

115TH CONGRESS
2D SESSION

H. R. 7351

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 19, 2018

Mr. SHERMAN (for himself and Ms. ROS-LEHTINEN) 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Cooperation
5 Agreements Reform Act of 2018”.

1 **SEC. 2. REQUIREMENT FOR CONGRESSIONAL APPROVAL**
2 **OF AGREEMENTS FOR PEACEFUL NUCLEAR**
3 **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;

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 for cooperation
14 enters into force, a legal regime providing for
15 adequate protection from civil liability that will
16 allow for the participation of United States sup-
17 pliers in any effort by the country to develop ci-
18 vilian nuclear power;

19 “(12) a political commitment that is part
20 of the agreement for cooperation, or another le-
21 gally binding document that is considered part
22 of the agreement, that no enrichment or reproc-
23 essing activities, or acquisition or construction
24 of such facilities, will occur within the territory

1 over which the cooperating party exercises sov-
2 ereignty; and

3 “(13) a duration of not longer than 15
4 years.”;

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

7 (4) in subsection d., by striking the final period
8 and inserting “; and”;

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

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

13 “e. the cooperating party—

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

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

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

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

“(C) all other international agreements to which the United States is a party regarding the export of nuclear, chemical, biological, and advanced conventional weapons, including missiles and other delivery systems;

“(2) has established and is fully implementing an effective export control system, including fully implementing the provisions and guidelines of United Nations Security Council Resolution 1540;

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

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

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

“(4) is not a Destination of Diversion Concern under section 303 of the Comprehensive

1 Iran Sanctions, Accountability, and Divestment
2 Act of 2010 (22 U.S.C. 8543; Public Law 111–
3 195);

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

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

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

23 “(6) has signed, ratified, and is fully im-
24 plementing an Additional Protocol to its safe-

1 guards agreement with the International Atom-
2 ic Energy Agency.”.

3 (b) SUBSEQUENT ARRANGEMENTS.—

4 (1) JOINT RESOLUTION OF APPROVAL RE-
5 QUIRED.—Paragraph (1) of section 131 a. of such
6 Act (42 U.S.C. 2160 a.) is amended—

7 (A) in the second sentence, by striking “se-
8 curity,” and all that follows through “publica-
9 tion.” and inserting “security.”; and

10 (B) by inserting after the second sentence
11 the following new sentences: “Such subsequent
12 arrangement shall become effective only if Con-
13 gress enacts a joint resolution of approval ac-
14 cording to the procedures of sections 123 d.
15 and 130 i. of this Act. Any such nuclear pro-
16 liferation assessment statement shall be sub-
17 mitted to the Committee on Foreign Affairs of
18 the House of Representatives and the Com-
19 mittee on Foreign Relations of the Senate not
20 later than the 31st day of continuous session
21 after submission of the subsequent arrange-
22 ment.”.

23 (2) RENEWALS AND EXTENSIONS.—Paragraph
24 (2) of such section 131 a. is amended—

1 (A) in subparagraph (F), by striking “;
2 or” at the end and inserting a semicolon;

3 (B) by redesignating subparagraph (G) as
4 subparagraph (H); and

5 (C) by inserting after subparagraph (F)
6 the following new subparagraph:

7 “(G) an agreement to renew or to extend
8 the duration of an agreement under section
9 123; or”.

10 (3) CLARIFICATION OF APPLICABILITY.—The
11 amendments made by this subsection shall also
12 apply to any renewal or extension described in sub-
13 paragraph (G) of section 131 a. (2) (as added by
14 paragraph (2) of this subsection) of an agreement
15 pursuant to section 123 of such Act (42 U.S.C.
16 2153) that is in effect on the day before the date of
17 the enactment of this section.

18 **SEC. 3. WITHDRAWAL FROM THE TREATY ON THE NON-**
19 **PROLIFERATION OF NUCLEAR WEAPONS.**

20 (a) STATEMENT OF POLICY.—It is the policy of the
21 United States to oppose the withdrawal from the Treaty
22 on the Non-Proliferation of Nuclear Weapons (in this sec-
23 tion referred to as the “Treaty”) of any country that is
24 a party to the Treaty and to use all political, economic,

1 and diplomatic means at its disposal to deter, prevent, or
2 reverse any such withdrawal from the Treaty.

3 (b) PROHIBITION ON CERTAIN ASSISTANCE.—Not-
4 withstanding any other provision of law, no assistance
5 (other than humanitarian assistance) under any provision
6 of law may be provided to a country that has withdrawn
7 from the Treaty on or after the date of the enactment
8 of this Act.

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

19 **SEC. 4. REPORT ON COMPARABILITY OF NONPROLIFERA-**
20 **TION CONDITIONS BY FOREIGN NUCLEAR**
21 **SUPPLIERS.**

22 Not later than 180 days after the date of the enact-
23 ment of this Act, the President shall transmit to the Com-
24 mittee on Foreign Affairs of the House of Representatives
25 and the Committee on Foreign Relations of the Senate

1 a report on the extent to which each country that engages
2 in civil nuclear exports (including power and research nu-
3 clear reactors) requires nuclear nonproliferation require-
4 ments as conditions for export comparable to those under
5 the Atomic Energy Act of 1954, as amended by this Act.

6 Such report shall also—

7 (1) detail the extent to which the exports of
8 each such country incorporate United States-origin
9 components, technology, or materials that require
10 United States approval for re-export;

11 (2) detail the civil nuclear-related trade and in-
12 vestments in the United States by any entity from
13 each such country; and

14 (3) list any United States grant, concessionary
15 loan or loan guarantee, or any other incentive or in-
16 ducement to any such country or entity related to
17 nuclear exports or investments in the United States.

18 **SEC. 5. INITIATIVES AND NEGOTIATIONS RELATING TO**
19 **AGREEMENTS FOR PEACEFUL NUCLEAR CO-**
20 **OPERATION.**

21 Subsection f. of section 123 of the Atomic Energy
22 Act of 1954 (42 U.S.C. 2153), as redesignated pursuant
23 to section 2(a)(6) of this Act, is amended to read as fol-
24 lows:

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

20 **SEC. 6. CONDUCT RESULTING IN TERMINATION OF NU-**
21 **CLEAR EXPORTS.**

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

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

1 (2) by inserting immediately after subpara-
2 graph (C) the following new subparagraph:

3 “(D) been identified as a foreign country
4 included in the most recent report required
5 under section 234 of the National Defense Au-
6 thorization Act for Fiscal Year 1998 (50 U.S.C.
7 2367);”.

8 **SEC. 7. CONGRESSIONAL REVIEW PROCEDURES.**

9 Paragraph (1) of section 130 i. of the Atomic Energy
10 Act of 1954 (42 U.S.C. 2159 i.) is amended in the flush
11 left margin following subparagraph (C) by adding at the
12 end the following new sentence: “If such affirmative
13 phrase is selected, such joint resolution may include any
14 other provisions to accompany such proposed agreement
15 for cooperation.”.

16 **SEC. 8. PROHIBITION ON ASSISTANCE TO STATE SPONSORS**
17 **OF PROLIFERATION OF WEAPONS OF MASS**
18 **DESTRUCTION.**

19 (a) PROHIBITION ON ASSISTANCE.—The United
20 States may not provide any assistance under the Foreign
21 Assistance Act of 1961, the Arms Export Control Act, the
22 Foreign Military Sales Act, the Food for Peace Act, the
23 Peace Corps Act, or the Export-Import Bank Act of 1945
24 to any country if the Secretary of State determines that
25 the government of the country has repeatedly provided

1 support for acts of proliferation of equipment, technology,
2 or materials to support the design, acquisition, manufac-
3 ture, or use of weapons of mass destruction or the acquisi-
4 tion or development of missiles to carry such weapons.

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

8 (c) RESCISSION.—A determination of the Secretary
9 of State under subsection (a) may not be rescinded unless
10 the Secretary submits to the Committee on Foreign Af-
11 fairs of the House of Representatives and the Committee
12 on Foreign Relations of the Senate—

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

15 (A) there has been a fundamental change
16 in the leadership and policies of the government
17 of the country concerned;

18 (B) the government is not supporting acts
19 of proliferation of equipment, technology, or
20 materials to support the design, acquisition,
21 manufacture, or use of weapons of mass de-
22 struction or the acquisition or development of
23 missiles to carry such weapons; and

1 (C) the government has provided assur-
2 ances that it will not support such acts in the
3 future; or

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

7 (A) the government of the country con-
8 cerned has not provided any support for acts of
9 proliferation of equipment, technology, or mate-
10 rials to support the design, acquisition, manu-
11 facture, or use of weapons of mass destruction
12 or the acquisition or development of missiles to
13 carry such weapons during the preceding 24-
14 month period; and

15 (B) the government has provided assur-
16 ances that it will not support such acts of pro-
17 liferation in the future.

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

20 (1) the President determines that national secu-
21 rity interests or humanitarian reasons justify a waiv-
22 er of such requirements, except that humanitarian
23 reasons may not be used to justify the waiver of
24 such requirements to provide security assistance
25 under the Foreign Assistance Act of 1961, the Arms

1 Export Control Act, the Foreign Military Sales Act,
2 or the Export-Import Bank Act of 1945; and

3 (2) at least 15 days before the waiver takes ef-
4 fect, the President consults with the congressional
5 committees specified in subsection (c) regarding the
6 proposed waiver and transmits to the congressional
7 committees a report containing—

8 (A) the name of the recipient country;

9 (B) a description of the national security
10 interests or humanitarian reasons that require
11 the waiver;

12 (C) the type and amount of, and the jus-
13 tification for, the assistance to be provided pur-
14 suant to the waiver; and

15 (D) the period of time during which the
16 waiver will be effective.

17 **SEC. 9. ADDITIONAL PROTOCOL AS A CRITERION FOR**
18 **UNITED STATES ASSISTANCE.**

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

24 (b) CRITERION FOR ASSISTANCE.—The United
25 States shall, when considering the provision of assistance

1 under the Foreign Assistance Act of 1961, the Arms Ex-
2 port Control Act, or the Foreign Military Sales Act to a
3 country that is a party to the Treaty on the Nonprolifera-
4 tion of Nuclear Weapons, take into consideration whether
5 the proposed recipient has in force an Additional Protocol
6 to its safeguards agreement with the IAEA.

7 **SEC. 10. SENSE OF CONGRESS.**

8 It is the sense of Congress that the President should
9 ensure that participation in international nuclear pro-
10 grams conducted by the United States is limited to the
11 greatest extent practicable to governmental and non-
12 governmental participants from countries that have adopt-
13 ed nonproliferation provisions in their nuclear cooperation
14 and nuclear export control policies comparable to the poli-
15 cies specified in section 123 of the Atomic Energy Act (42
16 U.S.C. 2153), as amended by this Act.

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