

Union Calendar No. 502

112TH CONGRESS
2^D SESSION

H. R. 1280

[Report No. 112-507, Part I]

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 31, 2011

Ms. ROS-LEHTINEN (for herself, Mr. BERMAN, Mr. ROYCE, Mr. SHERMAN, Mr. FORTENBERRY, and Mr. MARKEY) 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

MAY 30, 2012

Reported from the Committee on Foreign Affairs with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MAY 30, 2012

Referral to the Committee on Rules extended for a period ending not later than October 1, 2012

MAY 30, 2012

Referred to the Committee on Energy and Commerce for a period ending not later than October 1, 2012, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X

OCTOBER 1, 2012

Additional sponsors: Mr. BURTON of Indiana, Mr. FLAKE, Mr. CHABOT, and Mr. CONYERS

OCTOBER 1, 2012

The Committees on Rules and Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 31, 2011]

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. REQUIREMENT FOR CONGRESSIONAL AP-**
4 **PROVAL OF AGREEMENTS FOR PEACEFUL NU-**
5 **CLEAR COOPERATION.**

6 *(a) COOPERATION WITH OTHER NATIONS.—Section*
7 *123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153)*
8 *is amended—*

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

12 *(2) in subsection a.—*

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

16 *(B) in paragraph (4)—*

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

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

22 *(C) in paragraph (6), by inserting “or ac-*
23 *quired from any other source” after “agreement”*
24 *each place it appears;*

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

3 (E) in paragraph (9), by striking the period
4 at the end and inserting a semicolon; and

5 (F) by inserting after paragraph (9) the fol-
6 lowing new paragraphs:

7 “(10) a guaranty by the cooperating party
8 that no nationals of a third country shall be per-
9 mitted access to any reactor, related equipment,
10 or sensitive materials transferred under the
11 agreement for cooperation without the prior con-
12 sent of the United States; and

13 “(11) a commitment to maintain and, in
14 the case of a country without such a legal regime
15 in place, a commitment to enact at the earliest
16 possible date, and in no case later than one year
17 after the agreement enters into force, a legal re-
18 gime providing for adequate protection from
19 civil liability that will allow for the participa-
20 tion of United States suppliers in any effort by
21 the country to develop civilian nuclear power.”;

22 (3) in the matter following paragraph (11) (as
23 added by paragraph (2)(F) of this subsection), by
24 striking “The President may exempt a proposed

1 *agreement for cooperation” and all that follows*
2 *through “common defense and security.”;*

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

5 *(5) in subsection d.—*

6 *(A) in the first sentence—*

7 *(i) by striking “not” the first and sec-*
8 *ond place it appears;*

9 *(ii) by inserting “only” after “effec-*
10 *tive” the first place it appears; and*

11 *(iii) by striking “: Provided further,”*
12 *and all that follows through “such agree-*
13 *ment” and inserting “, unless the proposed*
14 *agreement includes a requirement as part of*
15 *the agreement for cooperation or other le-*
16 *gally binding document that is considered*
17 *part of the agreement that no enrichment or*
18 *reprocessing activities, or acquisition or*
19 *construction of facilities for such activities,*
20 *will occur within the territory over which*
21 *the cooperating party exercises sovereignty,*
22 *in which case the agreement shall become ef-*
23 *fective unless the Congress adopts, and there*
24 *is enacted, a joint resolution of disapproval*
25 *(1) during such sixty-day period for a new*

1 *agreement; or (2) during a period of 30*
2 *days of continuous session for a renewal*
3 *agreement”; and*

4 *(B) by striking the final period and insert-*
5 *ing “; and”;*

6 *(6) by redesignating subsection e. as subsection*
7 *f.;*

8 *(7) by inserting immediately after subsection d.*
9 *the following new subsection:*

10 *“e. the cooperating party—*

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

13 *“(A) the Convention on the Prohibition*
14 *of the Development, Production, Stockpiling*
15 *and Use of Chemical Weapons and on their*
16 *Destruction (commonly known as the*
17 *‘Chemical Weapons Convention’);*

18 *“(B) the Convention on the Prohibition*
19 *of the Development, Production and Stock-*
20 *piling of Bacteriological and Toxin Weap-*
21 *ons and on their Destruction (commonly*
22 *known as the ‘Biological Weapons Conven-*
23 *tion’); and*

24 *“(C) all other international agreements*
25 *to which the United States is a party re-*

1 *garding the export of nuclear, chemical, bio-*
2 *logical, and advanced conventional weap-*
3 *ons, including missiles and other delivery*
4 *systems;*

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

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

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

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

20 “(4) *is not a Destination of Diversion Con-*
21 *cern under section 303 of the Comprehensive*
22 *Iran Sanctions, Accountability, and Divestment*
23 *Act of 2010 (Public Law 111–195);*

24 “(5) *is closely cooperating with the United*
25 *States to prevent state sponsors of terrorism (the*

1 *term ‘state sponsor of terrorism’ means a coun-*
2 *try the government of which has been determined*
3 *by the Secretary of State, for purposes of section*
4 *6(j) of the Export Administration Act of 1979,*
5 *section 620A of the Foreign Assistance Act of*
6 *1961, section 40 of the Arms Export Control Act,*
7 *or other provision of law, is a government that*
8 *has repeatedly provided support for acts of inter-*
9 *national terrorism) from—*

10 *“(A) acquiring or developing chemical,*
11 *biological, or nuclear weapons or related*
12 *technologies; or*

13 *“(B) acquiring or developing desta-*
14 *bilizing numbers and types of advanced*
15 *conventional weapons, including ballistic*
16 *missiles; and*

17 *“(6) has signed, ratified, and is fully imple-*
18 *menting an Additional Protocol to its safeguards*
19 *agreement with the International Atomic Energy*
20 *Agency.”; and*

21 *(8) by adding after subsection f. (as redesignated*
22 *by paragraph (6) of this subsection) the following new*
23 *subsection:*

24 *“g. For purposes of this section—*

1 “(1) the term ‘new agreement’ means an
2 agreement for cooperation with a country with
3 respect to which the United States has not, on or
4 after the date of the enactment of this subsection,
5 entered into such an agreement; and

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

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

13 (1) in the second sentence, by striking “security,”
14 and all that follows through “publication.” and in-
15 serting “security.”; and

16 (2) by inserting after the second sentence the fol-
17 lowing new sentences: “Such subsequent arrangement
18 shall become effective only if Congress enacts a joint
19 resolution of approval according to the procedures of
20 sections 123 d. and 130 i. of this Act. Any such nu-
21 clear proliferation assessment statement shall be sub-
22 mitted to the Committee on Foreign Affairs of the
23 House of Representatives and the Committee on For-
24 eign Relations of the Senate not later than the 31st

1 *components previously provided to a country that with-*
2 *draws from the Treaty.*

3 **SEC. 3. REPORT ON COMPARABILITY OF NONPROLIFERA-**
4 **TION CONDITIONS BY FOREIGN NUCLEAR**
5 **SUPPLIERS.**

6 *Not later than 180 days after the date of the enactment*
7 *of this Act, the President shall transmit to the Committee*
8 *on Foreign Affairs of the House of Representatives and the*
9 *Committee on Foreign Relations of the Senate a report on*
10 *the extent to which each country that engages in civil nu-*
11 *clear exports (including power and research nuclear reac-*
12 *tors) requires nuclear nonproliferation requirements as con-*
13 *ditions for export comparable to those under this Act. Such*
14 *report shall also—*

15 *(1) detail the extent to which the exports of each*
16 *such country incorporate United States-origin compo-*
17 *nents, technology, or materials that require United*
18 *States approval for re-export;*

19 *(2) detail the civil nuclear-related trade and in-*
20 *vestments in the United States by any entity from*
21 *each such country; and*

22 *(3) list any United States grant, concessionary*
23 *loan or loan guarantee, or any other incentive or in-*
24 *ducement to any such country or entity related to nu-*
25 *clear exports or investments in the United States.*

1 **SEC. 4. INITIATIVES AND NEGOTIATIONS RELATING TO**
2 **AGREEMENTS FOR PEACEFUL NUCLEAR CO-**
3 **OPERATION.**

4 *Subsection f. of section 123 of the Atomic Energy Act*
5 *of 1954 (42 U.S.C. 2153), as redesignated pursuant to sec-*
6 *tion 1(a)(6) of this Act, is amended to read as follows:*

7 *“f. The President shall keep the Committee on*
8 *Foreign Affairs of the House of Representatives and*
9 *the Committee on Foreign Relations of the Senate*
10 *fully and currently informed of any initiative or ne-*
11 *gotiations relating to a new or amended agreement*
12 *for peaceful nuclear cooperation pursuant to this sec-*
13 *tion prior to the President’s announcement of such*
14 *initiative or negotiations. The President shall consult*
15 *with the Committee on Foreign Affairs of the House*
16 *of Representatives and the Committee on Foreign Re-*
17 *lations of the Senate concerning such initiative or ne-*
18 *gotiations beginning not later than 15 calendar days*
19 *after the initiation of any such negotiations, or the*
20 *receipt or transmission of a draft agreement, which-*
21 *ever occurs first, and monthly thereafter until such*
22 *time as the negotiations are concluded.”.*

23 **SEC. 5. CONDUCT RESULTING IN TERMINATION OF NU-**
24 **CLEAR EXPORTS.**

25 *Section 129 a. (2) of the Atomic Energy Act of 1954*
26 *(42 U.S.C. 2158) is amended—*

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

3 (2) by inserting after subparagraph (C) the fol-
4 lowing new subparagraph:

5 “(D) been determined to be a ‘country of
6 proliferation concern’ under section 1055(g)(2) of
7 the National Defense Authorization Act for Fis-
8 cal Year 2010 (50 U.S.C. 2371(g)(2));”.

9 **SEC. 6. CONGRESSIONAL REVIEW PROCEDURES.**

10 Section 130 i. (1) of the Atomic Energy Act of 1954
11 (42 U.S.C. 2159) is amended—

12 (1) by redesignating subparagraphs (B) and (C)
13 as subparagraphs (C) and (D), respectively; and

14 (2) by inserting after subparagraph (A) the fol-
15 lowing new subparagraph:

16 “(B) for an agreement for cooperation pursuant
17 to section 123 of this Act, a joint resolution, the mat-
18 ter after the resolving clause of which—

19 “(i) is as follows: ‘That the Congress does
20 favor the proposed agreement for cooperation
21 transmitted to the Congress by the President on
22 _____.’; and

23 “(ii) includes, immediately after the lan-
24 guage specified in clause (i), any other provi-

1 sions to accompany such proposed agreement for
2 cooperation.”.

3 **SEC. 7. REQUIREMENT OF LIABILITY PROTECTION FOR**
4 **UNITED STATES NUCLEAR SUPPLIERS.**

5 *The Atomic Energy Act of 1954 is amended by insert-*
6 *ing after section 134 (42 U.S.C. 2160d) the following new*
7 *section:*

8 **“SEC. 135. REQUIREMENT OF LIABILITY PROTECTION FOR**
9 **UNITED STATES NUCLEAR SUPPLIERS.**

10 *“The President may not issue a license for the export*
11 *of nuclear material, facilities, components, or other goods,*
12 *services, or technology to a country pursuant to an agree-*
13 *ment that has entered into force after the date of the enact-*
14 *ment of this section unless the President determines that*
15 *such country has liability protection for United States nu-*
16 *clear suppliers that is equivalent to the liability protection*
17 *specified under the Convention on Supplementary Com-*
18 *ensation for Nuclear Damage.”.*

19 **SEC. 8. PROHIBITION ON ASSISTANCE TO STATE SPONSORS**
20 **OF PROLIFERATION OF WEAPONS OF MASS**
21 **DESTRUCTION.**

22 *(a) PROHIBITION ON ASSISTANCE.—The United States*
23 *shall not provide any assistance under Public Law 87–195,*
24 *Public Law 90–629, the Food for Peace Act, the Peace Corps*
25 *Act, or the Export-Import Bank Act of 1945 to any country*

1 *if the Secretary of State determines that the government of*
2 *the country has repeatedly provided support for acts of pro-*
3 *liferation of equipment, technology, or materials to support*
4 *the design, acquisition, manufacture, or use of weapons of*
5 *mass destruction or the acquisition or development of bal-*
6 *listic missiles to carry such weapons.*

7 **(b) PUBLICATION OF DETERMINATIONS.**—*Each deter-*
8 *mination of the Secretary of State under subsection (a)*
9 *shall be published in the Federal Register.*

10 **(c) RESCISSION.**—*A determination of the Secretary of*
11 *State under subsection (a) may not be rescinded unless the*
12 *Secretary submits to the appropriate congressional commit-*
13 *tees—*

14 **(1) before the proposed rescission would take ef-**
15 **fect, a report certifying that—**

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

19 **(B) the government is not supporting acts**
20 **of proliferation of equipment, technology, or ma-**
21 **terials to support the design, acquisition, manu-**
22 **facture, or use of weapons of mass destruction;**
23 **and**

1 (C) the government has provided assurances
2 that it will not support such acts in the future;

3 or

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

7 (A) the government of the country concerned
8 has not provided any support for acts of pro-
9 liferation of equipment, technology, or materials
10 to support the design, acquisition, manufacture,
11 or use of weapons of mass destruction during the
12 preceding 24-month period; and

13 (B) the government has provided assurances
14 that it will not support such acts of proliferation
15 in the future.

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

18 (1) the President determines that national secu-
19 rity interests or humanitarian reasons justify a waiv-
20 er of such requirements, except that humanitarian
21 reasons may not be used to justify the waiver of such
22 requirements to provide security assistance under
23 Public Law 87–195, Public Law 90–629, or the Ex-
24 port-Import Bank Act of 1945; and

1 (2) *at least 15 days before the waiver takes effect,*
2 *the President consults with the appropriate congress-*
3 *sional committees regarding the proposed waiver and*
4 *submits to the appropriate congressional committees a*
5 *report containing—*

6 (A) *the name of the recipient country;*

7 (B) *a description of the national security*
8 *interests or humanitarian reasons that require*
9 *the waiver;*

10 (C) *the type and amount of and the jus-*
11 *tification for the assistance to be provided pursu-*
12 *ant to the waiver; and*

13 (D) *the period of time during which such*
14 *waiver will be effective.*

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

17 (a) *STATEMENT OF POLICY.—It is the policy of the*
18 *United States to ensure that each country that is a party*
19 *to the Treaty on the Non-Proliferation of Nuclear Weapons*
20 *should bring into force an Additional Protocol to its safe-*
21 *guards agreement with the IAEA.*

22 (b) *CRITERION FOR ASSISTANCE.—The United States*
23 *shall, when considering the provision of assistance under*
24 *Public Law 87–195 or Public Law 90–629 to a country*
25 *that is a party to the Treaty on the Nonproliferation of*

1 *Nuclear Weapons, take into consideration whether the pro-*
2 *posed recipient has in force an Additional Protocol to its*
3 *safeguards agreement with the IAEA.*

4 **SEC. 10. SENSE OF CONGRESS.**

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

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