. The President would have to publish such a list within six months after the enact-

ment of the bill, and every six months thereafter. The notification would have to be sent to investors within 30 days of the publication in the Federal Register. The notification also would have to be displayed prominently in every prospectus and every regular report provided to investors after the initial notification. The notification would include the following:

- The name or other identification of the entity;
- The amount of the investment in the entity;
- The potential liability to the entity if sanctions are imposed by the United States on Iran or on the entity; and
- The potential liability to investors if such sanctions are imposed.

Notification would not be required, however, if pension and mutual fund managers divest all investments in such entities.

Based on information from industry sources, CBO expects that the direct cost to comply with the mandate would small relative to the annual threshold.

PERFORMANCE GOALS AND OBJECTIVES

The Committee expects that passage of this bill will have the effect of slowing or of altogether interrupting Iran's attempts to gain access to weapons of mass destruction.

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, clauses 3 and 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Sec. 1. Short Title.

Provides a short title for the Act (the "Iran Freedom Support Act").

Sec. 2. Table of Contents.

Sets out a table of contents for the Act.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

Sec. 101. Codification of Sanctions.

Subsection (a) of this section provides that United States sanctions, controls, and regulations with respect to Iran imposed pursuant to Executive Order 12957, Executive Order 12959, and sections 2 and 3 of Executive Order 13059 (relating to exports and certain other transactions with Iran) as in effect on January 1, 2006, shall remain in effect until the President certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the Government of Iran has verifiably dismantled its weapons of mass destruction programs. (It is the intention of the Committee that the expression "weapons of mass destruction programs" includes the means to produce weapons of mass destruction.) The intent of the Committee in establishing this rule is that the Executive Branch

not weaken existing sanctions, established in order to prevent Iran from making progress on its weapons of mass destruction programs, prior to a real change in Iran's behavior with respect to those programs. The Committee believes it would be inappropriate and counterproductive to weaken such sanctions as part of any diplomatic exercise, or to achieve good will on the part of the Iranians. As in the Libyan case, action to end weapons of mass destruction programs should come before any relaxation of sanctions.

Subsection (b) provides that the preceding provision is to have no effect on United States sanctions, controls, and regulations relating to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) relating to support for acts of international terrorism by the Government of Iran, as in effect on January 1, 2006.

Sec. 102. Liability of Parent Companies for Violations of Sanctions By Foreign Entities.

The Committee is concerned that entities may be established or availed of by United States persons to evade rules established by law. The Administration has indicated that it will vigorously pursue sham transactions. The Committee establishes a rule without prejudice to any prior or existing interpretations, procedures, or enforcement actions of the Administration. In cases where an entity engages in an act outside the United States which, if committed in the United States or by a United States person, would violate Executive Order 12959 of May 6, 1995, Executive Order 13059 of August 19, 1997, or any other prohibition on transactions with respect to Iran that is imposed under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and if that entity was created or availed of for the purpose of engaging in such an act, the parent company of that entity, if a United States person, shall be subject to the penalties for such violation to the same extent as if the parent company had engaged in that act.

In addition, the Committee intends that the use of personnel from the parent entity, the capital of the United States parent entity, or the intellectual property of the United States parent entity by the subsidiary entity in order to undertake an activity prohibited by the rules outlined above, are examples of taking advantage of, or "availed of" referred to in this section.

Definitions for "parent company" and "entity" are provided in this section.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

Sec. 201. Multilateral Regime.

Reports to Congress.—Subsection (a) amends Section 4(b) of the Iran and Libya Sanctions Act of 1996 to provide that no later than six months after the date of the enactment of the Iran Freedom Support Act and every six months thereafter, the President shall submit to the appropriate congressional committees a report regarding specific diplomatic efforts undertaken to establish a multilateral regime of pressure on Iran, the results of those efforts, and

a description of proposed diplomatic efforts pursuant to such subsection.

Each report shall include: (1) a list of the countries that have agreed to undertake measures to further the legislative objectives of section 3 of ILSA with respect to Iran (that is, to deny Iran the ability to support acts of international terrorism and fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of Iran's ability to explore for, extract, refine, or transport by pipeline its petroleum resources); (2) a description of those measures, including: (A) government actions with respect to public or private entities (or their subsidiaries) located in their territories, that are engaged in Iran; (B) any decisions by the governments of these countries to rescind or continue the provision of credits, guarantees, or other governmental assistance to these entities; and (C) actions taken in international fora to further the objectives of section 3 of ILSA; (3) a list of the countries that have not agreed to undertake measures to further the objectives of section 3 of ILSA with respect to Iran, and the reasons therefore; and (4) a description of any memorandums of understanding, political understandings, or international agreements to which the United States has acceded which affect implementation of this section or section 5(a) of ILSA.

The reference to "international fora" in (2)(C), above, includes international financial institutions such as the World Bank, and the reference to "actions" includes blocking of loans and other assistance to Iran proposed to be provided by and through such IFIs. The Committee requests that the reports describe efforts by the Department of State to urge governments with voting representation on IFIs to oppose assistance to Iran.

Subsection (b) amends Section 4(c) of ILSA to provide that waivers of sanctions against nationals of countries (including entities) under section 5(a) of ILSA may be made by the President, on a case by case basis, for a period of not more than six months with respect to a national of a country, if the President certifies to the appropriate congressional committees at least 30 days before such waiver is to take effect that: (A) such waiver is vital to the national security interests of the United States; and (B) the country of the national has undertaken substantial measures to prevent the acquisition and development of weapons of mass destruction by the Government of Iran.

The Committee believes that that the nature of the Iranian threat requires the application of this higher standard for all cases reviewed under ILSA. In the Committee's view, persuading a country to take part in an effective effort against Iran (but not participation in an effort that does not materialize with impact on Iran) would qualify as an effort the successful conclusion of which is vital to the national security interests of the United States. The expression "national security interests" is intended to encompass a slightly wider range of matters than the expression "national security."

The waiver referred to in the preceding passage may be renewed for additional periods of not more than six months each by following the procedures and making the determination as set out above.

Subsection (c) amends Section 4 of ILSA by adding at the end a new subsection (f). That new subsection would require the Presi-

dent to initiate an investigation that would lead to the possible imposition of sanctions against a person upon receipt by the United States of credible information indicating that such person is engaged in activity related to investment in Iran as described in section 5(a) of ILSA. For the purposes of this subsection and of Section 5 of ILSA, the term “person” is intended to include foreign subsidiaries of United States persons. The President shall within 180 days determine, pursuant to section 5(a) of ILSA, whether or not to impose sanctions and notify the appropriate congressional committees of the basis for such determination. The period of 180 days may, with notice to the appropriate congressional committees, be extended by one additional period of 180 days. By the end of the second period, the President must decide whether to impose sanctions under section 5(a) of ILSA, and provide Congress an explanation for the President’s action or inaction, which may include a statement that sufficient information was not available.

Pending investigations—Investigations of ILSA violations that were pending on January 1, 2006 are to be concluded, determinations made (under ILSA section 5(a)), and reports to the appropriate congressional committees made within 90 days of the date of enactment of the Iran Freedom Support Act. Within ten days after notification to the appropriate congressional committees, the President shall ensure publication in the Federal Register of the identity of persons against whom a determination that the imposition of sanctions is appropriate has been made, and the explanation of the reasons for such a determination.

Sec. 202. Imposition of Sanctions.

(a) Sanctions with Respect to Development of Petroleum Resources.—This subsection amends section 5(a) of ILSA (relating to standards for the imposition of sanctions) by reducing to five items the list of sanctions which might be imposed on entities subject to sanctions to remove, (as one of the sanctions which might be imposed for engaging in investments in the Iranian petroleum sector, as defined), restrictions on imports by the entity into the United States (as provided in paragraph 6 of section 6 of ILSA prior to the enactment of H.R. 282 as amended). It also eliminates the requirement that an entity have “actual knowledge” of its investment in the Iranian petroleum sector before sanctions could be imposed.

(b) Sanctions with Respect to Development of Weapons of Mass Destruction or Other Military Capabilities.—This provision amends Section 5(b) of ILSA to require the imposition of two or more of the sanctions described in paragraphs (1) through (5) of section 6 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 to the ability of Iran to: (1) acquire or develop chemical, biological, or nuclear weapons or related technologies; or (2) acquire or develop destabilizing numbers and types of advanced conventional weapons. This requirement to impose a sanction may not be waived.

(c) Persons Against Which the Sanctions Are to Be Imposed.—This provision amends section 5(c)(2) of ILSA to eliminate the “actual knowledge” test in the case of parents or subsidiaries (if the

parent or subsidiary engaged in proscribed activity), as well as in the case of certain affiliates if the affiliates engaged in proscribed activity. This provision also amends section 5(c)(2) to include private or government lenders, insurers, underwriters, or guarantors of the person (who has carried out proscribed activities) if the private or government lenders, insurers, underwriters, or guarantors themselves engaged in proscribed activities.

(d) *Effective Date.*—Provides that the amendments made by section 202 shall apply with respect to actions taken on or after March 15, 2006 (the date of the consideration of H.R. 282 in Committee). This provision is intended to obviate deals made in contemplation of this change in law after fair notice was given of the intention of the Committee with respect to the bill.

Sec. 203. Termination of Sanctions.

Under Section 8(a) of ILSA the requirement to impose sanctions on entities that invest in Iran's petroleum sector ends when the President makes certain certifications to the Congress relating to Iran's weapons of mass destruction program and its presence on the terrorism list. This provision adds a requirement that Iran be determined to pose no significant threat to the United States national security, interests, or allies.

Sec. 204. Sunset.

Section 13 of ILSA is amended to strike its sunset provision (under current law it would expire ten years after the date of its original enactment, which was August 5, 1996). The Act will now continue in effect until repealed by a subsequent law, although a Presidential determination under Section 8 of ILSA (as amended by the Iran Freedom Support Act) would obviate the requirement to impose sanctions.

Sec. 205. Clarification and Expansion of Definitions.

Subsection (a) amends the definition of the term "person" as to who might be subject to sanction under ILSA Section 14(14)(B) to include the following entities: financial institutions, insurers, underwriters, guarantors, any other business organizations, including any foreign subsidiaries any sort of entity included in the definition of "person" in the law, as amended. It also specifies the term "governmental entity operating as a business enterprise" that is now in the law as including export credit agencies.

Subsection (b) amends the definition of "petroleum resources" in ILSA Section 14(15) to include petroleum by-products.

Sec. 206. United States Pension Plans.

(a) *Findings.*—This provision includes a series of Congressional findings about threats to security from rogue regimes obtaining weapons of mass destruction, and particularly nuclear weapons. The findings include: that Iran is the leading state sponsor of international terrorism and is close to achieving nuclear weapons capability, but has paid no price for nearly twenty years of deception regarding its nuclear program; and that foreign entities that have invested in Iran's energy sector, despite Iran's support of international terrorism and its nuclear program, have afforded Iran a free pass, while many United States entities have unknowingly in-

vested in those same foreign entities. Further, United States investors have a great deal at stake in preventing Iran from acquiring nuclear weapons and can have considerable influence over the commercial decisions of the foreign entities in which they have invested.

(b) Publication in Federal Register.—This provision requires that the President, not later than six months after the date of the enactment of this Act and every six months thereafter, shall ensure publication in the Federal Register of a list of all United States and foreign entities that have invested more than \$20,000,000 in Iran's energy sector between August 5, 1996, and the date of such publication. This list is intended to be a cumulative list since that date. Such list shall include an itemization of individual investments of each such entity, including the dollar value, intended purpose, and current status of each such investment.

(c) Sense of Congress Relating to Divestiture From Iran.—This provision expresses the sense of Congress that, upon publication of a list in the relevant Federal Register under the provision of law described in the preceding paragraph, managers of United States Government pension plans or thrift savings plans, managers of pension plans maintained in the private sector by plan sponsors in the United States, and managers of mutual funds sold or distributed in the United States should immediately initiate efforts to divest all investments of such plans or funds in any entity included on the list.

(d) Sense of Congress Relating to Prohibition on Future Investment.—This provision expresses the sense of Congress that, upon publication of a list in the relevant Federal Register, as described above, there should be no future investment in any entity included on the list by managers of United States Government pension plans or thrift savings plans, managers of pension plans maintained in the private sector by plan sponsors in the United States, and managers of mutual funds sold or distributed in the United States.

(e) Disclosure to Investors.—This subsection requires that not later than 30 days after the date of publication of a list in the relevant Federal Register under the provision described above, managers of United States Government pension plans or thrift savings plans, managers of pension plans maintained in the private sector by plan sponsors in the United States, and managers of mutual funds sold or distributed in the United States shall notify investors that the funds of such investors are invested in an entity included on the list. The list is that list described in subsection (b) and published in the Federal Register of entities that have invested more than \$20 million in Iran's petroleum sector between August 5, 1996 and the date of the list's publication. Such notification shall contain the following information: (a) the name or other identification of the entity; (b) the amount of the investment in the entity; (c) the potential liability to the entity if sanctions are imposed by the United States on Iran or on the entity; and (d) the potential liability to investors if such sanctions are imposed. Such notifications are required to be included in every prospectus and in every regularly provided quarterly, semi-annual, or annual report provided to investors, if the funds of such investors are invested in an entity included on the list. The notification described above shall be dis-

played prominently in any such prospectus or report and shall contain the information discussed above. If, upon publication of the list in the relevant Federal Register as described above, managers of pension funds, mutual funds, and so forth divest all investments of such plans or funds and the managers do not initiate any new investment in any other such entity, the managers are not required to include the notification described above in any prospectus or report provided to investors. Other dealings with Iran by an entity would not trigger a disclosure requirement under this provision.

Sec. 207. Report By Office of Global Security Risks.

This section provides that not later than 30 days after the date of publication of a list in the relevant Federal Register the section described above, the Office of Global Security Risks within the Division of Corporation Finance of the United States Securities and Exchange Commission shall issue a report containing a list of the United States and foreign entities identified in accordance with such section, a determination of whether or not the operations in Iran of any such entity constitute a political, economic, or other risk to the United States, and a determination of whether or not the entity faces United States litigation, sanctions, or similar circumstances that are reasonably likely to have a material adverse impact on the financial condition or operations of the entity.

Sec. 208. Technical and Conforming Amendments.

This section makes a series of technical and conforming amendments to remove references to Libya in the Iran and Libya Sanctions Act. It also provides that the law now known as the Iran and Libya Sanctions Act will now be known as the Iran Sanctions Act, and that any reference in any other provision of law, regulation, document, or other record of the United States to the “Iran and Libya Sanctions Act of 1996” shall be deemed to be a reference to the “Iran Sanctions Act of 1996”.

TITLE III—DIPLOMATIC EFFORTS TO CURTAIL IRANIAN NUCLEAR
PROLIFERATION AND SPONSORSHIP OF INTERNATIONAL TERRORISM

Sec. 301. Diplomatic Efforts.

Sense of Congress Relating to United Nations Security Council and the International Atomic Energy Agency.—Subsection (a) expresses the sense of Congress that the President should instruct the United States Permanent Representative to the United Nations to work to secure support at the United Nations Security Council for a resolution that would impose sanctions on Iran as a result of its repeated breaches of its nuclear nonproliferation obligations and that such sanctions should remain in effect until Iran has verifiably dismantled its weapons of mass destruction programs. This subsection is consistent with section 4(a) of ILSA, which calls for broader diplomatic efforts in international fora to inhibit Iran’s WMD efforts and state-sponsorship of terrorism.

Prohibition on Assistance to Countries that Invest in the Energy Sector of Iran.—Subsection (b) provides that, if, on or after April 13, 2005, any particular foreign person (as defined in section 14 of the Iran Sanctions Act, as renamed pursuant to section 208(g)(1)) or any particular agency or instrumentality of a foreign govern-

ment, has more than \$20,000,000 invested in Iran's energy sector, the President shall, until the date on which such person or agency or instrumentality of such government terminates such investment, withhold assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) to the government of the country to which such person owes allegiance or to which control is exercised over such agency or instrumentality. In the view of the Committee, the President should apply common-sense aggregation principles to avoid sham efforts to conceal the extent of investment by any single entity, such as the division of an investing entity into several entities. Generally, the Committee believes that governments which themselves make, or whose nationals make, investments in the Iranian petroleum sector should not, in the ordinary course of events, receive foreign assistance from the American taxpayer. This provision, however, applies neither to aid to entities other than "governments" nor to assistance other than that provided under the Foreign Assistance Act.

The withholding of assistance under the provisions described immediately above may be waived if the President determines that furnishing such assistance is important to the national security interests of the United States and furthers the goals described in this Act. In addition, not later than 15 days before obligating such assistance, the President must notify the Committee on International Relations of the House of Representatives, the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate of such determination and submits to such committees a report that includes: (a) a statement of the determination; (b) a detailed explanation of the assistance to be provided; (c) the estimated dollar amount of the assistance; and (d) an explanation of how the assistance furthers United States national security interests.

Sec. 302. Strengthening the Nuclear Nonproliferation Treaty.

Findings regarding the Nuclear Nonproliferation Treaty.—Subsection (a) provides that the Congress finds that Article IV of the Treaty on the Non-Proliferation of Nuclear Weapons (commonly referred to as the "Nuclear Nonproliferation Treaty" or "NPT") states that countries that are parties to the Treaty have the "inalienable right . . . to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty," but that Iran has manipulated Article IV of the Nuclear Nonproliferation Treaty to acquire technologies needed to manufacture nuclear weapons under the guise of developing peaceful nuclear technology. It is also found that legal authorities, diplomatic historians, and officials closely involved in the negotiation and ratification of the Nuclear Nonproliferation Treaty state that the Treaty neither recognizes nor protects such a right to all nuclear technology, such as enrichment and reprocessing, but rather affirms that the right to the use of peaceful nuclear energy is qualified.

Declaration of Congress Regarding United States Policy to Strengthen the Nuclear Nonproliferation Treaty.—In subsection (b), Congress declares that it should be the policy of the United States to support diplomatic efforts to end the manipulation of Ar-

ticle IV of the Nuclear Nonproliferation Treaty, such as that undertaken by Iran, without undermining the Treaty itself.

TITLE IV—DEMOCRACY IN IRAN

Sec. 401. Declaration of Congress Regarding United States Policy Toward Iran.

This section makes certain declarations regarding United States policy toward Iran. In general, Congress declares that it should be the policy of the United States to support independent human rights and peaceful pro-democracy forces in Iran. However, this section also provides that nothing in this Act shall be construed as authorizing the use of force against Iran.

Sec. 402. Assistance to Support Democracy in Iran.

This section authorizes the President to provide financial and political assistance (including the award of grants) to foreign and domestic individuals, organizations, and entities that support democracy and the promotion of democracy in Iran. Such assistance may include the award of grants to eligible independent pro-democracy radio and television broadcasting organizations that broadcast into Iran. None of the funds authorized to be appropriated under this section shall be used to support the use of force against Iran, including covert operations against Iran. Financial and political assistance under this section may be provided only to an individual, organization, or entity that (a) officially opposes the use of violence and terrorism and has not been designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) at any time during the preceding four years; (b) advocates the adherence by Iran to nonproliferation regimes for nuclear, chemical, and biological weapons and materiel; (c) is dedicated to democratic values and supports the adoption of a democratic form of government in Iran; (d) is dedicated to respect for human rights, including the fundamental equality of women; (e) works to establish equality of opportunity for people; and (f) supports freedom of the press, freedom of speech, freedom of association, and freedom of religion.

Section 402 authorizes the President to provide financial and political assistance to foreign and domestic individuals, organizations and entities that support democracy and the promotion of democracy in Iran. The Committee expects that when selecting such individuals, organizations and entities for such assistance, the President shall focus on groups that maintain a significant political constituency and legitimacy within Iran. Section 402(a)(2) provides that none of the funds authorized by this act are authorized to be used to support the use of force against Iran. It is the intent of the Committee that the prohibition referred to in the previous sentence also prohibits the use of such funds to support covert operations by United States forces in Iran.

The President may provide assistance under this section using funds available to the Middle East Partnership Initiative (MEPI), the Broader Middle East and North Africa Initiative, and the Human Rights and Democracy Fund. In addition, there are authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary.

Not later than 15 days before each obligation of assistance under this section, and in accordance with the procedures under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1), the President shall notify the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate. Such notification shall include, as practicable, the types of programs supported by such assistance and the recipients of such assistance.

This section notes that it is the sense of Congress that contacts should be expanded with opposition groups in Iran that meet the criteria under the second paragraph of this section. Moreover, support for a transition to democracy in Iran should be expressed by United States representatives and officials in all appropriate international fora.

Activities authorized under this section should include efforts to bring a halt to the nuclear weapons program of Iran, including intensifying steps to end the supply of nuclear components or fuel to Iran, with particular attention focused on the cooperation regarding such program between the Government of Iran and the Government of the Russian Federation, and between the Government of Iran and individuals from China and Pakistan, including the network of Dr. Abdul Qadeer (A.Q.) Khan.

This section provides that officials and representatives of the United States should strongly and unequivocally support indigenous efforts in Iran calling for free, transparent, and democratic elections, and draw international attention to violations by the Government of Iran of human rights, freedom of religion, freedom of assembly, and freedom of the press.

Sec. 403. Waiver of Certain Export License Requirements.

This section provides that the Secretary of State may, in consultation with the Secretary of Commerce, waive the requirement to obtain a license for the export to, or by, any person to whom the Department of State has provided a grant under a program to promote democracy or human rights abroad, any item which is commercially available in the United States without government license or permit, to the extent that such export would be used exclusively for carrying out the purposes of the grant.

AGENCY VIEWS

OFFICE OF THE
DEPARTMENT OF STATE
WASHINGTON, D.C. 20520
DECEMBER 14, 2005

United States Department of State
Washington, D.C. 20520

MAR 13 2006

Dear Mr. Chairman:

On March 6, Under Secretary Burns and Under Secretary Joseph testified before the House International Relations Committee on U.S. policy toward Iran. During that hearing, many Members of the Committee expressed an interest in receiving the Department's comments on HR 282, the "Iran Freedom Support Act of 2005," that currently is pending before your Committee.

The Department fully shares Congress' concerns regarding Iran's unacceptable behavior. The Iranian Government's pursuit of weapons of mass destruction, state sponsorship of terrorism, appalling record on human rights and democracy, violent opposition to Middle East peace, and interference in the affairs of its neighbors are all of critical concern.

Iran continues to isolate itself in the international community by choosing a path of confrontation and threats rather than cooperation and confidence building. We are pleased that by a strong vote, the International Atomic Energy Agency Board of Governors voted to report Iran to the United Nations Security Council. We are now working with Security Council members to reinforce the IAEA and its continuing investigation of Iran's nuclear program and reinforce calls on Iran to meet all IAEA Board requests.

As Secretary Rice has said, the Iran Libya Sanctions Act (or ILSA) has been useful to us as a tool. In particular, the existence of the law has underlined the depth of our concerns about Iran's pursuit of WMD and support for terrorism, and has provided a platform for continually raising those concerns with others. We support a reauthorization of ILSA for Iran (excluding Libya) for a further five years. We very much welcome the interest of your committee in working with the Administration on legislation relating to Iran, particularly those provisions of HR 282 that provide support for democracy.

The Honorable
Henry J. Hyde, Chairman,
Committee on International Relations,
House of Representatives.

We entirely share Congress' view that democracy in Iran should be actively encouraged, including support for pro-democracy groups. We strongly support the thrust of Title IV of the proposed legislation relating to support for democracy and reform efforts in Iran. With minor modifications, this element of the bill could make a positive contribution to our efforts with regard to Iran.

However, as the Administration has previously stated in our communications with Congress, HR 282, as currently drafted, would complicate our ability to work successfully with our allies to counter the threat posed by Iran. It would narrow in important ways the President's flexibility in the implementation of Iran sanctions, create tensions with countries whose help we need in dealing with Iran, and shift the focus away from Iran's actions and spotlight differences between us and our allies. This could play into Iran's hands, as it attempts to divide the US from the international community as well as to sow division between the EU-3, China, and Russia. It also would create dissension among UNSC members, as the Council considers the Iran nuclear dossier. Therefore, we would welcome the opportunity to work with you on this bill.

Specifically, Title II of HR 282 would amend the Iran and Libya Sanctions Act (ILSA) in ways that would force the President's hand in dealing with sanctions and waiver decisions, with results that would be counter to U.S. security interests. These amendments would impair our ability to continue working with our allies to build and maintain an international consensus to confront Iran's violations collectively. This is a critical time. It is essential to maintain the widest possible international consensus on the steps Iran must take to comply with its international obligations and to keep Iran isolated on the nuclear issue.

In addition, under provisions in Title II, managers of U.S. pension plans would be urged to divest assets of companies reported to have invested in Iran's energy sector. These provisions could negatively affect the smooth functioning of US capital markets and the savings and investment flows that are essential to economic growth.

In view of the counterproductive aspects of some provisions, as well as Constitutional and other concerns, and in particular the potential for this legislation to have a negative impact on our ability to work with our EU and other partners to maintain international focus and pressure on the Government of Iran, I wanted you to know directly that we are unable to support HR 282 as drafted.

The Office of Management and Budget advises that from the standpoint of the Administration's Program, there is no objection to the submission of this letter.

Please do not hesitate to contact us if you have any questions or if you need any additional information. I hope these comments have been useful, and I look forward to working with you on this legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeffrey T. Bergner". The signature is written in a cursive, slightly slanted style.

Jeffrey T. Bergner
Assistant Secretary
Legislative Affairs

United States Department of State

*Under Secretary of State
for Political Affairs*

Washington, D.C. 20520

Dear Mr. Chairman:

I am writing to comment on HR 282, the "Iran Freedom Support Act of 2005," that currently is pending before your Committee.

We have serious concerns about this proposed legislation, particularly Title II, which would amend the Iran and Libya Sanctions Act (ILSA). These provisions would impair our ability to continue working closely and successfully with our allies to deal with the threat that Iran poses.

The Iran issue is sensitive and critically important. The September 24 IAEA resolution, tabled by the EU-3 (Germany, the UK, and France), was an important step forward. We are going to have to continue working with our international partners to isolate Iran and to build and maintain an international coalition to ensure that Iran does not acquire a nuclear weapons capability. In doing so, the President needs the flexibility that HR 282 would impede.

I note that one portion of the bill, Title IV, regarding support for democracy in Iran, could, with relatively minor modifications, make a positive contribution to our Iran objectives, and we would welcome the opportunity to work with Congress in developing this approach.

Sincerely,



R. Nicholas Burns

The Honorable
Henry J. Hyde, Chairman,
Committee on International Relations,
House of Representatives.

NEW ADVISORY COMMITTEES

H.R. 282 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 282 does not apply to the legislative branch.

FEDERAL MANDATES

H.R. 282 provides mandates to the degree discussed in the report of the Congressional Budget Office.

EXCHANGE OF LETTERS REGARDING COMMITTEE JURISDICTION

**Letters between the Committee on Ways and Means and
Committee on International Relations**

April 6, 2006

Hon. HENRY J. HYDE, *Chairman,
Committee on International Relations,
House of Representatives, Washington, DC.*

DEAR CHAIRMAN HYDE: I am writing regarding H.R. 282, the "Iran Freedom Support Act," which the Committee on International Relations marked up on March 15, 2006.

As per the agreement between our Committees, to be included in a manager's amendment to H.R. 282, the amended bill would modify the language in Section 101(a) so that the import sanctions contained in Executive Order 12959 may remain in effect under the terms of the Executive Order but would not be codified by this bill. In addition, Sections 202(a) and 202(b) of the reported bill will remain in the amended version. These sections would change current law by striking the statutory option the President currently has to ban imports against both Iran and Libya.

Because all of these provisions have the effect of modifying and altering the application of an import ban, they fall within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 282, and would ask that a copy of our exchange of letters on this matter be included in your Committee report.

Best regards,

BILL THOMAS, *Chairman,
Committee on Ways and Means.*

cc: The Honorable J. Dennis Hastert
The Honorable John A. Boehner
The Honorable Roy Blunt
The Honorable Nancy Pelosi
The Honorable Steny Hoyer
The Honorable Tom Lantos
The Honorable Charles B. Rangel
Mr. John Sullivan, Parliamentarian

April 7, 2006

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

DEAR MR. CHAIRMAN: I am writing regarding H.R. 282, the "Iran Freedom Support Act," which the Committee on International Relations marked up on March 15, 2006.

As per the agreement between our Committees, I will include in the manager's amendment to H.R. 282 language which would modify the text in Section 101(a) so that the import sanctions contained in Executive Order 12959 may remain in effect under the terms of the Executive Order but would not be codified by this bill. In addition, Sections 202(a) and 202(b) of the reported bill will remain in the amended version. These sections would change current law by striking the statutory option the President currently has to ban imports against both Iran and Libya.

I concur that these provisions have the effect of modifying and altering the application of an import ban and, therefore, they fall within the jurisdiction of the Committee on Ways and Means. I appreciate your willingness to assist in expediting this legislation by foregoing action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee on Ways and Means with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

As you requested, I will be pleased to include a copy of this exchange of letters in the Committee Report on H.R. 282 and in the *Congressional Record* during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

HENRY J. HYDE, *Chairman,*
Committee on International Relations.

HJH:df/mco

cc: The Honorable J. Dennis Hastert
 The Honorable John A. Boehner
 The Honorable Roy Blunt
 The Honorable Nancy Pelosi
 The Honorable Steny Hoyer
 The Honorable Tom Lantos
 The Honorable Charles B. Rangel
 The Honorable John Sullivan, Parliamentarian

Letters between the Committee on Education and the Workforce and Committee on International Relations

April 6, 2006

Hon. HENRY J. HYDE, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to confirm our mutual understanding with respect to the consideration of H.R. 282, the *Iran Freedom Support Act*. Section 206, *United States Pension Plans*, of the bill as ordered reported by your committee is within the jurisdiction of the Committee on Education and Workforce—specifically,

section 206 (e), which requires certain disclosures by managers of private pension plans. In addition, the Senses of Congress contained in sections 206 (c) and (d) urge private pension plan managers to take certain actions and are also within the jurisdiction of the Committee on Education and the Workforce.

I thank you for your agreement to support the removal of section 206 (e) from the bill and to modify sections 206 (c) and (d) with the addition of language recognizing the fiduciary duties of pension plan managers, as you work to move this important legislation forward. Given the importance and timeliness of the *Iran Freedom Support Act*, and your willingness to work with us regarding pension issues, I will not seek a sequential referral of this legislation. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Education and the Workforce's jurisdictional interest and prerogatives on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect members of the Committee on Education and the Workforce be appointed to the conference committee on these provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Committee Report on H.R. 282 and in the *Congressional Record* during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

HOWARD P. "BUCK" McKEON, *Chairman,*
Committee on Education and the Workforce.

cc: The Honorable J. Dennis Hastert
The Honorable George Miller
The Honorable John Sullivan, Parliamentarian

April 6, 2006

Hon. HOWARD P. "BUCK" McKEON, *Chairman,*
Committee on Education and the Workforce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 282, the Iran Freedom Support Act. I concur with your assessment that Section 206 of the bill, as ordered reported by the Committee on International Relations, which deals with United States Pension Plans, falls within the Rule X jurisdiction of the Committee on Education and the Workforce—specifically Section 206(e), which requires certain disclosures by managers of private pension plans. In addition, the Senses of Congress contained in Sections 206 (c) and (d), urging private pension plan managers to take certain actions, are also within the jurisdiction of your Committee.

I thank you for your agreement to support moving this important legislation forward. Based on our discussions, this Committee will remove Section 206 (e) from the bill, modify Sections 206 (c) and (d), and add language recognizing the fiduciary duties of pension plan managers. I appreciate your willingness to forego seeking a

sequential referral of this legislation. I understand your willingness to do so does not in any way prejudice the Committee on Education and the Workforce's jurisdictional interest and prerogatives on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future. Should these or similar provisions be considered in a conference with the Senate, I will urge the Speaker to appoint members of the Committee on Education and the Workforce to the conference committee.

As you requested, I will include a copy of our exchange of letters in the Committee Report on H.R. 282 and in the *Congressional Record* during the consideration of this bill.

Sincerely,

HENRY J. HYDE, *Chairman,*
Committee on International Relations.

HJH:df/mco

**Letters between the Committee on Government Reform and
Committee on International Relations**

April 13, 2006

Hon. Henry J. Hyde, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to confirm our mutual understanding with respect to consideration of H.R. 282, the Iran Freedom Support Act, which the Committee on International Relations ordered reported on April 13, 2006. In the bill as ordered reported by your Committee, section 206, specifically the provisions providing Senses of Congress urging U.S. government pension plan and thrift savings plan managers to take certain actions (section 206(c) and (d)) and the provision requiring certain disclosures by managers of U.S. government pension plans and thrift savings plans (section 206(e)) are within the jurisdiction of the Government Reform Committee.

I thank you for your agreement to support the removal of section 206 (e) from the bill and to modify sections 206 (c) and (d) with the addition of language recognizing the fiduciary duties of U. S. government pension plan managers, as you work to move this important legislation forward. Given the importance and timeliness of the *Iran Freedom Support Act*, and your willingness to work with us regarding pension issues, I will not request a sequential referral of this legislation to the Committee on Government Reform. However, I only do so with the understanding that this procedural route should not be construed to prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect Members of the Committee on Government Reform be appointed to the conference committee on these provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Committee Report on H.R. 282 and in the *Congressional Record* during the consideration of this bill. If you have any

questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

TOM DAVIS, *Chairman,*
Committee on Government Reform.

April 14, 2006

Hon. TOM DAVIS, *Chairman,*
Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 282, the Iran Freedom Support Act. I concur with your assessment that Section 206 of the bill, as ordered reported by the Committee on International Relations, which deals with United States Pension Plans, falls within the Rule X jurisdiction of the Committee on Government Reform—specifically Section 206(e), which requires certain disclosures by managers of U.S. government pension plans. In addition, the Senses of Congress contained in Sections 206 (c) and (d), urging U.S. government pension plan managers to take certain actions, are also within the jurisdiction of your Committee.

I thank you for your agreement to support moving this important legislation forward. Based on our discussions, this Committee will remove Section 206 (e) from the bill, modify Sections 206 (c) and (d), and add language recognizing the fiduciary duties of pension plan managers. I appreciate your willingness to forego seeking a sequential referral of this legislation. I understand your willingness to do so does not in any way prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future. Should these or similar provisions be considered in a conference with the Senate, I will urge the Speaker to appoint members of the Committee on Government Reform to the conference committee.

As you requested, I will include a copy of our exchange of letters in the Committee Report on H.R. 282 and in the *Congressional Record* during the consideration of this bill.

Sincerely,

HENRY J. HYDE, *Chairman,*
Committee on International Relations.

HJH:df/mco

**Letters between the Committee on Financial Services and
Committee on International Relations**

April 6, 2006

Hon. HENRY J. HYDE, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to confirm our mutual understanding with respect to the consideration of H.R. 282, the Iran Freedom Support Act. This bill was ordered reported by the Committee on International Relations on March 15, 2006. Section 206, "United States pension plans", and section 207, "Report by Office

of Global Security Risks”, of the bill as ordered reported by your committee are within the jurisdiction of the Committee on Financial Services under clause 1(g) of rule X of the Rules of the House of Representatives.

Ordinarily, the Committee on Financial Services would be entitled to receive a sequential referral of the bill. However, I thank you for your agreement to support in moving this important legislation forward the removal of section 206 (e) and section 207 from the bill and to modify section 206 (b) by inserting the Secretary of State in lieu of the President. Given the importance and timeliness of the Iran Freedom Support Act, and your willingness to work with us regarding these issues, I will not seek a sequential referral of this legislation. However, I do so only with the understanding that this procedural route should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect members of the Committee on Financial Services be appointed to the conference committee on these provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Committee Report on H.R. 282 and in the *Congressional Record* during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Yours truly,

MICHAEL G. OXLEY, *Chairman,*
Committee on Financial Services.

April 7, 2006

Hon. MICHAEL G. OXLEY, *Chairman,*
Committee on Financial Services
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 282, the Iran Freedom Support Act. I concur that the bill, as ordered reported by the Committee on International Relations on March 15, 2006, contains language which falls within the Rule X jurisdiction of the Committee on Financial Services. Specifically, Section 206, “United States Pension Plans,” and Section 207, “Report by Office of Global Security Risks,” of the bill are within your Committee’s jurisdiction.

Our two committees have reached agreement that, in the interest of moving this important legislation forward, the text of the bill which we will place in the manager’s amendment will remove Section 206 (e) and Section 207 from the bill and will modify Section 206 (b) by inserting the “Secretary of State” in lieu of “the President.” Given the importance and timeliness of the Iran Freedom Support Act, I appreciate your willingness to work with us regarding these issues and to forego sequential referral of this legislation. I understand that by doing so, it should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services on these provisions or any other similar legislation and will

not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I will request the Speaker to name members of the Committee on Financial Services to the conference committee.

As you requested, I will be pleased to include a copy of this exchange of letters in the Committee Report on H.R. 282 and in the *Congressional Record* during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

HENRY J. HYDE, *Chairman,*
Committee on International Relations.

HJH:df/mco

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 AND LIBYA SANCTIONS ACT OF 1996

SECTION 1. SHORT TITLE.

This Act may be cited as the “Iran [and Libya] Sanctions Act of 1996”.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) * * *

* * * * *

[(4) The failure of the Government of Libya to comply with Resolutions 731, 748, and 883 of the Security Council of the United Nations, its support of international terrorism, and its efforts to acquire weapons of mass destruction constitute a threat to international peace and security that endangers the national security and foreign policy interests of the United States and those countries with which it shares common strategic and foreign policy objectives.]

SEC. 3. DECLARATION OF POLICY.

[(a) POLICY WITH RESPECT TO IRAN.—]The Congress declares that it is the policy of the United States to deny Iran the ability to support acts of international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of Iran’s ability to explore for, extract, refine, or transport by pipeline petroleum resources of Iran.

[(b) POLICY WITH RESPECT TO LIBYA.—]The Congress further declares that it is the policy of the United States to seek full compliance by Libya with its obligations under Resolutions 731, 748, and 883 of the Security Council of the United Nations, including

ending all support for acts of international terrorism and efforts to develop or acquire weapons of mass destruction.】

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) the countries that have agreed to undertake measures to further the objectives of section 3 with respect to Iran, and a description of those measures; and

【(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.

【(c) WAIVER.—The President may waive the application of section 5(a) with respect to nationals of a country if—

【(1) that country has agreed to undertake substantial measures, including economic sanctions, that will inhibit Iran's efforts to carry out activities described in section 2 and information required by subsection (b)(1) has been included in a report submitted under subsection (b); and

【(2) the President, at least 30 days before the waiver takes effect, notifies the appropriate congressional committees of his intention to exercise the waiver.】

(b) REPORTS TO CONGRESS.—Not later than six months after the date of the enactment of the Iran Freedom Support Act and every six months thereafter, the President shall submit to the appropriate congressional committees a report regarding specific diplomatic efforts undertaken pursuant to subsection (a), the results of those efforts, and a description of proposed diplomatic efforts pursuant to such subsection. Each report shall include—

(1) a list of the countries that have agreed to undertake measures to further the objectives of section 3 with respect to Iran;

(2) a description of those measures, including—

(A) government actions with respect to public or private entities (or their subsidiaries) located in their territories, that are engaged in Iran;

(B) any decisions by the governments of these countries to rescind or continue the provision of credits, guarantees, or other governmental assistance to these entities; and

(C) actions taken in international fora to further the objectives of section 3;

(3) a list of the countries that have not agreed to undertake measures to further the objectives of section 3 with respect to Iran, and the reasons therefor; and

(4) a description of any memorandums of understanding, political understandings, or international agreements to which the United States has acceded which affect implementation of this section or section 5(a).

(c) WAIVER.—

(1) *IN GENERAL.*—The President may, on a case by case basis, waive for a period of not more than six months the application of section 5(a) with respect to a national of a country, if the President certifies to the appropriate congressional committees at least 30 days before such waiver is to take effect that—

(A) such waiver is vital to the national security interests of the United States; and

(B) the country of the national has undertaken substantial measures to prevent the acquisition and development of weapons of mass destruction by the Government of Iran.

(2) *SUBSEQUENT RENEWAL OF WAIVER.*—If the President determines that, in accordance with paragraph (1), such a waiver is appropriate, the President may, at the conclusion of the period of a waiver under paragraph (1), renew such waiver for subsequent periods of not more than six months each.

* * * * *

(f) *INVESTIGATIONS.*—

(1) *IN GENERAL.*—The President shall initiate an investigation into the possible imposition of sanctions against a person upon receipt by the United States of credible information indicating that such person is engaged in activity related to investment in Iran as described in section 5(a).

(2) *DETERMINATION AND NOTIFICATION.*—

(A) *IN GENERAL.*—Not later than 180 days after an investigation is initiated in accordance with paragraph (1), the President shall determine, pursuant to section 5(a), whether or not to impose sanctions against a person engaged in activity related to investment in Iran as described in such section as a result of such activity and shall notify the appropriate congressional committees of the basis for such determination.

(B) *EXTENSION.*—If the President is unable to make a determination under subparagraph (A), the President shall notify the appropriate congressional committees and shall extend such investigation for a subsequent period, not to exceed 180 days, after which the President shall make the determination required under such subparagraph and shall notify the appropriate congressional committees of the basis for such determination in accordance with such subparagraph.

(3) *DETERMINATIONS REGARDING PENDING INVESTIGATIONS.*—Not later than 90 days after the date of the enactment of this Act, the President shall, with respect to any investigation that was pending as of January 1, 2006, concerning a person engaged in activity related to investment in Iran as described in section 5(a), determine whether or not to impose sanctions against such person as a result of such activity and shall notify the appropriate congressional committees of the basis for such determination.

(4) *PUBLICATION.*—Not later than 10 days after the President notifies the appropriate congressional committees under paragraphs (2) and (3), the President shall ensure publication in the Federal Register of the identification of the persons against which the President has made a determination that the

imposition of sanctions is appropriate, together with an explanation for such determination.

SEC. 5. IMPOSITION OF SANCTIONS.

(a) **SANCTIONS WITH RESPECT [TO IRAN] 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)] (5) 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.

[(b) **MANDATORY SANCTIONS WITH RESPECT TO LIBYA.**—

[(1) **VIOLATIONS OF PROHIBITED TRANSACTIONS.**—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, exported, transferred, or otherwise provided to Libya any goods, services, technology, or other items the provision of which is prohibited under paragraph 4(b) or 5 of Resolution 748 of the Security Council of the United Nations, adopted March 31, 1992, or under paragraph 5 or 6 of Resolution 883 of the Security Council of the United Nations, adopted November 11, 1993, if the provision of such items significantly and materially—

[(A) contributed to Libya's ability to acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons or enhanced Libya's military or paramilitary capabilities;

[(B) contributed to Libya's ability to develop its petroleum resources; or

[(C) contributed to Libya's ability to maintain its aviation capabilities.

[(2) **INVESTMENTS THAT CONTRIBUTE TO THE DEVELOPMENT OF PETROLEUM RESOURCES.**—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 \$20,000,000 or more (or any combination of investments of at least \$10,000,000 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 Libya's ability to develop its petroleum resources.]

(b) **MANDATORY SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.**—*Notwithstanding any other provision of law, the President shall impose two or more of the sanctions described in paragraphs (1) through (5) of section 6 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 to the ability of Iran to—

(1) acquire or develop chemical, biological, or nuclear weapons or related technologies; or

(2) acquire or develop destabilizing numbers and types of advanced conventional weapons.

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

(1) * * *

(2) any person the President determines—

(A) * * *

(B) is a parent or subsidiary of the person referred to in paragraph (1) if that parent or subsidiary[, with actual knowledge,] engaged in the activities referred to in paragraph (1); [or]

(C) is an affiliate of the person referred to in paragraph (1) if that affiliate[, with actual knowledge,] engaged in the activities referred to in paragraph (1) and if that affiliate is controlled in fact by the person referred to in paragraph (1)[.]; or

(D) is a private or government lender, insurer, underwriter, or guarantor of the person referred to in paragraph (1) if that private or government lender, insurer, underwriter, or guarantor engaged in the activities referred to in paragraph (1).

For purposes of this Act, any person or entity described in this subsection shall be referred to as a “sanctioned person”.

* * * * *

SEC. 8. TERMINATION OF SANCTIONS.

[(a) IRAN.—]The requirement under section 5(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) has ceased its efforts to design, develop, manufacture, or acquire—

(A) * * *

* * * * *

(C) ballistic missiles and ballistic missile launch technology; [and]

(2) has been removed from the list of countries the governments of which have been determined, for purposes of section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism[.]; and

(3) poses no significant threat to United States national security, interests, or allies.

[(b) LIBYA.—]The requirement under section 5(b) to impose sanctions shall no longer have force or effect with respect to Libya if the President determines and certifies to the appropriate congressional committees that Libya has fulfilled the requirements of United Nations Security Council Resolution 731, adopted January 21, 1992, United Nations Security Council Resolution 748, adopted

March 31, 1992, and United Nations Security Council Resolution 883, adopted November 11, 1993.】

SEC. 9. DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.

(a) * * *

* * * * *

(c) PRESIDENTIAL WAIVER.—

(1) * * *

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

(A) * * *

* * * * *

【(C) an estimate as to the significance—

【(i) of the provision of the items described in section 5(a) to Iran’s ability to develop its petroleum resources, or

【(ii) of the provision of the items described in section 5(b)(1) to the abilities of Libya described in subparagraph (A), (B), or (C) of section 5(b)(1), or of the investment described in section 5(b)(2) on Libya’s ability to develop its petroleum resources,

as the case may be; and】

(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

* * * * *

SEC. 10. REPORTS REQUIRED.

(a) * * *

(b) REPORT ON EFFECTIVENESS OF ACTIONS UNDER THIS ACT.—

Not earlier than 24 months, and not later than 30 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

* * * * *

SEC. 13. EFFECTIVE DATE【; SUNSET】.

【(a) EFFECTIVE DATE.—】This Act shall take effect on the date of the enactment of this Act.

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

SEC. 14. DEFINITIONS.

As used in this Act:

(1) * * *

* * * * *

(9) INVESTMENT.—The term “investment” means any of the following activities if such activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Iran or a **[nongovernmental]** *nongovernmental* entity in Iran**],** or with the Government of Libya or a nongovernmental entity in Libya**],** on or after the date of the enactment of this Act:

(A) The entry into a contract that includes responsibility for the development of petroleum resources located in Iran **[or Libya (as the case may be)]**, or the entry into a contract providing for the general supervision and guarantee of another person’s performance of such a contract.

* * * * *

[(12) LIBYA.—The term “Libya” includes any agency or instrumentality of Libya.**]**

[(13)] (12) NUCLEAR EXPLOSIVE DEVICE.—The term “nuclear explosive device” means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material (as defined in section 11(aa) of the Atomic Energy Act of 1954) that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

[(14)] (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 subsidiaries of the foregoing,* any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, *such as an export credit agency;* and

(C) any successor to any entity described in subparagraph (B).

[(15)] (14) PETROLEUM RESOURCES.—The term “petroleum resources” includes petroleum, *petroleum by-products,* and natural gas resources.

[(16)] (15) 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.

[(17)] (16) UNITED STATES PERSON.—The term “United States person” means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and

(B) a corporation or other legal entity which 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, directly or in-

directly, more than 50 percent of the outstanding capital
stock or other beneficial interest in such legal entity.

* * * * *

ADDITIONAL VIEWS

I am appalled by the Iranian regime's behavior, of which the continuing effort to develop nuclear weapons is only one component. President Mahmoud Ahmadinejad's genocidal threats against Israel and denial of the Holocaust, the continued suppression of dissent and basic freedoms, and support for terrorist groups like al-Qaeda and Hamas all paint a picture of a dangerous regime.

As H.R.282, the "Iran Freedom Support Act," has started to move its way through the legislative process, I appreciate that positive changes have already occurred in the course of discussions with Chairman Hyde and the administration. I appreciate the willingness of Ms. Ros-Lehtinen and Mr. Lantos to accept my amendment prohibiting assistance to groups that have been on the State Department's list of Foreign Terrorist Organizations over the previous four years and to include report language urging that funding go to groups who have a significant political constituency and legitimacy within Iran. Continuing to tighten these provisions is necessary to ensure that we don't face the same situation as we did in Iraq, where the U.S. was misled by exile groups with little legitimacy inside the country.

Presidents of both parties have declined to place sanctions on allies, or companies within those countries, whose support we need to deal effectively with Iran. Certainly, no one would accuse our current president of being weak-willed on the nexus of terror and nuclear proliferation, yet, despite its widespread support in Congress, even the Administration is still unable to support the bill in its current form.

I believe that we will be most successful at crafting an effective strategy for denying Iran nuclear capability if Congress and the administration can reach a consensus as to what tools the President and the Secretary of State need to employ strong, coercive diplomacy. Because we have not yet reached this point, I voted "no" on the bill, yet I remain open to supporting it in the future.

I continue to believe that the 5-year sunset should be restored to the base Iran-Libya Sanctions Act and look forward to working on efforts to do so. Congress usually finds it much easier to implement sanctions than to engage in regular reviews to ensure that they are advancing our intended goals. The United States needs an effective policy on how to use sanctions: What are we trying to achieve? What works? What doesn't? What criteria do we use to figure out when sanctions would and wouldn't work? How do we know if we've been successful? How do we know when to call them off, either because we've succeeded or failed? Until we develop this kind of policy, however, it is important to restore the sunset provision and require a periodic review of sanctions.

Both the administration and Chairman Hyde have recognized the trade-off in this bill between any gains in leverage over Iran

through enhanced sanctions and the impact on our efforts with our allies. We should also pay attention to the perspectives of those democracy advocates within Iran whom we intend to help, who must balance the benefits of any increased resources from the United States and the negative impact of being tarred as tools of U.S. interests. I hope that striking the right balance in these trade-offs will be at the forefront of our discussions as this bill moves through the legislative process.

EARL BLUMENAUER.

