

STOP U.S. SUPPORT FOR STATE SPONSORS OF
TERRORISM ACT

DECEMBER 12, 2016.—Ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5729]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5729) to prohibit the Secretary of the Treasury from issuing certain licenses in connection with the export or re-export of a commercial passenger aircraft to the Islamic Republic of Iran, to require annual reports by the Secretary of the Treasury and the Export-Import Bank on financing issues related to the sale or lease of such a commercial passenger aircraft or spare parts for such an aircraft, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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 “Stop U.S. Support for State Sponsors of Terrorism Act”.

SEC. 2. EXPORT PROHIBITION.

The Secretary of the Treasury may not issue a license for the export or re-export of a commercial passenger aircraft to the Islamic Republic of Iran.

SEC. 3. TREASURY REPORT ON FINANCING.

The Secretary of the Treasury shall issue an annual report to the Committees on Financial Services and Foreign Affairs of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Foreign Relations of the Senate—

(1) stating whether any U.S. financial institution is involved with the sale or lease of commercial passenger aircraft or spare parts for such aircraft to the Islamic Republic of Iran by a non-U.S. manufacturer, and whether any such involvement is with respect to a commercial passenger aircraft or spare parts comprising 10 percent or more U.S. content; and

(2) containing a description of the risks related to repayment, money laundering, and the financing of terrorism faced by U.S. financial institutions if they were to be involved in the sale or lease of a commercial passenger aircraft to the Islamic Republic of Iran.

SEC. 4. EXPORT-IMPORT BANK REPORT.

The Export-Import Bank of the United States shall issue an annual report to the Committees on Financial Services and Foreign Affairs of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Foreign Relations of the Senate on the Bank's assistance for exports that may be used in connection with the sale or lease of passenger aircraft and spare parts for such aircraft to the Islamic Republic of Iran by a non-U.S. manufacturer, and whether any such assistance for exports may be used in connection with a commercial passenger aircraft or spare parts comprising 10 percent or more U.S. content.

PURPOSE AND SUMMARY

Introduced by Representative Pittenger on July 12, 2016, H.R. 5729 would prohibit the Secretary of the Treasury from issuing licenses authorizing the export or re-export of passenger aircraft to Iran. The bill also requires an annual report from the Department of Treasury on U.S. financial institutions' involvement with the export of non-U.S. aircraft or spare parts to Iran. Additionally, this report would describe risks related to repayment, money laundering, and the financing of terrorism faced by U.S. financial institutions if they were to be involved in the sale or lease of aircraft to Iran. Finally, the legislation would require the Export-Import Bank of the United States to prepare an annual report on Bank assistance for U.S. exports that may be used in connection with non-U.S. aircraft sales to Iran.

BACKGROUND AND NEED FOR LEGISLATION

Under the Joint Comprehensive Plan of Action (JCPOA), the Obama Administration agreed to license the export of passenger planes to Iran. On March 24, 2016, the Treasury Department's Office of Foreign Assets Control (OFAC) issued a general license that permitted U.S. aircraft manufacturers to begin negotiations with Iran. On June 21, Boeing announced it had reached a tentative sales agreement with Iran Air, the country's flagship state-owned carrier. According to this agreement, Iran Air intends to purchase 80 commercial planes with a value of \$17.6 billion, along with the lease of 29 Boeing 737s. Previously, Iran had announced it would also purchase 118 Airbus planes worth \$27 billion. Non-U.S. manufacturers such as Airbus are subject to OFAC licensing requirements as well, provided their aircraft's U.S. content equals or exceeds 10 percent.

In September 2016, OFAC issued specific licenses permitting the export of up to 17 Airbus and 80 Boeing aircraft. In November 2016, OFAC licensed an additional 106 Airbus planes for purchase by Iran Air.

Iran Air's deployment of civilian planes for military purposes is well-documented. In 2011, the airline was sanctioned by Treasury for its use of commercial planes to transport rockets, missiles, and other military cargo on behalf of the Islamic Revolutionary Guard Corps (IRGC). At that time, Treasury found that Iran Air had also

transported missile or rocket components to Syria, another state sponsor of terrorism and the site of a civil war that has claimed an estimated 400,000 lives.

Although Iran Air was delisted in 2016, it appears that the carrier's support for the IRGC remains unchanged. Appearing before the Financial Services Committee, Mark Dubowitz, Executive Director of the Foundation for Defense of Democracies, testified:

As a result of the nuclear deal, the U.S. lifted sanctions against Iran Air, despite the fact that the original designations were not related to Iran's nuclear program and despite the administration's commitment to retain non-nuclear sanctions.

But when asked why sanctions were lifted, State Department Spokesman John Kirby did not argue that Iran Air's behavior had changed, nor that the IRGC is no longer using the airline to ship weapons to Syria. Instead, he said merely that the administration was comfortable with its decision, though he was "not at liberty to go into the reasons behind" the de-listing.

And it seems that Iran Air is not keeping out of trouble. Three times in June, Iran Air flew routes known to be used to resupply Syrian President Assad.

Eric Lorber of the Financial Integrity Network informed the Committee:

This Committee is right to consider legislation significantly restricting the sale of these aircraft. In any prospective sale of aircraft to Iran, the impetus must remain on Iran to prove that it is not and will not use them for illicit or dangerous purposes.

Lorber continued:

Given the opacity of Iran's economy and the likelihood that Iranian companies with whom Western firms are doing business are owned or controlled by designated parties, the risks Western firms face in dealing directly or indirectly with supporters of terrorism, human rights abuses, and weapons proliferation remain high. In the case of Boeing's proposed sale of up to \$25 billion worth of new aircraft and associated services, these risks are even higher.

In addition, Lorber cautioned, Iran Air's assurances that it would use U.S. aircraft exports for exclusively civilian purposes could not be taken at face value:

Given Iran Air's historical record of supporting the IRGC, President Assad, and Hezbollah, in addition to recent indications that it has not changed such activity, Boeing risks selling aircraft and associated parts and services that will be directly used by designated parties for sanctionable purposes. Further, Iran has a long history of employing sanctions evasion techniques, meaning that even if Boeing believes Iran Air is employing these aircraft for commercial purposes, the airline could be surreptitiously using them to support illicit activity.

The U.S. financial system may face similar risks through such sales, particularly since OFAC has authorized U.S. financing in the aircraft licenses it has issued. These risks may be present even

when financing does not appear to be connected to an Iranian transaction. In June 2016, for instance, it was reported that blacklisted Iranian airlines had been able to bypass sanctions by purchasing 23 Boeing and Airbus planes through third-country carriers.

Recalling that Treasury continues to classify Iran as “a jurisdiction of primary money laundering concern,” Eric Lorber warned:

Though the recent business attention on Iran has understandably focused on sanctions-related issues, banks and businesses must remember that other financial crimes concerns in the Islamic Republic remain pervasive. In particular, the nature of the Iranian economy and the role of the government within the economy present serious risks related to bribery and corruption, money laundering, and illicit financing.

Prohibiting aircraft exports to Iran is a policy that has previously garnered Congressional support: in July, the House approved, by voice vote, an aircraft prohibition as an amendment to H.R. 5485, the Financial Services and General Government Appropriations Act, 2017.

HEARINGS

The Subcommittee on Monetary Policy and Trade held a hearing titled “The Implications of U.S. Aircraft Sales to Iran” on July 7, 2016, which examined matters relating to H.R. 5729.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 13, 2016 and considered H.R. 5729. An amendment offered by Rep. Pittenger was adopted by voice vote. Two amendments offered en bloc by Mr. Sherman were withdrawn. The motion to report the bill as amended to the House with a favorable recommendation was agreed to by a recorded vote of 33 yeas to 21 nays (Record vote no. FC-124), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 33 yeas to 21 nays (Record vote no. FC-124), a quorum being present.

Record vote no. FC-124

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)		X	
Mr. King (NY)	X			Mrs. Maloney (NY)		X	
Mr. Royce	X			Ms. Velázquez		X	
Mr. Lucas	X			Mr. Sherman	X		
Mr. Garrett	X			Mr. Meeks		X	
Mr. Neugebauer	X			Mr. Capuano		X	
Mr. McHenry				Mr. Hinojosa		X	
Mr. Pearce				Mr. Clay			
Mr. Posey	X			Mr. Lynch		X	
Mr. Fitzpatrick	X			Mr. David Scott (GA)		X	
Mr. Westmoreland	X			Mr. Al Green (TX)		X	
Mr. Luetkemeyer	X			Mr. Cleaver		X	
Mr. Huizenga (MI)	X			Ms. Moore		X	
Mr. Duffy	X			Mr. Ellison			
Mr. Hurt (VA)	X			Mr. Perlmutter		X	
Mr. Stivers	X			Mr. Himes		X	
Mr. Fincher				Mr. Carney		X	
Mr. Stutzman	X			Ms. Sewell (AL)		X	
Mr. Mulvaney	X			Mr. Foster			
Mr. Hultgren	X			Mr. Kildee		X	
Mr. Ross	X			Mr. Murphy (FL)		X	
Mr. Pittenger	X			Mr. Delaney		X	
Mrs. Wagner	X			Ms. Sinema		X	
Mr. Barr	X			Mrs. Beatty		X	
Mr. Rothfus	X			Mr. Heck (WA)		X	
Mr. Messer	X			Mr. Vargas	X		
Mr. Schweikert	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin	X						
Mrs. Love	X						
Mr. Hill	X						
Mr. Emmer	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, 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.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 5729 will protect American depositors and taxpayers by preventing U.S. financial institutions from engaging in transactions with a country that poses acute regulatory, reputational, and default risk.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 31, 2016.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5729, the Stop U.S. Support for State Sponsors of Terrorism Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 5729—Stop U.S. Support for State Sponsors of Terrorism Act

H.R. 5729 would amend current law to prohibit the Department of the Treasury from issuing a license for the export of commercial aircraft to Iran. The bill also would require the Treasury and the

Export-Import Bank to provide an annual report on the financing and sale of aircraft and aircraft parts to Iran.

CBO estimates that implementing H.R. 5729 would increase administrative costs at the Treasury and the Export-Import Bank by less than \$500,000 annually; such spending would be subject to the availability of appropriated funds. In addition, on the basis of information from the Export-Import Bank, CBO estimates that implementing the bill would have no effect on the bank's lending activities.

Because the bill would expand prohibited types of trade with Iran that are subject to civil and criminal penalties, it could increase revenues and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net budgetary effect of any additional penalties would be negligible for each year.

CBO estimates that enacting H.R. 5729 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 5729 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.

The bill contains a private-sector mandate as defined in UMRA because it would prohibit U.S. aircraft manufacturers from exporting commercial passenger aircraft to Iran. As part of the multilateral nuclear agreement, known as the Joint Comprehensive Plan of Action, the United States agreed to allow the sale of commercial passenger aircraft and related parts and services to Iran. Subsequently, a major U.S. aircraft manufacturer negotiated a preliminary agreement with Iran Air, the country's state-run airline, for the sale and lease of commercial aircraft. Any final sales agreement with Iran would have to be approved by the Treasury.

Numerous news reports indicate the value of the sales agreement could total tens of billions of dollars. The cost of the mandate would be any profits such manufacturers would forego as a result of the prohibition. If the bill would prevent the sale of aircraft that otherwise may be approved under current law, the cost of the mandate on the manufacturer would be substantial; CBO estimates that the aggregate cost of the mandate would probably exceed the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

The CBO staff contacts for this estimate are Sunita D'Monte, Pamela Greene and Matthew Pickford (for federal revenues and costs) and Logan Smith (for private-sector mandates).

This estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 5729 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 5729 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that H.R. 5729 contains no directed rule making.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Section provides for this Act to be cited as the “Stop U.S. Support for State Sponsors of Terrorism Act.”

Section 2. Export prohibition

This Section prohibits the Department of Treasury from issuing a license for the export or re-export of commercial passenger aircraft to Iran.

Section 3. Treasury report on financing

This Section requires an annual report by Treasury stating whether any U.S. financial institution is involved with the sale or lease of passenger aircraft to Iran by a non-U.S. manufacturer. If this is the case, Treasury must also report whether the financed aircraft contains 10 percent or more U.S. content. The report must also contain a description of risks related to repayment, money laundering, and terrorism financing faced by U.S. financial institutions if they were to be involved in the sale or lease of passenger aircraft to Iran.

Section 4. Export-Import Bank report

This Section requires the Export-Import Bank to issue an annual report on any Bank assistance for U.S. exports that may be used in connection with the sale or lease of aircraft and spare parts to Iran by a non-U.S. manufacturer. The Bank must also report

whether such assistance may be used in connection with aircraft or spare parts containing 10 percent or more U.S. content.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 5729 does not repeal or amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report contemplated by Clause 3(e)(1)(B) of rule XIII of the House of Representatives.

MINORITY VIEWS

H.R. 5729 would expressly violate commitments made by the United States as part of the Joint Comprehensive Plan of Action (JCPOA) to license the sale of commercial passenger aircraft to non-Sanctioned parties in Iran. The bill also includes miscellaneous reporting requirements.

The licensing prohibition in the bill would block not only U.S. aircraft manufacturers, but also all major foreign aircraft manufacturers, from exporting commercial passenger aircraft to Iran, as was agreed to under the JCPOA, because the export-controlled U.S.-origin content would also make the non-U.S. manufacturers subject to a U.S. license. By barring the licensing of commercial passenger aircraft to Iran, the bill would put the U.S. in breach of our commitments under Annex II of the JCPOA, and would also prevent other world powers who joined us in negotiating the Iran nuclear deal from realizing their obligations under the Agreement.

We note that, to date, Iran has upheld its obligations under the nuclear agreement, and we strongly believe the United States has a responsibility to do the same. Moreover, if Iran violates the deal and uses aircraft for non-civilian purposes, in contravention of the deal, the JCPOA very clearly states that our commitments with regard to selling aircraft and spare parts would terminate. The deal also addresses the possibility that Iran could violate the aircraft provisions in the deal by requiring such risk to be managed by effective due diligence and through the licensing conditions imposed by the Treasury Department.

There is also a significant humanitarian aspect to the commercial aviation relief provided in the nuclear agreement. It is widely recognized that Iran has one of the worst civilian aviation records in the world. Since 1990, there have been over 200 airline accidents and 2,000 deaths involving Iranian planes. The risk of death on an Iranian airline is 100 times higher than the risk to a passenger flying on one of the world's other major airlines.

Upholding our end of the Iran nuclear deal is critical to promoting our national security interests by erecting a barrier to Iranian nuclear proliferation for well over a decade and ensuring nuclear inspectors unprecedented access for over a quarter century. Passage of H.R. 5729 would be a dangerous step towards unraveling the JCPOA, which would reinforce questions around the world about the U.S. commitment to multilateralism, and seriously damage our ability to lead any future diplomatic efforts on terrorism and on a range of other issues important to U.S. national security.

For all of these reasons, we oppose this measure.

MAXINE WATERS.
WM. LACY CLAY.
RUBÉN HINOJOSA.
KEITH ELLISON.
AL GREEN.

