

## IRAN NONPROLIFERATION ACT OF 1999

SEPTEMBER 14, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

### R E P O R T

[To accompany H.R. 1883]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 1883) to provide for the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, 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 out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

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

#### SEC. 2. REPORTS ON PROLIFERATION TO IRAN.

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

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

(A) the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev.3/Part 1, and subsequent revisions) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material, and Related Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev.3/Part 2, and subsequent revisions);

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

(C) the lists of items and substances relating to biological and chemical weapons the export of which is controlled by the Australia Group;

(D) the Schedule One or Schedule Two list of toxic chemicals and precursors the export of which is controlled pursuant to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; or

(E) the Wassenaar Arrangement list of Dual Use Goods and Technologies and Munitions list of July 12, 1996, and subsequent revisions; or

(2) goods, services, or technology not listed on any list identified in paragraph (1) but which nevertheless would be, if they were United States goods, services, or technology, prohibited for export to Iran because of their potential to make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems.

(b) **TIMING OF REPORTS.**—The reports under subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act, not later than 6 months after such date of enactment, and not later than the end of each 6-month period thereafter.

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

(1) was identified in a previous report submitted under subsection (a) on account of a particular transfer, or

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

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

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

### **SEC. 3. APPLICATION OF MEASURES TO CERTAIN FOREIGN PERSONS.**

(a) **APPLICATION OF MEASURES.**—Subject to sections 4 and 5, the President is authorized to apply with respect to each foreign person identified in a report submitted pursuant to section 2(a), for such period of time as he may determine, any or all of the measures described in subsection (b).

(b) **DESCRIPTION OF MEASURES.**—The measures referred to in subsection (a) are the following:

(1) **EXECUTIVE ORDER 12938 PROHIBITIONS.**—The measures set forth in subsections (b) and (c) of section 4 of Executive Order 12938 shall be applied with respect to that person.

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

(3) **DUAL USE EXPORT PROHIBITION.**—The President shall deny licenses and suspend existing licenses for the transfer to that person of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations.

(c) **EFFECTIVE DATE OF MEASURES.**—Measures applied pursuant to subsection (a) shall be effective with respect to a foreign person no later than—

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

(2) 90 days after the date required by section 2(b) for submitting the report, if the report identifying the foreign person is submitted within 60 days after that date; or

(3) on the date that the report identifying the foreign person is submitted, if that report is submitted more than 60 days after the date required by section 2(b).

(d) **PUBLICATION IN FEDERAL REGISTER.**—The application of measures to a foreign person pursuant to subsection (a) shall be announced by notice published in the Federal Register.

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

(a) **REQUIREMENT TO NOTIFY CONGRESS.**—Should the President not exercise the authority of section 3(a) to apply any or all of the measures described in section 3(b) with respect to a foreign person identified in a report submitted pursuant to section 2(a), he shall so notify the Committee on International Relations of the House of

Representatives and the Committee on Foreign Relations of the Senate no later than the effective date under section 3(c) for measures with respect to that person.

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

(c) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, the notification of the President under subsection (a), and the written justification under subsection (b), or appropriate parts thereof, may be submitted in classified form.

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

(a) IN GENERAL.—Sections 3 and 4 shall not apply to a foreign person 15 days after the President reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the President has determined, on the basis of information provided by that person, or otherwise obtained by the President, that—

(1) the person did not, on or after January 1, 1999, knowingly transfer to Iran the goods, services, or technology the apparent transfer of which caused that person to be identified in a report submitted pursuant to section 2(a);

(2) the goods, services, or technology the transfer of which caused that person to be identified in a report submitted pursuant to section 2(a) did not materially contribute to Iran's efforts to develop nuclear, biological, or chemical weapons, or ballistic or cruise missile systems;

(3) the person is subject to the primary jurisdiction of a government that is an adherent to one or more relevant nonproliferation regime, and the transfer of goods, services, or technology which caused that person to be identified in a report submitted pursuant to section 2(a) was made consistent with the guidelines and parameters of all such relevant regimes of which such government is an adherent; or

(4) the government with primary jurisdiction over the person has imposed meaningful penalties on that person on account of the transfer of the goods, services, or technology which caused that person to be identified in a report submitted pursuant to section 2(a).

(b) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, the determination and report of the President under subsection (a), or appropriate parts thereof, may be submitted in classified form.

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

(a) RESTRICTION ON EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.—Notwithstanding any other provision of law, no agency of the United States Government may make extraordinary payments in connection with the International Space Station to the Russian Space Agency, any organization or entity under the jurisdiction or control of the Russian Space Agency, or any other organization, entity, or element of the Government of the Russian Federation, unless, during the fiscal year in which the extraordinary payments in connection with the International Space Station are to be made, the President has made the determination described in subsection (b), and reported such determination to the Committee on International Relations and the Committee on Science of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate.

(b) DETERMINATION REGARDING RUSSIAN COOPERATION IN PREVENTING PROLIFERATION TO IRAN.—The determination referred to in subsection (a) is a determination by the President that—

(1) it is the policy of the Government of the Russian Federation to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;

(2) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intelligence agencies of such government) has demonstrated and continues to demonstrate through the implementation of concrete steps a sustained commitment to seek out and prevent the transfer to Iran of goods, services, and technology that could make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems, including through the imposition of meaningful penalties on persons who make such transfers; and

(3) neither the Russian Space Agency, nor any organization or entity under the jurisdiction or control of the Russian Space Agency, has, during the 1-year

period prior to the date of the determination pursuant to this subsection, made transfers to Iran reportable under section 2(a) of this Act (other than transfers with respect to which a determination pursuant to section 5 has been or will be made).

(c) **PRIOR NOTIFICATION.**—Not less than 30 days before making a determination under subsection (b), the President shall notify the Committee on International Relations and the Committee on Science of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate of his intention to make such determination.

(d) **WRITTEN JUSTIFICATION.**—A determination of the President under subsection (b) and a prior notification under subsection (c) shall include a written justification describing in detail the facts and circumstances supporting the President's conclusion.

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

(f) **SERVICE MODULE EXCEPTION.**—(1) The National Aeronautics and Space Administration may make extraordinary payments that would otherwise be prohibited under this section to the Russian Space Agency, any organization or entity under the jurisdiction of the Russian Space Agency, or any subcontractor thereof for the construction, testing, preparation, delivery, launch, or maintenance of the Service Module if—

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

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

(C) the United States will receive a share of ownership of the Service Module commensurate with the value of the extraordinary payments made.

(2) For purposes of this subsection, the term “maintenance” means activities which cannot be performed by the National Aeronautics and Space Administration and which must be performed in order for the Service Module to provide environmental control, life support, and orbital maintenance functions which cannot be performed by an alternative means at the time of payment.

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

#### **SEC. 7. DEFINITIONS.**

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

(1) **EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.**—The term “extraordinary payments in connection with the International Space Station” means payments in cash or in kind made or to be made by the United States Government—

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

(B) for work on the International Space Station, or for the purchase of goods or services relating to human space flight, that are not required to be made under the terms of a contract or other agreement that was in effect on January 1, 1999, as those terms were in effect on such date.

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

(A) a natural person that is an alien;

(B) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) any foreign governmental entity operating as a business enterprise; and

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

(3) **EXECUTIVE ORDER 12938.**—The term “Executive Order 12938” means Executive Order 12938 as in effect on January 1, 1999.

(4) **ADHERENT TO RELEVANT NONPROLIFERATION REGIME.**—A government is an “adherent” to a “relevant nonproliferation regime” if that government—

(A) is a member of the Nuclear Suppliers Group with respect to a transfer of goods, services, or technology described in section 2(a)(1)(A);

(B) is a member of the Missile Technology Control Regime with respect to a transfer of goods, services, or technology described in section 2(a)(1)(B), or is a party to a binding international agreement with the United States that was in effect on January 1, 1999, to control the transfer of such goods, services, or technology in accordance with the criteria and standards set forth in the Missile Technology Control Regime;

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

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

(E) is a member of the Wassenaar Arrangement with respect to a transfer of goods, services, or technology described in section 2(a)(1)(E).

(5) ORGANIZATION OR ENTITY UNDER THE JURISDICTION OR CONTROL OF THE RUSSIAN SPACE AGENCY.—(A) The term “organization or entity under the jurisdiction or control of the Russian Space Agency” means an organization or entity that—

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

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

(iii) was or is transferred to the Russian Space Agency by decree of the Russian Government at any other time before, on, or after the date of the enactment of this Act; or

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

(B) Any organization or entity described in subparagraph (A) shall be deemed to be under the jurisdiction or control of the Russian Space Agency regardless of whether—

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

(ii) the Russian Space Agency, after holding a controlling interest in such organization or entity, divests its controlling interest.

#### BACKGROUND AND PURPOSE

The Committee on International Relations believes that one of the most serious threats to the national security of the United States arises from the continued transfer to Iran of goods, services, and technology relevant to the development of weapons of mass destruction and ballistic and cruise missile systems capable of delivering such weapons. The Clinton Administration also has recognized the importance of stopping such proliferation to Iran, and has made this issue a priority in U.S. relations with Russia.

The Committee sought to address this threat during the 105th Congress by approving the Iran Missile Proliferation Sanctions Act, H.R. 1883, in October of 1997. This legislation subsequently was approved by the House and the Senate, and vetoed by the President on June 23, 1998.

On July 15, 1998, shortly before a possible vote in the House of Representatives on overriding the President’s veto, the Vice President announced that the United States would impose sanctions on seven Russian entities that were subject to “special investigations” by the Russian government for possibly transferring weapons technology to Iran. The Russian government stated two months later that these “special investigations” failed to uncover any evidence of misconduct by all but two entities. Nevertheless, the U.S. sanctions on all seven entities remain in effect. In addition, on January 12, 1999, the Clinton Administration announced that U.S. sanctions would be imposed on three additional Russian entities for making

material contributions to Iran's nuclear weapons and missile programs.

Notwithstanding the Administration's diplomatic efforts, the threat of U.S. legislation, and the imposition of sanctions by the Administration on ten Russian entities, entities in Russia and elsewhere have continued to transfer dangerous weapons technology to Iran without significant interruption. Many analysts believe that the volume and pattern of continued transfers from Russia could not exist without the acquiescence, if not encouragement, of at least some elements of the Russian government.

In order to address this persistent problem, the Committee has again developed legislation designed to give the Administration additional tools with which to address the problem and the countries that are transferring dangerous weapons technology to Iran powerful new reasons to stop proliferating. The legislation also will enhance significantly the ability of Congress to monitor proliferation to Iran and oversee Administration efforts to combat it.

The Iran Nonproliferation Act of 1999 takes account of some of the concerns expressed by the Administration with regard to the Iran Missile Proliferation Sanctions Act. The Iran Nonproliferation Act is not a mandatory sanctions bill. It applies principally to transfers of goods, services, and technology that appear on the official control lists of the multilateral nonproliferation regimes. It contains exceptions for transfers that were made unknowingly, that did not contribute materially to Iran's weapons programs, that were consistent with existing multilateral regimes, and where the transferring entity is subject to meaningful penalties. It is, however, broader in scope than the Iran Missile Proliferation Sanctions Act, applying not only to transfers of missile technology, but also to transfers of technology that have the potential of making a material contribution to the development of nuclear, chemical, biological, and certain advanced conventional weapons. In addition, it seeks to create new incentives for the Russian Space Agency to cooperate in efforts to stem the proliferation of weapons technology to Iran.

The Committee believes that enactment of the Iran Nonproliferation Act will make a vital contribution to efforts to reverse the proliferation of dangerous weapons technology to Iran.

#### COMMITTEE ACTION

H.R. 1883 was introduced on May 20, 1999 by Mr. Gilman. It was referred to the Committee on International Relations, and in addition to the Committee on Science, 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.

The Committee on International Relations marked up the bill in open session, pursuant to notice, on September 9, 1999. An amendment in the nature of a substitute was offered by Mr. Gilman on behalf of himself and Mr. Gejdenson. An amendment to the amendment in the nature of a substitute was offered by Mr. Brady to conform a provision of the bill to the text as approved by the Subcommittee on Space and Aeronautics of the Committee on Science, by permitting payments otherwise barred by the bill to the Russian

Space Agency in extraordinary circumstances relating to the maintenance of the Service Module. The Brady amendment was agreed to by voice vote. The amendment in the nature of a substitute was agreed to by unanimous consent. The Full Committee agreed to a motion offered by Mr. Bereuter to favorably report the bill to the House of Representatives, by record vote of 33 to 0.

#### RECORD VOTES ON AMENDMENTS AND MOTION TO REPORT

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 following votes developed during the course of the consideration of H.R. 1883:

Bereuter motion to order the bill reported with the recommendation that the bill, as amended, to pass:

Voting yes: Gilman, Goodling, Bereuter, Smith, Ros-Lehtinen, Ballenger, Rohrabacher, Royce, Chabot, Sanford, Salmon, Houghton, McHugh, Brady, Gillmor, Radanovich, Cooksey, Tancredo, Gejdenson, Lantos, Berman, Ackerman, Menendez, Brown, Danner, Hilliard, Sherman, Rothman, Davis, Pomeroy, Lee, Crowley, and Hoeffel.

Voting no: No members.

The motion passed 33 ayes, 0 noes.

#### OTHER MATTERS

##### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports 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.

##### COMMITTEE ON GOVERNMENT REFORM FINDINGS

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform Committee pursuant to clause 4(c)(2) of rule X of those Rules. The Committee on International Relations has received no such findings or recommendations from the Committee on Government Reform.

##### 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 THE 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 section 102(b)(3) of the Congressional Accountability Act.

## CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.R. 1883 as reported by the Committee: Article I, section 8, clause 1 (relating to providing for the common defense and general welfare of the United States); Article I, section 8, clause 3 (relating to the regulation of commerce with foreign nations); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 1883 is not intended to preempt any state or local law.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES, CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, AND FEDERAL MANDATES STATEMENTS

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended, and, when practicable with respect to estimates of new budget authority, a comparison of the estimated funding level for the relevant program (or programs) to the appropriate levels under current law.

Clause 3(d) of rule XIII of the Rules of the House of Representatives requires committees to include their own cost estimates in certain committee reports, which include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

Clause 3(c)(3) of rule XIII of the Rules of the House of Representatives requires the report of any committee on a measure which has been approved by the Committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted.

Section 423 of the Congressional Budget Act requires the report of any committee on a bill or joint resolution that includes any Federal mandate to include specific information about such mandates. The Committee states that H.R. 1883 does not include any Federal mandate. The Committee states further that H.R. 1883 is necessary for the national security and thus is excluded from the application of Part B of the Congressional Budget Act by operation of Section 422(5) of that Act.

The Committee adopts the cost estimate of the Congressional Budget Office as its own submission of any new required informa-



tion with respect to H.R. 1883 on new budget authority, new spending authority, new credit authority, or an increase or decrease in the national debt. It also adopts, subject to the preceding paragraph, the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. The estimate and report which has been received is set out below.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 14, 1999.*

Hon. BENJAMIN A. GILMAN,  
*Chairman, Committee on International Relations,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed cost estimate for H.R. 1883, the Iran Nonproliferation Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Joseph C. Whitehill and Kathleen Gramp.

Sincerely,

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

Enclosure.

*H.R. 1883—Iran Nonproliferation Act of 1999*

H.R. 1883 would require the President to prepare biannual reports identifying any foreign country, corporation, or individual that has transferred sensitive nuclear, chemical, biological, or missile technology, goods, or services to Iran. The President would be required to impose sanctions against those responsible for the transfer or report the reasons for not doing so. In addition, the bill would make payments to Russian entities for certain goods or services related to the International Space Station contingent upon Presidential determinations that Russia is complying with the nonproliferation policies outlined in the bill.

H.R. 1883 would increase the number and complexity of reports required from the President. Based on information from the Administration, CBO estimates that preparing the reports would involve the work of 10 to 15 full-time personnel and would cost \$1 million to \$2 million per year, assuming the appropriation of the necessary funds. The determinations required by the bill could delay the timing of discretionary outlays by the National Aeronautics and Space Administration (NASA) if additional funds are appropriated for payments to Russia for the Space Station, but CBO cannot project such future appropriations. NASA does not expect to make any additional payments to Russia from its fiscal year 1999 appropriations.

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the national security. CBO has determined that the provisions of H.R. 1883 either fall within that exclusion or do not contain any private-sector or intergovernmental mandates.

The estimate was prepared by Joseph C. Whitehill and Kathleen Gramp. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

Provides that the Act may be cited as the “Iran Nonproliferation Act of 1999”.

*Section 2. Reports on proliferation to Iran*

Requires the President to submit periodic reports on proliferation to Iran to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. Such reports are required to be submitted not later than 90 days after the date of enactment, not later than six months after the date of enactment, and not later than the end of each six-month period thereafter.

Each such report must identify every foreign person with respect to whom there is credible information indicating that that person, on or after January 1, 1999, transferred to Iran goods, services, or technology—

(1) listed on the respective control lists of the Nuclear Suppliers Group, the Missile Technology Control Regime, the Australia Group, the Chemical Weapons Convention, or the Wassenaar Arrangement, or

(2) not listed on one of the control lists referred to in paragraph (1) above, but which nevertheless would be, if they were United States goods, services, or technology, prohibited for export to Iran because of their potential to make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems.

The only foreign persons otherwise required to be identified in a report under this section who need not be so identified are any foreign persons who—

(1) were identified in a previous report submitted under this section; or

(2) have engaged in a transfer on behalf of, or in concert with, the Government of the United States.

The exception to the requirement to identify foreign persons otherwise required to be identified under this section extends only to the same transfer that gave rise to the exception. Credible information regarding any additional transfer by that same foreign person gives rise to a new and separate requirement to identify that foreign person in a report under this section, which is overcome only if that additional transfer independently satisfies the requirements for an exception under this section.

The “credible information” requirement of this section is intended to be a very low evidentiary standard. For purposes of this Act, “credible information” is information that is sufficiently believable that a reasonable person would conclude that there is a substantial possibility that a foreign person may have transferred goods, services, or technology of the type described in subsection (a) of this section. “Credible information” is information that induces a firm

suspicion but, by itself, may not be sufficient to permit a reasonable person to conclude with confidence that a foreign person has transferred goods, services, or technology subject to this Act.

The Committee adopts this very low evidentiary standard because of its concern with the manner in which other counter-proliferation laws have been applied. Under these laws, including section 73 of the Arms Export Control Act (relating to missile proliferation), section 81 of the Arms Export Control Act (relating to chemical and biological weapons proliferation), and the Iran-Iraq Arms Non-Proliferation Act, sanctions for proscribed transfers need not be imposed until the President determines that such a transfer in fact occurred. The standard for application of sanctions under these laws was intended to amount to a “preponderance of the evidence” standard. In practice, however, the Executive branch generally has delayed imposing sanctions until it has arrived at a much higher degree of certainty. The Committee believes that this practice has undermined the effectiveness of our non-proliferation laws by blunting their intended deterrent effect. In order to ensure the effectiveness of this Act, and in light of the fact that foreign persons identified in reports submitted pursuant to this section are not subject to mandatory sanctions, the Committee has adopted a lower evidentiary standard than a “preponderance of the evidence” standard.

*Section 3. Application of measures to certain foreign persons*

Authorizes the President to apply with respect to each foreign person who has been identified in a report under section 2, for such period of time as he may determine, any or all of the following measures—

- (1) the measures set forth in subsections (b) and (c) of section 4 of Executive Order 12938 (prohibiting procurement from that foreign person by the United States Government and prohibiting the provision of assistance to that foreign person by the United States Government);
- (2) prohibition of sales to that foreign person of items on the United States Munitions List as in effect on August 8, 1995, and termination of sales of defense articles, defense services, and design and construction services under the Arms Export Control Act; and
- (3) denial of licenses and suspension of existing licenses for the transfer to that person of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations.

Because of the very low evidentiary standard in section 2, this section does not impose mandatory sanctions, but gives discretion subject to section 4 as to whether and for how long to apply these measures.

Measures applied pursuant to this section generally shall be effective no later than 90 days after the report identifying the foreign person is required to be submitted pursuant to section 2.

The application of measures pursuant to this section shall be announced by notice published in the Federal Register.

*Section 4. Procedures if measures are not applied*

If the President does not exercise the authority of section 3 to apply measures with respect to a foreign person identified in a report submitted pursuant to section 2, he is required to so notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate no later than the effective date under section 3 for measures with respect to that person. Any such notification shall include a written justification for the President's decision not to apply measures with respect to that person.

*Section 5. Determination exempting foreign person from sections 3 and 4*

This section provides a mechanism for exempting foreign persons from the procedures of sections 3 and 4 when the President determines that certain facts, akin to affirmative defenses, have been established. Specifically, sections 3 and 4 shall not apply to a foreign person 15 days after the President reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the President has determined, on the basis of information provided by that person, or otherwise obtained by the President, that—

(1) the foreign person either did not transfer to Iran, or did not knowingly transfer to Iran, the goods, services, or technology the possible transfer of which caused that person to be identified in a report submitted pursuant to section (2);

(2) the goods, services, or technology transferred by the foreign person did not materially contribute to Iran's efforts to develop nuclear, biological, or chemical weapons, or ballistic or cruise missile systems;

(3) the foreign person is subject to the primary jurisdiction of a government that is an adherent to one or more relevant nonproliferation regime, and the transfer of goods, services, or technology to Iran by that foreign person was made consistent with the guidelines and parameters of all such relevant regimes of which such government is an adherent; or

(4) the government with primary jurisdiction over the foreign person has imposed meaningful penalties on that person on account of the transfer by that person of goods, services, or technology to Iran.

The authority of this section may be utilized at any time before the foreign person is identified in a report submitted pursuant to section 2, when such a report is submitted, or any time after such a report is submitted.

*Section 6. Restriction on extraordinary payments in connection with the International Space Station*

Prohibits extraordinary payments in connection with the International Space Station by the United States Government to the Russian Space Agency and other specified entities during any fiscal year in which the President has not made a determination regarding Russian cooperation in preventing proliferation to Iran. In order to make such payments during a fiscal year, the President must determine that—

(1) it is the policy of the Government of the Russian Federation to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;

(2) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intelligence agencies of such government) has demonstrated and continues to demonstrate through the implementation of concrete steps a sustained commitment to seek out and prevent the transfer to Iran of goods, services, and technology that could make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems, including through the imposition of meaningful penalties on persons who make such transfers; and

(3) neither the Russian Space Agency, nor any organization or entity under the jurisdiction or control of the Russian Space Agency, has, during the 1-year period prior to the date of the determination pursuant to this subsection, made transfers to Iran reportable under section 2 (other than transfers with respect to which a determination pursuant to section 5 has been or will be made).

The President shall notify the Committees on International Relations and Science of the House of Representatives and the Committees on Foreign Relations and Commerce, Science, and Transportation of the Senate of his intention to make any determination pursuant to this section at least 30 days before making such a determination. Any determination or prior notification under this section shall be accompanied by a written justification.

The Committee recognizes that, under this section, the Russian Space Agency could be precluded from entering into certain new contracts with the United States Government as a result of actions by organizations or entities that are technically under the jurisdiction or control of the Russian Space Agency, but over which the Russian Space Agency does not exercise day-to-day control. The Committee believes this is warranted by the magnitude of the threat to international peace and security posed by continued proliferation of weapons technology to Iran from Russia. It is the hope of the Committee that this section will give the Russian Space Agency more incentive than it has had in the past to seek to prevent transfers to Iran of sensitive goods, services, and technology from organizations and entities under the jurisdiction or control of the Russian Space Agency.

The Committee believes that there are at least three levels at which the Russian Space Agency can act to prevent such transfers. First, it may have the legal or operational authority over certain organizations and entities. With respect to such entities, the Russian Space Agency can simply direct that they not proliferate to Iran.

Second, the Russian Space Agency has economic leverage (including with respect to purchasing and the sale or transfer of goods and technology) over many organizations and entities, even if it does not have legal or operational authority over them. It is the hope of the Committee that it will become the policy of the Russian Space Agency that its economic relations with any business entity

in Russia that proliferates to Iran will be irreparably harmed. As additional information is provided on the transfer of goods, services, and technology to Iran, the Committee hopes the President will be able to provide more information regarding the relationship between the Russian Space Agency and entities under its jurisdiction or control.

Third, in instances where the legal authority and economic leverage of the Russian Space Agency are insufficient to prevent an organization or entity under its jurisdiction or control from proliferating to Iran, the Russian Space Agency can still become a proponent within the Russian government of strong law enforcement action against such entities. If the Russian government imposes meaningful penalties on a person who has proliferated to Iran, the authority of section 5(a)(4) may be exercised with respect to that person, and this will ensure that the Russian Space Agency suffers no adverse consequences as a result of the actions of that person.

#### *Section 7. Definitions*

Provides definitions of the terms “extraordinary payments in connection with the International Space Station”, “foreign person”, “person”, “Executive Order 12938”, “adherent to a relevant non-proliferation regime”, and “organization or entity under the jurisdiction or control of the Russian Space Agency” for purposes of this Act.

