

112TH CONGRESS
1ST SESSION

H. R. 1280

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

MARCH 31, 2011

Ms. ROS-LEHTINEN (for herself, Mr. BERMAN, Mr. ROYCE, Mr. SHERMAN, Mr. FORTENBERRY, and Mr. MARKEY) 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 adding at the end the following new
2 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) if the cooperating party does not op-
10 erate, as of April 1, 2011, enrichment or re-
11 processing facilities, a requirement as part of
12 the agreement for cooperation or other legally
13 binding document that is considered part of the
14 agreement that no enrichment or reprocessing
15 activities, or acquisition or construction of fa-
16 cilities for such activities, will occur within the
17 territory over which the cooperating party exer-
18 cises sovereignty.”;

19 (3) in subsection c., by striking “and” at the
20 end;

21 (4) in subsection d.—

22 (A) in the first sentence—

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

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

3 (iii) by striking “: *Provided further*,”
4 and all that follows through “such agree-
5 ment”; and

6 (B) by striking the final period and insert-
7 ing “; and”;

8 (5) by redesignating subsection e. as subsection
9 f.; and

10 (6) by inserting immediately after subsection d.
11 the following new subsection:

12 “e. the cooperating party—

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

15 “(A) the Convention on the Prohibi-
16 tion of the Development, Production,
17 Stockpiling and Use of Chemical Weapons
18 and on their Destruction (commonly
19 known as the ‘Chemical Weapons Conven-
20 tion’);

21 “(B) the Convention on the Prohibi-
22 tion of the Development, Production and
23 Stockpiling of Bacteriological and Toxin
24 Weapons and on their Destruction (com-

1 monly known as the ‘Biological Weapons
2 Convention’); and

3 “(C) all other international agree-
4 ments to which the United States is a
5 party regarding the export of nuclear,
6 chemical, biological, and advanced conven-
7 tional weapons, including missiles and
8 other delivery systems;

9 “(2) has established and is fully imple-
10 menting an effective export control system, in-
11 cluding fully implementing the provisions and
12 guidelines of United Nations Security Council
13 Resolution 1540;

14 “(3) is in full compliance with all United
15 Nations conventions to which the United States
16 is a party and all Security Council resolutions
17 regarding the prevention of the proliferation of
18 weapons of mass destruction, including—

19 “(A) the Convention on the Physical
20 Protection of Nuclear Material; and

21 “(B) the United Nations International
22 Convention for the Suppression of Acts of
23 Nuclear Terrorism;

24 “(4) is not a Destination of Diversion Con-
25 cern under section 303 of the Comprehensive

1 Iran Sanctions, Accountability, and Divestment
2 Act of 2010 (Public Law 111–195);

3 “(5) is closely cooperating with the United
4 States to prevent state sponsors of terrorism
5 (the term ‘state sponsor of terrorism’ means a
6 country the government of which has been de-
7 termined by the Secretary of State, for pur-
8 poses of section 6(j) of the Export Administra-
9 tion Act of 1979, section 620A of the Foreign
10 Assistance Act of 1961, section 40 of the Arms
11 Export Control Act, or other provision of law,
12 is a government that has repeatedly provided
13 support for acts of international terrorism)
14 from—

15 “(A) acquiring or developing chemical,
16 biological, or nuclear weapons or related
17 technologies; or

18 “(B) acquiring or developing desta-
19 bilizing numbers and types of advanced
20 conventional weapons, including ballistic
21 missiles; and

22 “(6) has signed, ratified, and is fully im-
23 plementing an Additional Protocol to its safe-
24 guards agreement with the International Atom-
25 ic Energy Agency.”.

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

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

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

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

19 (a) STATEMENT OF POLICY.—It is the policy of the
20 United States to oppose the withdrawal of any country
21 that is a party to the Treaty on the Non-Proliferation of
22 Nuclear Weapons (in this section referred to as the “Trea-
23 ty”) and to use all political, economic, and diplomatic
24 means at its disposal to deter, prevent, or reverse any such
25 withdrawal from the Treaty.

1 (b) PROHIBITION ON CERTAIN ASSISTANCE.—Not-
2 withstanding any other provision of law, no assistance
3 (other than humanitarian assistance) under any provision
4 of law may be provided to a country that has withdrawn
5 from the Treaty.

6 (c) RETURN OF ALL UNITED STATES-ORIGIN MATE-
7 RIALS AND EQUIPMENT.—The United States shall seek
8 the return of any material, equipment, or components
9 transferred under an agreement for civil nuclear coopera-
10 tion that is in force pursuant to section 123 of the Atomic
11 Energy Act of 1954 (42 U.S.C. 2153) on or after the date
12 of the enactment of this Act, and any special fissionable
13 material produced through the use of such material, equip-
14 ment, or components previously provided to a country that
15 withdraws from the Treaty.

16 **SEC. 3. REPORT ON COMPARABILITY OF NONPROLIFERA-**
17 **TION CONDITIONS BY FOREIGN NUCLEAR**
18 **SUPPLIERS.**

19 Not later than 180 days after the date of the enact-
20 ment of this Act, the President shall transmit to the Com-
21 mittee on Foreign Affairs of the House of Representatives
22 and the Committee on Foreign Relations of the Senate
23 a report on the extent to which each country that engages
24 in civil nuclear exports (including power and research nu-
25 clear reactors) requires nuclear nonproliferation require-

1 ments as conditions for export comparable to those under
2 this Act. Such report shall also—

3 (1) detail the extent to which the exports of
4 each such country incorporate United States-origin
5 components, technology, or materials that require
6 United States approval for re-export;

7 (2) detail the civil nuclear-related trade and in-
8 vestments in the United States by any entity from
9 each such country; and

10 (3) list any United States grant, concessionary
11 loan or loan guarantee, or any other incentive or in-
12 ducement to any such country or entity related to
13 nuclear exports or investments in the United States.

14 **SEC. 4. INITIATIVES AND NEGOTIATIONS RELATING TO**
15 **AGREEMENTS FOR PEACEFUL NUCLEAR CO-**
16 **OPERATION.**

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

21 “f. The President shall keep the Committee on
22 Foreign Affairs of the House of Representatives and
23 the Committee on Foreign Relations of the Senate
24 fully and currently informed of any initiative or ne-
25 gotiations relating to a new or amended agreement

1 for peaceful nuclear cooperation pursuant to this
2 section prior to the President’s announcement of
3 such initiative or negotiations. The President shall
4 consult with the Committee on Foreign Affairs of
5 the House of Representatives and the Committee on
6 Foreign Relations of the Senate concerning such ini-
7 tiative or negotiations beginning not later than 15
8 calendar days after the initiation of any such nego-
9 tiations, or the receipt or transmission of a draft
10 agreement, whichever occurs first, and monthly
11 thereafter until such time as the negotiations are
12 concluded.”.

13 **SEC. 5. CONDUCT RESULTING IN TERMINATION OF NU-**
14 **CLEAR EXPORTS.**

15 Section 129 a. (2) of the Atomic Energy Act of 1954
16 (42 U.S.C. 2158) is amended—

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

19 (2) by inserting after subparagraph (C) the fol-
20 lowing new subparagraph:

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

1 **SEC. 6. CONGRESSIONAL REVIEW PROCEDURES.**

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

4 (1) by redesignating subparagraphs (B) and
5 (C) as subparagraphs (C) and (D), respectively; and

6 (2) by inserting after subparagraph (A) the fol-
7 lowing new subparagraph:

8 “(B) for an agreement for cooperation pur-
9 suant to section 123 of this Act, a joint resolu-
10 tion, the matter after the resolving clause of
11 which—

12 “(i) is as follows: ‘That the Congress
13 does favor the proposed agreement for co-
14 operation transmitted to the Congress by
15 the President on _____.’;
16 and

17 “(ii) includes, immediately after the
18 language specified in clause (i), any other
19 provisions to accompany such proposed
20 agreement for cooperation.”.

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

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

1 **“SEC. 135. REQUIREMENT OF LIABILITY PROTECTION FOR**
2 **UNITED STATES NUCLEAR SUPPLIERS.**

3 “The President may not issue a license for the export
4 of nuclear material, facilities, components, or other goods,
5 services, or technology to a country pursuant to an agree-
6 ment that has entered into force after the date of the en-
7 actment of this Act unless the President determines that
8 such country has liability protection for United States nu-
9 clear suppliers that is equivalent to the liability protection
10 specified under the Convention on Supplementary Com-
11 pensation for Nuclear Damage.”.

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