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IRAN-CHINA ENERGY SANCTIONS ACT OF 2023

DECEMBER 19, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 5923]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5923) to impose restrictions on correspondent and payable-through accounts in the United States with respect to Chinese financial institutions that conduct transactions involving the purchase of petroleum or petroleum products from Iran, having considered the same, reports favorably thereon with an amendment and recommends 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 "Iran-China Energy Sanctions Act of 2023".

SEC. 2. SANCTIONS ON CHINESE FINANCIAL INSTITUTIONS THAT PURCHASE PETROLEUM PRODUCTS FROM IRAN.

Section 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) APPLICABILITY OF SANCTIONS WITH RESPECT TO CHINESE FINANCIAL INSTITUTIONS.—

"(A) IN GENERAL.—For the purpose of paragraph (1)(A), a 'significant financial transaction' includes any transaction by a Chinese financial institution (without regard to the size, number, frequency, or nature of the transaction) involving the purchase of petroleum or petroleum products from Iran.

"(B) DETERMINATION REQUIRED.—Not later than 180 days after the date of the enactment of this paragraph and every year thereafter for 5 years, the President shall—

"(i) determine whether any Chinese financial institution has engaged in a significant financial transaction as described in paragraph (1)(A); and

"(ii) transmit the determination under clause (i) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

PURPOSE AND SUMMARY

Introduced on October 11, 2023, by Representative Michael Lawler, H.R. 5923, the *Iran-China Energy Sanctions Act of 2023*, would expand secondary sanctions involving Iran to cover all transactions between Chinese financial institutions and sanctioned Iranian banks that transact for the purchase of petroleum and petroleum products. The bill would also require an annual determination as to whether Chinese financial institutions have engaged in sanctionable conduct.

BACKGROUND AND NEED FOR LEGISLATION

Iran's crude oil exports stand at a four-year high of 1.5 million barrels per day, 80 percent of which is sent to China.[1] While China's large, state-owned refineries have reportedly refrained from engaging in this trade due to sanctions risk, smaller independent refineries known as "teapots" continue to import Iranian crude.

Under the National Defense Authorization Act for Fiscal Year 2012, foreign financial institutions run the risk of "secondary sanctions" for conducting a "significant financial transaction" with a sanctioned Iranian bank in connection with the purchase of petroleum from Iran. (Note: The entire financial sector of Iran is sanctionable, even if individual entities have not yet been designated by Treasury).

While modifying sanctionable transactions with the term "significant" is ordinarily advisable in order to focus sanctions targeting on activities of most importance to U.S. interests, it is clear that small-scale Iranian crude exports to teapot refineries have become a major source of revenue for Tehran. H.R. 5923 therefore clarifies that any transaction by a Chinese financial institution for the purchase of oil from Iran qualifies as a "significant financial transaction."

HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 5923: The Subcommittee on National Security, Illicit Finance, and International Financial Institutions of the Committee on Financial Services held a hearing on October 25, 2023, titled "How America and Its Allies Can Stop Hamas, Hezbollah, and Iran from Evading Sanctions and Financing Terror."

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 14, 2023, and ordered H.R. 5923 to be reported favorably to the House as amended by a recorded vote of 47 ayes to 0 nays (Record vote no. FC–109), a quorum being present. Before the question was called to order the bill favorably reported, the Committee

[1] "China 'Teapot Refiners' Mop Up Swelling Iranian Crude, Defying U.S. Curbs," Reuters, September 14, 2023. https://www.reuters.com/business/energy/chinas-teapot-refiners-mop-up-swelling-iranian-crude-defying-us-curbs-2023-09-14/.

adopted an amendment in the nature of a substitute offered by Mr. Lawler by voice vote.

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 order to report legislation and amendments thereto. H.R. 5923 was ordered reported favorably to the House as amended by a recorded vote of 47 ayes to 0 nays (Record vote no. FC–109), a quorum being present.

Record vote no. FC- 109

Representative	Yea	Nay	Present
Mr. McHenry	X		
Mr. Hill	X		
Mr. Lucas	X		
Mr. Sessions	X		
Mr. Posey	X		
Mr. Luetkemeyer	X		
Mr. Huizenga	X		
Mrs. Wagner	X		
Mr. Barr	X		
Mr. Williams (TX)	X		
Mr. Emmer	X		
Mr. Loudermilk	X		
Mr. Mooney			
Mr. Davidson	X		
Mr. Rose	X		
Mr. Steil	X		
Mr. Timmons	X		
Mr. Norman	X		
Mr. Meuser	X		
Mr. Fitzgerald	X		
Mr. Garbarino			
Mrs. Kim	X		
Mr. Donalds	X		
Mr. Flood	X		
Mr. Lawler	X		
Mr. Nunn	X		
Ms. De La Cruz	X		
Mrs. Houchin	X		
Mr. Ogles	X		

Representative	Yea	Nay	Present
Ms. Waters	X		
Mrs. Velázquez	X		
Mr. Sherman	X		
Mr. Meeks			
Mr. Scott	X		
Mr. Lynch			
Mr. Green	X		
Mr. Cleaver	X		
Mr. Himes			
Mr. Foster	X		
Mrs. Beatty	X		
Mr. Vargas	X		
Mr. Gottheimer	X		
Mr. Gonzalez	X		
Mr. Casten	X		
Ms. Pressley	X		
Mr. Horsford	X		
Ms. Tlaib	X		
Mr. Torres	X		
Ms. Garcia	X		
Ms. Williams (GA)	X		
Mr. Nickel	X		
Ms. Pettersen	X		

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) 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 goal of H.R. 5923 is to expand secondary sanctions involving Iran to cover all transactions between Chinese financial institutions and sanctioned Iranian banks that transact for the purchase of petroleum and petroleum products.

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:

H.R. 5923, Iran-China Energy Sanctions Act of 2023
As ordered reported by the House Committee on Financial Services on November 14, 2023

By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	*	*

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2034?	< $2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

* = between -$500,000 and $500,000.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 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 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1973.

FEDERAL MANDATES STATEMENT

Pursuant to section 423 of the Unfunded Mandates Reform Act, the Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office.

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

EARMARK IDENTIFICATION

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the "Iran-China Energy Sanctions Act of 2023".

Section 2. Sanctions on Chinese financial institutions that purchase petroleum products from Iran

Section 2 amends Section 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 8513a(d)) with the following:

- By redesignating paragraph (5) as paragraph (6) and inserting the following new paragraph after paragraph (4): A "significant financial transaction" includes any transaction by a Chinese financial institution involving the purchase of Iranian petroleum or petroleum products.

No later than 180 days after this paragraph is enacted, and for the following 5 years, the President shall:

- Decide whether any significant financial transactions, as defined above, have been made by any Chinese financial institution; and
- Transmit this determination to both the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

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Subtitle C—Reports and Other Matters

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SEC. 1245. IMPOSITION OF SANCTIONS WITH RESPECT TO THE FINANCIAL SECTOR OF IRAN.

(a) FINDINGS.—Congress makes the following findings:

(1) On November 21, 2011, the Secretary of the Treasury issued a finding under section 5318A of title 31, United States Code, that identified Iran as a jurisdiction of primary money laundering concern.

(2) In that finding, the Financial Crimes Enforcement Network of the Department of the Treasury wrote, "The Central Bank of Iran, which regulates Iranian banks, has assisted designated Iranian banks by transferring billions of dollars to these banks in 2011. In mid-2011, the CBI transferred several billion dollars to designated banks, including Saderat, Mellat, EDBI and Melli, through a variety of payment schemes. In making these transfers, the CBI attempted to evade sanctions by minimizing the direct involvement of large international banks with both CBI and designated Iranian banks.".

(3) On November 22, 2011, the Under Secretary of the Treasury for Terrorism and Financial Intelligence, David Cohen, wrote, "Treasury is calling out the entire Iranian banking sector, including the Central Bank of Iran, as posing terrorist financing, proliferation financing, and money laundering risks for the global financial system.".

(b) DESIGNATION OF FINANCIAL SECTOR OF IRAN AS OF PRIMARY MONEY LAUNDERING CONCERN.—The financial sector of Iran, including the Central Bank of Iran, is designated as a primary

money laundering concern for purposes of section 5318A of title 31, United States Code, because of the threat to government and financial institutions resulting from the illicit activities of the Government of Iran, including its pursuit of nuclear weapons, support for international terrorism, and efforts to deceive responsible financial institutions and evade sanctions.

(c) FREEZING OF ASSETS OF IRANIAN FINANCIAL INSTITUTIONS.—The President shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of an Iranian financial institution if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(d) IMPOSITION OF SANCTIONS WITH RESPECT TO THE CENTRAL BANK OF IRAN AND OTHER IRANIAN FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Except as specifically provided in this subsection, beginning on the date that is 60 days after the date of the enactment of this Act, the President—

(A) shall prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines has knowingly conducted or facilitated any significant financial transaction with the Central Bank of Iran or another Iranian financial institution designated by the Secretary of the Treasury for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); and

(B) may impose sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to the Central Bank of Iran.

(2) EXCEPTION FOR SALES OF AGRICULTURAL COMMODITIES, FOOD, MEDICINE, AND MEDICAL DEVICES.—The President may not impose sanctions under paragraph (1) with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran.

(3) APPLICABILITY OF SANCTIONS WITH RESPECT TO FOREIGN CENTRAL BANKS.—Except as provided in paragraph (4), sanctions imposed under paragraph (1)(A) shall apply with respect to a central bank of a foreign country, only insofar as it engages in a financial transaction for the sale or purchase of petroleum or petroleum products to or from Iran conducted or facilitated on or after that date that is 180 days after the date of the enactment of this Act.

(4) APPLICABILITY OF SANCTIONS WITH RESPECT TO PETROLEUM TRANSACTIONS.—

(A) REPORT REQUIRED.—Not later than October 25, 2012, and the last Thursday of every other month thereafter, the Administrator of the Energy Information Administration, in consultation with the Secretary of the Treasury, the Secretary of State, and the Director of National Intelligence, shall submit to Congress a report on the availability and price of petroleum and petroleum products pro-

duced in countries other than Iran in the 2-month period preceding the submission of the report.

(B) DETERMINATION REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall make a determination, based on the reports required by subparagraph (A), of whether the price and supply of petroleum and petroleum products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly in volume their purchases from Iran.

(C) APPLICATION OF SANCTIONS.—Except as provided in subparagraph (D), sanctions imposed under paragraph (1)(A) shall apply with respect to a financial transaction conducted or facilitated by a foreign financial institution on or after the date that is 180 days after the date of the enactment of this Act for the purchase of petroleum or petroleum products from Iran if the President determines pursuant to subparagraph (B) that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

(D) EXCEPTION.—

(i) IN GENERAL.—Sanctions imposed pursuant to paragraph (1) shall not apply with respect to a financial transaction described in clause (ii) conducted or facilitated by a foreign financial institution if the President determines and reports to Congress, not later than 90 days after the date on which the President makes the determination required by subparagraph (B), and every 180 days thereafter, that the country with primary jurisdiction over the foreign financial institution—

(I) has significantly reduced reduced its volume of crude oil purchases from Iran during the period beginning on the date on which the President submitted the last report with respect to the country under this subparagraph; or

(II) in the case of a country that has previously received an exception under this subparagraph, has, after receiving the exception, reduced its crude oil purchases from Iran to zero.

(ii) FINANCIAL TRANSACTIONS DESCRIBED.—A financial transaction conducted or facilitated by a foreign financial institution is described in this clause if—

(I) the financial transaction is only for trade in goods or services between the country with primary jurisdiction over the foreign financial institution and Iran; and

(II) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(5) APPLICABILITY OF SANCTIONS WITH RESPECT TO CHINESE FINANCIAL INSTITUTIONS.—

(A) IN GENERAL.—For the purpose of paragraph (1)(A), a "significant financial transaction" includes any transaction by a Chinese financial institution (without regard to the size, number, frequency, or nature of the transaction) involving the purchase of petroleum or petroleum products from Iran.

(B) DETERMINATION REQUIRED.—Not later than 180 days after the date of the enactment of this paragraph and every year thereafter for 5 years, the President shall—

(i) determine whether any Chinese financial institution has engaged in a significant financial transaction as described in paragraph (1)(A); and

(ii) transmit the determination under clause (i) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

[(5)**]** *(6)* WAIVER.—The President may waive the imposition of sanctions under paragraph (1) for a period of not more than 120 days, and may renew that waiver for additional periods of not more than 120 days, if the President—

(A) determines that such a waiver is in the national security interest of the United States; and

(B) submits to Congress a report—

(i) providing a justification for the waiver;

(ii) certifying that the country with primary jurisdiction over the foreign financial institution otherwise subject to the sanctions faced exceptional circumstances that prevented the country from being able to reduce significantly its purchases of petroleum and petroleum products from Iran; and

(iii) that includes any concrete cooperation the President has received or expects to receive as a result of the waiver.

(e) MULTILATERAL DIPLOMACY INITIATIVE.—

(1) IN GENERAL.—The President shall—

(A) carry out an initiative of multilateral diplomacy to persuade countries purchasing oil from Iran—

(i) to limit the use by Iran of revenue from purchases of oil to purchases of non-luxury consumers goods from the country purchasing the oil; and

(ii) to prohibit purchases by Iran of—

(I) military or dual-use technology, including items—

(aa) in the Annex to the Missile Technology Control Regime Guidelines;

(bb) in the Annex on Chemicals to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris January 13, 1993, and entered into force April 29, 1997 (commonly known as the "Chemical Weapons Convention");

(cc) in Part 1 or 2 of the Nuclear Suppliers Group Guidelines; or

(dd) on a control list of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies; or

(II) any other item that could contribute to Iran's conventional, nuclear, chemical, or biological weapons program; and

(B) conduct outreach to petroleum-producing countries to encourage those countries to increase their output of crude oil to ensure there is a sufficient supply of crude oil from countries other than Iran and to minimize any impact on the price of oil resulting from the imposition of sanctions under this section.

(2) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to Congress a report on the efforts of the President to carry out the initiative described in paragraph (1)(A) and conduct the outreach described in paragraph (1)(B) and the results of those efforts.

(f) FORM OF REPORTS.—Each report submitted under this section shall be submitted in unclassified form, but may contain a classified annex.

(g) IMPLEMENTATION; PENALTIES.—

(1) IMPLEMENTATION.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section.

(2) PENALTIES.—The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of this section or regulations prescribed under this section to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act.

(h) DEFINITIONS.—In this section:

(1) ACCOUNT; CORRESPONDENT ACCOUNT; PAYABLE-THROUGH ACCOUNT.—The terms "account", "correspondent account", and "payable-through account" have the meanings given those terms in section 5318A of title 31, United States Code.

(2) FOREIGN FINANCIAL INSTITUTION.—The term "foreign financial institution" has the meaning of that term as determined by the Secretary of the Treasury pursuant to section 104(i) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(i)).

(3) SIGNIFICANT REDUCTIONS.—The terms "reduce significantly", "significant reduction", and "significantly reduced", with respect to purchases from Iran of petroleum and petroleum products, include a reduction in such purchases in terms of price or volume toward a complete cessation of such purchases.

(4) UNITED STATES PERSON.—The term "United States person" means—

(A) a natural person who is a citizen or resident of the United States or a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))); and

(B) an entity that is organized under the laws of the United States or a jurisdiction within the United States.

(i) TERMINATION.—The provisions of this section shall terminate on the date that is 30 days after the date on which the President submits to Congress the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)).

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