



The Iran Sanctions Act (ISA)

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Summary

International pressure on Iran to curb its nuclear program is increasing the hesitation of many major foreign firms to invest in Iran's energy sector, hindering Iran's efforts to expand oil production beyond 4.1 million barrels per day. However, Iran continues to attract preliminary energy investment interest from firms primarily in Asia, which appear eager to fill the void left by European majors and to line up steady supplies of Iranian oil and gas.

The formal U.S. effort to curb energy investment in Iran began in 1996 with the Iran Sanctions Act (ISA). No firms have been sanctioned under it and the precise effects of that law on energy investment in Iran—as opposed to other factors—has been unclear. In the 110th Congress, two bills passed by the House (H.R. 1400 and H.R. 7112) would add ISA provisions. Some observers expect versions or variations of these bills to be introduced in the 111th Congress. Some additional ideas discussed by observers focus on adding violations of ISA, including: provision of shipping insurance to Iran's tanker fleet; maintaining a business presence in Iran; selling refined gasoline to Iran; or supplying equipment to or performing the construction of oil refineries in Iran.

This report will be updated regularly. See CRS Report RL32048, *Iran: U.S. Concerns and Policy Responses*, by Kenneth Katzman.

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Background of the Iran Sanctions Act (ISA)

The Iran Sanctions Act (ISA) is one among many U.S. sanctions in place against Iran. Originally called the Iran-Libya Sanctions Act (ILSA), it was enacted to complement other measures—particularly Executive Order 12959 of May 6, 1995, that banned U.S. trade with and investment in Iran—intended to deny Iran the resources to further its nuclear program and to support terrorist organizations such as Hizbollah, Hamas, and Palestine Islamic Jihad. Iran’s petroleum sector generates about 20% of Iran’s GDP, but its onshore oil fields and oil industry infrastructure are aging and need substantial investment. Its large natural gas resources (940 trillion cubic feet, exceeded only by Russia) were undeveloped when ISA was first enacted. Iran has 136.3 billion barrels of proven oil reserves, the third largest after Saudi Arabia and Canada.

In 1995 and 1996, U.S. allies did not join the United States in enacting trade sanctions against Iran, and the Clinton Administration and Congress believed that it might be necessary for the United States to try to deter their investment in Iran. The opportunity to do so came in November 1995, when Iran opened its energy sector to foreign investment. To accommodate its ideology to retain control of its national resources, Iran used a “buy-back” investment program in which foreign firms recoup their investments from the proceeds of oil and gas discoveries but do not receive equity. With input from the Administration, on September 8, 1995, Senator Alfonse D’Amato introduced the “Iran Foreign Oil Sanctions Act” to sanction foreign firms’ exports to Iran of energy technology. A revised version instead sanctioning *investment* in Iran’s energy sector passed the Senate on December 18, 1995 (voice vote). On December 20, 1995, the Senate passed a version applying the legislation to Libya as well, which was refusing to yield for trial the two intelligence agents suspected in the December 21, 1988, bombing of Pan Am 103. The House passed H.R. 3107, on June 19, 1996 (415-0), and then concurred on a slightly different Senate version adopted on July 16, 1996 (unanimous consent). It was signed on August 5, 1996 (P.L. 104-172).

Key Provisions

ISA requires the President to impose at least *two* out of a menu of seven sanctions on foreign companies (entities, persons) that make an “investment” of more than \$20 million in one year in Iran’s energy sector,¹ or that sell to Iran weapons of mass destruction (WMD) technology or “destabilizing numbers and types” of advanced conventional weapons.² The sanctions (Section 6) include (1) denial of Export-Import Bank loans, credits, or credit guarantees for U.S. exports to the sanctioned entity; (2) denial of licenses for the U.S. export of military or militarily-useful technology; (3) denial of U.S. bank loans exceeding \$10 million in one year; (4) if the entity is a financial institution, a prohibition on its service as a primary dealer in U.S. government bonds; and/or a prohibition on its serving as a repository for U.S. government funds (each counts as one

¹ The definition of “investment” in ISA (Section 14 (9)) includes not only equity and royalty arrangements (including additions to existing investment, as added by P.L. 107-24) but any contract that includes “responsibility for the development of petroleum resources” of Iran, interpreted to include pipelines to or through Iran. The definition excludes sales of technology, goods, or services for such projects, and excludes financing of such purchases. For Libya, the threshold was \$40 million, and sanctionable activity included export to Libya of technology banned by Pan Am 103-related Security Council Resolutions 748 (March 31, 1992) and 883 (November 11, 1993).

² This latter “trigger” was added by P.L. 109-293.

sanction); (5) prohibition on U.S. government procurement from the entity; and (6) restriction on imports from the entity, in accordance with the International Emergency Economic Powers Act (IEEPA, 50 U.S.C. 1701). The President may waive the sanctions on Iran if the parent country of the violating firm sanctions Iran (a provision later made inapplicable), or if he certifies that doing so is important to the U.S. national interest (Section 9(c)). ISA application to Iran would terminate if Iran is determined by the Administration to have ceased its efforts to acquire WMD and is removed from the U.S. list of state sponsors of terrorism, *and* no longer “poses a significant threat” to U.S. national security and U.S. allies.³ Application to Libya terminated when the President determined on April 23, 2004, that Libya had fulfilled the requirements of all U.N. resolutions on Pan Am 103.

Traditionally skeptical of imposing economic sanctions, the European Union opposed ISA as an extraterritorial application of U.S. law. In April 1997, the United States and the EU agreed to avoid a trade confrontation in the World Trade Organization (WTO) over it and a separate Cuba sanctions law, (P.L. 104-114). The agreement contributed to a May 18, 1998, decision by the Clinton Administration to waive ISA sanctions (“national interest”—Section 9(c) waiver) on the first project determined to be in violation—a \$2 billion⁴ contract (September 1997) for Total SA of France and its partners, Gazprom of Russia and Petronas of Malaysia to develop phases 2 and 3 of the 25-phase South Pars gas field. The EU pledged to increase cooperation with the United States on non-proliferation and counter-terrorism, and the Administration indicated future investments by EU firms in Iran would not be sanctioned.

ISA was to sunset on August 5, 2001, in a climate of lessening tensions with Iran and Libya. During 1999 and 2000, the Clinton Administration had eased the trade ban on Iran somewhat to try to engage the relatively moderate Iranian President Mohammad Khatemi. In 1999, Libya yielded for trial the Pan Am 103 suspects. However, some maintained that both countries would view its expiration as a concession, and renewal legislation was enacted (P.L. 107-24, August 3, 2001). This law required an Administration report on ISA’s effectiveness within 24 to 30 months of enactment; that report was submitted to Congress in January 2004 and did not recommend that ISA be repealed.

In addition to the amendments to ISA referred to above, P.L. 109-293, the “Iran Freedom and Support Act” (H.R. 6198) amended ISA by: (1) calling for, *but not requiring*, a 180-day time limit for a violation determination; (2) recommending against U.S. nuclear agreements with countries that supply nuclear technology to Iran; (3) expanding provisions of the USA Patriot Act (P.L. 107-56) to curb money-laundering for use to further WMD programs; (4) extending ISA until December 31, 2011; and (5) formally dropping Libya and changing the name to the Iran Sanctions Act.

Earlier versions of the Iran Freedom and Support Act in the 109th Congress (H.R. 282, S. 333) were viewed as too restrictive of Administration prerogatives. Among the provisions of these bills not ultimately adopted included: setting a 90-day time limit for the Administration to determine whether an investment is a violation (there is no time limit in the original law); cutting U.S. foreign assistance to countries whose companies violate ISA; and, applying the U.S. trade ban on Iran to foreign subsidiaries of U.S. companies.

³ This latter termination requirement added by P.L. 109-293

⁴ Dollar figures for investments in Iran represent public estimates of the amounts investing firms are expected to spend over the life of a project, which might in some cases be several decades.

Effectiveness and Ongoing Challenges

The Bush Administration maintained that, even without actually imposing ISA sanctions, the threat of sanctions—coupled with Iran’s reputedly difficult negotiating behavior, and compounded by Iran’s growing isolation because of its nuclear program—slowed Iran’s energy development. As shown in the table below, some foreign investment agreements have been agreed with Iran since the 1998 Total consortium waiver, but many projects have been long stalled. Some investors, such as major European firms Repsol, Royal Dutch Shell, and Total, have announced pullouts or declined further investment. On July 12, 2008, Total and Petronas, the original South Pars investors, pulled out of a deal to develop a liquified natural gas (LNG) export capability at Phase 11 of South Pars, saying that investing in Iran at a time of growing international pressure over its nuclear program is “too risky.” Also in 2008, Japan significantly reduced its participation in the development of Iran’s large Azadegan field. Some of the void has been filled, at least partly, by Asian firms such as those of China and Malaysia. However, even some of those agreements are being implemented only slowly and these companies are perceived not as technically capable as those that have withdrawn from the Iran market.

These trends have constrained Iran’s energy sector significantly; Iran’s deputy Oil Minister said in November 2008 that Iran needs about \$145 billion in new investment over the next ten years in order to build a thriving energy sector. As a result of sanctions and the overall climate of international isolation of Iran, its oil production has not grown—it remains at about 4.1 million barrels per day (mbd)—although it has not fallen either. Some analyses, including by the National Academy of Sciences, say that, partly because of growing domestic consumption, Iranian oil exports are declining to the point where Iran might have negligible exports of oil by 2015.⁵ Others maintain that Iran’s gas sector can more than compensate for declining oil exports, although it needs gas to reinject into its oil fields and remains a relatively minor gas exporter. It exports about 3.6 trillion cubic feet of gas, primarily to Turkey.

Some Members of Congress believe that ISA would have been even more effective if successive Administrations had actually imposed sanctions. A GAO study of December 2007, (GAO-08-58), contains a chart of *post-2003* investments in Iran’s energy sector, totaling over \$20 billion in investment, although the chart includes petrochemical and refinery projects, as well as projects that do not exceed the \$20 million in one year threshold for ISA sanctionability. Some of the projects listed in that report and in the table below may be under review by the State Department (Bureau of Economic Affairs), but no publication of such deals has been placed in the *Federal Register* (requirement of Section 5e of ISA), and no determinations of violation have been announced. State Department reports to Congress on ISA, required every six months, state that U.S. diplomats raise U.S. policy concerns about Iran with investing companies and their parent countries. However, these reports do not specifically state which foreign companies are being investigated for ISA violations. Undersecretary of State for Political Affairs William Burns testified on July 9, 2008 (House Foreign Affairs Committee) that the Statoil project (listed in the table) is under review for ISA sanctions; he did not mention any of the other projects.

⁵ Stern, Roger. “The Iranian Petroleum Crisis and United States National Security,” *Proceedings of the National Academy of Sciences of the United States of America*. December 26, 2006.

Relationship to Other Financial Measures

ISA is one of many mechanisms the United States and its European partners are using to try to pressure Iran. U.S. officials, whose leverage has been enhanced by five U.N. Security Council Resolutions passed since 2006 that sanction Iran, have persuaded many European and other banks not to finance exports to Iran or to process dollar transactions with Iranian banks; and they have persuaded European governments to reduce export credits guarantees to Iran. The actions have, according to the International Monetary Fund, partly dried up financing for energy industry and other projects in Iran, and have caused potential investors in the energy sector to withdraw from or hesitate on finalizing pending projects. Some observers maintain that, over and above the threat of ISA sanctions and the international pressure on Iran, it is Iran's negotiating behavior that has slowed international investment in Iran's energy sector. Some international executives that have negotiated with Iran say Iran insists on deals that leave little profit, and that Iran frequently seeks to renegotiate provisions of a contract after it is ratified.

Energy Routes and Refinery Investment

ISA's definition of "investment" has been interpreted by successive Administrations to include construction of energy routes to or through Iran -- because such routes help Iran develop its petroleum resources. The Clinton Administration used the threat of ISA sanctions to deter oil routes involving Iran and thereby successfully promoted an alternate route from Azerbaijan (Baku) to Turkey (Ceyhan), which became operational in 2005. However, no sanctions were imposed on a 1997 project viewed as necessary to U.S. ally Turkey—an Iran-Turkey natural gas pipeline in which each constructed the pipeline on its side of their border. The State Department did not impose ISA sanctions on the grounds that Turkey would be importing gas originating in Turkmenistan, not Iran. However, direct Iranian gas exports to Turkey began in 2001, and, as shown in the table, in July 2007, a preliminary agreement was reached to build a second Iran-Turkey pipeline, through which Iranian gas would also flow to Europe. That agreement was not finalized during Iranian President Mahmoud Ahmadinejad's visit to Turkey in August 2008 because of Turkish commercial concerns but the deal remains under active discussion. On February 23, 2009, Iranian newspapers said Iran had formed a joint venture with a Turkish firm to export 35 billion cubic meters of gas per year to Europe; 50% of the venture would be owned by the National Iranian Gas Export Company (NIGEC).

Another pending deal is the construction of a gas pipeline from Iran to India, through Pakistan (IPI pipeline). The three governments have stated they are committed to the \$7 billion project, which would take about three years to complete, but India did not sign a deal "finalization" that was signed by Iran and Pakistan on November 11, 2007. India had re-entered discussions on the project following Iranian President Mahmoud Ahmadinejad's visit to India in April 2008, which also resulted in Indian firms' winning preliminary Iranian approval to take equity stakes in the Azadegan oil field project and South Pars gas field Phase 12. India did not attend further talks on the project in September 2008, raising continued concerns on security of the pipeline, the location at which the gas would be officially transferred to India, pricing of the gas, tariffs, and the source in Iran of the gas to be sold. Perhaps to address some of those concerns, but also perhaps to move forward whether or not India joins the project, in January 2009 Iran and Pakistan amended the proposed pricing formula for the exported gas to reflect new energy market conditions. During the Bush Administration, Secretary of State Rice, have on several occasions "expressed U.S. concern" about the pipeline deal or have called it "unacceptable," but no U.S. official has stated outright that it would be sanctioned.

Refinery Construction

Construction of oil refineries or petrochemical plants in Iran—included in the referenced GAO report—might also constitute sanctionable projects because they would benefit Iran’s energy sector. However, no Administration has specifically stated that it adopts this interpretation. Iran has plans to build or expand, possibly with foreign investment, at least eight refineries in an effort to ease gasoline imports that supply about 25% - 30% of Iran’s needs. According to some experts, Iran’s institution of gasoline rationing in Iran in June 2007 reduced this dependency on gasoline imports from the 40% previously. It also is not clear whether or not Iranian investments in energy projects in other countries, such as Iranian investment to help build five oil refineries in Asia (China, Indonesia, Malaysia, and Singapore) and in Syria, reported in June 2007, would constitute sanctionable investment under ISA.

Significant Purchase Agreements

Other major energy deals with Iran are considered a blow to European solidarity. In March 2008, Switzerland’s EGL utility agreed to buy 194 trillion cubic feet per year of Iranian gas for 25 years, through a Trans-Adriatic Pipeline (TAP) to be built by 2010, a deal valued at least \$15 billion. The United States criticized the deal as sending the “wrong message” to Iran. However, as testified by Under Secretary of State Burns on July 9, 2008, the deal appears to involve only purchase of Iranian gas, not exploration, and likely does not violate ISA. In August 2008, Germany’s Steiner-Prematechnik-Gastec Co. agreed to apply its method of turning gas into liquid fuel at three Iranian plants. In early October 2008, Iran agreed to export 1 billion cu.ft./day of gas to Oman, via a pipeline to be built that would end at Oman’s LNG export terminal facilities.

Efforts in the 110th Congress to Expand ISA Application

In the 110th Congress, several bills contained numerous provisions that would have further amended ISA, but not was adopted. Observers say aspects of these bills are likely to be reintroduced in the 111th Congress. H.R. 1400, which passed the House on September 25, 2007 (397-16), would have removed the Administration’s ability to waive ISA sanctions under Section 9(c), national interest grounds, but it would not have imposed on the Administration a time limit to determine whether a project is sanctionable.

That bill and several others—including S. 970, S. 3227, S. 3445, H.R. 957 (passed the House on July 31, 2007), and H.R. 7112 (which passed the House on September 26, 2008)— would: (1) expand the definition of sanctionable entities to official credit guarantee agencies, such as France’s COFACE and Germany’s Hermes, and to financial institutions and insurers generally; and (2) make investment to develop a liquified natural gas (LNG) sector in Iran a sanctionable violation. Iran has no LNG export terminals, in part because the technology for such terminals is patented by U.S. firms and unavailable for sale to Iran. Among other related bills in the 110th Congress, H.R. 2880 would make sales to Iran of refined petroleum resources a violation of ISA, although some believe that a sanction such as this would only be effective if it applied to all countries under a U.N. Security Council resolution rather than a unilateral U.S. sanction. H.R. 2347, (passed the House on July 31, 2007), would protect from lawsuits fund managers that

divest from firms that make ISA-sanctionable investments. (A version of this bill, H.R. 1327, has been introduced in the 111th Congress.)

In early 2009, there were some indications that congressional sentiment had some effect on foreign firms, even without enactment of significant ISA amendment in the 110th Congress. In January 2009, Reliance Industries Ltd of India said it would cease new sales of refined gasoline to Iran after completing existing contracts that expired December 31, 2008. The Reliance decision came after several Members of Congress urged the Exim Bank of the United States to suspend assistance to Reliance, on the grounds that it was assisting Iran's economy with the gas sales. The Exim Bank, in August 2008, had extended a total of \$900 million in financing guarantees to Reliance to help it expand.

New Ideas

As of early March 2009, a number of ideas are under discussion among experts for possible amendments to ISA. Most of these ideas, which might be introduced as legislation in the 111th Congress, involve expanding the types of activity that would be considered violations of ISA. Among these concepts, making sales of gasoline to Iran a violation of ISA is widely discussed. Also discussed is to potentially make sales of equipment to, or construction of, oil refineries in Iran a violation of ISA. Other ideas include making provision of insurance for Iran's oil tanker fleet a violation. Some have advocated broadening ISA beyond "investment" as defined in ISA, by applying ISA to any foreign firm that maintains a business presence in Iran, presumably a sales office or other establishment, without necessarily requiring that such a presence actually generate any actual business transactions.

Table I. Post-1999 Major Investments in Iran's Energy Sector

(\$20 million + investments in oil and gas fields only; refineries, petrochemical plants, not included.)

Date	Field	Company(ies)	Value	Output/Goal
Feb. 1999	Doroud (oil)	Totalfina Elf (France)/ENI (Italy)	\$1 billion	205,000 bpd
Apr. 1999	Balal (oil)	Totalfina Elf/ Bow Valley (Canada)/ENI	\$300 million	40,000 bpd
Nov. 1999	Soroush and Nowruz (oil)	Royal Dutch Shell	\$800 million	190,000 bpd
Apr. 2000	Anaran (oil)	Norsk Hydro (Norway)/Lukoil (Russia)	\$100 million	100,000 (by 2010)
July 2000	Phase 4 and 5, South Pars (gas)	ENI	\$1.9 billion	2 billion cu.ft./day (cfd)
Mar. 2001	Caspian Sea oil exploration	GVA Consultants (Sweden)	\$225 million	?
June 2001	Darkhovin (oil)	ENI	\$1 billion	160,000 bpd
May 2002	Masjid-e-Soleyman (oil)	Sheer Energy (Canada)	\$80 million	25,000 bpd
Sep. 2002	Phase 9 + 10, South Pars (gas)	LG (South Korea)	\$1.6 billion	2 billion cfd
Oct. 2002	Phase 6, 7, 8, South Pars (gas) (est. to begin producing late 08)	Statoil (Norway)	\$2.65 billion	3 billion cfd
Jan. 2004	Azadegan (oil)	Inpex (Japan) 10% stake; China National Oil Co. agreed to develop "north Azadegan" in Jan. 2009	\$200 million (Inpex stake); China \$1.76 billion	260,000 bpd
Aug. 2004	Tusan Block	Petrobras (Brazil)	\$34 million	?
Oct. 2004	Yadavaran (oil). Finalized December 9, 2007	Sinopec (China)	\$2 billion	185,000 bpd (by 2011)
June 2006	Gamsar block (oil)	Sinopec (China)	\$20 million	?
Sept. 2006	Khorramabad block (oil)	Norsk Hydro (Norway)	\$49 million	?
Dec. 2007	Golshan and Ferdows onshore and offshore gas fields and LNG plant; modified but reaffirmed December 2008	SKS Ventures (Malaysia)	\$16 billion	3.4 billion cfd
Totals		\$29.5 billion investment		
		Oil: 1.085 million bpd Gas: 10.4 billion cfd		
Pending Deals/Preliminary Agreements				
	Kharg and Bahregansar fields (gas)	IRASCO (Italy)	\$1.6 billion	?
	Salkh and Southern Gashku fields (gas). Includes LNG plant (Nov. 2006)	LNG Ltd. (Australia)	?	?

Date	Field	Company(ies)	Value	Output/Goal
	North Pars Gas Field (offshore gas). Includes gas purchases (Dec. 2006)	China National Offshore Oil Co.	\$16 billion	3.6 billion cfd
	Phase 13, 14 - South Pars (gas); (Feb. 2007). Firms decided not to proceed in May 2008	Royal Dutch Shell, Repsol (Spain)	\$4.3 billion	?
	Phase 12 South Pars (gas). Incl. LNG terminal and gas purchases - 25 years (May 2007)	OMV (Austria)	\$30 billion	?
	Phase 22, 23, 24 - South Pars (gas), incl. transport Iranian gas to Europe and building three power plants in Iran. Initialed July 2007; not finalized to date.	Turkish Petroleum Company (TPAO)	\$12. billion	2 billion cfd
	Iran's Kish gas field (April 2008)	Oman	\$7 billion	1 billion cfd

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