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104TH CONGRESS, *1st Session* | SENATE | REPORT 104–187

IRAN OIL SANCTIONS ACT OF 1995

DECEMBER 15, 1995.—Ordered to be printed

Mr. D'AMATO, from the Committee on Banking, Housing and Urban Affairs, submitted the following

REPORT

[To accompany S. 1228]

The Committee on Banking, Housing and Urban Affairs, to which was referred to bill (S. 1228) to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

INTRODUCTION

On December 12, 1995, the Senate Committee on Banking, Housing and Urban Affairs marked up and ordered to be reported S. 1228, a bill that requires the President to place one or more sanctions on any person who makes an investment that significantly and materially contributes to the development of Iranian petroleum resources.

Paragraph 7(b) of rule XXVI of the Standing Rules of the Senate requires the committee report accompanying a measure reported from the committee to include the results of each roll call vote taken on the measure and any amendments thereto. In addition, the report will include the votes cast by each member of the committee on the question of reporting the measure. In accordance with that requirement, the following is the tabulation of the Tuesday, December 12, 1995 committee vote to report S. 1228.

Measure adopted by: yeas 15, nays 0.

YEAS	NAYS
D'Amato	
Gramm	
Shelby	
Bond	

Mack
Faircloth
Bennett
Domenici
Sarbanes
Dodd
Kerry
Bryan
Boxer
Moseley-Braun
Murray

HISTORY OF S. 1228

As part of its deliberations on S. 1228, the Iran Oil Sanctions Act of 1995 and related issues, the Senate Banking Committee held two legislative hearings on the United States' foreign policy towards Iran.

March 16, 1995 hearing

The following witnesses testified before the Committee: State Department Under Secretary for Political Affairs Peter Tarnoff, John H. Lichtblau, Chairman of the Petroleum Industry Research Foundation, Inc., Kenneth Timmerman, Published of the Iran Brief, Patrick Clawson, Senior fellow at the Institute for National Strategic Studies of the National Defense University.

The hearing was called to explore and discuss S. 277, the Comprehensive Iran Sanctions Act of 1995, the Administration's Iran policy, and the Administration's view of a contract between the National Iranian Oil Company [NICO] and Conoco, a U.S. company to develop off-shore oil fields in Iran.

The issues the Committee considered during the hearing were:

1. The economic effect of the existing U.S. sanctions on Iran.
2. The Administration's policy of "Dual Containment"
3. Iran's Human Rights record and its support for international terrorism.

October 11, 1995 hearing

At its October hearing, the Committee considered U.S. sanctions placed on Iran, international cooperation with the sanctions and proposals for future sanctions, including those in S. 1228. The following witnesses testified before the Committee: State Department Under Secretary for Political Affairs Peter Tarnoff and Central Intelligence Agency Deputy Director of Intelligence John C. Gannon.

BACKGROUND

Since the 1979 Islamic revolution in Iran, the United States has sought to contain Iran's aggressive behavior, including its military buildup, development of weapons of mass destruction, and its support for international terrorism and groups opposed to the Arab-Israeli peace process.

In May 1993 the Clinton Administration articulated a policy of "dual containment" of Iran and Iraq. The Administration sought to increase the effectiveness of U.S. sanctions on both regimes by try-

ing persuade U.S. allies and other countries to deny Iran credits, aid, and arms and technology exports.

On January 25, 1995 Chairman D'Amato introduced S. 277 which called for a total U.S. trade embargo on Iran,. On March 7, 1995 the Conoco Company and the Government of Iran announced an agreement whereby a foreign subsidiary of the U.S. company would assist Iran in developing two new oil fields in the Persian Gulf. On March 14, two days before to the Committee's hearing on S. 277, the Administration announced it would issue an Executive Order preventing Conoco or any other U.S. company from investing in Iran's petroleum industry. That Order, No, 12957, issued on March 15, 1995, forbade any U.S. person from entering into contracts for the financing of or the overall management or supervision of the development of petroleum resources located in Iran.

During the March 16 hearing, Chairman, D'Amato recognized the significance of the Executive Order but argued that further steps were necessary, such as a total trade embargo between the United States and Iran as called for in his bill S. 277. On March 27, 1995 Chairman D'Amato introduced new Iran sanctions, bill S. 630 that placed procurement and export sanctions on any foreign person or corporation engaging in any trade with Iran in any goods or technology as defined in the Export Administration Act of 1979. The bill was designed to stop foreign companies from helping Iran increase its foreign exchange earnings.

On May 6. 1995 President Clinton signed Executive Order No. 12959 imposing virtually a total U.S. economic embargo on Iran. In doing so the President stated:

> Responding to the country's sponsorship of international terrorism and its active pursuit of weapons of mass destruction, the new sanctions prohibit trade with Iran, as well as trade financing, loans and related financial service * * * New investment in Iran is also prohibited.

At the G7 summit meeting in Halifax this past June, the Administration urged our allies to support U.S. efforts to use economic means to pressure Iran. While most governments refused to join in a multilateral trade embargo against Iran, G7 leaders did condemn the behavior of the Iranian government and called on states to avoid any collaboration with Iran which might help it develop a nuclear weapons capability.

Some countries and companies, however, have not cooperated with the U.S. embargo. On July 13, 1995 the French oil company Total signed a contract with Iran to develop two oil fields off Siri Island. Total replaced the U.S. firm Conoco, which withdraw from a similar business arrangement with Iran in March 1995 after President Clinton issued his Executive Order. The French Government, which owns 5 percent of Total's stock, said it had no authority to block the Total deal, but at the request of the U.S. is not providing official credits to help Total finance the project.

On September 1, 1995 The Wall Street Journal reported that Iran badly needed revenues to repay foreign debts and modernize its oil fields. It noted that Iran has not been able to find customers for 200,000 of the 600,000 barrels a day of crude oil that U.S. companies had been purchasing. That same article reported that the

Iranian Government, desperate for cash, had invited about 100 European and Asian companies to Tehran in November to seek about $6.5 billion dollars worth of investment in energy projects in return for a share of the oil and gas produced. The Journal of Commerce on that same date published a similar story.

On September 8, Chairman D'Amato and others introduced S. 1228, a bill aimed at foreign companies that help Iran develop its oil and gas resources. It set forth a series of mandatory and discretionary sanctions that the President would impose on any foreign company that assists Iran to increase its revenues by extracting petroleum or natural gas.

At the October 11 Senate Banking Committee hearing, State Department Under Secretary Peter Tarnoff testified that:

> The biggest economic problem faced by Iran today is the Government's shortage of hard currency. Without adequate funds, the Iranian Government cannot buy the imports necessary to properly sustain Iran's industry and maintain its infrastructure. Nor can the Government fully pay the billions of dollars it owes in foreign debt. * * * Because of these cutbacks in imports, Iran's economy suffers from inflation and recession.

Iran has made efforts to attract foreign investors to help it develop its oil and gas resources in order to increase its inflow of hard currency. In November 1995, the National Iranian Oil Company [NIOC] held an international oil and gas seminar at which the NIOC presented eleven large oil and gas proposals to a gathering of foreign investors, proposals to help Iran dramatically increase its oil and gas production. If the proposals were acted on it would pose a direct threat to the United States' national security interests. For as Under Secretary Tarnoff stated at the October 11 hearing on S. 1228, "a straight line links Iran's oil income and its ability to sponsor terrorism (and) build weapons of mass destruction" and that any "private company that helps Iran to expand its oil (sector) must accept that it is indirectly contributing to this menace."

Iran is also in the process of acquiring four nuclear reactors from Russia and increased oil revenues could help it finance the purchase. On Thursday, September 7, 1995, Russia announced that it would proceed with the sale despite strong U.S. opposition which included a personal plea from President Clinton during his visit with Russian President Boris Yeltsin earlier this year. Russian and Iranian officials have claimed that these reactors are only for "research." (Washington Post, 9/7/95) Iran has made substantial gains toward developing a nuclear weapon. Earlier this year, a senior U.S. official said, "Until fairly recently there wasn't a lot of evidence that (Iran's nuclear program) was beyond a basic stage, but now it is beyond a basic stage" and that Iran's "quest for centrifuge equipment marks a new intensity in Iran's effort to acquire nuclear technology." (Washington Post, 4/17/95)

OBJECTIVE OF THIS LEGISLATION

Passage of S. 1228 is important to slow Iran's development of its oil and gas resources and its access to revenues to fund behavior

harmful to the international community. Total S.A., a French company, wants to help Iran develop its oil resources. S. 1228 would make it vastly more difficult for Total S.A. or other companies to do so. Total S.A. and all other foreign companies that invest in Iran under this bill would be forced to make a choice whether they want to conduct business with the U.S. or Iran. As Chairman D'Amato said, "Simply put, a foreign corporation or person will have to choose between * * * the United States or Iran." (3/27/95)

The U.S. needs other nations to join our embargo of Iran in order to effectively stop Iran from using oil revenues to finance terrorist activities and its pursuit of weapons of mass destruction. During a May 7, 1995 address, President Clinton stated that we must do everything to convince other nations and foreign companies to join the U.S. in the fight against Iranian sponsored terrorism and nuclearization. The legislation is designed to help obtain such cooperation from other nations.

The current U.S. embargo has produced results as shown by Iran's declining economy and shortage of hard currency, but constant pressure must be applied in order to force Iran to change its ways. Multi-lateral cooperation with economic sanctions on Iran is the most effective way to not only reduce, but eliminate Iran's ability to support terrorism and to acquire nuclear weapons.

After discussions between the Administration and the Majority and Minority members of the Senate Banking Committee, the bill targets new investment contracts because it is these significant investments that are crucial to Iran's ability to develop new oil and gas fields. The bill also provides the President the necessary flexibility to determine the best mix of sanctions by which to deter companies from investing in Iran's oil fields. In using this authority, the President should consider factors such as the significance of an investment, the prospects for cooperation with other governments, U.S. international commitments, and the effect of sanctions on U.S. economic interests and regional policies. Finally, the bill authorizes the Secretary of State to provide advisory opinions on whether a proposed activity would be covered to avoid unnecessary uncertainty on the part of companies and friction with allies.

SECTION-BY SECTION ANALYSIS

The bill is designed to prevent Iran from being able to increase its revenue through the development of petroleum resources in Iran. Any significant increase in the revenue to support its weapons of mass destruction and terrorism policies should be viewed as a threat to the national security and foreign policy interests of the United States.

The bill provides a series of sanctions that the President of the United States shall choose from and place upon any person who invest $40,000,000 or more that significantly and materially contributes to the development of oil revenues in Iran. Such investments encompass "into a contract that includes responsibility for the development of petroleum resources located in Iran, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract." The President is required to choose one or more sanctions that are specified.

Section 1. Short title.

This Act may be cited as the "Iran Oil Sanctions Act of 1995".

Section 2. Findings.

The Government of Iran's efforts to acquire weapons of mass destruction and the means to deliver them and its support of international terrorism endangers the national security and foreign policy interests of the United States and its allies. Additional efforts are needed to deny Iran the financial means to sustain its efforts to acquire weapons of mass destruction and the means to deliver them and its support of international terrorism.

Section 3. Declaration of policy.

It is the policy of the United States to deny Iran the ability to support its terrorist activities and its attempt to acquire weapons of mass destruction and the means to deliver them by limiting the revenue from development of petroleum resources in Iran.

Section 4. Imposition of sanctions.

Section 4(a) requires the President to impose one or more of the sanctions described in Section 5 on any person making an investment of more than $40,000,000 (or any combination of $10,000,000 investments of at least $10,000,000 each, which exceeds $40,000,000 in any 12 month period) that significantly and materially contributes to the development of petroleum resources in Iran.

Section 4(b) details that the sanctions may be imposed on any person that: (1) has carried out the activities described subsection (a); (2) is a successor entity to that person; (3) is a person that is a parent or subsidiary of the person if that parent with actual knowledge engaged in the sanctioned activities; and (4) is a person that is an affiliate of that person if that affiliate with actual knowledge engaged in the activities and if that affiliate is controlled in fact by that person.

Section 4(c) requires the President to publish the names of persons that are subject to sanction.

Section 4(d) states that: (1) any products or services provided under contracts entered into prior to the date on which the President publishes his intention to impose the sanctions; or (2) medicines, medical supplies, or other humanitarian items are not subject to sanctions under subsection (a).

Section 5. Description of sanctions that may be imposed under section 4(a)

(1) Prohibition against Export-Import Bank assistance for exports to sanctioned persons

No Ex-Im guarantees, credit, or insurance for goods or services to sanctioned companies or persons.

(2) Export sanction

The President may order not to issue any specific license or grant any other specific permission or authority to export any goods or technology to a sanctioned person or company.

(3) Loans from U.S. financial institutions

The U.S. government may prohibit U.S. financial institutions from making any loan or providing any credit in an amount exceeding $10,000,000 in any 12-month period (or two or more loans of more than $5,000,000 each totaling more than $10,000,000 in such period) to any sanctioned person or company, except to relieve human suffering.

(4) Prohibitions on financial institutions

(A) A sanctioned financial institution will lose its designation as a primary dealer in U.S. government debt instruments.

(B) A sanctioned financial institution shall not serve as an agent of the U.S. Government or serve as repository of U.S. Government funds.

Section 6. Advisory opinions

The Secretary of State may, upon the request of any person, issue an advisory opinion to that person a to whether a proposed activity by that person would subject that person to sanctions under this Act.

Section 7. duration of sanctions; Presidential waiver

Section 7(a)(1) If the President makes a determination under section 4(a), he is urged to consult with the government with primary jurisdiction over a person with respect to the imposition of sanctions under this Act.

Section 7(a)(2) allows the President to delay the imposition of the sanctions for 90 days if the President finds that the appropriate government with primary jurisdiction over that foreign person has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the person in the activities that led to sanctions concerning such person.

Section 7(a)(3) allows the President to delay the imposition of the sanctions an additional 90 days if the President determines and certifies to the Congress that the appropriate government is in the process of taking actions described in paragraph (2).

Section 7(a)(4) requires the President to submit to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report which shall include information

Section 7(b) requires the sanctions to remain in effect until the President determines that the sanctioned person is no longer engaging in the activity that led to the imposition of sanctions.

Section 7(c)(1) allows the president to waive the imposition of sanctions or the continued imposition of sanctions 15 days after it is determined and reported to the Committee on Banking, Housing, and Urban Affairs and the Committee on International Relations of the House of Representatives that it is important to the national interest of the United States to exercise such waiver authority.

Section 7(c)(2) states that any report shall provide a specific and detailed rationale for such determination that will include: (A) a description of the conduct that resulted in the determination; (B) in the case of a foreign person, an explanation of the efforts to secure the cooperation of the government with primary jurisdiction of

the sanctioned person to terminate or, as appropriate, penalize the activities that resulted in the determination; (C) an estimate as to the significance of the investment to Iran's ability to develop its petroleum resources and (D) a statement as to the response of the United States in the event that such person engages in other activities that would be subject to section 4(a).

Section 8. Termination of sanctions against Iran

Section 8 (1) provides for termination of the sanctions if the President determines that Iran has ceased its efforts to design, develop, manufacture, or acquire (A) a nuclear explosive device or related materials and technology; (B) chemical and biological weapons; or (C) ballistic missiles and ballistic missile launch technology; and (2) if Iran has been removed from the list of state sponsors of international terrorism under section 6(j) of the Export Administration Act of 1979.

Section 9. Report required

The President shall continue to transmit reports to congress describing the nuclear and other military capabilities of Iran and Iran's support of international terrorism.

Section 10

The following terms are defined in this section:

(1) The appropriate congressional committees means the Committees on Banking, Housing and Urban Affairs and Foreign Relations of the Senate and the Committees on Banking and Financial Services and International Relations of the House of Representatives.

(2) Financial institutions include (A) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978); (B) a credit union; (C) a securities firm, including a broker or dealer; (D) an insurance company, including an agency or underwriter; (E) any other company that provides financial services; or (F) any subsidiary of such financial institution.

(3) Investment means (A) the entry into a contract that includes responsibility for the development of petroleum resources located in Iran, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract; (B) the purchase of a share of ownership in that development; or (C) the entry into contract providing for participation in royalties, earnings, or profits in that development, without regard to the form of the participation.

(4) person means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(5) petroleum resources includes petroleum and natural gas resources.

REGULATORY IMPACT STATEMENT

Pursuant to rule XXVI, paragraph 11(b), of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the bill and concludes it would result in no net increase in the regulatory burden imposed by the Government.

CHANGES IN EXISTING LAW

The Committee has determined that it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of rule XXVI, paragraph 12, of the Standing Rules of the Senate, with respect to this legislation.

COST OF LEGISLATION

The cost estimate of the Congressional Budget Office appears below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 13, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1228, Iran Oil Sanctions Act of 1995, as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on December 12, 1995. The bill would have no significant budgetary impact.

The bill would require the President to impose one or more sanctions against any person that invests $40 million or more in the development of the petroleum resources of Iran. The President would be able to deny a sanctioned person financing under the Export-Import Bank Act or deny an export license under any statute that requires prior review and approval by the U.S. government. The President also would be empowered to prohibit U.S. financial institutions from providing credits to a sanctioned person and to prevent a sanctioned financial institution from acting as a primary dealer in U.S. government debt instruments or as a repository for U.S. government funds.

Existing monitoring and compliance activities could be modified to accommodate the new sanctions at no significant cost. The bill would not affect direct spending or revenues of the federal government and thus would not be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. It would not affect the budgets of state or local governments.

If you wish further details on this estimate, the CBO staff contact is Joseph C. Whitehill.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

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