

113TH CONGRESS
1ST SESSION

H. R. 3766

To amend the Atomic Energy Act of 1954 to require congressional approval of agreements for peaceful nuclear cooperation with foreign countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Ms. ROS-LEHTINEN (for herself and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Atomic Energy Act of 1954 to require congressional approval of agreements for peaceful nuclear cooperation with foreign countries, 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. REQUIREMENT FOR CONGRESSIONAL AP-**
2 **PROVAL OF AGREEMENTS FOR PEACEFUL**
3 **NUCLEAR COOPERATION.**

4 (a) COOPERATION WITH OTHER NATIONS.—Section
5 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153)
6 is amended—

7 (1) in the matter preceding subsection a., by
8 striking “No cooperation” and inserting “Subject to
9 subsection f., no cooperation”;

10 (2) in subsection a.—

11 (A) in paragraph (3), by inserting “or ac-
12 quired from any other source” after “pursuant
13 to such agreement” each place it appears;

14 (B) in paragraph (4)—

15 (i) by striking “or terminates or” and
16 inserting “, terminates,”; and

17 (ii) by inserting “, or violates or abro-
18 gates any provision contained within such
19 agreement” after “IAEA safeguards”;

20 (C) in paragraph (6), by inserting “or ac-
21 quired from any other source” after “agree-
22 ment” each place it appears;

23 (D) in paragraph (8), by striking “and” at
24 the end;

25 (E) in paragraph (9), by striking the pe-
26 riod at the end and inserting a semicolon; and

1 (F) by inserting after paragraph (9) the
2 following new paragraphs:

3 “(10) a guaranty by the cooperating party
4 that no nationals of a third country shall be
5 permitted access to any reactor, related equip-
6 ment, or sensitive materials transferred under
7 the agreement for cooperation without the prior
8 consent of the United States; and

9 “(11) a commitment to maintain and, in
10 the case of a country without such a legal re-
11 gime in place, a commitment to enact at the
12 earliest possible date, and in no case later than
13 one year after the agreement enters into force,
14 a legal regime providing for adequate protection
15 from civil liability that will allow for the partici-
16 pation of United States suppliers in any effort
17 by the country to develop civilian nuclear
18 power.”;

19 (3) in the matter following paragraph (11) (as
20 added by paragraph (2)(F) of this subsection), by
21 striking “The President may exempt a proposed
22 agreement for cooperation” and all that follows
23 through “common defense and security.”;

24 (4) in subsection e., by striking “and” at the
25 end;

1 (5) in subsection d.—

2 (A) in the first sentence—

3 (i) by striking “not” the first and sec-
4 ond place it appears;

5 (ii) by inserting “only” after “effec-
6 tive” the first place it appears; and

7 (iii) by striking “: *Provided further,*”
8 and all that follows through “such agree-
9 ment” and inserting “, unless the proposed
10 agreement includes a requirement as part
11 of the agreement for cooperation or other
12 legally binding document that is considered
13 part of the agreement that no enrichment
14 or reprocessing activities, or acquisition or
15 construction of facilities for such activities,
16 will occur within the territory over which
17 the cooperating party exercises sovereignty,
18 in which case the agreement shall become
19 effective unless the Congress adopts, and
20 there is enacted, a joint resolution of dis-
21 approval (1) during such 60-day period for
22 a new agreement; or (2) during a period of
23 30 days of continuous session for a re-
24 newal agreement”; and

1 (B) by striking the final period and insert-
2 ing “; and”;

3 (6) by redesignating subsection e. as subsection
4 f.;

5 (7) by inserting immediately after subsection d.
6 the following new subsection:

7 “e. the cooperating party—

8 “(1) has acceded to and is fully imple-
9 menting the provisions and guidelines of—

10 “(A) the Convention on the Prohibi-
11 tion of the Development, Production,
12 Stockpiling and Use of Chemical Weapons
13 and on their Destruction (commonly
14 known as the ‘Chemical Weapons Conven-
15 tion’);

16 “(B) the Convention on the Prohibi-
17 tion of the Development, Production and
18 Stockpiling of Bacteriological and Toxin
19 Weapons and on their Destruction (com-
20 monly known as the ‘Biological Weapons
21 Convention’); and

22 “(C) all other international agree-
23 ments to which the United States is a
24 party regarding the export of nuclear,
25 chemical, biological, and advanced conven-

1 tional weapons, including missiles and
2 other delivery systems;

3 “(2) has established and is fully imple-
4 menting an effective export control system, in-
5 cluding fully implementing the provisions and
6 guidelines of United Nations Security Council
7 Resolution 1540;

8 “(3) is in full compliance with all United
9 Nations conventions to which the United States
10 is a party and all Security Council resolutions
11 regarding the prevention of the proliferation of
12 weapons of mass destruction, including—

13 “(A) the Convention on the Physical
14 Protection of Nuclear Material; and

15 “(B) the United Nations International
16 Convention for the Suppression of Acts of
17 Nuclear Terrorism;

18 “(4) is not a Destination of Diversion Con-
19 cern under section 303 of the Comprehensive
20 Iran Sanctions, Accountability, and Divestment
21 Act of 2010 (Public Law 111–195);

22 “(5) is closely cooperating with the United
23 States to prevent state sponsors of terrorism
24 (the term ‘state sponsor of terrorism’ means a
25 country the government of which has been de-

1 terminated by the Secretary of State, for pur-
2 poses of section 6(j) of the Export Administra-
3 tion Act of 1979, section 620A of the Foreign
4 Assistance Act of 1961, section 40 of the Arms
5 Export Control Act, or other provision of law,
6 is a government that has repeatedly provided
7 support for acts of international terrorism)
8 from—

9 “(A) acquiring or developing chemical,
10 biological, or nuclear weapons or related
11 technologies; or

12 “(B) acquiring or developing destabi-
13 lizing numbers and types of advanced
14 conventional weapons, including ballistic
15 missiles; and

16 “(6) has signed, ratified, and is fully im-
17 plementing an Additional Protocol to its safe-
18 guards agreement with the International Atom-
19 ic Energy Agency.”; and

20 (8) by adding after subsection f. (as redesign-
21 nated by paragraph (6) of this subsection) the fol-
22 lowing new subsection:

23 “g. For purposes of this section—

24 “(1) the term ‘new agreement’ means an
25 agreement for cooperation with a country with

1 respect to which the United States has not, on
2 or after the date of the enactment of this sub-
3 section, entered into such an agreement; and

4 “(2) the term ‘renewal agreement’ means
5 an agreement for cooperation with a country
6 with respect to which the United States has, be-
7 fore the date of the enactment of this sub-
8 section, entered into such an agreement.”.

9 (b) SUBSEQUENT ARRANGEMENTS.—Section 131
10 a.(1) of such Act (42 U.S.C. 2160 a.(1)) is amended—

11 (1) in the second sentence, by striking “secu-
12 rity,” and all that follows through “publication.”
13 and inserting “security.”; and

14 (2) by inserting after the second sentence the
15 following new sentences: “Such subsequent arrange-
16 ment shall become effective only if Congress enacts
17 a joint resolution of approval according to the proce-
18 dures of sections 123 d. and 130 i. of this Act. Any
19 such nuclear proliferation assessment statement
20 shall be submitted to the Committee on Foreign Af-
21 fairs of the House of Representatives and the Com-
22 mittee on Foreign Relations of the Senate not later
23 than the 31st day of continuous session after sub-
24 mission of the subsequent arrangement.”.

1 **SEC. 2. WITHDRAWAL FROM THE TREATY ON THE NON-**
2 **PROLIFERATION OF NUCLEAR WEAPONS.**

3 (a) STATEMENT OF POLICY.—It is the policy of the
4 United States to oppose the withdrawal from the Treaty
5 on the Non-Proliferation of Nuclear Weapons (in this sec-
6 tion referred to as the “Treaty”) of any country that is
7 a party to the Treaty and to use all political, economic,
8 and diplomatic means at its disposal to deter, prevent, or
9 reverse any such withdrawal from the Treaty.

10 (b) PROHIBITION ON CERTAIN ASSISTANCE.—Not-
11 withstanding any other provision of law, no assistance
12 (other than humanitarian assistance) under any provision
13 of law may be provided to a country that has withdrawn
14 from the Treaty on or after the date of the enactment
15 of this Act.

16 (c) RETURN OF ALL UNITED STATES-ORIGIN MATE-
17 RIALS AND EQUIPMENT.—The United States shall seek
18 the return of any material, equipment, or components
19 transferred under an agreement for civil nuclear coopera-
20 tion that is in force pursuant to section 123 of the Atomic
21 Energy Act of 1954 (42 U.S.C. 2153) on or after the date
22 of the enactment of this Act, and any special fissionable
23 material produced through the use of such material, equip-
24 ment, or components, previously provided to a country
25 that withdraws from the Treaty.

1 **SEC. 3. REPORT ON COMPARABILITY OF NONPROLIFERA-**
2 **TION CONDITIONS BY FOREIGN NUCLEAR**
3 **SUPPLIERS.**

4 Not later than 180 days after the date of the enact-
5 ment of this Act, the President shall transmit to the Com-
6 mittee on Foreign Affairs of the House of Representatives
7 and the Committee on Foreign Relations of the Senate
8 a report on the extent to which each country that engages
9 in civil nuclear exports (including power and research nu-
10 clear reactors) requires nuclear nonproliferation require-
11 ments as conditions for export comparable to those under
12 this Act. Such report shall also—

13 (1) detail the extent to which the exports of
14 each such country incorporate United States-origin
15 components, technology, or materials that require
16 United States approval for re-export;

17 (2) detail the civil nuclear-related trade and in-
18 vestments in the United States by any entity from
19 each such country; and

20 (3) list any United States grant, concessionary
21 loan or loan guarantee, or any other incentive or in-
22 ducement to any such country or entity related to
23 nuclear exports or investments in the United States.

1 **SEC. 4. INITIATIVES AND NEGOTIATIONS RELATING TO**
2 **AGREEMENTS FOR PEACEFUL NUCLEAR CO-**
3 **OPERATION.**

4 Subsection f. of section 123 of the Atomic Energy
5 Act of 1954 (42 U.S.C. 2153), as redesignated pursuant
6 to section 1(a)(6) of this Act, is amended to read as fol-
7 lows:

8 “f. The President shall keep the Committee on
9 Foreign Affairs of the House of Representatives and
10 the Committee on Foreign Relations of the Senate
11 fully and currently informed of any initiative or ne-
12 negotiations relating to a new or amended agreement
13 for peaceful nuclear cooperation pursuant to this
14 section prior to the President’s announcement of
15 such initiative or negotiations. The President shall
16 consult with such Committees concerning such ini-
17 tiative or negotiations beginning not later than 15
18 calendar days after the initiation of any such nego-
19 tiations, or the receipt or transmission of a draft
20 agreement, whichever occurs first, and monthly
21 thereafter until such time as the negotiations are
22 concluded. At such monthly intervals the President
23 shall also provide such Committees with the current
24 working drafts and proposed text put forward for
25 negotiation by the parties for inclusion in such
26 agreement.”.

1 **SEC. 5. CONDUCT RESULTING IN TERMINATION OF NU-**
2 **CLEAR EXPORTS.**

3 Paragraph (2) of section 129 a. of the Atomic Energy
4 Act of 1954 (42 U.S.C. 2158 a.) is amended—

5 (1) in subparagraph (C), by inserting “or” after
6 the semicolon; and

7 (2) by inserting after subparagraph (C) the fol-
8 lowing new subparagraph:

9 “(D) been determined to be a ‘country of
10 proliferation concern’ under section 1055(g)(2)
11 of the National Defense Authorization Act for
12 Fiscal Year 2010 (50 U.S.C. 2371(g)(2));”.

13 **SEC. 6. CONGRESSIONAL REVIEW PROCEDURES.**

14 Section 130 i.(1) of the Atomic Energy Act of 1954
15 (42 U.S.C. 2159) is amended—

16 (1) by redesignating subparagraphs (B) and
17 (C) as subparagraphs (C) and (D), respectively; and

18 (2) by inserting after subparagraph (A) the fol-
19 lowing new subparagraph:

20 “(B) for an agreement for cooperation pur-
21 suant to section 123 of this Act, a joint resolu-
22 tion, the matter after the resolving clause of
23 which—

24 “(i) is as follows: ‘That the Congress
25 does favor the proposed agreement for co-
26 operation transmitted to the Congress by

1 the President on _____.’;

2 and

3 “(ii) includes, immediately after the
4 language specified in clause (i), any other
5 provisions to accompany such proposed
6 agreement for cooperation.”.

7 **SEC. 7. REQUIREMENT OF LIABILITY PROTECTION FOR**
8 **UNITED STATES NUCLEAR SUPPLIERS.**

9 The Atomic Energy Act of 1954 is amended by in-
10 serting after section 134 (42 U.S.C. 2160d) the following
11 new section:

12 **“SEC. 135. REQUIREMENT OF LIABILITY PROTECTION FOR**
13 **UNITED STATES NUCLEAR SUPPLIERS.**

14 “The President may not issue a license for the export
15 of nuclear material, facilities, components, or other goods,
16 services, or technology to a country pursuant to an agree-
17 ment that has entered into force after the date of the en-
18 actment of this section unless the President determines
19 that such country has liability protection for United States
20 nuclear suppliers that is equivalent to the liability protec-
21 tion specified under the Convention on Supplementary
22 Compensation for Nuclear Damage.”.

1 **SEC. 8. PROHIBITION ON ASSISTANCE TO STATE SPONSORS**
2 **OF PROLIFERATION OF WEAPONS OF MASS**
3 **DESTRUCTION.**

4 (a) PROHIBITION ON ASSISTANCE.—The United
5 States shall not provide any assistance under Public Law
6 87–195, Public Law 90–629, the Food for Peace Act, the
7 Peace Corps Act, or the Export-Import Bank Act of 1945
8 to any country if the Secretary of State determines that
9 the government of the country has repeatedly provided
10 support for acts of proliferation of equipment, technology,
11 or materials to support the design, acquisition, manufac-
12 ture, or use of weapons of mass destruction or the acquisi-
13 tion or development of ballistic missiles to carry such
14 weapons.

15 (b) PUBLICATION OF DETERMINATIONS.—Each de-
16 termination of the Secretary of State under subsection (a)
17 shall be published in the Federal Register.

18 (c) RESCISSION.—A determination of the Secretary
19 of State under subsection (a) may not be rescinded unless
20 the Secretary submits to the Committee on Foreign Af-
21 fairs of the House of Representatives and the Committee
22 on Foreign Relations of the Senate—

23 (1) before the proposed rescission would take
24 effect, a report certifying that—

1 (A) there has been a fundamental change
2 in the leadership and policies of the government
3 of the country concerned;

4 (B) the government is not supporting acts
5 of proliferation of equipment, technology, or
6 materials to support the design, acquisition,
7 manufacture, or use of weapons of mass de-
8 struction or the acquisition or development of
9 ballistic missiles to carry such weapons; and

10 (C) the government has provided assur-
11 ances that it will not support such acts in the
12 future; or

13 (2) at least 45 days before the proposed rescis-
14 sion would take effect, a report justifying the rescis-
15 sion and certifying that—

16 (A) the government of the country con-
17 cerned has not provided any support for acts of
18 proliferation of equipment, technology, or mate-
19 rials to support the design, acquisition, manu-
20 facture, or use of weapons of mass destruction
21 or the acquisition or development of ballistic
22 missiles to carry such weapons during the pre-
23 ceding 24-month period; and

1 (B) the government has provided assur-
2 ances that it will not support such acts of pro-
3 liferation in the future.

4 (d) WAIVER.—The President may waive the require-
5 ments of subsection (a) on a case-by-case basis if—

6 (1) the President determines that national secu-
7 rity interests or humanitarian reasons justify a waiv-
8 er of such requirements, except that humanitarian
9 reasons may not be used to justify the waiver of
10 such requirements to provide security assistance
11 under Public Law 87–195, Public Law 90–629, or
12 the Export-Import Bank Act of 1945; and

13 (2) at least 15 days before the waiver takes ef-
14 fect, the President consults with the congressional
15 committees specified in subsection (c) regarding the
16 proposed waiver and submits to the appropriate con-
17 gressional committees a report containing—

18 (A) the name of the recipient country;

19 (B) a description of the national security
20 interests or humanitarian reasons that require
21 the waiver;

22 (C) the type and amount of and the jus-
23 tification for the assistance to be provided pur-
24 suant to the waiver; and

1 (D) the period of time during which such
2 waiver will be effective.

3 **SEC. 9. ADDITIONAL PROTOCOL AS A CRITERION FOR**
4 **UNITED STATES ASSISTANCE.**

5 (a) STATEMENT OF POLICY.—It is the policy of the
6 United States to ensure that each country that is a party
7 to the Treaty on the Non-Proliferation of Nuclear Weap-
8 ons should bring into force an Additional Protocol to its
9 safeguards agreement with the IAEA.

10 (b) CRITERION FOR ASSISTANCE.—The United
11 States shall, when considering the provision of assistance
12 under Public Law 87–195 or Public Law 90–629 to a
13 country that is a party to the Treaty on the Nonprolifera-
14 tion of Nuclear Weapons, take into consideration whether
15 the proposed recipient has in force an Additional Protocol
16 to its safeguards agreement with the IAEA.

17 **SEC. 10. SENSE OF CONGRESS.**

18 It is the sense of Congress that the President should
19 ensure that participation in international nuclear pro-
20 grams conducted by the United States is limited to the
21 greatest extent practicable to governmental and non-
22 governmental participants from countries that have adopt-
23 ed nonproliferation provisions in their nuclear cooperation
24 and nuclear export control policies comparable to the poli-

1 cies specified in section 123 of the Atomic Energy Act (42
2 U.S.C. 2153), as amended by this Act.

○