115TH CONGRESS
2D SESSION
H. R. 11

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

Ms. ROS-LEHTINEN (for herself, Mr. SHERMAN, Mr. POE, and Mr. KEATING)
introduced the following bill; which was referred to the Committee on

A BILL

To amend the Atomic Energy Act of 1954 to require con-
gressional approval of agreements for peaceful nuclear
cooperation with foreign countries, and for other pur-
poses.

1 Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Nuclear Cooperation

4 Reform Act of 2018”.

5
SEC. 2. REQUIREMENT FOR CONGRESSIONAL APPROVAL
OF AGREEMENTS FOR PEACEFUL NUCLEAR
COOPERATION.

(a) Cooperation With Other Nations.—Section
is amended—

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

(2) in subsection a.—

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

(B) in paragraph (4)—

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

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

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

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

(E) in paragraph (9), by striking the pe-
riod at the end and inserting a semicolon; and
(F) by inserting after paragraph (9) the following new paragraphs:

“(10) a guaranty by the cooperating party that no nationals of a third country shall be permitted access to any reactor, related equipment, or sensitive materials transferred under the agreement for cooperation without the prior consent of the United States;

“(11) a commitment to maintain and, in the case of a country without such a legal regime in place, a commitment to enact at the earliest possible date, and in no case later than one year after the agreement enters into force, a legal regime providing for adequate protection from civil liability that will allow for the participation of United States suppliers in any effort by the country to develop civilian nuclear power; and

“(12) a commitment to maintain and, in the case of a country without such a legal regime in place, a commitment to enact at the earliest possible date, and in no case later than one year after the agreement enters into force, a legal regime providing for a prohibition on enrichment or reprocessing activities, or acquisi-
tion or construction of facilities for such activi-
ties, within the territory over which the coopera-
ting party exercises sovereignty.”;

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

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

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

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

“e. the cooperating party—

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

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

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

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

“(2) has established and is fully imple-
menting an effective export control system, in-
cluding 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 Con-
cern under section 303 of the Comprehensive
Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8543; Public Law 111–195);

“(5) is closely cooperating with the United States to prevent state sponsors of terrorism (the term ‘state sponsor of terrorism’ means a country the government of which has been determined by the Secretary of State, for purposes of section 6(j) of the Export Administration Act of 1979, section 620A of the Foreign Assistance Act of 1961, section 40 of the Arms Export Control Act, or other provision of law, is a government that has repeatedly provided support for acts of international terrorism) from—

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

“(B) acquiring or developing destabilizing numbers and types of advanced conventional weapons, including ballistic missiles; and

“(6) has signed, ratified, and is fully implementing an Additional Protocol to its safe-
guards agreement with the International Atomic 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 proce-
dures of sections 123 d. and 130 i. of this Act. Any
such nuclear proliferation assessment statement
shall be submitted to the Committee on Foreign Af-
fairs of the House of Representatives and the Com-
mittee on Foreign Relations of the Senate not later
than the 31st day of continuous session after sub-
mission of the subsequent arrangement.”.

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

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

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

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

SEC. 4. REPORT ON COMPARABILITY OF NONPROLIFERATION CONDITIONS BY FOREIGN NUCLEAR SUPPLIERS.

Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the extent to which each country that engages in civil nuclear exports (including power and research nuclear reactors) requires nuclear nonproliferation requirements as conditions for export comparable to those under the Atomic Energy Act of 1954, as amended by this Act.

Such report shall also—

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

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

SEC. 5. INITIATIVES AND NEGOTIATIONS RELATING TO AGREEMENTS FOR PEACEFUL NUCLEAR OPERATION.

Subsection f. of section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), as redesignated pursuant to section 2(a)(6) of this Act, is amended to read as follows:

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

SEC. 6. CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS.

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

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

(2) by inserting immediately after subparagraph (C) the following new subparagraph:

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

SEC. 7. CONGRESSIONAL REVIEW PROCEDURES.

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

SEC. 8. PROHIBITION ON ASSISTANCE TO STATE SPONSORS OF PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

(a) Prohibition on Assistance.—The United States may not provide any assistance under the Foreign Assistance Act of 1961, the Arms Export Control Act, the Foreign Military Sales Act, the Food for Peace Act, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country if the Secretary of State determines that the government of the country has repeatedly provided support for acts of proliferation of equipment, technology, or materials to support the design, acquisition, manufacture, or use of weapons of mass destruction or the acquisition or development of missiles to carry such weapons.

(b) Publication of Determinations.—Each determination of the Secretary of State under subsection (a) shall be published in the Federal Register.

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

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

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

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

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

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

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

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

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

(1) the President determines that national secu-

rity interests or humanitarian reasons justify a waiv-

er of such requirements, except that humanitarian

reasons may not be used to justify the waiver of

such requirements to provide security assistance

under the Foreign Assistance Act of 1961, the Arms

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

(2) at least 15 days before the waiver takes ef-

fect, the President consults with the congressional

committees specified in subsection (c) regarding the

proposed waiver and transmits to the congressional

committees a report containing—

(A) the name of the recipient country;

(B) a description of the national security

interests or humanitarian reasons that require

the waiver;
(C) the type and amount of, and the justification for, the assistance to be provided pursuant to the waiver; and

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

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

(a) Statement of Policy.—It is the policy of the United States to ensure that each country that is a party to the Treaty on the Non-Proliferation of Nuclear Weapons should bring into force an Additional Protocol to its safeguards agreement with the IAEA.

(b) Criterion for Assistance.—The United States shall, when considering the provision of assistance under the Foreign Assistance Act of 1961, the Arms Export Control Act, or the Foreign Military Sales Act to a country that is a party to the Treaty on the Nonproliferation of Nuclear Weapons, take into consideration whether the proposed recipient has in force an Additional Protocol to its safeguards agreement with the IAEA.

SEC. 10. SENSE OF CONGRESS.

It is the sense of Congress that the President should ensure that participation in international nuclear programs conducted by the United States is limited to the greatest extent practicable to governmental and non-
governmental participants from countries that have adopted nonproliferation provisions in their nuclear cooperation and nuclear export control policies comparable to the policies specified in section 123 of the Atomic Energy Act (42 U.S.C. 2153), as amended by this Act.