

115TH CONGRESS
2D SESSION

H. R. 5357

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 21, 2018

Ms. ROS-LEHTINEN (for herself, Mr. SHERMAN, Mr. POE of Texas, and Mr. KEATING) 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 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; and

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

1 which the cooperating party exercises sov-
2 ereignty.”;

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

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

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

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

11 “e. the cooperating party—

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

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

20 “(B) the Convention on the Prohibi-
21 tion of the Development, Production and
22 Stockpiling of Bacteriological and Toxin
23 Weapons and on their Destruction (com-
24 monly known as the ‘Biological Weapons
25 Convention’); and

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

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

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

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

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

22 “(4) is not a Destination of Diversion Con-
23 cern under section 303 of the Comprehensive
24 Iran Sanctions, Accountability, and Divestment

1 Act of 2010 (22 U.S.C. 8543; Public Law 111–
2 195);

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.”; and

(7) by adding after subsection f. (as redesignated by paragraph (5) of this subsection) the following new subsection:

“g. For purposes of this section—

“(1) the term ‘new agreement’ means an agreement for cooperation with a country with respect to which the United States has, after March 20, 2018, entered into such an agreement; and

“(2) the term ‘renewal agreement’ means an agreement for cooperation with a country with respect to which the United States has, before the date of the enactment of this subsection, entered into such an agreement.”.

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

(1) in the second sentence, by striking “security,” and all that follows through “publication.” and inserting “security.”; and

(2) by inserting after the second sentence the following new sentences: “Such subsequent arrangement shall become effective only if Congress enacts a joint resolution of approval according to the procedures of sections 123 d. and 130 i. of this Act. Any such nuclear proliferation assessment statement

1 shall be submitted to the Committee on Foreign Af-
2 fairs of the House of Representatives and the Com-
3 mittee on Foreign Relations of the Senate not later
4 than the 31st day of continuous session after sub-
5 mission of the subsequent arrangement.”.

6 **SEC. 3. WITHDRAWAL FROM THE TREATY ON THE NON-**
7 **PROLIFERATION OF NUCLEAR WEAPONS.**

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

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

21 (c) RETURN OF ALL UNITED STATES-ORIGIN MATE-
22 RIALS AND EQUIPMENT.—The United States shall seek
23 the return of any material, equipment, or components
24 transferred under an agreement for civil nuclear coopera-
25 tion that is in force pursuant to section 123 of the Atomic

1 Energy Act of 1954 (42 U.S.C. 2153) on or after the date
2 of the enactment of this Act, and any special fissionable
3 material produced through the use of such material, equip-
4 ment, or components, previously provided to a country
5 that withdraws from the Treaty.

6 **SEC. 4. REPORT ON COMPARABILITY OF NONPROLIFERA-**
7 **TION CONDITIONS BY FOREIGN NUCLEAR**
8 **SUPPLIERS.**

9 Not later than 180 days after the date of the enact-
10 ment of this Act, the President shall transmit to the Com-
11 mittee on Foreign Affairs of the House of Representatives
12 and the Committee on Foreign Relations of the Senate
13 a report on the extent to which each country that engages
14 in civil nuclear exports (including power and research nu-
15 clear reactors) requires nuclear nonproliferation require-
16 ments as conditions for export comparable to those under
17 the Atomic Energy Act of 1954, as amended by this Act.
18 Such report shall also—

- 19 (1) detail the extent to which the exports of
20 each such country incorporate United States-origin
21 components, technology, or materials that require
22 United States approval for re-export;
- 23 (2) detail the civil nuclear-related trade and in-
24 vestments in the United States by any entity from
25 each such country; and

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

5 **SEC. 5. INITIATIVES AND NEGOTIATIONS RELATING TO**
6 **AGREEMENTS FOR PEACEFUL NUCLEAR CO-**
7 **OPERATION.**

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

12 “f. The President shall keep the Committee on
13 Foreign Affairs of the House of Representatives and
14 the Committee on Foreign Relations of the Senate
15 fully and currently informed of any initiative or ne-
16 gotiations relating to a new or amended agreement
17 for peaceful nuclear cooperation pursuant to this
18 section prior to the President’s announcement of
19 such initiative or negotiations. The President shall
20 consult with such Committees concerning such ini-
21 tiative or negotiations beginning not later than 15
22 calendar days after the initiation of any such nego-
23 tiations, or the receipt or transmission of a draft
24 agreement, whichever occurs first, and monthly
25 thereafter until such time as the negotiations are

1 concluded. At such monthly intervals the President
2 shall also provide such Committees with the current
3 working drafts and proposed text put forward for
4 negotiation by the parties for inclusion in such
5 agreement.”.

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

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

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

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

14 “(D) been identified as a foreign country
15 included in the most recent report required
16 under section 234 of the National Defense Au-
17 thorization Act for Fiscal Year 1998 (50 U.S.C.
18 2367);”.

19 **SEC. 7. CONGRESSIONAL REVIEW PROCEDURES.**

20 Paragraph (1) of section 130 i. of the Atomic Energy
21 Act of 1954 (42 U.S.C. 2159 i.) is amended in the flush
22 left matter following subparagraph (C) by adding at the
23 end the following new sentence: “If such affirmative
24 phrase is selected, such joint resolution may include any

1 other provisions to accompany such proposed agreement
2 for cooperation.”.

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

6 (a) PROHIBITION ON ASSISTANCE.—The United
7 States may not provide any assistance under the Foreign
8 Assistance Act of 1961, the Arms Export Control Act, the
9 Foreign Military Sales Act, the Food for Peace Act, the
10 Peace Corps Act, or the Export-Import Bank Act of 1945
11 to any country if the Secretary of State determines that
12 the government of the country has repeatedly provided
13 support for acts of proliferation of equipment, technology,
14 or materials to support the design, acquisition, manufac-
15 ture, or use of weapons of mass destruction or the acquisi-
16 tion or development of missiles to carry such weapons.

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

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

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

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

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

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

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

18 (A) the government of the country con-
19 cerned has not provided any support for acts of
20 proliferation of equipment, technology, or mate-
21 rials to support the design, acquisition, manu-
22 facture, or use of weapons of mass destruction
23 or the acquisition or development of missiles to
24 carry such weapons during the preceding 24-
25 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 the Foreign Assistance Act of 1961, the Arms
12 Export Control Act, the Foreign Military Sales Act,
13 or the Export-Import Bank Act of 1945; and

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

19 (A) the name of the recipient country;

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

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

1 (D) the period of time during which the
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 the Foreign Assistance Act of 1961, the Arms Ex-
13 port Control Act, or the Foreign Military Sales Act to a
14 country that is a party to the Treaty on the Nonprolifera-
15 tion of Nuclear Weapons, take into consideration whether
16 the proposed recipient has in force an Additional Protocol
17 to its safeguards agreement with the IAEA.

18 **SEC. 10. SENSE OF CONGRESS.**

19 It is the sense of Congress that the President should
20 ensure that participation in international nuclear pro-
21 grams conducted by the United States is limited to the
22 greatest extent practicable to governmental and non-
23 governmental participants from countries that have adopt-
24 ed nonproliferation provisions in their nuclear cooperation
25 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.

