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(Original Signature of Member)

115TH CONGRESS
2D SESSION

H. R.

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 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 enters into force,
14 a legal regime providing for adequate protection
15 from civil liability that will allow for the partici-
16 pation of United States suppliers in any effort
17 by the country to develop civilian nuclear
18 power; and

19 “(12) a commitment to maintain and, in
20 the case of a country without such a legal re-
21 gime in place, a commitment to enact at the
22 earliest possible date, and in no case later than
23 one year after the agreement enters into force,
24 a legal regime providing for a prohibition on en-
25 richment or reprocessing activities, or acquisi-

1 tion or construction of facilities for such activi-
2 ties, within the territory over which the cooper-
3 ating party exercises sovereignty.”;

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

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

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

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 (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.”; and

3 (7) by adding after subsection f. (as redesign-
4 nated by paragraph (5) of this subsection) the fol-
5 lowing new subsection:

6 “g. For purposes of this section—

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

12 “(2) the term ‘renewal agreement’ means
13 an agreement for cooperation with a country
14 with respect to which the United States has, be-
15 fore the date of the enactment of this sub-
16 section, entered into such an agreement.”.

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

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

22 (2) by inserting after the second sentence the
23 following new sentences: “Such subsequent arrange-
24 ment shall become effective only if Congress enacts
25 a joint resolution of approval according to the proce-

1 transferred under an agreement for civil nuclear coopera-
2 tion that is in force pursuant to section 123 of the Atomic
3 Energy Act of 1954 (42 U.S.C. 2153) on or after the date
4 of the enactment of this Act, and any special fissionable
5 material produced through the use of such material, equip-
6 ment, or components, previously provided to a country
7 that withdraws from the Treaty.

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

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

21 (1) detail the extent to which the exports of
22 each such country incorporate United States-origin
23 components, technology, or materials that require
24 United States approval for re-export;

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

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

8 **SEC. 5. INITIATIVES AND NEGOTIATIONS RELATING TO**
9 **AGREEMENTS FOR PEACEFUL NUCLEAR CO-**
10 **OPERATION.**

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

15 “f. The President shall keep the Committee on
16 Foreign Affairs of the House of Representatives and
17 the Committee on Foreign Relations of the Senate
18 fully and currently informed of any initiative or ne-
19 negotiations relating to a new or amended agreement
20 for peaceful nuclear cooperation pursuant to this
21 section prior to the President’s announcement of
22 such initiative or negotiations. The President shall
23 consult with such Committees concerning such ini-
24 tiative or negotiations beginning not later than 15
25 calendar days after the initiation of any such nego-

1 tiations, or the receipt or transmission of a draft
2 agreement, whichever occurs first, and monthly
3 thereafter until such time as the negotiations are
4 concluded. At such monthly intervals the President
5 shall also provide such Committees with the current
6 working drafts and proposed text put forward for
7 negotiation by the parties for inclusion in such
8 agreement.”.

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

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

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

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

17 “(D) been identified as a foreign country
18 included in the most recent report required
19 under section 234 of the National Defense Au-
20 thorization Act for Fiscal Year 1998 (50 U.S.C.
21 2367);”.

22 **SEC. 7. CONGRESSIONAL REVIEW PROCEDURES.**

23 Paragraph (1) of section 130 i. of the Atomic Energy
24 Act of 1954 (42 U.S.C. 2159 i.) is amended in the flush
25 left matter following subparagraph (C) by adding at the

1 end the following new sentence: “If such affirmative
2 phrase is selected, such joint resolution may include any
3 other provisions to accompany such proposed agreement
4 for cooperation.”.

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

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

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

22 (c) RESCISSION.—A determination of the Secretary
23 of State under subsection (a) may not be rescinded unless
24 the Secretary submits to the Committee on Foreign Af-

1 fairs of the House of Representatives and the Committee
2 on Foreign Relations of the Senate—

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

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

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

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

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

20 (A) the government of the country con-
21 cerned has not provided any support for acts of
22 proliferation of equipment, technology, or mate-
23 rials to support the design, acquisition, manu-
24 facture, or use of weapons of mass destruction
25 or the acquisition or development of missiles to

1 carry such weapons during the preceding 24-
2 month period; and

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

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

8 (1) the President determines that national secu-
9 rity interests or humanitarian reasons justify a waiv-
10 er of such requirements, except that humanitarian
11 reasons may not be used to justify the waiver of
12 such requirements to provide security assistance
13 under the Foreign Assistance Act of 1961, the Arms
14 Export Control Act, the Foreign Military Sales Act,
15 or the Export-Import Bank Act of 1945; and

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

21 (A) the name of the recipient country;

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

1 (C) the type and amount of, and the jus-
2 tification for, the assistance to be provided pur-
3 suant to the waiver; and

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

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

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

13 (b) CRITERION FOR ASSISTANCE.—The United
14 States shall, when considering the provision of assistance
15 under the Foreign Assistance Act of 1961, the Arms Ex-
16 port Control Act, or the Foreign Military Sales Act to a
17 country that is a party to the Treaty on the Nonprolifera-
18 tion of Nuclear Weapons, take into consideration whether
19 the proposed recipient has in force an Additional Protocol
20 to its safeguards agreement with the IAEA.

21 **SEC. 10. SENSE OF CONGRESS.**

22 It is the sense of Congress that the President should
23 ensure that participation in international nuclear pro-
24 grams conducted by the United States is limited to the
25 greatest extent practicable to governmental and non-

1 governmental participants from countries that have adopt-
2 ed nonproliferation provisions in their nuclear cooperation
3 and nuclear export control policies comparable to the poli-
4 cies specified in section 123 of the Atomic Energy Act (42
5 U.S.C. 2153), as amended by this Act.