

113TH CONGRESS  
1ST SESSION

# H. R. 3766

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.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Ms. ROS-LEHTINEN (for herself and Mr. SHERMAN) 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

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## 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,*

1 **SECTION 1. REQUIREMENT FOR CONGRESSIONAL AP-**  
2 **PROVAL OF AGREEMENTS FOR PEACEFUL**  
3 **NUCLEAR 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; and

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.”;

19 (3) in the matter following paragraph (11) (as  
20 added by paragraph (2)(F) of this subsection), by  
21 striking “The President may exempt a proposed  
22 agreement for cooperation” and all that follows  
23 through “common defense and security.”;

24 (4) in subsection e., by striking “and” at the  
25 end;

1 (5) in subsection d.—

2 (A) in the first sentence—

3 (i) by striking “not” the first and sec-  
4 ond place it appears;

5 (ii) by inserting “only” after “effec-  
6 tive” the first place it appears; and

7 (iii) by striking “: *Provided further,*”  
8 and all that follows through “such agree-  
9 ment” and inserting “, unless the proposed  
10 agreement includes a requirement as part  
11 of the agreement for cooperation or other  
12 legally binding document that is considered  
13 part of the agreement that no enrichment  
14 or reprocessing activities, or acquisition or  
15 construction of facilities for such activities,  
16 will occur within the territory over which  
17 the cooperating party exercises sovereignty,  
18 in which case the agreement shall become  
19 effective unless the Congress adopts, and  
20 there is enacted, a joint resolution of dis-  
21 approval (1) during such 60-day period for  
22 a new agreement; or (2) during a period of  
23 30 days of continuous session for a re-  
24 newal agreement”; and

1 (B) by striking the final period and insert-  
2 ing “; and”;

3 (6) by redesignating subsection e. as subsection  
4 f.;

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

7 “e. the cooperating party—

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

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

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

22 “(C) all other international agree-  
23 ments to which the United States is a  
24 party regarding the export of nuclear,  
25 chemical, biological, and advanced conven-

1            tional weapons, including missiles and  
2            other delivery systems;

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

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

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

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

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

22            “(5) is closely cooperating with the United  
23            States to prevent state sponsors of terrorism  
24            (the term ‘state sponsor of terrorism’ means a  
25            country the government of which has been de-

1           terminated by the Secretary of State, for pur-  
2           poses of section 6(j) of the Export Administra-  
3           tion Act of 1979, section 620A of the Foreign  
4           Assistance Act of 1961, section 40 of the Arms  
5           Export Control Act, or other provision of law,  
6           is a government that has repeatedly provided  
7           support for acts of international terrorism)  
8           from—

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

12                   “(B) acquiring or developing destabi-  
13                   lizing numbers and types of advanced  
14                   conventional weapons, including ballistic  
15                   missiles; and

16                   “(6) has signed, ratified, and is fully im-  
17                   plementing an Additional Protocol to its safe-  
18                   guards agreement with the International Atom-  
19                   ic Energy Agency.”; and

20           (8) by adding after subsection f. (as redesign-  
21           nated by paragraph (6) of this subsection) the fol-  
22           lowing new subsection:

23                   “g. For purposes of this section—

24                   “(1) the term ‘new agreement’ means an  
25                   agreement for cooperation with a country with

1           respect to which the United States has not, on  
2           or after the date of the enactment of this sub-  
3           section, entered into such an agreement; and

4                   “(2) the term ‘renewal agreement’ means  
5           an agreement for cooperation with a country  
6           with respect to which the United States has, be-  
7           fore the date of the enactment of this sub-  
8           section, entered into such an agreement.”.

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

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

14                   (2) by inserting after the second sentence the  
15           following new sentences: “Such subsequent arrange-  
16           ment shall become effective only if Congress enacts  
17           a joint resolution of approval according to the proce-  
18           dures of sections 123 d. and 130 i. of this Act. Any  
19           such nuclear proliferation assessment statement  
20           shall be submitted to the Committee on Foreign Af-  
21           fairs of the House of Representatives and the Com-  
22           mittee on Foreign Relations of the Senate not later  
23           than the 31st day of continuous session after sub-  
24           mission of the subsequent arrangement.”.



1 **SEC. 2. WITHDRAWAL FROM THE TREATY ON THE NON-**  
2 **PROLIFERATION OF NUCLEAR WEAPONS.**

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

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

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

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

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

13 (1) detail the extent to which the exports of  
14 each such country incorporate United States-origin  
15 components, technology, or materials that require  
16 United States approval for re-export;

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

20 (3) list any United States grant, concessionary  
21 loan or loan guarantee, or any other incentive or in-  
22 ducement to any such country or entity related to  
23 nuclear 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  
5 Act of 1954 (42 U.S.C. 2153), as redesignated pursuant  
6 to section 1(a)(6) of this Act, is amended to read as fol-  
7 lows:

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

1 **SEC. 5. CONDUCT RESULTING IN TERMINATION OF NU-**  
2 **CLEAR EXPORTS.**

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

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

7 (2) by inserting after subparagraph (C) the fol-  
8 lowing new subparagraph:

9 “(D) been determined to be a ‘country of  
10 proliferation concern’ under section 1055(g)(2)  
11 of the National Defense Authorization Act for  
12 Fiscal Year 2010 (50 U.S.C. 2371(g)(2));”.

13 **SEC. 6. CONGRESSIONAL REVIEW PROCEDURES.**

14 Section 130 i.(1) of the Atomic Energy Act of 1954  
15 (42 U.S.C. 2159) is amended—

16 (1) by redesignating subparagraphs (B) and  
17 (C) as subparagraphs (C) and (D), respectively; and

18 (2) by inserting after subparagraph (A) the fol-  
19 lowing new subparagraph:

20 “(B) for an agreement for cooperation pur-  
21 suant to section 123 of this Act, a joint resolu-  
22 tion, the matter after the resolving clause of  
23 which—

24 “(i) is as follows: ‘That the Congress  
25 does favor the proposed agreement for co-  
26 operation transmitted to the Congress by

1 the President on \_\_\_\_\_.’;

2 and

3 “(ii) includes, immediately after the  
4 language specified in clause (i), any other  
5 provisions to accompany such proposed  
6 agreement for cooperation.”.

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

9 The Atomic Energy Act of 1954 is amended by in-  
10 serting after section 134 (42 U.S.C. 2160d) the following  
11 new section:

12 **“SEC. 135. REQUIREMENT OF LIABILITY PROTECTION FOR**  
13 **UNITED STATES NUCLEAR SUPPLIERS.**

14 “The President may not issue a license for the export  
15 of nuclear material, facilities, components, or other goods,  
16 services, or technology to a country pursuant to an agree-  
17 ment that has entered into force after the date of the en-  
18 actment of this section unless the President determines  
19 that such country has liability protection for United States  
20 nuclear suppliers that is equivalent to the liability protec-  
21 tion specified under the Convention on Supplementary  
22 Compensation for Nuclear Damage.”.

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

4 (a) PROHIBITION ON ASSISTANCE.—The United  
5 States shall not provide any assistance under Public Law  
6 87–195, Public Law 90–629, the Food for Peace Act, the  
7 Peace Corps Act, or the Export-Import Bank Act of 1945  
8 to any country if the Secretary of State determines that  
9 the government of the country has repeatedly provided  
10 support for acts of proliferation of equipment, technology,  
11 or materials to support the design, acquisition, manufac-  
12 ture, or use of weapons of mass destruction or the acquisi-  
13 tion or development of ballistic missiles to carry such  
14 weapons.

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

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

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

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

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

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

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

16 (A) the government of the country con-  
17 cerned has not provided any support for acts of  
18 proliferation of equipment, technology, or mate-  
19 rials to support the design, acquisition, manu-  
20 facture, or use of weapons of mass destruction  
21 or the acquisition or development of ballistic  
22 missiles to carry such weapons during the pre-  
23 ceding 24-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 Public Law 87–195, Public Law 90–629, or  
12          the Export-Import Bank Act of 1945; and

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

18                 (A) the name of the recipient country;

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

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



1 (D) the period of time during which such  
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 Public Law 87–195 or Public Law 90–629 to a  
13 country that is a party to the Treaty on the Nonprolifera-  
14 tion of Nuclear Weapons, take into consideration whether  
15 the proposed recipient has in force an Additional Protocol  
16 to its safeguards agreement with the IAEA.

17 **SEC. 10. SENSE OF CONGRESS.**

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

○