

112TH CONGRESS
1ST SESSION

H. R. 2105

AN ACT

To provide for the application of measures to foreign persons who transfer to Iran, North Korea, and Syria certain goods, services, or technology, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Iran, North Korea, and Syria Nonproliferation Reform
 4 and Modernization Act of 2011”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Statement of policy.
- Sec. 3. Reports on proliferation relating to Iran, North Korea, and Syria.
- Sec. 4. Application of measures to certain foreign persons.
- Sec. 5. Determination exempting a foreign person from the application of certain measures.
- Sec. 6. Restrictions on nuclear cooperation with countries aiding proliferation by Iran, North Korea, or Syria.
- Sec. 7. Identification of countries that enable proliferation to or from Iran, North Korea, or Syria.
- Sec. 8. Prohibition on United States assistance to countries assisting proliferation activities by Iran, North Korea, or Syria.
- Sec. 9. Restriction on extraordinary payments in connection with the International Space Station.
- Sec. 10. Exclusion from the United States of senior officials of foreign persons who have aided proliferation relating to Iran.
- Sec. 11. Prohibition on certain vessels landing in the United States; enhanced inspections.
- Sec. 12. Sanctions with respect to critical defense resources provided to or acquired from Iran, North Korea, or Syria.
- Sec. 13. Definitions.
- Sec. 14. Repeal of Iran, North Korea, and Syria Nonproliferation Act.

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

8 It shall be the policy of the United States to fully
 9 implement and enforce sanctions against Iran, North
 10 Korea, and Syria for their proliferation activities and poli-
 11 cies.

12 **SEC. 3. REPORTS ON PROLIFERATION RELATING TO IRAN,**
 13 **NORTH KOREA, AND SYRIA.**

14 (a) **REPORTS.**—Not later than 90 days after the date
 15 of the enactment of this Act and every 120 days there-

1 after, the President shall transmit to the appropriate con-
2 gressional committees a report identifying every foreign
3 person with respect to whom there is credible information
4 indicating that such person—

5 (1) on or after January 1, 1999, transferred to
6 or acquired from Iran, on or after January 1, 2005,
7 transferred to or acquired from Syria, or on or after
8 January 1, 2006, transferred to or acquired from
9 North Korea—

10 (A) goods, services, or technology listed
11 on—

12 (i) the Nuclear Suppliers Group
13 Guidelines for the Export of Nuclear Mate-
14 rial, Equipment and Technology (published
15 by the International Atomic Energy Agen-
16 cy as Information Circular INFCIRC/254/
17 Rev. 3/Part 1, and subsequent revisions)
18 and Guidelines for Transfers of Nuclear-
19 Related Dual-Use Equipment, Material,
20 and Related Technology (published by the
21 International Atomic Energy Agency as In-
22 formation Circular INFCIRC/254/Rev. 3/
23 Part 2, and subsequent revisions);

24 (ii) the Missile Technology Control
25 Regime Equipment and Technology Annex

1 of June 11, 1996, and subsequent revisions;
2

3 (iii) the lists of items and substances
4 relating to biological and chemical weapons
5 the export of which is controlled by the
6 Australia Group;

7 (iv) the Schedule One or Schedule
8 Two list of toxic chemicals and precursors
9 the export of which is controlled pursuant
10 to the Convention on the Prohibition of the
11 Development, Production, Stockpiling and
12 Use of Chemical Weapons and on Their
13 Destruction; or

14 (v) the Wassenaar Arrangement list of
15 Dual Use Goods and Technologies and
16 Munitions list of July 12, 1996, and subsequent
17 revisions; or

18 (B) goods, services, or technology not listed
19 on any list specified in subparagraph (A) but
20 which nevertheless would be, if such goods,
21 services, or technology were United States
22 goods, services, or technology, prohibited for export
23 to Iran, North Korea, or Syria, as the case
24 may be, because of the potential of such goods,
25 services or technology to make a material con-

1 tribution to the development of nuclear, biological,
2 eal, or chemical weapons, or of ballistic or
3 cruise missile systems or destabilizing types and
4 amounts of conventional weapons;

5 (2) except as provided in subsection (b), on or
6 after the date of the enactment of this Act, acquired
7 materials mined or otherwise extracted within the
8 territory or control of Iran, North Korea, or Syria,
9 as the case may be, for purposes relating to the nu-
10 clear, biological, or chemical weapons, or ballistic or
11 cruise missile development programs of Iran, North
12 Korea, or Syria, as the case may be;

13 (3) on or after the date of the enactment of this
14 Act, transferred to Iran, Syria, or North Korea
15 goods, services, or technology that could assist ef-
16 forts to extract or mill uranium ore within the terri-
17 tory or control of Iran, North Korea, or Syria, as
18 the case may be;

19 (4) on or after the date of the enactment of this
20 Act, provided to Iran, Syria, or North Korea desta-
21 bilizing types and amounts of conventional weapons
22 and technical assistance; or

23 (5) on or after the date of the enactment of this
24 Act, provided a vessel, insurance or reinsurance, or
25 any other shipping service for the transportation of

1 goods to or from Iran, North Korea, or Syria for
2 purposes relating to the nuclear, biological, or chem-
3 ical weapons, or ballistic or cruise missile develop-
4 ment programs of Iran, North Korea, or Syria, as
5 the case may be.

6 (b) EXCEPTIONS.—Any foreign person who—

7 (1) was identified in a report transmitted in ac-
8 cordance with subsection (a) on account of a par-
9 ticular transfer, or

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

13 shall not be identified on account of that same transfer
14 in any report submitted thereafter under this section, ex-
15 cept to the degree that new information has emerged indi-
16 cating that the particular transfer at issue may have con-
17 tinued, or been larger, more significant, or different in na-
18 ture than previously reported under this section.

19 (c) TRANSMISSION IN CLASSIFIED FORM.—If the
20 President considers it appropriate, reports transmitted in
21 accordance with subsection (a), or appropriate parts there-
22 of, may be transmitted in classified form.

23 (d) CONTENT OF REPORTS.—Each report required
24 under subsection (a) shall contain, with respect to each
25 foreign person identified in each such report, a brief de-

1 description of the type and quantity of the goods, services,
2 or technology transferred by such person to Iran, North
3 Korea, or Syria, the circumstances surrounding such
4 transfer, the usefulness to the nuclear, biological, or chem-
5 ical weapons, or ballistic or cruise missile development
6 programs of Iran, North Korea, or Syria of such transfer,
7 and the probable awareness or lack thereof of the transfer
8 on the part of the government with primary jurisdiction
9 over such person.

10 (e) ADDITIONAL CONTENTS OF REPORTS.—Each re-
11 port under subsection (a) shall contain a description, with
12 respect the transfer or acquisition of the goods, services,
13 or technology described in such subsection, of the actions
14 taken by foreign governments to assist in interdicting such
15 transfer or acquisition.

16 (f) EXPEDITING SANCTIONS FOR NUCLEAR, CHEM-
17 ICAL, BIOLOGICAL AND MISSILE PROLIFERATION TRANS-
18 FERS TO IRAN.—

19 (1) IN GENERAL.—Notwithstanding the re-
20 quirement to submit the report under subsection (a),
21 the President shall establish a process to assess in-
22 formation in the possession of the President on an
23 ongoing basis regarding possible transfers to Iran of
24 goods, services, or technology relating to nuclear,
25 chemical, or biological weapons or ballistic missiles

1 in accordance with the requirements of subsection
2 (a).

3 (2) APPLICATION OF SANCTIONS.—Upon a de-
4 termination of the President that credible informa-
5 tion exists that a transfer described in paragraph
6 (1) has occurred, the President shall apply the sanc-
7 tions to the foreign person that made the transfer
8 in accordance with the requirements of section 4 of
9 this Act.

10 (g) REQUIREMENT FOR PLAN TO EXPEDITE IMPLE-
11 MENTATION OF REPORTING AND SANCTIONS.—Not later
12 than 180 days after the date of the enactment of this Act,
13 the President shall transmit to the appropriate congres-
14 sional committees a plan, to include any necessary legisla-
15 tion, to expedite the implementation of this Act with re-
16 gard to the reports required under subsection (a) and the
17 sanctions under section 4 of this Act.

18 **SEC. 4. APPLICATION OF MEASURES TO CERTAIN FOREIGN**
19 **PERSONS.**

20 (a) APPLICATION OF MEASURES.—

21 (1) IN GENERAL.—Subject to section 5, the
22 President shall apply, for a period of not less than
23 two years, the measures specified in subsection (b)
24 with respect to each foreign person identified in a
25 report transmitted under section 3(a).

1 (2) RELATED PERSONS.—Subject to section 5,
2 the President may apply, for a period of not less
3 than two years, the measures specified in subsection
4 (b) with respect to one or more of the following:

5 (A) Each person that is a successor,
6 subunit, or subsidiary of a foreign person re-
7 ferred to in paragraph (1).

8 (B) Each person that owns more than 50
9 percent of, or controls in fact—

10 (i) a foreign person referred to in
11 paragraph (1); or

12 (ii) a person described in subpara-
13 graph (A).

14 (b) DESCRIPTION OF MEASURES.—The measures re-
15 ferred to in subsection (a) are the following:

16 (1) EXECUTIVE ORDER 12938 PROHIBITIONS.—

17 The measures specified in the first sentence of sub-
18 section (b) and subsections (c) and (d) of section 4
19 of Executive Order 12938 (50 U.S.C. 1701 note; re-
20 lating to proliferation of weapons of mass destruc-
21 tion) prohibiting any department or agency of the
22 United States Government from procuring, or enter-
23 ing into any contract for the procurement of, any
24 goods or services from any foreign person described

1 in subsection (a) of section 4 of Executive Order
2 12938.

3 (2) ARMS EXPORT PROHIBITION.—Prohibition
4 on United States Government sales to a person de-
5 scribed in subsection (a) of any item on the United
6 States Munitions List and termination of sales to
7 such person of any defense articles, defense services,
8 or design and construction services under the Arms
9 Export Control Act (22 U.S.C. 2751 et seq.).

10 (3) DUAL USE EXPORT PROHIBITION.—Denial
11 of licenses and suspension of existing licenses for the
12 transfer to a person described in subsection (a) of
13 items the export of which is controlled under the Ex-
14 port Administration Act of 1979 (50 U.S.C. App.
15 2401 et seq.), as in effect pursuant to the Inter-
16 national Emergency Economic Powers Act, or the
17 Export Administration Regulations.

18 (4) INVESTMENT PROHIBITION.—Prohibition on
19 any investment by a United States person in prop-
20 erty, including entities, owned or controlled by a per-
21 son described in subsection (a).

22 (5) FINANCING PROHIBITION.—Prohibition on
23 any approval, financing, or guarantee by a United
24 States person, wherever located, of a transaction by
25 a person described in subsection (a).

1 (6) FINANCIAL ASSISTANCE PROHIBITION.—De-
2 nial by the United States Government of any credit,
3 credit guarantees, grants, or other financial assist-
4 ance by any agency of the United States Govern-
5 ment to a person described in subsection (a).

6 (c) EFFECTIVE DATE.—Measures applied pursuant
7 to subsection (a) shall be effective with respect to a foreign
8 person no later than—

9 (1) 90 days after the report identifying the for-
10 foreign person is submitted, if the report is submitted
11 on or before the date required by section 3(a);

12 (2) 90 days after the date required by section
13 3(a) for submitting the report, if the report identi-
14 fying the foreign person is submitted within 60 days
15 after that date; or

16 (3) on the date that the report identifying the
17 foreign person is submitted, if that report is sub-
18 mitted more than 60 days after the date required by
19 section 3(a).

20 (d) PUBLICATION IN FEDERAL REGISTER.—

21 (1) IN GENERAL.—The Secretary of the Treas-
22 ury shall publish in the Federal Register notice of
23 the application against a person of measures pursu-
24 ant to subsection (a).

1 (2) CONTENT.—Each notice published in ac-
2 cordance with paragraph (1) shall include the name
3 and address (where known) of each person to which
4 measures have been applied pursuant to subsection
5 (a).

6 **SEC. 5. DETERMINATION EXEMPTING A FOREIGN PERSON**
7 **FROM THE APPLICATION OF CERTAIN MEAS-**
8 **URES.**

9 (a) IN GENERAL.—The application of any measure
10 described in section 4(b) to a person described in section
11 4(a) shall cease to be effective beginning 15 days after
12 the date on which the President determines and certifies
13 to the appropriate congressional committees, on the basis
14 of information provided by such person or otherwise ob-
15 tained by the President, that—

16 (1) in the case of a transfer or acquisition of
17 goods, services, or technology described in section
18 3(a)(1)—

19 (A) such person did not, on or after Janu-
20 ary 1, 1999, knowingly transfer to or acquire
21 from Iran, North Korea, or Syria, as the case
22 may be, such goods, services, or technology the
23 apparent transfer of which caused such person
24 to be identified in a report submitted pursuant
25 to section 3(a);

1 (B) the goods, services, or technology the
2 transfer of which caused such person to be
3 identified in a report submitted pursuant to
4 section 3(a) did not contribute to the efforts of
5 Iran, North Korea, or Syria, as the case may
6 be, to develop—

7 (i) nuclear, biological, or chemical
8 weapons, or ballistic or cruise missile sys-
9 tems, or weapons listed on the Wassenaar
10 Arrangement Munitions List of July 12,
11 1996, or any subsequent revision of such
12 List; or

13 (ii) destabilizing types or amounts of
14 conventional weapons or acquire technical
15 assistance;

16 (C) such person is subject to the primary
17 jurisdiction of a government that is an adherent
18 to one or more relevant nonproliferation re-
19 gimes, such person was identified in a report
20 submitted pursuant to section 3(a) with respect
21 to a transfer of goods, services, or technology
22 described in section 3(a)(1)(A), and such trans-
23 fer was made in accordance with the guidelines
24 and parameters of all such relevant regimes of
25 which such government is an adherent; or

1 (D) the government with primary jurisdic-
2 tion over such person has imposed meaningful
3 penalties on such person on account of the
4 transfer of such goods, services, or technology
5 that caused such person to be identified in a re-
6 port submitted pursuant to section 3(a);

7 (2) in the case of an acquisition of materials
8 mined or otherwise extracted within the territory of
9 Iran, North Korea, or Syria, as the case may be, de-
10 scribed in section 3(a)(2) for purposes relating to
11 the nuclear, biological, or chemical weapons, or bal-
12 listic or cruise missile development programs of
13 Iran, North Korea, or Syria, as the case may be,
14 such person did not acquire such materials; or

15 (3) in the case of the provision of a vessel, in-
16 surance or reinsurance, or another shipping service
17 for the transportation of goods to or from Iran,
18 North Korea, or Syria, as the case may be, described
19 in section 3(a)(3) for purposes relating to the nu-
20 clear, biological, or chemical weapons, or ballistic or
21 cruise missile development programs of Iran, North
22 Korea, or Syria, as the case may be, such person did
23 not provide such a vessel or service.

24 (b) OPPORTUNITY TO PROVIDE INFORMATION.—
25 Congress urges the President—

1 (1) in every appropriate case, to contact in a
2 timely fashion each person described in section 3(a),
3 or the government with primary jurisdiction over
4 such person, in order to afford such person, or such
5 government, the opportunity to provide explanatory,
6 exculpatory, or other additional information with re-
7 spect to the transfer that caused such person to be
8 identified in a report submitted pursuant to section
9 3(a); and

10 (2) to exercise the authority described in sub-
11 section (a) in all cases in which information obtained
12 from each person described in section 3(a), or from
13 the government with primary jurisdiction over such
14 person, establishes that the exercise of such author-
15 ity is warranted.

16 (c) FORM OF TRANSMISSION.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the determination and report of the
19 President under subsection (a) shall be transmitted
20 in unclassified form.

21 (2) EXCEPTION.—The determination and report
22 of the President under subsection (a) may be trans-
23 mitted in classified form if the President certifies to
24 the appropriate congressional committees that it is

1 vital to the national security interests of the United
2 States to do so.

3 **SEC. 6. RESTRICTIONS ON NUCLEAR COOPERATION WITH**
4 **COUNTRIES AIDING PROLIFERATION BY**
5 **IRAN, NORTH KOREA, OR SYRIA.**

6 (a) IN GENERAL.—

7 (1) RESTRICTIONS.—Notwithstanding any other
8 provision of law, on or after the date of the enact-
9 ment of this Act—

10 (A) no agreement for cooperation between
11 the United States and the government of any
12 country that is assisting the nuclear program of
13 Iran, North Korea, or Syria, or transferring ad-
14 vanced conventional weapons or missiles to
15 Iran, North Korea, or Syria may be submitted
16 to the President or to Congress pursuant to
17 section 123 of the Atomic Energy Act of 1954
18 (42 U.S.C. 2153),

19 (B) no such agreement may enter into
20 force with respect to such country,

21 (C) no license may be issued for export di-
22 rectly or indirectly to such country of any nu-
23 clear material, facilities, components, or other
24 goods, services, or technology that would be
25 subject to such agreement, and

1 (D) no approval may be given for the
2 transfer or retransfer directly or indirectly to
3 such country of any nuclear material, facilities,
4 components, or other goods, services, or tech-
5 nology that would be subject to such agreement,
6 until the President makes the determination and re-
7 port under paragraph (2).

8 (2) DETERMINATION AND REPORT.—The deter-
9 mination and report referred to in paragraph (1) are
10 a determination and report by the President, sub-
11 mitted to the Committee on Foreign Affairs of the
12 House of Representatives and the Committee on
13 Foreign Relations of the Senate, that—

14 (A) Iran, North Korea, or Syria, as the
15 case may, has ceased its efforts to design, de-
16 velop, or acquire a nuclear explosive device or
17 related materials or technology; or

18 (B) the government of the country that is
19 assisting the nuclear programs of Iran, North
20 Korea, or Syria, as the case may be, or trans-
21 ferring advanced conventional weapons or mis-
22 siles to Iran, North Korea, or Syria, as the case
23 may be—

24 (i) has suspended all nuclear assist-
25 ance to Iran, North Korea, or Syria, as the

1 case may be, and all transfers of advanced
2 conventional weapons and missiles to Iran,
3 North Korea, or Syria, as the case may be;
4 and

5 (ii) is committed to maintaining that
6 suspension until Iran, North Korea, or
7 Syria, as the case may be, has imple-
8 mented measures that would permit the
9 President to make the determination de-
10 scribed in subparagraph (A).

11 (b) RULES OF CONSTRUCTION.—The restrictions de-
12 scribed in subsection (a)(1)—

13 (1) shall apply in addition to all other applica-
14 ble procedures, requirements, and restrictions de-
15 scribed in the Atomic Energy Act of 1954 and other
16 applicable Acts;

17 (2) shall not be construed as affecting the valid-
18 ity of an agreement for cooperation between the
19 United States and the government of a country that
20 is in effect on the date of the enactment of this Act;
21 and

22 (3) shall not be construed as applying to assist-
23 ance for the Bushehr nuclear reactor, unless such
24 assistance is determined by the President to be con-

1 tributing to the efforts of Iran to develop nuclear
2 weapons.

3 (c) DEFINITIONS.—In this section:

4 (1) AGREEMENT FOR COOPERATION.—The term
5 “agreement for cooperation” has the meaning given
6 that term in section 11 b. of the Atomic Energy Act
7 of 1954 (42 U.S.C. 2014 b.).

8 (2) ASSISTING THE NUCLEAR PROGRAM OF
9 IRAN, NORTH KOREA, OR SYRIA.—The term “assist-
10 ing the nuclear program of Iran, North Korea, or
11 Syria” means the intentional transfer to Iran, North
12 Korea, or Syria by a government, or by a person
13 subject to the jurisdiction of a government with the
14 knowledge and acquiescence of that government, of
15 goods, services, or technology listed on the Nuclear
16 Suppliers Group Guidelines for the Export of Nu-
17 clear Material, Equipment and Technology (pub-
18 lished by the International Atomic Energy Agency as
19 Information Circular INFCIRC/254/Rev. 3/Part 1,
20 and subsequent revisions), or the Nuclear Suppliers
21 Group Guidelines for Transfers of Nuclear-Related
22 Dual-Use Equipment, Material, and Related Tech-
23 nology (published by the International Atomic En-
24 ergy Agency as Information Circular INFCIR/254/
25 Rev. 3/Part 2, and subsequent revisions).

1 (3) COUNTRY THAT IS ASSISTING THE NU-
2 CLEAR PROGRAMS OF IRAN, NORTH KOREA, OR
3 SYRIA OR TRANSFERRING ADVANCED CONVENTIONAL
4 WEAPONS OR MISSILES TO IRAN, NORTH KOREA, OR
5 SYRIA.—The term “country that is assisting the nu-
6 clear program of Iran, North Korea, or Syria or
7 transferring advanced conventional weapons or mis-
8 siles to Iran, North Korea, or Syria” means any
9 country determined by the President to be assisting
10 the nuclear program of Iran, North Korea, or Syria
11 or transferring advanced conventional weapons or
12 missiles to Iran, North Korea, or Syria.

13 (4) TRANSFER.—The term “transfer” means
14 the conveyance of technological or intellectual prop-
15 erty, or the conversion of intellectual or technological
16 advances into marketable goods, services, or articles
17 of value, developed and generated in one place, to
18 another through illegal or illicit means to a country,
19 the government of which the Secretary of State has
20 determined, for purposes of section 6(j)(1)(A) of the
21 Export Administration Act of 1979 (as in effect pur-
22 suant to the International Emergency Economic
23 Powers Act; 50 U.S.C. 1701 et seq.), section 40(d)
24 of the Arms Export Control Act (22 U.S.C.
25 2780(d)), and section 620A of the Foreign Assist-

1 ance Act of 1961 (22 U.S.C. 2371), is a government
2 that has repeatedly provided support for acts of
3 international terrorism.

4 (5) TRANSFERRING ADVANCED CONVENTIONAL
5 WEAPONS OR MISSILES TO IRAN, NORTH KOREA, OR
6 SYRIA.—The term “transferring advanced conven-
7 tional weapons or missiles to Iran, North Korea, or
8 Syria” means the intentional transfer to Iran, North
9 Korea, or Syria by a government, or by a person
10 subject to the jurisdiction of a government with the
11 knowledge and acquiescence of that government, of
12 goods, services, or technology listed on—

13 (A) the Wassenaar Arrangement list of
14 Dual Use Goods and Technologies and Muni-
15 tions list of July 12, 1996, and subsequent revi-
16 sions; or

17 (B) the Missile Technology Control Regime
18 Equipment and Technology Annex of June 11,
19 1996, and subsequent revisions.

20 **SEC. 7. IDENTIFICATION OF COUNTRIES THAT ENABLE**
21 **PROLIFERATION TO OR FROM IRAN, NORTH**
22 **KOREA, OR SYRIA.**

23 (a) ANNUAL REPORT.—The President shall transmit
24 to the appropriate congressional committees and make
25 available to the public on an annual basis a report that

1 identifies each foreign country that allows one or more for-
2 eign persons under the jurisdiction of such country to en-
3 gage in activities described in section 3 that are
4 sanctionable under section 4 despite requests by the
5 United States Government to the government of such
6 country to prevent such activities.

7 (b) FORM.—The report required under subsection (a)
8 shall be submitted in unclassified form, but may contain
9 a classified annex if necessary.

10 **SEC. 8. PROHIBITION ON UNITED STATES ASSISTANCE TO**
11 **COUNTRIES ASSISTING PROLIFERATION AC-**
12 **TIVITIES BY IRAN, NORTH KOREA, OR SYRIA.**

13 (a) IN GENERAL.—The President shall prohibit as-
14 sistance (other than humanitarian assistance) under the
15 Foreign Assistance Act of 1961 and shall not issue export
16 licenses for defense articles or defense services under the
17 Arms Export Control Act to a foreign country the govern-
18 ment of which the President has received credible informa-
19 tion is assisting Iran, North Korea, or Syria in the acquisi-
20 tion, development, or proliferation of weapons of mass de-
21 struction or ballistic missiles.

22 (b) RESUMPTION OF ASSISTANCE.—The President is
23 authorized to provide assistance described in subsection
24 (a) to a foreign country subject to the prohibition in sub-
25 section (a) if the President determines and notifies the ap-

1 appropriate congressional committees that there is credible
2 information that the government of the country is no
3 longer assisting Iran, North Korea, or Syria in the acqui-
4 sition, development, or proliferation of weapons of mass
5 destruction or ballistic missiles.

6 (c) DEFINITION.—In this section, the term “assist-
7 ing” means providing material or financial support of any
8 kind, including purchasing of material, technology or
9 equipment from Iran, North Korea, or Syria.

10 **SEC. 9. RESTRICTION ON EXTRAORDINARY PAYMENTS IN**
11 **CONNECTION WITH THE INTERNATIONAL**
12 **SPACE STATION.**

13 (a) RESTRICTION.—

14 (1) IN GENERAL.—Notwithstanding any other
15 provision of law, no agency of the United States
16 Government may make extraordinary payments in
17 connection with the International Space Station to
18 the Russian Aviation and Space Agency, any organi-
19 zation or entity under the jurisdiction or control of
20 the Russian Aviation and Space Agency, or any
21 other organization, entity, or element of the Govern-
22 ment of the Russian Federation, unless, during the
23 fiscal year in which such extraordinary payments are
24 to be made, the President has made the determina-
25 tion described in subsection (b), and reported such

1 determination to the Committee on Foreign Affairs
2 and the Committee on Science, Space, and Tech-
3 nology of the House of Representatives and the
4 Committee on Foreign Relations and the Committee
5 on Commerce, Science, and Transportation of the
6 Senate.

7 (2) WAIVER.—If the President is unable to
8 make the determination described in subsection (b)
9 with respect to a fiscal year in which extraordinary
10 payments in connection with the International Space
11 Station are to be made, the President is authorized
12 to waive the application of paragraph (1) on a case-
13 by-case basis with respect to the fiscal year if not
14 less than 15 days prior to the date on which the
15 waiver is to take effect the President submits to the
16 appropriate congressional committees a report that
17 contains—

18 (A) the reasons why the determination de-
19 scribed in subsection (b) cannot be made;

20 (B) the amount of the extraordinary pay-
21 ment to be made under the waiver;

22 (C) the steps being undertaken by the
23 United States to ensure compliance by the Rus-
24 sian Federation with the conditions described in
25 subsection (b); and

1 (D) a determination of the President that
2 the waiver is vital to the national interests of
3 the United States.

4 (b) DETERMINATION REGARDING RUSSIAN CO-
5 OPERATION IN PREVENTING PROLIFERATION RELATING
6 TO IRAN, NORTH KOREA, AND SYRIA.—The determina-
7 tion referred to in subsection (a) is a determination by
8 the President that—

9 (1) it is the policy of the Government of the
10 Russian Federation (including the law enforcement,
11 export promotion, export control, and intelligence
12 agencies of such Government) to oppose the pro-
13 liferation to or from Iran, North Korea, and Syria
14 of weapons of mass destruction and missile systems
15 capable of delivering such weapons;

16 (2) the Government of the Russian Federation
17 (including the law enforcement, export promotion,
18 export control, and intelligence agencies of such Gov-
19 ernment) has demonstrated and continues to dem-
20 onstrate a sustained commitment to seek out and
21 prevent the transfer to or from Iran, North Korea,
22 and Syria of goods, services, and technology that
23 could make a material contribution to the nuclear,
24 biological, or chemical weapons, or of ballistic or

1 cruise missile systems development programs of
2 Iran; and

3 (3) neither the Russian Aviation and Space
4 Agency, nor any organization or entity under the ju-
5 risdiction or control of the Russian Aviation and
6 Space Agency, has, during the one-year period end-
7 ing on the date of the determination under this sub-
8 section made transfers to or from Iran, North
9 Korea, or Syria reportable under section 3(a) (other
10 than transfers with respect to which a determination
11 pursuant to section 5 has been or will be made).

12 (c) PRIOR NOTIFICATION.—Not less than five days
13 before making a determination under this section, the
14 President shall notify the Committee on Foreign Affairs
15 and the Committee on Science, Space, and Technology of
16 the House of Representatives and the Committee on For-
17 eign Relations and the Committee on Commerce, Science,
18 and Transportation of the Senate of the President's inten-
19 tion to make such a determination.

20 (d) WRITTEN JUSTIFICATION.—A determination of
21 the President under this section shall include a written
22 justification describing in detail the facts and cir-
23 cumstances supporting the President's conclusion.

24 (e) TRANSMISSION IN CLASSIFIED FORM.—If the
25 President considers it appropriate, a determination of the

1 President under this section, a prior notification under
2 subsection (e), and a written justification under subsection
3 (d), or appropriate parts thereof, may be transmitted in
4 classified form.

5 (f) EXCEPTION FOR CREW SAFETY.—

6 (1) EXCEPTION.—The National Aeronautics
7 and Space Administration may make extraordinary
8 payments in connection with the International Space
9 Station to the Russian Aviation and Space Agency
10 or any organization or entity under the jurisdiction
11 or control of the Russian Aviation and Space Agen-
12 cy, or any subcontractor thereof, that would other-
13 wise be prohibited under this section if the President
14 notifies Congress in writing that such payments are
15 necessary to prevent the imminent loss of life of or
16 grievous injury to individuals aboard the Inter-
17 national Space Station.

18 (2) REPORT.—Not later than 30 days after no-
19 tifying Congress that the National Aeronautics and
20 Space Administration will make extraordinary pay-
21 ments under paragraph (1), the President shall
22 transmit to Congress a report describing—

23 (A) the extent to which the provisions of
24 subsection (b) had been met as of the date of
25 notification; and

1 (B) the measures that the National Aero-
2 nautics and Space Administration is taking to
3 ensure that—

4 (i) the conditions posing a threat of
5 imminent loss of life of or grievous injury
6 to individuals aboard the International
7 Space Station necessitating the extraor-
8 dinary payments are not repeated; and

9 (ii) it is no longer necessary to make
10 extraordinary payments in order to prevent
11 imminent loss of life of or grievous injury
12 to individuals aboard the International
13 Space Station.

14 (g) SERVICE MODULE EXCEPTION.—

15 (1) IN GENERAL.—The National Aeronautics
16 and Space Administration may make extraordinary
17 payments in connection with the International Space
18 Station to the Russian Aviation and Space Agency,
19 any organization or entity under the jurisdiction or
20 control of the Russian Aviation and Space Agency,
21 or any subcontractor thereof, that would otherwise
22 be prohibited under this section for the construction,
23 testing, preparation, delivery, launch, or mainte-
24 nance of the Service Module, and for the purchase
25 (at a total cost not to exceed \$14,000,000) of the

1 pressure dome for the Interim Control Module and
2 the Androgynous Peripheral Docking Adapter and
3 related hardware for the United States propulsion
4 module, if—

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

7 (B) no report has been made under section
8 3(a) with respect to an activity of the entity to
9 receive such payment, and the President has no
10 credible information of any activity that would
11 require such a report; and

12 (C) the United States will receive goods or
13 services of value to the United States commen-
14 surate with the value of the extraordinary pay-
15 ments made.

16 (2) DEFINITION.—For purposes of this sub-
17 section, the term “maintenance” means activities
18 that cannot be performed by the National Aero-
19 nautics and Space Administration and which must
20 be performed in order for the Service Module to pro-
21 vide environmental control, life support, and orbital
22 maintenance functions which cannot be performed
23 by an alternative means at the time of payment.

24 (3) TERMINATION.—This subsection shall cease
25 to be effective on the date that is 60 days after the

1 date on which a United States propulsion module is
2 in place at the International Space Station.

3 (h) EXCEPTION.—No agency of the United States
4 Government may make extraordinary payments in connec-
5 tion with the International Space Station, or any other
6 payments in connection with the International Space Sta-
7 tion, to any foreign person subject to measures applied
8 pursuant to section 4 of Executive Order 12938 (Novem-
9 ber 14, 1994), as amended by Executive Order 13094
10 (July 28, 1998).

11 (i) REPORT ON CERTAIN PAYMENTS RELATED TO
12 INTERNATIONAL SPACE STATION.—

13 (1) IN GENERAL.—The President shall, to-
14 gether with each report submitted under section
15 3(a), transmit to the Committee on Foreign Rela-
16 tions of the Senate and the Committee on Foreign
17 Affairs of the House of Representatives a report
18 that identifies each Russian entity or person to
19 whom the United States Government has, since No-
20 vember 22, 2005, made a payment in cash or in
21 kind for work to be performed or services to be ren-
22 dered under the Agreement Concerning Cooperation
23 on the Civil International Space Station, with annex,
24 signed at Washington January 29, 1998, and en-
25 tered into force March 27, 2001, or any protocol,

1 agreement, memorandum of understanding, or con-
2 tract related thereto.

3 (2) CONTENT.—Each report transmitted under
4 paragraph (1) shall include—

5 (A) the specific purpose of each payment
6 made to each entity or person identified in such
7 report; and

8 (B) with respect to each such payment, the
9 assessment of the President that the payment
10 was not prejudicial to the achievement of the
11 objectives of the United States Government to
12 prevent the proliferation of ballistic or cruise
13 missile systems in Iran and other countries that
14 have repeatedly provided support for acts of
15 international terrorism, as determined by the
16 Secretary of State under section 620A(a) of the
17 Foreign Assistance Act of 1961 (22 U.S.C.
18 2371(a)), section 6(j) of the Export Adminis-
19 tration Act of 1979 (50 U.S.C. App. 2405(j)),
20 or section 40(d) of the Arms Export Control
21 Act (22 U.S.C. 2780(d)).

1 **SEC. 11. PROHIBITION ON CERTAIN VESSELS LANDING IN**
2 **THE UNITED STATES; ENHANCED INSPEC-**
3 **TIONS.**

4 The Ports and Waterways Safety Act (33 U.S.C.
5 1221 et seq.) is amended by adding at the end the fol-
6 lowing:

7 **“SEC. 16. PROHIBITION ON CERTAIN VESSELS LANDING IN**
8 **THE UNITED STATES; ENHANCED INSPEC-**
9 **TIONS.**

10 “(a) CERTIFICATION REQUIREMENT.—

11 “(1) IN GENERAL.—Beginning on the date of
12 enactment of the Iran, North Korea, and Syria Non-
13 proliferation Reform and Modernization Act of
14 2011, before a vessel arrives at a port in the United
15 States, the owner, charterer, operator, or master of
16 the vessel shall certify that the vessel did not enter
17 a port in Iran, North Korea, or Syria during the
18 180-day period ending on the date of arrival of the
19 vessel at the port in the United States.

20 “(2) FALSE CERTIFICATIONS.—The Secretary
21 shall prohibit from landing at a port in the United
22 States for a period of at least 2 years—

23 “(A) any vessel for which a false certifi-
24 cation was made under section (a); and

25 “(B) any other vessel owned or operated
26 by a parent corporation, partnership, associa-

1 tion, or individual proprietorship of the vessel
2 for which the false certification was made.

3 “(b) ENHANCED INSPECTIONS.—The Secretary
4 shall—

5 “(1) identify foreign ports at which vessels have
6 landed during the preceding 12-month period that
7 have also landed at ports in Iran, North Korea, or
8 Syria during that period; and

9 “(2) inspect vessels arriving in the United
10 States from foreign ports identified under paragraph
11 (1) to establish whether the vessel was involved, dur-
12 ing the 12-month period ending on the date of ar-
13 rival of the vessel at the port in the United States,
14 in any activity that would be subject to sanctions
15 under the Iran, North Korea, and Syria Non-
16 proliferation Reform and Modernization Act of
17 2011.”.

18 **SEC. 12. SANCTIONS WITH RESPECT TO CRITICAL DEFENSE**
19 **RESOURCES PROVIDED TO OR ACQUIRED**
20 **FROM IRAN, NORTH KOREA, OR SYRIA.**

21 (a) IN GENERAL.—The President shall apply the
22 sanctions described in subsection (b) to any person the
23 President determines is, on or after the date of the enact-
24 ment of this Act, providing to, or acquiring from, Iran,
25 North Korea, or Syria any good or technology that the

1 President determines is used, or is likely to be used, for
2 military applications.

3 (b) SANCTIONS DESCRIBED.—The sanctions de-
4 scribed in this subsection are, with respect to a person
5 described in subsection (a), the following:

6 (1) FOREIGN EXCHANGE.—Prohibiting any
7 transactions in foreign exchange that are subject to
8 the jurisdiction of the United States and in which
9 that person has any interest.

10 (2) BANKING TRANSACTIONS.—Prohibiting any
11 transfers of credit or payments between financial in-
12 stitutions or by, through, or to any financial institu-
13 tion, to the extent that such transfers or payments
14 are subject to the jurisdiction of the United States
15 and involve any interest of that person.

16 (3) PROPERTY TRANSACTIONS.—Prohibiting
17 any person from—

18 (A) acquiring, holding, withholding, using,
19 transferring, withdrawing, transporting, or ex-
20 porting any property that is subject to the ju-
21 risdiction of the United States and with respect
22 to which the person described in subsection (a)
23 has any interest;

1 (B) dealing in or exercising any right,
2 power, or privilege with respect to such prop-
3 erty; or

4 (C) conducting any transaction involving
5 such property.

6 (4) LOAN GUARANTEES.—Prohibiting the head
7 of any Federal agency from providing a loan guar-
8 antee to that person.

9 (5) ADDITIONAL SANCTIONS.—Additional sanc-
10 tions, as appropriate, in accordance with the Inter-
11 national Emergency Economic Powers Act (50
12 U.S.C. 1701 et seq.).

13 (c) RESTRICTIONS ON EXPORT LICENSES FOR NU-
14 CLEAR COOPERATION AND CERTAIN LOAN GUARAN-
15 TEES.—Before issuing a license for the exportation of any
16 article pursuant to an agreement for cooperation under
17 section 123 of the Atomic Energy Act of 1954 (42 U.S.C.
18 2153) or approving a loan guarantee or any other assist-
19 ance provided by the United States Government with re-
20 spect to a nuclear energy project, the Secretary of Energy,
21 the Secretary of Commerce, and the Nuclear Regulatory
22 Commission shall certify to Congress that issuing the li-
23 cense or approving the loan guarantee or other assistance
24 (as the case may be) will not permit the transfer of any

1 good or technology described in subsection (a) to Iran,
2 North Korea, or Syria.

3 (d) EXCEPTION.—The sanctions described in sub-
4 section (b) shall not apply to the repayment or other satis-
5 faction of a loan or other obligation incurred under a pro-
6 gram of the Export-Import Bank of the United States,
7 as in effect as of the date of the enactment of this Act.

8 **SEC. 13. DEFINITIONS.**

9 In this Act:

10 (1) ADHERENT TO RELEVANT NONPROLIFERA-
11 TION REGIME.—A government is an “adherent” to a
12 “relevant nonproliferation regime” if such govern-
13 ment—

14 (A) is a member of the Nuclear Suppliers
15 Group with respect to a transfer of goods, serv-
16 ices, or technology described in section
17 3(a)(1)(A)(i);

18 (B) is a member of the Missile Technology
19 Control Regime with respect to a transfer of
20 goods, services, or technology described in sec-
21 tion 3(a)(1)(A)(ii), or is a party to a binding
22 international agreement with the United States
23 that was in effect on January 1, 1999, to con-
24 trol the transfer of such goods, services, or
25 technology in accordance with the criteria and

1 standards set forth in the Missile Technology
2 Control Regime;

3 (C) is a member of the Australia Group
4 with respect to a transfer of goods, services, or
5 technology described in section 3(a)(1)(A)(iii);

6 (D) is a party to the Convention on the
7 Prohibition of the Development, Production,
8 Stockpiling and Use of Chemical Weapons and
9 on Their Destruction with respect to a transfer
10 of goods, services, or technology described in
11 section 3(a)(1)(A)(iv); or

12 (E) is a member of the Wassenaar Ar-
13 rangement with respect to a transfer of goods,
14 services, or technology described in section
15 3(a)(1)(A)(v).

16 (2) APPROPRIATE CONGRESSIONAL COMMIT-
17 TEES.—The term “appropriate congressional com-
18 mittees” means the Committee on Foreign Affairs of
19 the House of Representatives and the Committee on
20 Foreign Relations and the Committee on Banking,
21 Housing, and Urban Affairs of the Senate.

22 (3) EXTRAORDINARY PAYMENTS IN CONNEX-
23 TION WITH THE INTERNATIONAL SPACE STATION.—
24 The term “extraordinary payments in connection
25 with the International Space Station” means pay-

1 ments in cash or in kind made or to be made by the
2 United States Government—

3 (A) for work on the International Space
4 Station which the Government of the Russian
5 Federation pledged at any time to provide at its
6 expense, or

7 (B) for work on the International Space
8 Station, or for the purchase of goods or services
9 relating to human space flight, that are not re-
10 quired to be made under the terms of a con-
11 tract or other agreement that was in effect on
12 January 1, 1999, as such terms were in effect
13 on such date,

14 except that such term does not mean payments in
15 cash or in kind made or to be made by the United
16 States Government before December 31, 2020, for
17 work to be performed or services to be rendered be-
18 fore such date necessary to meet United States obli-
19 gations under the Agreement Concerning Coopera-
20 tion on the Civil International Space Station, with
21 annex, signed at Washington January 29, 1998, and
22 entered into force March 27, 2001, or any protocol,
23 agreement, memorandum of understanding, or con-
24 tract related thereto.

1 (4) FOREIGN PERSON.—The term “foreign per-
2 son” means—

3 (A) a natural person who is an alien;

4 (B) a corporation, business association,
5 partnership, society, trust, or any other non-
6 governmental entity, organization, or group,
7 successor, subunit, or subsidiary organized
8 under the laws of a foreign country or that has
9 its principal place of business in a foreign coun-
10 try; and

11 (C)(i) any foreign government; or

12 (ii) any foreign government agency or enti-
13 ty.

14 (5) KNOWINGLY.—The term “knowingly”, with
15 respect to conduct, a circumstance, or a result,
16 means that a person has actual knowledge, or should
17 have known, of the conduct, the circumstance, or the
18 result of such conduct, circumstance, or result.

19 (6) ORGANIZATION OR ENTITY UNDER THE JU-
20 RISDICTION OR CONTROL OF THE RUSSIAN AVIATION
21 AND SPACE AGENCY.—

22 (A) DEFINITION.—The term “organization
23 or entity under the jurisdiction or control of the
24 Russian Aviation and Space Agency” means an
25 organization or entity that—

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

4 (ii) was transferred to the Russian
5 Space Agency by decree of the Government
6 of the Russian Federation on July 25,
7 1994, or May 12, 1998;

8 (iii) was or is transferred to the Rus-
9 sian Aviation and Space Agency or Rus-
10 sian Space Agency by decree of the Gov-
11 ernment of the Russian Federation at any
12 other time before, on, or after March 14,
13 2000; or

14 (iv) is a joint stock company in which
15 the Russian Aviation and Space Agency or
16 Russian Space Agency has at any time
17 held controlling interest.

18 (B) EXTENSION.—Any organization or en-
19 tity described in subparagraph (A) shall be
20 deemed to be under the jurisdiction or control
21 of the Russian Aviation and Space Agency re-
22 gardless of whether—

23 (i) such organization or entity, after
24 being part of or transferred to the Russian
25 Aviation and Space Agency or Russian

1 Space Agency, is removed from or trans-
2 ferred out of the Russian Aviation and
3 Space Agency or Russian Space Agency; or
4 (ii) the Russian Aviation and Space
5 Agency or Russian Space Agency, after
6 holding a controlling interest in such orga-
7 nization or entity, divests its controlling in-
8 terest.

9 (7) SUBSIDIARY.—The term “subsidiary”
10 means an entity (including a partnership, associa-
11 tion, trust, joint venture, corporation, or other orga-
12 nization) of a parent company that controls, directly
13 or indirectly, the other entity.

14 (8) TRANSFER OR TRANSFERRED.—The term
15 “transfer” or “transferred”, with respect to a good,
16 service, or technology, includes—

17 (A) the conveyance of technological or in-
18 tellectual property; and

19 (B) the conversion of technological or intel-
20 lectual advances into marketable goods, serv-
21 ices, or technology of value that is developed
22 and generated in one location and transferred
23 to another location through illegal or illicit
24 means.

1 (9) UNITED STATES PERSON.—The term
2 “United States person” means—

3 (A) a natural person who is a citizen or
4 resident of the United States; or

5 (B) an entity that is organized under the
6 laws of the United States or any State or terri-
7 tory thereof.

8 (10) VESSEL.—The term “vessel” has the
9 meaning given such term in section 1081 of title 18,
10 United States Code. Such term also includes air-
11 craft, regardless of whether or not the type of air-
12 craft at issue is described in such section.

13 (11) TECHNICAL ASSISTANCE.—The term
14 “technical assistance” means providing of advice, as-
15 sistance, and training pertaining to the installation,
16 operation, and maintenance of equipment for desta-
17 bilizing types and forms of conventional weapons.

18 **SEC. 14. REPEAL OF IRAN, NORTH KOREA, AND SYRIA NON-**
19 **PROLIFERATION ACT.**

20 (a) REPEAL.—The Iran, North Korea, and Syria
21 Nonproliferation Act (50 U.S.C. 1701 note) is repealed.

22 (b) REFERENCES.—Any reference in a law, regula-
23 tion, document, or other record of the United States to

1 the Iran, North Korea, and Syria Nonproliferation Act
2 shall be deemed to be a reference to this Act.

Passed the House of Representatives December 14,
2011.

Attest:

Clerk.

112TH CONGRESS
1ST SESSION

H. R. 2105

AN ACT

To provide for the application of measures to foreign persons who transfer to Iran, North Korea, and Syria certain goods, services, or technology, and for other purposes.