

108TH CONGRESS
1ST SESSION

H. R. 3347

To amend the Iran and Libya Sanctions Act of 1996 to prevent the direct and indirect financing of the development of weapons of mass destruction programs by Iran and Libya, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2003

Ms. ROS-LEHTINEN introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Financial Services, Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Iran and Libya Sanctions Act of 1996 to prevent the direct and indirect financing of the development of weapons of mass destruction programs by Iran and Libya, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “ILSA Enhancement and Compliance Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.

TITLE I—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS
 ACT OF 1996

Sec. 101. Multilateral regime.
 Sec. 102. Imposition of sanctions.
 Sec. 103. Description of sanctions.
 Sec. 104. Termination of sanctions.
 Sec. 105. Sunset.
 Sec. 106. Definitions.
 Sec. 107. Effective date.

TITLE II—OFFICE OF GLOBAL SECURITY RISK IN THE
 SECURITIES AND EXCHANGE COMMISSION

Sec. 201. Establishment of office.
 Sec. 202. Reports.

3 **SEC. 2. FINDINGS.**

4 Congress makes the following findings:

5 (1) On September 16, 2003, the Under Sec-
 6 retary for Arms Control and International Security,
 7 John R. Bolton, stated before the Committee on
 8 International Relations of the House of Representa-
 9 tives that: “Without question, among rogue states,
 10 those most aggressively seeking to acquire or develop
 11 weapons of mass destruction and their means of de-
 12 livery, and which are therefore threats to our na-
 13 tional security, are Iran and North Korea, followed
 14 by Libya and Syria. It is also the case that these
 15 states are among those we identify as state sponsors
 16 of terrorism.”.

1 (2) In his statement before the International
2 Atomic Energy Agency (IAEA) of the United Na-
3 tions on September 8, 2003, United States Amba-
4 sador Kenneth Brill denounced Iran’s patterns of
5 deception regarding its nuclear program by declaring
6 Iran to be “working in secret, going back into the
7 1980s, to develop sophisticated nuclear facilities;
8 stalling, stonewalling, and on a number of occasions
9 first providing the IAEA false information, and then
10 changing its story when the original version was re-
11 vealed to be inaccurate; and attempting to cover up
12 traces of its activities to avoid detection by the
13 Agency”.

14 (3) The Final Resolution of the Board of Gov-
15 ernors of the International Atomic Energy Agency
16 on September 11, 2003, noted with concern, “that
17 the agency environmental sampling at Natanz has
18 revealed the presence of two types of highly enriched
19 uranium, which requires additional work to enable
20 the Agency to arrive at a conclusion; that IAEA in-
21 spectors found considerable modifications had been
22 made to the premises at the Kalaye Electric Com-
23 pany prior to inspections that may impact on the ac-
24 curacy of the environmental sampling; that some of
25 Iran’s statements to the IAEA have undergone sig-

1 nificant and material changes, and that the number
2 of outstanding issues has increased since the report;
3 and that despite the Board's statement in June
4 2003 encouraging Iran as a confidence-building
5 measure, not to introduce nuclear material into its
6 pilot centrifuge enrichment cascade at Natanz, Iran
7 has introduced such material".

8 (4) The Government of Iran, in a letter to the
9 International Atomic Energy Agency of August 19,
10 2003, acknowledged that, in the early 1990s, there
11 had been "bench scale" uranium conversion experi-
12 ments. Iran has indicated that more time will be
13 needed to find the people involved in these experi-
14 ments and to trace any other closed down facilities.

15 (5) Iranian authorities have stated that none of
16 the imported uranium had been processed and spe-
17 cifically, that it had not been used in any centrifuge
18 tests. It was observed, however, during IAEA
19 verification in March 2003, that some of the UF₆
20 was in fact missing from the two small cylinders.

21 (6)(A) Iranian authorities told the International
22 Atomic Energy Agency that the decision to launch
23 a centrifuge enrichment program had actually been
24 taken in 1985 and that Iran had received drawings

1 of the centrifuge through a foreign intermediary
2 around 1987.

3 (B) The Iranian authorities described the pro-
4 gram as having consisted of three phases: activities
5 during the first phase, from 1985 until 1997, had
6 been located mainly at the Atomic Energy Organiza-
7 tion of Iran (AEOI) premises in Tehran; during the
8 second phase, between 1997 and 2002, the activities
9 had been concentrated at the Kalaye Electric Com-
10 pany in Tehran; during the third phase, 2002 to the
11 present, the research and development and assembly
12 activities were moved to the Natanz facility.

13 (7) In the August 19, 2003, letter from Iran,
14 the International Atomic Energy Agency was in-
15 formed that, in the past, apart from planned co-op-
16 eration in laser fusion and laser spectroscopy which
17 never materialized, there had been a research thesis
18 on laser spectroscopy prepared by a university stu-
19 dent in co-operation with the laser division of the
20 Atomic Energy Organization of Iran. Such a study
21 by the AEOI could later prove to be relevant to the
22 implementation of laser enrichment programs in
23 Iran.

24 (8) In September 2003, Britain, France, and
25 Germany nevertheless offered western technology to

1 Iran if it stopped its nuclear fuel enrichment pro-
2 gram and accepted more intrusive United Nations
3 inspections of its nuclear facilities, all in defiance of
4 the United States efforts to achieve a united front
5 to counter the burgeoning Iranian nuclear program.

6 (9) European oil investment and credit provi-
7 sions have unquestionably helped the Iranian econ-
8 omy by enabling it to build its nuclear program. The
9 Iranians are boasting that as much as
10 \$20,000,000,000 in oil agreements have been signed
11 between Iran and European Union countries since
12 1995.

13 (10) France's Totalfina formed a multi-billion
14 dollar consortium to develop Iranian oil fields of
15 South Pars in 1995 and has been adding to its de-
16 velopment ever since. Britain has issued credit guar-
17 antees to back up its oil investments in Iran as well.

18 (11) Germany is actively seeking to increase its
19 exports to Iran and in 2001 it quadrupled its export
20 insurance to that country. The French bank BNP
21 Paribas has arranged \$2,230,000,000 in loans for
22 Iran since 1990.

23 (12) Europe has also been actively seeking a
24 European Union-Iran trade pact, formally giving
25 the go-ahead to pursue investments in Iran.

1 (13) The Assistant Secretary of State for Non-
2 proliferation, John S. Wolf, in testimony before the
3 Committee on Foreign Relations of the Senate on
4 March 19, 2003, stated that: “Libya has crossed the
5 nuclear threshold and is among the list of nuclear
6 wannabees. These wannabees seek nuclear weapons
7 capabilities even though they are all parties to the
8 [Treaty on the Non-Proliferation of Nuclear Weap-
9 ons].”.

10 (14) In testimony before the Select Committee
11 on Intelligence of the Senate on February 10, 2003,
12 the Director of Central Intelligence, George J.
13 Tenet, remarked: “Libya clearly intends to reestab-
14 lish its offensive chemical weapons capability and
15 has produced at least 100 tons of chemical agents
16 at its Rabta facility.”.

17 (15) In addition to manufacturing and pos-
18 sessing chemical weapons, Libya has a history of
19 employing them. According to the Department of
20 Defense, in 1987 Libya employed chemical agents
21 against troops from its neighboring country of Chad.
22 Libya has used missiles and aircraft in combat.
23 Libya also “fired SCUD missiles at an Italian island
24 in 1987”, according to the 2001 Department of De-
25 fense “Proliferation: Threat and Response” Report.

1 (16) According to the same report, Libya may
 2 be capable of producing small quantities of biological
 3 agents. And, “with the suspension of UN sanctions,
 4 Libya’s ability to acquire biological-related equip-
 5 ment and expertise will increase”.

6 (17) The Government of Libya continues to
 7 seek ballistic missile delivery systems that could be
 8 used for chemical or nuclear warfare. On October
 9 31, 2002, the director of the United States Missile
 10 Defense Agency, Lieutenant General Ronald Kadish,
 11 stated: “The Libyans have been pretty active in try-
 12 ing to get missile capability, and not just short-
 13 range. They have enough money to buy it . . . We
 14 worry a lot about Libya in the Missile Defense
 15 Agency.”.

16 **TITLE I—AMENDMENTS TO THE**
 17 **IRAN AND LIBYA SANCTIONS**
 18 **ACT OF 1996**

19 **SEC. 101. MULTILATERAL REGIME.**

20 (a) MULTILATERAL NEGOTIATIONS.—Section 4(a) of
 21 the Iran and Libya Sanctions Act of 1996 (50 U.S.C.
 22 1701 note) is amended—

- 23 (1) by inserting “and Libya” after “Iran”; and
 24 (2) by striking “Iran’s efforts” and inserting
 25 “the efforts of both Iran and Libya”.

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

4 “(b) REPORTS TO CONGRESS.—The President shall
5 prepare and transmit to the appropriate congressional
6 committees not later than 6 months after the date of en-
7 actment of the ILSA Enhancement and Compliance Act,
8 and once every 6 months thereafter, a report on the spe-
9 cific diplomatic efforts undertaken pursuant to subsection
10 (a), the results of these efforts, and a description of pro-
11 posed diplomatic efforts pursuant to such subsection.
12 Each report shall include—

13 “(1) the countries that have agreed to under-
14 take measures to further the objectives of section 3
15 with respect to either Iran or Libya;

16 “(2) a description of those measures, includ-
17 ing—

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

22 “(B) any decisions by the governments of
23 these countries to rescind or continue the provi-
24 sion of credits, guarantees, or other govern-
25 mental assistance to these entities; and

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

3 “(3) the countries that have not agreed to un-
4 dertake measures to further the objectives of section
5 3 with respect to Iran or Libya, and the reasons
6 therefor.”.

7 (c) SUSPENSION.—Section 4(c) of the Iran and Libya
8 Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended
9 to read as follows:

10 “(c) SUSPENSION.—The President may suspend the
11 application of section 5(a) with respect to nationals of a
12 country on a case by case basis for a period of not more
13 than 6 months, if the President certifies to the appropriate
14 congressional committees at least 30 days before the sus-
15 pension is to take effect that—

16 “(1) the suspension is vital to the national secu-
17 rity of the United States; and

18 “(2) the country has undertaken substantial
19 measures, including economic sanctions, to prevent
20 the acquisition and development of weapons of mass
21 destruction by the Government of Iran or Libya, as
22 the case may be, and to carry out activities de-
23 scribed in section 2 of this Act.”.

24 (d) INVESTIGATIONS.—Section 4 of the Iran and
25 Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is

1 amended by adding at the end the following new sub-
2 section:

3 “(f) INVESTIGATIONS.—

4 “(1) IN GENERAL.—Upon public or private dis-
5 closure of activity related to investment in Iran or
6 Libya as described in this Act, the President shall
7 direct the Secretary of the Treasury to initiate an
8 investigation into the possible imposition of sanc-
9 tions with respect to such activity and to provide a
10 recommendation to the President for such purposes.

11 “(2) DETERMINATION AND NOTIFICATION.—
12 Not later than 90 days after the date of the disclo-
13 sure of activity described in paragraph (1), the
14 President shall make a determination whether or not
15 to impose sanctions with respect to the activity and
16 shall notify the appropriate congressional committees
17 of the basis for this determination.”.

18 **SEC. 102. IMPOSITION OF SANCTIONS.**

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

23 (1) in the heading, by striking “TO IRAN” and
24 inserting “TO DEVELOPMENT OF PETROLEUM RE-
25 SOURCES”;

1 (2) by striking “, with actual knowledge,”; and
2 (3) by striking “Iran’s ability to develop petro-
3 leum resources in Iran” and inserting “the ability of
4 Iran or Libya to develop petroleum resources, as the
5 case may be”.

6 (b) SANCTIONS WITH RESPECT TO DEVELOPMENT
7 OF WEAPONS OF MASS DESTRUCTION OR OTHER MILI-
8 TARY CAPABILITIES.—Section 5(b) of the Iran and Libya
9 Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended
10 to read as follows:

11 “(b) MANDATORY SANCTIONS WITH RESPECT TO
12 DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR
13 OTHER MILITARY CAPABILITIES.—Notwithstanding any
14 other provision of law, the President shall impose 2 or
15 more of the sanctions described in paragraphs (1) through
16 (6) of section 6 if the President determines that a person
17 has, on or after the date of the enactment of this Act,
18 exported, transferred, or otherwise provided to Iran or
19 Libya any goods, services, technology, or other items the
20 provision of which significantly and materially—

21 “(1) contributed to the ability of Iran or Libya
22 to acquire chemical, biological, or nuclear weapons
23 or destabilizing numbers and types of advanced con-
24 ventional weapons or enhanced the military or para-
25 military capabilities of Iran or Libya; or

1 “(2) contributed to the ability of Iran or Libya
2 to maintain its aviation capabilities.”.

3 (c) PERSONS AGAINST WHICH THE SANCTIONS ARE
4 TO BE IMPOSED.—Section 5(c)(2) of the Iran and Libya
5 Sanctions Act of 1996 (50 U.S.C. 1701 note) is amend-
6 ed—

7 (A) in subparagraph (B), by striking “or”
8 at the end;

9 (B) in subparagraph (C), by striking the
10 period and inserting “; or”; and

11 (C) by adding at the end the following new
12 subparagraph:

13 “(D) is a private or government lender, in-
14 surer, underwriter, re-insurer, or guarantor of
15 the person referred to in paragraph (1).”.

16 **SEC. 103. DESCRIPTION OF SANCTIONS.**

17 Paragraphs (1) through (6) of section 6 of the Iran
18 and Libya Sanctions Act 1996 (50 U.S.C. 1701 note) is
19 amended by striking “may” each place it occurs and in-
20 serting “shall”.

21 **SEC. 104. TERMINATION OF SANCTIONS.**

22 Section 8 of the Iran and Libya Sanctions Act 1996
23 (50 U.S.C. 1701 note) is amended—

24 (1) in subsection (a)—

25 (A) by striking the heading;

1 (B) in the introductory matter preceding
2 paragraph (1)—

3 (i) by inserting “or Libya” after
4 “Iran” the first place it appears; and

5 (ii) by inserting “or Libya, as the case
6 may be” after “Iran” the second place it
7 appears;

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

10 (D) in paragraph (2), by striking the pe-
11 riod at the end and inserting “; and”; and

12 (E) by adding at the end the following:

13 “(3) poses no threat to the national security of
14 the United States, its interests, or allies.”; and

15 (2) by striking subsection (b).

16 **SEC. 105. SUNSET.**

17 Section 13 of the Iran and Libya Sanctions Act of
18 1996 (50 U.S.C. 1701 note) is hereby repealed.

19 **SEC. 106. DEFINITIONS.**

20 (a) INVESTMENT.—Section 14(9) of the Iran and
21 Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is
22 amended in the last sentence by striking “does not in-
23 clude” and inserting “includes”.

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

4 (1) by inserting after “trust” the following: “,
5 financial institution, insurer, underwriter, re-insurer,
6 guarantors”; and

7 (2) by striking “operating as a business enter-
8 prise”.

9 (c) PETROLEUM RESOURCES.—Section 14(15) of the
10 Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701
11 note) is amended—

12 (1) by striking “and” and inserting a comma;
13 and

14 (2) by inserting “, and petroleum by-products”
15 after “resources”.

16 **SEC. 107. EFFECTIVE DATE.**

17 The amendments made by sections 102 and 103 shall
18 apply to investments made on or after the date of the en-
19 actment of this Act.

1 **TITLE II—OFFICE OF GLOBAL**
2 **SECURITY RISK IN THE SECU-**
3 **RITIES AND EXCHANGE COM-**
4 **MISSION**

5 **SEC. 201. ESTABLISHMENT OF OFFICE.**

6 The Securities and Exchange Commission shall es-
7 tablish an Office of Global Security Risk within the Divi-
8 sion of Corporation Finance. The duties of this office shall
9 include, but will not be limited to:

10 (1) Establishing a process by which the Com-
11 mission identifies all issuers (as defined in section
12 2(a)(7) of the Sarbanes-Oxley Act of 2002 (15
13 U.S.C. 7201(a)(7))) that are operating in countries,
14 particularly Iran and Libya, the governments of
15 which the Secretary of State has determined, for
16 purposes of section 6(j)(1) of the Export Adminis-
17 tration Act of 1979 (50 U.S.C. app. 2405(j)(1)),
18 have repeatedly provided support for acts of inter-
19 national terrorism.

20 (2) Ensuring that all issuers operating in coun-
21 tries described in paragraph (1) are disclosing to in-
22 vestors the nature of their operations in such coun-
23 tries.

24 (3) Implementing enhanced disclosure require-
25 ments based on the asymmetric nature of the risk to

1 corporate share value and reputation stemming from
2 business interests in these higher risk countries.

3 (4) Coordinating with other government agen-
4 cies to ensure the sharing of relevant information
5 across the Federal Government.

6 (5) Initiating a global dialogue to ensure that
7 foreign corporations whose shares are traded in the
8 United States are properly disclosing their activities
9 in countries described in paragraph (1) to United
10 States investors.

11 **SEC. 202. REPORTS.**

12 The Commission shall provide the appropriate Con-
13 gressional committees with quarterly reports on the activi-
14 ties of Office of Global Security Risk established pursuant
15 to section 201.

○