

115TH CONGRESS
1ST SESSION

H. R. 4017

To authorize the President to take actions to ensure Israel is prepared for all contingencies if Iran seeks to develop a nuclear weapon after expiration of certain provisions of the Joint Comprehensive Plan of Action, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2017

Mr. GOTTHEIMER (for himself and Mr. MAST) introduced the following bill;
which was referred to the Committee on Foreign Affairs

A BILL

To authorize the President to take actions to ensure Israel is prepared for all contingencies if Iran seeks to develop a nuclear weapon after expiration of certain provisions of the Joint Comprehensive Plan of Action, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States-Israel
5 Common Defense Authorization Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

(1) There are numerous provisions in the Joint Comprehensive Plan of Action that will expire over the next decade, including the following:

(A) By 2025, limitations on the number of IR-1 cascade configurations, as well as restrictions on Uranium testing with older centrifuge models IR-4, 5, 6, and 8, will be lifted.

(B) By 2026, the cap on 5,060 IR-1 centrifuges at Iran’s Natanz facility, as well as the prohibition on replacing IR-1 centrifuges with more advanced models, will expire.

(C) After 15 years, the ban on building heavy water reactors and a reprocessing plant becomes “voluntary”.

(2) Although Iran will remain subject to the restrictions contained in the Additional Protocol to the Treaty on the Non-Proliferation of Nuclear Weapons, there are concerns that Iran’s breakout time could be accelerated as a result of the expiration of several provisions of the Joint Comprehensive Plan of Action.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that the United States should—

1 (1) seek to extend the provisions in the Joint
2 Comprehensive Plan of Action described in subpara-
3 graphs (A), (B), and (C) of section 2(1), including
4 through engagement in multilateral diplomatic ini-
5 tiatives, without abrogating the Joint Comprehensive
6 Plan of Action;

7 (2) ensure that Israel and other allies are pre-
8 pared for all contingencies should Iran pursue devel-
9 opment of a nuclear weapon after expiration of pro-
10 visions in the Joint Comprehensive Plan of Action
11 described in subparagraphs (A), (B), and (C) of
12 paragraph (1); and

13 (3) send a clear signal to Iran that development
14 of a nuclear weapon will never be tolerated.

15 **SEC. 4. STUDY AND REPORT.**

16 (a) STUDY.—The President, acting through the Sec-
17 retary of Defense, shall seek to conduct a study with the
18 Government of Israel on the military requirements of
19 Israel to defend itself against Iran’s pursuit of a nuclear
20 weapon, including the extent to which the transfer of
21 United States ordnance to Israel, upon expiration of the
22 provisions in the Joint Comprehensive Plan of Action de-
23 scribed in subparagraphs (A), (B), and (C) of section 2(1),
24 would advance the national interests of both countries.

1 (b) REPORT.—Not later than 180 days after the date
 2 of the enactment of this Act, the President shall submit
 3 to Congress a report that contains the results of the study
 4 required under subsection (a).

5 (c) FORM.—The report required by subsection (b)
 6 shall be submitted in unclassified form but may include
 7 a classified annex.

8 **SEC. 5. ACTIONS TO ENSURE ISRAEL IS PREPARED FOR**
 9 **ALL CONTINGENCIES IF IRAN SEEKS TO DE-**
 10 **VELOP A NUCLEAR WEAPON AFTER EXPIRA-**
 11 **TION OF CERTAIN PROVISIONS OF THE JOINT**
 12 **COMPREHENSIVE PLAN OF ACTION.**

13 (a) IN GENERAL.—Subject to the preliminary condi-
 14 tions described in subsection (b), the President is author-
 15 ized to take the actions described in subsection (c), upon
 16 the request of the Government of Israel, to ensure Israel
 17 is prepared for all contingencies if Iran seeks to develop
 18 a nuclear weapon after expiration of provisions in the
 19 Joint Comprehensive Plan of Action described in subpara-
 20 graphs (A), (B), and (C) of section 2(1).

21 (b) PRELIMINARY CONDITIONS.—The President may
 22 exercise the authority of subsection (a) only if the Presi-
 23 dent first determines and certifies to Congress that—

24 (1) it is consistent with the results of the study
 25 and report required under section 4 to do so; and

1 (2) it is vital to the national security interests
2 of the United States to do so.

3 (c) ACTIONS DESCRIBED.—The actions described in
4 this subsection are the following:

5 (1) To provide for the construction of infra-
6 structure in Israel to accommodate large ordnance
7 systems that are designed to destroy underground
8 nuclear infrastructure, including—

9 (A) construction of extended runways for
10 aircraft that carry the Massive Ordnance Pene-
11 trator (MOP);

12 (B) basing options for such aircraft; and

13 (C) munition storage facilities.

14 (2)(A) Not earlier than January 1, 2026, to
15 store in the territory of Israel the MOP or related
16 munitions described in paragraph (1), to be used by
17 the United States except as provided in subpara-
18 graph (B).

19 (B) Not earlier than January 1, 2026, to trans-
20 fer the MOP or related munitions described in para-
21 graph (1) to Israeli custody if the President deter-
22 mines and certifies to Congress that—

23 (i) Iran—

1 (I) is in noncompliance with the NPT
2 Safeguards Agreement on or after January
3 1, 2026;

4 (II) has withdrawn from provisional
5 implementation of the Additional Protocol
6 to the Joint Comprehensive Plan of Action;

7 (III) has modified its implementation
8 of the NPT Safeguards Agreement (includ-
9 ing modified Code 3.1); or

10 (IV) as determined by the President
11 in consultation with the Director General
12 of the International Atomic Energy Agen-
13 cy, has reduced access of inspectors of the
14 Agency in such a manner so as to be prej-
15 udicial to the Agency's ability to provide
16 confidence as to the non-diversion of de-
17 clared nuclear material and absence of
18 undeclared nuclear activities;

19 (ii) it is vital to the national security of the
20 United States to do so;

21 (iii) Israel has no other means to achieve
22 a mutual national security objective of destroy-
23 ing Iran's underground nuclear infrastructure
24 or facilities; and

1 (iv) a dual key control system is in place
2 requiring approval by the President, acting
3 through the Secretary of Defense (which may
4 not be further delegated) for deployment of the
5 MOP or related munitions described in para-
6 graph (1) prior to Israeli deployment of such
7 munitions.

8 (3) To provide for training of Israeli personnel
9 with respect to the MOP or related munitions de-
10 scribed in paragraph (1).

11 (4) To conduct joint research and development
12 with Israel to—

13 (A) enhance United States ordnance; and

14 (B) develop Israeli capability for ordnance
15 to destroy underground infrastructure, includ-
16 ing Hezbollah rocket storage and manufac-
17 turing facilities and underground Iranian nu-
18 clear facilities.

19 **SEC. 6. RULE OF CONSTRUCTION.**

20 Nothing in this Act shall be construed to serve as
21 an authorization for the use of military force against Iran.

22 **SEC. 7. DEFINITIONS.**

23 In this Act:

24 (1) **JOINT COMPREHENSIVE PLAN OF ACTION.**—

25 The term “Joint Comprehensive Plan of Action”

1 means the Joint Comprehensive Plan of Action,
2 agreed to at Vienna July 14, 2015, by Iran and by
3 the People’s Republic of China, France, Germany,
4 the Russian Federation, the United Kingdom and
5 the United States, with the High Representative of
6 the European Union for Foreign Affairs and Secu-
7 rity Policy, and all implementing materials and
8 agreements related to the Joint Comprehensive Plan
9 of Action, and transmitted by the President to Con-
10 gress on July 19, 2015, pursuant to section 135(a)
11 of the Atomic Energy Act of 1954, as amended by
12 the Iran Nuclear Agreement Review Act of 2015
13 (Public Law 114–17; 129 Stat. 201).

14 (2) NPT SAFEGUARDS AGREEMENT.—The term
15 “NPT Safeguards Agreement” means the Agree-
16 ment between Iran and the International Atomic
17 Energy Agency for the Application of Safeguards in
18 Connection with the Treaty on the Non-Proliferation
19 of Nuclear Weapons, which entered into force on
20 May 15, 1974.

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