

103^D CONGRESS
1ST SESSION

S. 1172

To amend the National Defense Authorization Act for Fiscal Year 1993, to impose sanctions on certain transfers of equipment and technology used in the manufacture or delivery of weapons of mass destruction and to impose additional sanctions for violations of that Act.

IN THE SENATE OF THE UNITED STATES

JUNE 29 (legislative day, JUNE 22), 1993

Mr. McCAIN (for himself and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the National Defense Authorization Act for Fiscal Year 1993, to impose sanctions on certain transfers of equipment and technology used in the manufacture or delivery of weapons of mass destruction and to impose additional sanctions for violations of that Act.

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; REFERENCES IN ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Iran-Iraq Arms Non-Proliferation Amendments of
6 1993”.

1 (b) REFERENCES IN ACT.—Except as specifically
2 provided in this Act, whenever in this Act an amendment
3 or repeal is expressed as an amendment to or repeal of
4 a provision, the reference shall be deemed to be made to
5 the National Defense Authorization Act for Fiscal Year
6 1993.

7 **SEC. 2. STATEMENT OF POLICY.**

8 It is the policy of the United States—

9 (1) to halt the proliferation of weapons of mass
10 destruction within Iran and Iraq; and

11 (2) to halt the transfer from any foreign coun-
12 try or foreign person to Iran or Iraq of all weapons
13 of mass destruction and significant components or
14 technology or that can be used to manufacture or
15 deliver weapons of mass destruction.

16 **SEC. 3. STATEMENT OF PURPOSE.**

17 It is the purpose of this Act to impose additional
18 sanctions against those foreign countries and persons that
19 transfer weapons of mass destruction, destabilizing num-
20 bers and types of advanced conventional weapons, or
21 equipment and technology that assist in enhancing the ca-
22 pabilities of Iran or Iraq to manufacture and deliver such
23 weapons.

24 **SEC. 4. SANCTIONS AGAINST PERSONS.**

25 Section 1604 is amended to read as follows:

1 **“SEC. 1604. SANCTIONS AGAINST PERSONS.**

2 “(a) PROHIBITION.—If the President determines that
3 any person has transferred or retransferred goods or tech-
4 nology so as to contribute knowingly and materially to the
5 efforts by Iran or Iraq (or any agency or instrumentality
6 of either such country) to acquire destabilizing numbers
7 and types of advanced conventional weapons or to acquire
8 weapons of mass destruction or the means of their deliv-
9 ery, then—

10 “(1) the sanctions described in subsection (b)
11 shall be imposed; and

12 “(2) the President may apply, in the discretion
13 of the President, the sanctions described in sub-
14 section (c).

15 “(b) MANDATORY SANCTIONS.—The sanctions to be
16 imposed pursuant to subsection (a)(1) are as follows:

17 “(1) PROCUREMENT SANCTION.—Except as
18 provided in subsection (d), the United States Gov-
19 ernment shall not procure directly or indirectly, or
20 enter into any contract for the procurement of, any
21 goods or services from the sanctioned person.

22 “(2) EXPORT SANCTION.—The United States
23 Government shall not issue any license for any ex-
24 port by or to the sanctioned person and shall revoke
25 any such license issued before the effective date of
26 the sanction.

1 “(3) IMPORT SANCTION.—Notwithstanding any
2 other provision of law, no item which is the product
3 or manufacture of the sanctioned person, and no
4 technology developed by the sanctioned person, may
5 be imported into any territory subject to the juris-
6 diction of the United States.

7 “(4) TRANSITING UNITED STATES TERRI-
8 TORY.—(A) Notwithstanding any other provision of
9 law (other than a treaty or other international
10 agreement), no sanctioned person, no item which is
11 the product or manufacture of the sanctioned per-
12 son, and no technology developed by the sanctioned
13 person, may transit any territory subject to the ju-
14 risdiction of the United States.

15 “(B) The Secretary of Transportation may pro-
16 vide for such exceptions from this paragraph as the
17 Secretary considers necessary to provide for emer-
18 gencies in which the safety of a vessel or its crew or
19 passengers is threatened.

20 “(c) DISCRETIONARY SANCTIONS.—The sanctions re-
21 ferred to in subsection (a)(2) are as follows:

22 “(1) FINANCIAL INSTITUTIONS.—(A) The
23 President may by order prohibit any depository in-
24 stitution that is chartered by, or that has its prin-
25 cipal place of business within, a State or the United

1 States from making any loan or providing any credit
2 to the sanctioned person, except for loans or credits
3 for the purpose of purchasing food or other agricul-
4 tural commodities.

5 “(B) As used in this paragraph, the term ‘de-
6 pository institution’ means a bank or savings asso-
7 ciation, as defined in section 3 of the Federal De-
8 posit Insurance Act.

9 “(2) USE OF AUTHORITIES OF THE INTER-
10 NATIONAL EMERGENCY ECONOMIC POWERS ACT.—
11 The President may exercise the authorities of the
12 International Emergency Economics Powers Act to
13 prohibit any transaction involving any property in
14 which the sanctioned person has any interest what-
15 soever except for transactions involving the provision
16 of humanitarian assistance.

17 “(3) PROHIBITION ON VESSELS THAT ENTER
18 PORTS OF SANCTIONED COUNTRIES TO ENGAGE IN
19 TRADE.—

20 “(A) IN GENERAL.—Beginning on the
21 10th day after a sanction is imposed under this
22 Act against a country, a vessel which enters a
23 port or place in the sanctioned country to en-
24 gage in the trade of goods or services may not,
25 if the President so requires, within 180 days

1 after departure from such port or place in the
2 sanctioned country, load or unload any freight
3 at any place in the United States.

4 “(B) DEFINITIONS.—As used in this para-
5 graph, the term ‘vessel’ includes every descrip-
6 tion of water craft or other contrivance used, or
7 capable of being used, as a means of transpor-
8 tation in water, but does not include aircraft.

9 “(d) EXCEPTIONS.—The sanction described in sub-
10 section (b)(1) shall not apply—

11 “(1) in the case of procurement of defense arti-
12 cles or defense services—

13 “(A) under existing contracts or sub-
14 contracts, including the exercise of options for
15 production quantities to satisfy operational mili-
16 tary requirements essential to the national secu-
17 rity of the United States;

18 “(B) if the President determines that the
19 person or other entity to which the sanctions
20 would otherwise be applied is a sole source sup-
21 plier of the defense articles or services, that the
22 defense articles or services are essential, and
23 that alternative sources are not readily or rea-
24 sonably available; or

1 “(C) if the President determines that such
2 articles or services are essential to the national
3 security under defense coproduction agree-
4 ments;

5 “(2) to products or services provided under con-
6 tracts entered into before the date on which the
7 President makes a determination under subsection
8 (a);

9 “(3) in the case of contracts entered into before
10 the date on which the President makes a determina-
11 tion under subsection (a), with respect to—

12 “(A) spare parts which are essential to
13 United States products or production;

14 “(B) component parts, but not finished
15 products, essential to United States products or
16 production; or

17 “(C) routine servicing and maintenance of
18 products, to the extent that alternative sources
19 are not readily or reasonably available;

20 “(4) to information and technology essential to
21 United States products or production; or

22 “(5) to medical or other humanitarian items.

23 “(e) CONSULTATION WITH AND ACTIONS BY FOR-
24 EIGN GOVERNMENT OF JURISDICTION.—

1 “(1) CONSULTATIONS.—Whenever the Presi-
2 dent makes a determination under subsection (a)
3 with respect to a foreign person, the Congress urges
4 the President—

5 “(A) to initiate consultations immediately
6 with the government with primary jurisdiction
7 over that foreign person with respect to the im-
8 position of sanctions pursuant to this section;
9 and

10 “(B) to take steps in the United Nations
11 and other multilateral groups to negotiate com-
12 prehensive multilateral sanctions pursuant to
13 the provisions of chapter 7 of the United Na-
14 tions Charter, including a partial or complete
15 embargo, against the government of the foreign
16 country of primary jurisdiction over that sanc-
17 tioned person, as long as that government has
18 not taken specific and effective actions, includ-
19 ing appropriate penalties, to terminate the in-
20 volvement of the sanctioned person or firm in
21 the activities described in section 1604(a).

22 “(2) ACTIONS BY GOVERNMENT OF JURISDIC-
23 TION.—In order to pursue such consultations with
24 that government, the President may delay imposition
25 of sanctions pursuant to subsections (b) and (c) for

1 up to 90 days. Following these consultations, the
2 President shall impose sanctions immediately unless
3 the President determines and certifies to the Con-
4 gress that that government has taken specific and
5 effective actions, including appropriate penalties, to
6 terminate the involvement of the foreign person in
7 the activities described in subsection (a). The Presi-
8 dent may delay the imposition of sanctions for up to
9 an additional 90 days if the President determines
10 and certifies to the Congress that that government
11 is in the process of taking the actions described in
12 the preceding sentence.

13 “(3) REPORT TO CONGRESS.—Not later than
14 90 days after the application of sanctions under this
15 section, the President shall submit to the Committee
16 on Foreign Relations and the Committee on Govern-
17 mental Affairs of the Senate and the Committee on
18 Foreign Affairs of the House of Representatives a
19 report on the status of consultations with the appro-
20 priate government under this subsection, and the
21 basis for any determination under paragraph (2) of
22 this subsection that such government has taken spe-
23 cific corrective actions.”.

1 **SEC. 5. SANCTIONS AGAINST CERTAIN FOREIGN COUN-**
2 **TRIES.**

3 Section 1605 is amended—

4 (1) in subsection (a)—

5 (A) by inserting “or to acquire weapons of
6 mass destruction or the means of their deliv-
7 ery” after “destabilizing numbers and types of
8 advanced conventional weapons”; and

9 (B) in paragraph (2), by striking “sanc-
10 tion” and inserting “sanctions”;

11 (2) in subsection (b), by adding at the end the
12 following new paragraph:

13 “(6) OTHER SANCTIONS.—The President shall
14 apply the same sanctions described in paragraphs
15 (1) through (4) of section 1604(b), together with the
16 exception described in subsection (d), with respect to
17 actions of a foreign government;” and

18 (3) in subsection (c)—

19 (A) by striking “SANCTION.—The sanction
20 referred to in subsection (a)(2) is” and insert-
21 ing “SANCTIONS.—The sanctions referred to in
22 subsection (a)(2) are”; and

23 (B) by adding at the end the following new
24 paragraphs:

25 “(3) DENIAL OF MOST-FAVORED-NATION STA-
26 TUS.—Notwithstanding any other provision of law,

1 the President may suspend the application of non-
2 discriminatory trade agreement (most-favored-nation
3 status) to the sanctioned country for such time as
4 the President so determines.

5 “(4) DIPLOMATIC RELATIONS.—The President
6 is urged to downgrade or suspend diplomatic rela-
7 tions between the United States and the government
8 of the sanctioned country.

9 “(5) SUSPENSION OF SPECIAL TRADE PRIVI-
10 LEGES.—The President is authorized to suspend
11 special trade privileges which were extended pursu-
12 ant to the Generalized Systems of Preferences or the
13 Caribbean Basin Initiative.

14 “(6) SUSPENSION OF TRADE AGREEMENTS.—
15 The President is authorized to suspend any trade
16 agreement with the sanctioned country.

17 “(7) REVOCATIONS OF LICENSES FOR EXPORT
18 OF NUCLEAR MATERIAL.—The Nuclear Regulatory
19 Commission is authorized to revoke any license for
20 the export of nuclear material pursuant to a nuclear
21 cooperation agreement with the sanctioned country.

22 “(8) PRESIDENTIAL ACTION REGARDING AVIA-
23 TION.—(A)(i) The President is authorized to notify
24 the government of a sanctioned country of his inten-
25 tion to suspend the authority of foreign air carriers

1 owned or controlled by the government of that coun-
2 try to engage in foreign air transportation to or
3 from the United States.

4 “(ii) The President is authorized to direct the
5 Secretary of Transportation to suspend at the earli-
6 est possible date the authority of any foreign air car-
7 rier owned or controlled, directly or indirectly, by
8 that government to engage in foreign air transpor-
9 tation to or from the United States, notwithstanding
10 any agreement relating to air services.

11 “(B)(i) The President may direct the Secretary
12 of State to terminate any air service agreement be-
13 tween the United States and a sanctioned country in
14 accordance with the provisions of that agreement.

15 “(ii) Upon termination of an agreement under
16 this subparagraph, the Secretary of Transportation
17 is authorized to take such steps as may be necessary
18 to revoke at the earliest possible date the right of
19 any foreign air carrier owned, or controlled, directly
20 or indirectly, by the government of that country to
21 engage in foreign air transportation to or from the
22 United States.

23 “(C) The President may direct the Secretary of
24 Transportation to provide for such exceptions from
25 this subsection as the President considers necessary

1 to provide for emergencies in which the safety of an
2 aircraft or its crew or passengers is threatened.

3 “(D) For purposes of this paragraph, the terms
4 ‘aircraft’, ‘air carrier’, ‘air transportation’, and ‘for-
5 eign air carrier’ have the meanings given those
6 terms in section 101 of the Federal Aviation Act of
7 1958 (49 U.S.C. 1301).

8 “(9) OTHER SANCTIONS.—The President may
9 apply the sanctions described in section 1605(c) with
10 respect to actions of a foreign government.”.

11 **SEC. 6. WAIVER.**

12 Section 1606 is amended—

13 (1) by striking “waiver” each place it appears
14 and inserting “termination, modification, and
15 waiver”; and

16 (2) by striking “waive” each place it appears
17 and inserting “modify or waive”.

18 **SEC. 7. TERMINATION OF SANCTIONS.**

19 The Act is amended by inserting after section 1606
20 the following new section:

21 **“SEC. 1606A. TERMINATION OF SANCTIONS.**

22 “Except as otherwise provided in this title, the sanc-
23 tions imposed pursuant to section 1604(a)(1) shall apply
24 for a period of at least 24 months following the imposition

1 of sanctions and shall cease to apply thereafter only if the
2 President determines and certifies to the Congress that—

3 “(1) reliable information indicates that the
4 sanctioned person or government has ceased to vio-
5 late this Act; and

6 “(2) the President has received reliable assur-
7 ances from the sanctioned person or government
8 that such person or government will not, in the fu-
9 ture, violate this Act.”.

10 **SEC. 8. RULES AND REGULATIONS.**

11 The Act is amended by inserting after section 1607
12 the following new section:

13 **“SEC. 1607A. RULES AND REGULATIONS.**

14 “The President is authorized to prescribe such rules
15 and regulations as the President may require to carry out
16 this Act.”.

17 **SEC. 9. DEFINITIONS.**

18 Section 1608 is amended by adding at the end the
19 following new paragraphs:

20 “(8) The term ‘goods or technology’ includes any
21 item of the type that is listed on the Nuclear Referral List
22 under section 309(c) of the Nuclear Non-Proliferation Act
23 of 1978, the United States Munitions List (established in
24 section 38 of the Arms Export Control Act), or the MTCR
25 Annex (as defined in section 74(4) of the Arms Export

1 Control Act) or any item that is subject to licensing by
2 the Nuclear Regulatory Commission.

3 “(9) The term ‘United States’ includes territories and
4 possessions of the United States and the customs waters
5 of the United States, as defined in section 401 of the
6 Tariff Act of 1930 (19 U.S.C. 1401).

7 “(10) The term ‘weapons of mass destruction’ in-
8 cludes nuclear, chemical, and biological weapons, bomber
9 aircraft with a range in excess of 600 nautical miles, mis-
10 siles, and missile equipment and technology.”.

11 **SEC. 10. CONFORMING AMENDMENT.**

12 Section 1602(a) is amended by striking “chemical, bi-
13 ological, nuclear,” and inserting “weapons of mass de-
14 struction”.

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