

Calendar No. 375

106TH CONGRESS
1ST SESSION

H. R. 1883

AN ACT

To provide for the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.

NOVEMBER 3, 1999

Read the second time and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 1999

Received

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AN ACT

To provide for the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Iran Nonproliferation
3 Act of 1999”.

4 **SEC. 2. REPORTS ON PROLIFERATION TO IRAN.**

5 (a) **REPORTS.**—The President shall, at the times
6 specified in subsection (b), submit to the Committee on
7 International Relations of the House of Representatives
8 and the Committee on Foreign Relations of the Senate
9 a report identifying every foreign person with respect to
10 whom there is credible information indicating that that
11 person, on or after January 1, 1999, transferred to Iran—

12 (1) goods, services, or technology listed on—

13 (A) the Nuclear Suppliers Group Guide-
14 lines for the Export of Nuclear Material, Equip-
15 ment and Technology (published by the Inter-
16 national Atomic Energy Agency as Information
17 Circular INFCIRC/254/Rev.3/Part 1, and sub-
18 sequent revisions) and Guidelines for Transfers
19 of Nuclear-Related Dual-Use Equipment, Mate-
20 rial, and Related Technology (published by the
21 International Atomic Energy Agency as Infor-
22 mation Circular INFCIRC/254/Rev.3/Part 2,
23 and subsequent revisions);

24 (B) the Missile Technology Control Regime
25 Equipment and Technology Annex of June 11,
26 1996, and subsequent revisions;

1 (C) the lists of items and substances relat-
2 ing to biological and chemical weapons the ex-
3 port of which is controlled by the Australia
4 Group;

5 (D) the Schedule One or Schedule Two list
6 of toxic chemicals and precursors the export of
7 which is controlled pursuant to the Convention
8 on the Prohibition of the Development, Produc-
9 tion, Stockpiling and Use of Chemical Weapons
10 and on Their Destruction; or

11 (E) the Wassenaar Arrangement list of
12 Dual Use Goods and Technologies and Muni-
13 tions list of July 12, 1996, and subsequent revi-
14 sions; or

15 (2) goods, services, or technology not listed on
16 any list identified in paragraph (1) but which never-
17 theless would be, if they were United States goods,
18 services, or technology, prohibited for export to Iran
19 because of their potential to make a material con-
20 tribution to the development of nuclear, biological, or
21 chemical weapons, or of ballistic or cruise missile
22 systems.

23 (b) TIMING OF REPORTS.—The reports under sub-
24 section (a) shall be submitted not later than 90 days after
25 the date of the enactment of this Act, not later than 6

1 months after such date of enactment, and not later than
2 the end of each 6-month period thereafter.

3 (c) EXCEPTIONS.—Any foreign person who—

4 (1) was identified in a previous report sub-
5 mitted under subsection (a) on account of a par-
6 ticular transfer; or

7 (2) has engaged in a transfer on behalf of, or
8 in concert with, the Government of the United
9 States,

10 is not required to be identified on account of that same
11 transfer in any report submitted thereafter under this sec-
12 tion, except to the degree that new information has
13 emerged indicating that the particular transfer may have
14 continued, or been larger, more significant, or different
15 in nature than previously reported under this section.

16 (d) SUBMISSION IN CLASSIFIED FORM.—When the
17 President considers it appropriate, reports submitted
18 under subsection (a), or appropriate parts thereof, may
19 be submitted in classified form.

20 **SEC. 3. APPLICATION OF MEASURES TO CERTAIN FOREIGN**
21 **PERSONS.**

22 (a) APPLICATION OF MEASURES.—Subject to sec-
23 tions 4 and 5, the President is authorized to apply with
24 respect to each foreign person identified in a report sub-
25 mitted pursuant to section 2(a), for such period of time

1 as he may determine, any or all of the measures described
2 in subsection (b).

3 (b) DESCRIPTION OF MEASURES.—The measures re-
4 ferred to in subsections (a) are the following:

5 (1) EXECUTIVE ORDER NO. 12938 PROHIBI-
6 TIONS.—The measures set forth in subsections (b)
7 and (c) of section 4 of Executive Order No. 12938
8 shall be applied with respect to that person.

9 (2) ARMS EXPORT PROHIBITION.—The United
10 States Government shall not sell to that foreign per-
11 son any item on the United States Munitions List
12 as in effect on August 8, 1995, and shall terminate
13 sales to that person of any defense articles, defense
14 services, or design and construction services under
15 the Arms Export Control Act.

16 (3) DUAL USE EXPORT PROHIBITION.—The
17 President shall deny licenses and suspend existing li-
18 censes for the transfer to that person of items the
19 export of which is controlled under the Export Ad-
20 ministration Act of 1979 or the Export Administra-
21 tion Regulations.

22 (c) EFFECTIVE DATE OF MEASURES.—Measures ap-
23 plied pursuant to subsection (a) shall be effective with re-
24 spect to a foreign person no later than—

1 (1) 90 days after the report identifying the for-
2 eign person is submitted, if the report is submitted
3 on or before the date required by section 2(b);

4 (2) 90 days after the date required by section
5 2(b) for submitting the report, if the report identi-
6 fying the foreign person is submitted within 60 days
7 after that date; or

8 (3) on the date that the report identifying the
9 foreign person is submitted, if that report is sub-
10 mitted more than 60 days after the date required by
11 section 2(b).

12 (d) PUBLICATION IN FEDERAL REGISTER.—The ap-
13 plication of measures to a foreign person pursuant to sub-
14 section (a) shall be announced by notice published in the
15 Federal Register.

16 **SEC. 4. PROCEDURES IF MEASURES ARE NOT APPLIED.**

17 (a) REQUIREMENT TO NOTIFY CONGRESS.—Should
18 the President not exercise the authority of section 3(a)
19 to apply any or all of the measures described in section
20 3(b) with respect to a foreign person identified in a report
21 submitted pursuant to section 2(a), he shall so notify the
22 Committee on International Relations of the House of
23 Representatives and the Committee on Foreign Relations
24 of the Senate no later than the effective date under section
25 3(c) for measures with respect to that person.

1 (b) WRITTEN JUSTIFICATION.—Any notification sub-
2 mitted by the President under subsection (a) shall include
3 a written justification describing in detail the facts and
4 circumstances relating specifically to the foreign person
5 identified in a report submitted pursuant to section 2(a)
6 that support the President’s decision not to exercise the
7 authority of section 3(a) with respect to that person.

8 (c) SUBMISSION IN CLASSIFIED FORM.—When the
9 President considers it appropriate, the notification of the
10 President under subsection (a), and the written justifica-
11 tion under subsection (b), or appropriate parts thereof,
12 may be submitted in classified form.

13 **SEC. 5. DETERMINATION EXEMPTING FOREIGN PERSON**
14 **FROM SECTIONS 3 AND 4.**

15 (a) IN GENERAL.—Sections 3 and 4 shall not apply
16 to a foreign person 15 days after the President reports
17 to the Committee on International Relations of the House
18 of Representatives and the Committee on Foreign Rela-
19 tions of the Senate that the President has determined, on
20 the basis of information provided by that person, or other-
21 wise obtained by the President, that—

22 (1) the person did not, on or after January 1,
23 1999, knowingly transfer to Iran the goods, services,
24 or technology the apparent transfer of which caused

1 that person to be identified in a report submitted
2 pursuant to section 2(a);

3 (2) the goods, services, or technology the trans-
4 fer of which caused that person to be identified in
5 a report submitted pursuant to section 2(a) did not
6 materially contribute to Iran's efforts to develop nu-
7 clear, biological, or chemical weapons, or ballistic or
8 cruise missile systems;

9 (3) the person is subject to the primary juris-
10 diction of a government that is an adherent to one
11 or more relevant nonproliferation regimes, the per-
12 son was identified in a report submitted pursuant to
13 section 2(a) with respect to a transfer of goods,
14 services, or technology described in section 2(a)(1),
15 and such transfer was made consistent with the
16 guidelines and parameters of all such relevant re-
17 gimes of which such government is an adherent; or

18 (4) the government with primary jurisdiction
19 over the person has imposed meaningful penalties on
20 that person on account of the transfer of the goods,
21 services, or technology which caused that person to
22 be identified in a report submitted pursuant to sec-
23 tion 2(a).

24 (b) SUBMISSION IN CLASSIFIED FORM.—When the
25 President considers it appropriate, the determination and

1 report of the President under subsection (a), or appro-
2 priate parts thereof, may be submitted in classified form.

3 **SEC. 6. RESTRICTION ON EXTRAORDINARY PAYMENTS IN**
4 **CONNECTION WITH THE INTERNATIONAL**
5 **SPACE STATION.**

6 (a) RESTRICTION ON EXTRAORDINARY PAYMENTS IN
7 CONNECTION WITH THE INTERNATIONAL SPACE STA-
8 TION.—Notwithstanding any other provision of law, no
9 agency of the United States Government may make ex-
10 traordinary payments in connection with the International
11 Space Station to the Russian Space Agency, any organiza-
12 tion or entity under the jurisdiction or control of the Rus-
13 sian Space Agency, or any other organization, entity, or
14 element of the Government of the Russian Federation, un-
15 less, during the fiscal year in which the extraordinary pay-
16 ments in connection with the International Space Station
17 are to be made, the President has made the determination
18 described in subsection (b), and reported such determina-
19 tion to the Committee on International Relations and the
20 Committee on Science of the House of Representatives
21 and the Committee on Foreign Relations and the Com-
22 mittee on Commerce, Science, and Transportation of the
23 Senate.

24 (b) DETERMINATION REGARDING RUSSIAN CO-
25 OPERATION IN PREVENTING PROLIFERATION TO IRAN.—

1 The determination referred to in subsection (a) is a deter-
2 mination by the President that—

3 (1) it is the policy of the Government of the
4 Russian Federation to oppose the proliferation to
5 Iran of weapons of mass destruction and missile sys-
6 tems capable of delivering such weapons;

7 (2) the Government of the Russian Federation
8 (including the law enforcement, export promotion,
9 export control, and intelligence agencies of such gov-
10 ernment) has demonstrated and continues to dem-
11 onstrate through the implementation of concrete
12 steps a sustained commitment to seek out and pre-
13 vent the transfer to Iran of goods, services, and
14 technology that could make a material contribution
15 to the development of nuclear, biological, or chemical
16 weapons, or of ballistic or cruise missile systems, in-
17 cluding through the imposition of meaningful pen-
18 alties on persons who make such transfers; and

19 (3) neither the Russian Space Agency, nor any
20 organization or entity under the jurisdiction or con-
21 trol of the Russian Space Agency, has, during the 1-
22 year period prior to the date of the determination
23 pursuant to this subsection, made transfers to Iran
24 reportable under section 2(a) of this Act (other than

1 transfers with respect to which a determination pur-
2 suant to section 5 has been or will be made).

3 (c) PRIOR NOTIFICATION.—Not less than 5 days be-
4 fore making a determination under subsection (b), the
5 President shall notify the Committee on International Re-
6 lations and the Committee on Science of the House of
7 Representatives and the Committee on Foreign Relations
8 and the Committee on Commerce, Science, and Transpor-
9 tation of the Senate of his intention to make such deter-
10 mination.

11 (d) WRITTEN JUSTIFICATION.—A determination of
12 the President under subsection (b) shall include a written
13 justification describing in detail the facts and cir-
14 cumstances supporting the President's conclusion.

15 (e) SUBMISSION IN CLASSIFIED FORM.—When the
16 President considers it appropriate, a determination of the
17 President under subsection (b), a prior notification under
18 subsection (c), and a written justification under subsection
19 (d), or appropriate parts thereof, may be submitted in
20 classified form.

21 (f) EXCEPTION FOR CREW SAFETY.—

22 (1) EXCEPTION.—The National Aeronautics
23 and Space Administration may make extraordinary
24 payments that would otherwise be prohibited under
25 this section to the Russian Space Agency or any or-

1 ganization or entity under the jurisdiction or control
2 of the Russian Space Agency if the President has
3 notified the Congress in writing that such payments
4 are necessary to prevent the imminent loss of life by
5 or grievous injury to individuals aboard the Inter-
6 national Space Station.

7 (2) REPORT.—Not later than 30 days after no-
8 tifying Congress that the National Aeronautics and
9 Space Administration will make extraordinary pay-
10 ments under paragraph (1), the President shall sub-
11 mit to Congress a report describing—

12 (A) the extent to which the provisions of
13 subsection (b) had been met as of the date of
14 notification; and

15 (B) the measures that the National Aero-
16 nautics and Space Administration is taking to
17 ensure that—

18 (i) the conditions posing a threat of
19 imminent loss of life by or grievous injury
20 to individuals aboard the International
21 Space Station necessitating the extraor-
22 dinary payments are not repeated; and

23 (ii) it is no longer necessary to make
24 extraordinary payments in order to prevent
25 imminent loss of life by or grievous injury

1 to individuals aboard the International
2 Space Station.

3 (g) SERVICE MODULE EXCEPTION.—(1) The Na-
4 tional Aeronautics and Space Administration may make
5 extraordinary payments that would otherwise be prohib-
6 ited under this section to the Russian Space Agency, any
7 organization or entity under the jurisdiction or control of
8 the Russian Space Agency, or any subcontractor thereof
9 for the construction, testing, preparation, delivery, launch,
10 or maintenance of the Service Module if—

11 (A) the President has notified Congress at least
12 5 days before making such payments;

13 (B) no report has been made under section 2
14 with respect to an activity of the entity to receive
15 such payment, and the President has no information
16 of any activity that would require such a report; and

17 (C) the United States will receive goods or serv-
18 ices of value to the United States commensurate
19 with the value of the extraordinary payments made.

20 (2) For purposes of this subsection, the term “main-
21 tenance” means activities which cannot be performed by
22 the National Aeronautics and Space Administration and
23 which must be performed in order for the Service Module
24 to provide environmental control, life support, and orbital

1 maintenance functions which cannot be performed by an
2 alternative means at the time of payment.

3 (3) This subsection shall cease to be effective 60 days
4 after a United States propulsion module is in place at the
5 International Space Station.

6 (h) EXCEPTION.—Notwithstanding subsections (a)
7 and (b), no agency of the United States Government may
8 make extraordinary payments in connection with the
9 International Space Station to any foreign person subject
10 to measures applied pursuant to—

11 (1) section 3 of this Act; or

12 (2) section 4 of Executive Order No. 12938
13 (November 14, 1994), as amended by Executive
14 Order No. 13094 (July 28, 1998).

15 Such payments shall also not be made to any other entity
16 if the agency of the United States Government anticipates
17 that such payments will be passed on to such a foreign
18 person.

19 **SEC. 7. DEFINITIONS.**

20 For purposes of this Act, the following terms have
21 the following meanings:

22 (1) EXTRAORDINARY PAYMENTS IN CONNEC-
23 TION WITH THE INTERNATIONAL SPACE STATION.—

24 The term “extraordinary payments in connection
25 with the International Space Station” means pay-

1 ments in cash or in kind made or to be made by the
2 United States Government—

3 (A) for work on the International Space
4 Station which the Russian Government pledged
5 at any time to provide at its expense; or

6 (B) for work on the International Space
7 Station, or for the purchase of goods or services
8 relating to human space flight, that are not re-
9 quired to be made under the terms of a con-
10 tract or other agreement that was in effect on
11 January 1, 1999, as those terms were in effect
12 on such date.

13 (2) FOREIGN PERSON; PERSON.—The terms
14 “foreign person” and “person” mean—

15 (A) a natural person that is an alien;

16 (B) a corporation, business association,
17 partnership, society, trust, or any other non-
18 governmental entity, organization, or group,
19 that is organized under the laws of a foreign
20 country or has its principal place of business in
21 a foreign country;

22 (C) any foreign governmental entity oper-
23 ating as a business enterprise; and

1 (D) any successor, subunit, or subsidiary
2 of any entity described in subparagraph (B) or
3 (C).

4 (3) EXECUTIVE ORDER NO. 12938.—The term
5 “Executive Order No. 12938” means Executive
6 Order No. 12938 as in effect on January 1, 1999.

7 (4) ADHERENT TO RELEVANT NONPROLIFERA-
8 TION REGIME.—A government is an “adherent” to a
9 “relevant nonproliferation regime” if that
10 government—

11 (A) is a member of the Nuclear Suppliers
12 Group with respect to a transfer of goods, serv-
13 ices, or technology described in section
14 2(a)(1)(A);

15 (B) is a member of the Missile Technology
16 Control Regime with respect to a transfer of
17 goods, services, or technology described in sec-
18 tion 2(a)(1)(B), or is a party to a binding inter-
19 national agreement with the United States that
20 was in effect on January 1, 1999, to control the
21 transfer of such goods, services, or technology
22 in accordance with the criteria and standards
23 set forth in the Missile Technology Control Re-
24 gime;

1 (C) is a member of the Australia Group
2 with respect to a transfer of goods, services, or
3 technology described in section 2(a)(1)(C);

4 (D) is a party to the Convention on the
5 Prohibition of the Development, Production,
6 Stockpiling and Use of Chemical Weapons and
7 on Their Destruction with respect to a transfer
8 of goods, services, or technology described in
9 section 2(a)(1)(D); or

10 (E) is a member of the Wassenaar Ar-
11 rangement with respect to a transfer of goods,
12 services, or technology described in section
13 2(a)(1)(E).

14 (5) ORGANIZATION OR ENTITY UNDER THE JU-
15 RISDICTION OR CONTROL OF THE RUSSIAN SPACE
16 AGENCY.—(A) The term “organization or entity
17 under the jurisdiction or control of the Russian
18 Space Agency” means an organization or entity
19 that—

20 (i) was made part of the Russian Space
21 Agency upon its establishment on February 25,
22 1992;

23 (ii) was transferred to the Russian Space
24 Agency by decree of the Russian Government
25 on July 25, 1994, or May 12, 1998;

1 (iii) was or is transferred to the Russian
2 Space Agency by decree of the Russian Govern-
3 ment at any other time before, on, or after the
4 date of the enactment of this Act; or

5 (iv) is a joint stock company in which the
6 Russian Space Agency has at any time held
7 controlling interest.

8 (B) Any organization or entity described in subpara-
9 graph (A) shall be deemed to be under the jurisdic-
10 tion or control of the Russian Space Agency regard-
11 less of whether—

12 (i) such organization or entity, after being
13 part of or transferred to the Russian Space
14 Agency, is removed from or transferred out of
15 the Russian Space Agency; or

16 (ii) the Russian Space Agency, after hold-
17 ing a controlling interest in such organization
18 or entity, divests its controlling interest.

Passed the House of Representatives September 14,
1999.

Attest:

JEFF TRANDAHL,

Clerk.