§ 7909. Authorization for the Clean Technology Fund

(1) Limitations on authorization of appropriations

For fiscal year 2010, up to $300,000,000 is authorized to be appropriated for a United States contribution to the Clean Technology Fund (the Fund).

(2) Limits on country access

The Secretary of the Treasury shall use the voice and vote of the United States to ensure that—

(A) The Fund does not provide more than 15 percent of Fund resources to any one country;

(B) Prior to the obligation of funds, recipient countries submit to the governing body of the Fund, and the governing body of the Fund appropriately reviews and considers, an investment plan that will achieve significant net reductions in national-level greenhouse gas emissions;

(C) The investment plan for a recipient country, whose borrowing status is classified by the World Bank as “International Development Association (IDA) blend”, shall have at least 15 percent of its total cost for public sector activities contributed from the public funds of the recipient country, and any recipient country whose borrowing status is classified by the World Bank as “International Bank for Reconstruction and Development (IBRD) Only” status, shall have at least 25 percent of its total cost for public sector activities contributed from public funds of the recipient country; and

(D) Assistance made available by the Fund is used exclusively to support the deployment of clean energy technologies in developing countries (including, where appropriate, through the provision of technical support or support for policy or institutional reforms) in a manner that achieves substantial net reductions in greenhouse gas emissions.

(3) Reporting requirement

Not later than 180 days after December 16, 2009, and annually thereafter, the Secretary of the Treasury shall submit to the Committees on Appropriations in the House and Senate, the Senate Foreign Relations Committee and the House Financial Services Committee, a report describing—

(A) the operations and governance of the Fund, and the purpose and progress of each project supported by the Fund, including the extent to which assistance made available by the Fund has reduced or will reduce greenhouse gas emissions in recipient countries; and

(B) how each project furthers the Fund’s investment plan of the country or countries in which the project is implemented.

(4) Definitions

For purposes of this section—

(A) Net reductions

The term “net reductions” refers to the extent to which a project or program supported under this section results in lower greenhouse gas emissions than would be emitted by the same entity or sector in the same country in the absence of the Fund’s project, taking into account, unless impracticable, effects beyond the physical boundaries of the project or program that result from project or program activities.

(B) Public sector activities

The term “public sector activities” may include sovereign loans assumed by the recipient country to contribute to the financing of the investment plan.

(C) Clean energy technology

The term “clean energy technology” means a technology that, as compared with technologies being deployed at that time for widespread commercial use in the country involved—

(i) achieves substantial reductions in greenhouse gas emissions;

(ii) does not result in significant incremental adverse effects on public health or the environment; and

(iii) does one or more of the following:

(I) generates electricity or useful thermal energy from a renewable resource;

(II) substantially increases the energy efficiency of buildings, industrial, or agricultural processes, or of electricity transmission, distribution, or end-use consumption; or

(III) substantially increases the energy efficiency of the transportation system or increases utilization of transportation fuels that have lifecycle greenhouse gas emissions that are substantially lower than those attributable to fossil fuel-based alternatives.


Constitution

Section was enacted as part of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, and also as part of the Consolidated Appropriations Act, 2010, and not as part of part C of the Global Environmental Protection Assistance Act of 1989 which comprises this chapter.

Continuation of prior law


CHAPTER 87—UNITED STATES AND INDIA NUCLEAR COOPERATION
(1) preventing the proliferation of nuclear weapons, other weapons of mass destruction, the means to produce them, and the means to deliver them are critical objectives for United States foreign policy;
(2) sustaining the Nuclear Non-Proliferation Treaty (NPT) and strengthening its implementation, particularly its verification and compliance, is the keystone of United States non-proliferation policy;
(3) the NPT has been a significant success in preventing the acquisition of nuclear weapons capabilities and maintaining a stable international security situation;
(4) countries that have never become a party to the NPT and remain outside that treaty’s legal regime pose a potential challenge to the achievement of the overall goals of global non-proliferation, because those countries have not undertaken the NPT obligation to prohibit the spread of nuclear weapons capabilities;
(5) it is in the interest of the United States to the fullest extent possible to ensure that those countries that are not States Party to the NPT are responsible in the disposition of any nuclear technology they develop;
(6) it is in the interest of the United States to enter into an agreement for nuclear cooperation arranged pursuant to section 2153 of title 42 with a country that has never been a State Party to the NPT if—
(A) the country has demonstrated responsible behavior with respect to the non-proliferation of technology related to nuclear weapons and the means to deliver them;
(B) the country has a functioning and uninterrupted democratic system of government, has a foreign policy that is congruent to that of the United States, and is working with the United States on key foreign policy initiatives related to nonproliferation;
(C) such cooperation induces the country to promulgate and implement substantially improved protections against the proliferation of technology related to nuclear weapons and the means to deliver them, and to refrain from actions that would further the development of its nuclear weapons program; and
(D) such cooperation will induce the country to give greater political and material support to the achievement of United States global and regional nonproliferation objectives, especially with respect to dissuading, isolating, and, if necessary, sanctioning and containing states that sponsor terrorism and terrorist groups that are seeking to acquire a nuclear weapons capability or other weapons of mass destruction capability and the means to deliver such weapons;
(7) the United States should continue its policy of engagement, collaboration, and exchanges with and between India and Pakistan;
(8) strong bilateral relations with India are in the national interest of the United States;
(9) the United States and India share common democratic values and the potential for increasing and sustained economic engagement;
(10) commerce in civil nuclear energy with India by the United States and other countries has the potential to benefit the people of all countries;
(11) such commerce also represents a significant change in United States policy regarding commerce with countries that are not States Party to the NPT, which remains the foundation of the international nonproliferation regime;
(12) any commerce in civil nuclear energy with India by the United States and other countries must be achieved in a manner that minimizes the risk of nuclear proliferation or regional arms races and maximizes India’s adherence to international nonproliferation regimes, including, in particular, the guidelines of the Nuclear Suppliers Group (NSG); and
(13) the United States should not seek to facilitate or encourage the continuation of nuclear exports to India by any other party if such exports are terminated under United States law.


SHORT TITLE
Pub. L. 109–401, title I, § 101, Dec. 18, 2006, 120 Stat. 2726, provided that: ‘‘This title (enacting this chapter and amending section 2625c of this title and section 2153 of Title 42, The Public Health and Welfare) may be cited as the ‘Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006.’’

UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT
‘‘SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.
‘‘(a) SHORT TITLE.—This Act may be cited as the ‘United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act’.
‘‘(b) TABLE OF CONTENTS.—(Omitted.)

‘‘SEC. 2. DEFINITIONS.
‘‘In this Act:
‘‘(1) AGREEMENT.—The term ‘United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy’ or ‘Agreement’ means the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.
‘‘(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

‘‘TITLE I—APPROVAL OF UNITED STATES-INDIA AGREEMENT FOR COOPERATION ON PEACEFUL USES OF NUCLEAR ENERGY

‘‘SEC. 101. APPROVAL OF AGREEMENT.
‘‘(a) IN GENERAL.—Notwithstanding the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(b) and (d)), Congress hereby approves the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, subject to subsection (b).
‘‘(b) APPLICABILITY OF ATOMIC ENERGY ACT OF 1954, HYDE ACT, AND OTHER PROVISIONS OF LAW.—The Agreement shall be subject to the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Henry J. Hyde United States-India Peaceful Atomic Energy Co-
operation Act of 2006 (22 U.S.C. 8001 et. seq; Public Law 109–401), and any other applicable United States law as if the Agreement had been approved pursuant to the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954.

(1) Pursuant to section 103(a)(6) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(a)(6)), in the event that nuclear transfers to India are suspended or terminated pursuant to title I of such Act (22 U.S.C. 8001 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 1801 et seq.), or any other United States law, it is the policy of the United States to seek to prevent the transfer to India of nuclear equipment, materials, or technology from other participating governments in the Nuclear Suppliers Group (NSG) or from any other source.

(2) Pursuant to section 103(b)(10) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(b)(10)), any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

(c) Certification Requirement.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to Congress that entry into force and implementation of the Agreement pursuant to its terms is consistent with the obligations of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the ‘Nuclear Non-Proliferation Treaty’), not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices.


SEC. 103. ADDITIONAL PROTOCOL BETWEEN INDIA AND THE IAEA.

Congress urges the Government of India to sign and adhere to an Additional Protocol with the International Atomic Energy Agency (IAEA), consistent with IAEA principles, practices, and policies, at the earliest possible date.

SEC. 104. IMPLEMENTATION OF SAFEGUARDS AGREEMENT BETWEEN INDIA AND THE IAEA.

Licenses may be issued by the Nuclear Regulatory Commission for transfers pursuant to the Agreement only after the President determines and certifies to Congress that—

(1) the Agreement Between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities, as approved by the Board of Governors of the International Atomic Energy Agency on August 1, 2008 (the ‘Safeguards Agreement’), has entered into force and will be implemented in accordance with its terms; and

(2) the Government of India has filed a declaration of facilities pursuant to paragraph 13 of the Safeguards Agreement that is not materially inconsistent with the facilities and schedule described in paragraph 14 of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan.

SEC. 105. MODIFIED REPORTING TO CONGRESS.

[TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION]

SEC. 201. PROCEDURES REGARDING A SUBSEQUENT ARRANGEMENT ON REPROCESSING.

(a) In General.—Notwithstanding section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2158), no proposed subsequent arrangement concerning arrangements and procedures regarding reprocessing or other alteration in form or content, as provided for in Article 6 of the Agreement, shall take effect until the requirements specified in subsection (b) are met.

(b) Requirements.—The requirements referred to in subsection (a) are the following:

(1) The President transmits to the appropriate congressional committees a report containing—

(A) the reasons for entering into such proposed subsequent arrangement;

(B) a detailed description, including the text, of such proposed subsequent arrangement; and

(C) a certification that the United States will pursue efforts to ensure that any other nation that permits India to reprocess or otherwise alter in form or content nuclear material that the nation has transferred to India or nuclear material and by-product material used in or produced through the use of nuclear material, non-nuclear material, or equipment that it has transferred to India requires India to do so under similar arrangements and procedures.

(2) A period of 30 days of continuous session (as defined by section 130 g.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(g)(2)) has elapsed after transmittal of the report required under paragraph (1).

(c) Resolution of Disapproval.—Notwithstanding the requirements in subsection (b) having been met, a subsequent arrangement referred to in subsection (a) shall not become effective if during the time specified in subsection (b)(2), Congress adopts, and there is enacted, a joint resolution stating in substance that Congress does not favor such subsequent arrangement. Any such resolution shall be considered pursuant to the procedures set forth in section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2158(i)), as amended by section 205 of this Act.

SEC. 202. INITIATIVES AND NEGOTIATIONS RELATING TO AGREEMENTS FOR PEACEFUL NUCLEAR COOPERATION.

[TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION]

SEC. 203. ACTIONS REQUIRED FOR RESUMPTION OF PEACEFUL NUCLEAR COOPERATION.

[TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION]
(NSG), individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

“(b) PEACEFUL USE ASSURANCES FOR CERTAIN BY-PRODUCT MATERIAL.—The President shall seek to achieve, by the earliest possible date, either within the NSG or with relevant NSG Participating Governments, the adoption of principles, reporting, and exchanges of information as may be appropriate to assure peaceful use and accounting of by-product material in a manner that is substantially equivalent to the relevant provisions of the Agreement.

“(c) REPORT.—

“(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act [Oct. 8, 2008], and every six months thereafter, the President shall transmit to the appropriate congressional committees a report on efforts by the United States pursuant to subsections (a) and (b).

“(2) TERMINATION.—The requirement to transmit the report under paragraph (1) terminates on the date on which the President transmits a report pursuant to such paragraph stating that the objectives in subsections (a) and (b) have been achieved.

“SEC. 205. CONFORMING AMENDMENTS.

“[Amended section 2159 of Title 42.]

[Functions of President under section 204(c) of Pub. L. 110–369, set out above, delegated to Secretary of Energy by Memorandum of President of the United States, May 4, 2010, 75 F.R. 27155.]

[Functions of President under section 210(b) of Pub. L. 110–369, set out above, delegated to Secretary of Energy by Memorandum of President of the United States, Mar. 10, 2010, 75 F.R. 13927.]

CERTIFICATIONS PURSUANT TO THE UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT ACT (PUBLIC LAW 110–369)

Determination of President of the United States, No. 2009–6, Oct. 20, 2008, 73 F.R. 63841, provided:

Memorandum for the Secretary of State pursuant to section 192(c) and section 210(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, I hereby certify that:

1. Entry into force and implementation of the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy pursuant to its terms is consistent with the obligations of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and

2. It is the policy of the United States to work with members of the Nuclear Suppliers Group, individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

You are authorized and directed to publish this determination in the Federal Register.

GEORGE W. BUSH.

Determination of President of the United States, No. 2010–04, Feb. 3, 2010, 75 F.R. 7337, provided:

Memorandum for the Secretary of State pursuant to section 104 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 111–309), I hereby determine and certify that:

1. The Agreement between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities, as approved by the Board of Governors of the International Atomic Energy Agency on August 1, 2008 (the “Safeguards Agreement”), has entered into force; and

2. The Government of India has filed a declaration of facilities pursuant to paragraph 13 of the Safeguards Agreement that is not materially inconsistent with the facilities and schedule described in paragraph 14 of the Separation Plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the Separation Plan.

You are authorized and directed to publish this determination in the Federal Register.

BARACK OBAMA.

§ 8002. Statements of policy

(a) In general

The following shall be the policies of the United States:

(1) Oppose the development of a capability to produce nuclear weapons by any non-nuclear weapon state, within or outside of the NPT.

(2) Encourage States Party to the NPT to interpret the right to “develop research, production and use of nuclear energy for peaceful purposes”, as set forth in Article IV of the NPT, as being a right that applies only to the extent that it is consistent with the object and purpose of the NPT to prevent the spread of nuclear weapons and nuclear weapons capabilities, including by refraining from all nuclear cooperation with any State Party that the International Atomic Energy Agency (IAEA) determines is not in full compliance with its NPT obligations, including its safeguards obligations.

(3) Act in a manner fully consistent with the Guidelines for Nuclear Transfers and the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology developed by the NSG, and decisions related to the those guidelines, and the rules and practices regarding NSG decision-making.

(4) Strengthen the NSG guidelines and decisions concerning consultation by members regarding violations of supplier and recipient understandings by instituting the practice of a timely and coordinated response by NSG members to all such violations, including termination of nuclear transfers to an involved recipient, that discourages individual NSG members from continuing cooperation with such recipient until such time as a consensus regarding a coordinated response has been achieved.

(5) Given the special sensitivity of equipment and technologies related to the enrichment of uranium, the reprocessing of spent nuclear fuel, and the production of heavy water, work with members of the NSG, individually and collectively, to further restrict the transfers of such equipment and technologies, including to India.

(6) Seek to prevent the transfer to a country of nuclear equipment, materials, or technology from other participating governments in the NSG or from any other source if nuclear transfers to that country are suspended or terminated pursuant to this chapter, the Atomic Energy Act of 1954 (42 U.S.C. 2101 et seq.), or any other United States law.

(b) With respect to South Asia

The following shall be the policies of the United States with respect to South Asia:

1So in original.
§ 8003

(1) Achieve, at the earliest possible date, a moratorium on the production of fissile material for nuclear explosive purposes by India, Pakistan, and the People’s Republic of China.

(2) Achieve, at the earliest possible date, the conclusion and implementation of a treaty banning the production of fissile material for nuclear weapons to which both the United States and India become parties.

(3) Secure India’s—
   (A) full participation in the Proliferation Security Initiative;
   (B) formal commitment to the Statement of Interdiction Principles of such Initiative;
   (C) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Control Lists of the Wassenaar Arrangement;
   (D) demonstration of satisfactory progress toward implementing the decision described in subparagraph (C); and
   (E) ratification of or accession to the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) Secure India’s full and active participation in United States efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel, and the means to deliver weapons of mass destruction.

(5) Seek to halt the increase of nuclear weapon arsenals in South Asia and to promote their reduction and eventual elimination.

(6) Ensure that spent fuel generated in India’s civilian nuclear power reactors is not transferred to the United States except pursuant to the Congressional review procedures required under section 131 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2160(f)).

(7) Pending implementation of the multilateral moratorium described in paragraph (1) or the treaty described in paragraph (2), encourage India not to increase its production of fissile material at unsafeguarded nuclear facilities.

(8) Ensure that any safeguards agreement or Additional Protocol to which India is a party with the IAEA can reliably safeguard any export or reexport to India of any nuclear materials and equipment.

(9) Ensure that the text and implementation of any agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) meet the requirements set forth in subsections a.(1) and a.(3) through a.(9) of such section [42 U.S.C. 2153(a)(1), (3)–(9)].

(10) Any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.


REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(6), was in the original “this title”, meaning title I of Pub. L. 109–401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.


§ 8003. Waiver authority and congressional approval

(a) In general

If the President makes the determination described in subsection (b), the President may—

(1) exempt a proposed agreement for cooperation with India arranged pursuant to section 2153 of title 42 from the requirement of subsection (a)(2) of such section;

(2) waive the application of section 2157 of title 42 with respect to exports to India; and

(3) waive with respect to India the application of—
   (A) section 2158(a)(1)(D) of title 42; and
   (B) section 2158 of title 42 regarding any actions that occurred before July 18, 2005.

(b) Determination by the President

The determination referred to in subsection (a) is a determination by the President that the following actions have occurred:

(1) India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA.

(2) India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1621 (1973)) to India’s civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials used in or produced through the use of India’s civil nuclear facilities.

(3) India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India’s civil nuclear program.

(4) India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices.

(5) India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants.

(6) India is taking the necessary steps to secure nuclear and other sensitive materials and technology, including through—
(A) the enactment and effective enforcement of comprehensive export control legislation and regulations;

(B) harmonization of its export control laws, regulations, policies, and practices with the guidelines and practices of the Missile Technology Control Regime (MTCR) and the NSG; and

(C) adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence.

(7) The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

c) Submission to Congress

(1) In general

The President shall submit to the appropriate congressional committees the determination made pursuant to subsection (b), together with a report detailing the basis for the determination.

(2) Information to be included

To the fullest extent available to the United States, the report referred to in paragraph (1) shall include the following information:

(A) A summary of the plan provided by India to the United States and the IAEA to separate India’s civil and military nuclear facilities, materials, and programs, and the declaration made by India to the IAEA identifying India’s civil facilities to be placed under IAEA safeguards, including an analysis of the credibility of such plan and declaration, together with copies of the plan and declaration.

(B) A summary of the agreement that has been entered into between India and the IAEA requiring the application of safeguards in accordance with IAEA practices to India’s civil nuclear facilities as declared in the plan described in subparagraph (A), together with a copy of the agreement, and a description of the progress toward its full implementation.

(C) A summary of the progress made toward conclusion and implementation of an Additional Protocol between India and the IAEA, including a description of the scope of such Additional Protocol.

(D) A description of the steps that India is taking to work with the United States for the conclusion of a multilateral treaty banning the production of fissile material for nuclear weapons, including a description of the steps that the United States has taken and will take to encourage India to identify and declare a date by which India would be willing to stop production of fissile material for nuclear weapons unilaterally or pursuant to a multilateral moratorium or treaty.

(E) A description of the steps India is taking to prevent the spread of nuclear-related technology, including enrichment and reprocessing technology or materials that can be used to acquire a nuclear weapons capability, as well as the support that India is providing to the United States to further United States objectives to restrict the spread of such technology.

(F) A description of the steps that India is taking to secure materials and technology applicable for the development, acquisition, or manufacture of weapons of mass destruction and the means to deliver such weapons through the application of comprehensive export control legislation and regulations, and through harmonization with and adherence to MTCR, NSG, Australia Group, and Wassenaar Arrangement guidelines, compliance with United Nations Security Council Resolution 1540, and participation in the Proliferation Security Initiative.

(G) A description and assessment of the specific measures that India has taken to fully and actively participate in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel and the means to deliver weapons of mass destruction.

(H) A description of the decision of the NSG relating to nuclear cooperation with India, including whether nuclear cooperation by the United States under an agreement for cooperation arranged pursuant to section 2153 of title 42 is consistent with the decision, practices, and policies of the NSG.

(I) A description of the scope of peaceful cooperation envisioned by the United States and India that will be implemented under the agreement for nuclear cooperation, including whether such cooperation will include the provision of enrichment and reprocessing technology.

(J) A description of the steps taken to ensure that proposed United States civil nuclear cooperation with India will not in any way assist India’s nuclear weapons program.

d) Restrictions on nuclear transfers

(1) In general

Pursuant to the obligations of the United States under Article I of the NPT, nothing in this chapter constitutes authority to carry out any civil nuclear cooperation between the United States and a country that is not a nuclear-weapon State Party to the NPT that would in any way assist, encourage, or induce that country to manufacture or otherwise acquire nuclear weapons or nuclear explosive devices.

(2) NSG transfer guidelines

Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 2153 of title 42 and pursuant to this chapter, no item subject to such agreement or subject to the transfer guidelines of the NSG, or to NSG decisions related thereto, may be transferred to India if such transfer would be inconsistent with the transfer guidelines of the NSG in effect on the date of the transfer.

(3) Termination of nuclear transfers to India

(A) In general

Notwithstanding the entry into force of an agreement for cooperation with India ar-
ranged pursuant to section 2153 of title 42 and pursuant to this chapter, and except as provided under subparagraph (B), exports of nuclear and nuclear-related material, equipment, or technology to India shall be terminated if there is any materially significant transfer by an Indian person of—

(i) nuclear or nuclear-related material, equipment, or technology that is not consistent with NSG guidelines or decisions, or

(ii) ballistic missiles or missile-related equipment or technology that is not consistent with MTCR guidelines, unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security.

(B) Exception

The President may choose not to terminate exports of nuclear and nuclear-related material, equipment, and technology to India under subparagraph (A) if—

(i) the transfer covered under such subparagraph was made without the knowledge of the Government of India;

(ii) at the time of the transfer, either the Government of India did not own, control, or direct the Indian person that made the transfer or the Indian person that made the transfer is a natural person who acted without the knowledge of any entity described in subparagraph (B) or (C) of section 8008(5) of this title; and

(iii) the President certifies to the appropriate congressional committees that the Government of India has taken or is taking appropriate judicial or other enforcement actions against the Indian person with respect to such transfer.

(4) Exports, reexports, transfers, and retransfers to India related to enrichment, reprocessing, and heavy water production

(A) In general

(i) Nuclear Regulatory Commission

The Nuclear Regulatory Commission may only issue licenses for the export or reexport to India of any equipment, components, or materials related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water if the requirements of subparagraph (B) are met.

(ii) Secretary of Energy

The Secretary of Energy may only issue authorizations for the transfer or retransfer to India of any equipment, materials, or technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water (including under the terms of a subsequent arrangement under section 2160 of title 42) if the requirements of subparagraph (B) are met.

(B) Requirements for approvals

Exports, reexports, transfers, and retransfers referred to in subparagraph (A) may only be approved if—

(i) the end user—

(I) is a multinational facility participating in an IAEA-approved program to provide alternatives to national fuel cycle capabilities; or

(II) is a facility participating in, and the export, reexport, transfer, or retransfer is associated with, a bilateral or multinational program to develop a proliferation-resistant fuel cycle;

(ii) appropriate measures are in place at any facility referred to in clause (i) to ensure that no sensitive nuclear technology, as defined in section 3203(5) of this title, will be diverted to any person, site, facility, location, or program not under IAEA safeguards; and

(iii) the President determines that the export, reexport, transfer, or retransfer will not assist in the manufacture or acquisition of nuclear explosive devices or the production of fissile material for military purposes.

(5) Nuclear export accountability program

(A) In general

The President shall ensure that all appropriate measures are taken to maintain accountability with respect to nuclear materials, equipment, and technology sold, leased, exported, or reexported to India so as to ensure—

(i) full implementation of the protections required under section 2153(a)(1) of title 42; and

(ii) United States compliance with Article I of the NPT.

(B) Measures

The measures taken pursuant to subparagraph (A) shall include the following:

(i) Obtaining and implementing assurances and conditions pursuant to the export licensing authorities of the Nuclear Regulatory Commission and the Department of Commerce and the authorizing authorities of the Department of Energy, including, as appropriate, conditions regarding end-use monitoring.

(ii) A detailed system of reporting and accounting for technology transfers, including any retransfers in India, authorized by the Department of Energy pursuant to section 2077(b) of title 42. Such system shall be capable of providing assurances that—

(I) the identified recipients of the nuclear technology are authorized to receive the nuclear technology;

(II) the nuclear technology identified for transfer will be used only for peaceful safeguarded nuclear activities and will not be used for any military or nuclear explosive purpose; and

(III) the nuclear technology identified for transfer will not be retransferred without the prior consent of the United
States, and facilities, equipment, or materials derived through the use of transferred technology will not be transferred without the prior consent of the United States.

(iii) In the event the IAEA is unable to implement safeguards as required by an agreement for cooperation arranged pursuant to section 2153 of title 42, appropriate assurance that arrangements will be put in place expeditiously that are consistent with the requirements of section 2153(a)(1) of title 42 regarding the maintenance of safeguards as set forth in the agreement concerning whether the agreement is terminated or suspended for any reason.

(C) Implementation

The measures described in subparagraph (B) shall be implemented to provide reasonable assurances that the recipient is complying with the relevant requirements, terms, and conditions of any licenses issued by the United States regarding such exports, including those relating to the use, retransfer, safe handling, secure transit, and storage of such exports.

(e) Omitted

(f) Sunset

The authority provided under subsection (a)(1) to exempt an agreement shall terminate upon October 8, 2008.

(g) Reporting to Congress

(1) Information on nuclear activities of India

The President shall keep the appropriate congressional committees fully and currently informed of the facts and implications of any significant nuclear activities of India, including—

(A) any material noncompliance on the part of the Government of India with—

(i) the nonproliferation commitments undertaken in the Joint Statement of July 18, 2005, between the President of the United States and the Prime Minister of India;

(ii) the separation plan presented in the national parliament of India on March 7, 2006, and in greater detail on May 11, 2006;

(iii) a safeguards agreement between the Government of India and the IAEA;

(iv) an Additional Protocol between the Government of India and the IAEA;

(v) an agreement for cooperation between the Government of India and the United States Government arranged pursuant to section 2153 of title 42 or any subsequent arrangement under section 2160 of title 42;

(vi) the terms and conditions of any approved licenses regarding the export or reexport of nuclear material or dual-use material, equipment, or technology; and

(vii) United States laws and regulations regarding such licenses;

(B) any material inconsistencies between the content or timeliness of notifications by the Government of India pursuant to paragraph 14(a) of the Safeguards Agreement and the facilities and schedule described in paragraph (14) of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan:

(C) the construction of a nuclear facility in India after December 18, 2006;

(D) significant changes in the production by India of nuclear weapons or in the types or amounts of fissile material produced; and

(E) changes in the purpose or operational status of any unsafeguarded nuclear fuel cycle activities in India.

(2) Implementation and compliance report

Not later than 180 days after the date on which an agreement for cooperation with India arranged pursuant to section 2153 of title 42 enters into force, and annually thereafter, the President shall submit to the appropriate congressional committees a report including—

(A) a description of any additional nuclear facilities and nuclear materials that the Government of India has placed or intends to place under IAEA safeguards;

(B) a comprehensive listing of—

(i) all licenses that have been approved by the Nuclear Regulatory Commission and the Secretary of Energy for exports and reexports to India under parts 110 and 810 of title 10, Code of Federal Regulations;

(ii) any licenses approved by the Department of Commerce for the export or reexport to India of commodities, related technology, and software which are controlled for nuclear nonproliferation reasons on the Nuclear Referral List of the Commerce Control List maintained under part 774 of title 15, Code of Federal Regulation, or any successor regulation;

(iii) any other United States authorizations for the export or reexport to India of nuclear materials and equipment; and

(iv) with respect to each such license or other form of authorization described in clauses (i), (ii), and (iii)—

(I) the number or other identifying information of each license or authorization;

(II) the name or names of the authorized end user or end users;

(III) the name of the site, facility, or location in India to which the export or reexport was made;

(IV) the terms and conditions included on such licenses and authorizations;

(V) any post-shipment verification procedures that will be applied to such exports or reexports; and

(VI) the term of validity of each such license or authorization;

(C) a description of any significant nuclear commerce between India and other countries, including any such trade that—

(i) is not consistent with applicable guidelines or decisions of the NSG; or

(ii) would not meet the standards applied to exports or reexports of such material,

1 So in original. Probably should be “Regulations.”.
equipment, or technology of United States origin;

(D) either—
(i) an assessment that India is in full compliance with the commitments and obligations contained in the agreements and other documents referenced in clauses (i) through (vi) of paragraph (1)(A); or
(ii) an identification and analysis of all compliance issues arising with regard to the adherence by India to its commitments and obligations, including—
(I) the measures the United States Government has taken to remedy or otherwise respond to such compliance issues;
(II) the responses of the Government of India to such measures;
(III) the measures the United States Government plans to take to this end in the coming year; and
(IV) an assessment of the implications of any continued noncompliance, including whether nuclear commerce with India remains in the national security interest of the United States;

(E)(i) an assessment of whether India is fully and actively participating in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability (including the capability to enrich uranium or reprocess nuclear fuel), and the means to deliver weapons of mass destruction, including a description of the specific measures that India has taken in this regard; and
(ii) if India is not assessed to be fully and actively participating in such efforts, a description of—
(I) the measures the United States Government has taken to secure India’s full and active participation in such efforts;
(II) the responses of the Government of India to such measures; and
(III) the measures the United States Government plans to take in the coming year to secure India’s full and active participation;

(F) an analysis of whether United States civil nuclear cooperation with India is in any way assisting India’s nuclear weapons program, including through—
(i) the use of any United States equipment, technology, or nuclear material by India in an unsafeguarded nuclear facility or nuclear-weapons-related complex;
(ii) the replication and subsequent use of any United States technology by India in an unsafeguarded nuclear facility or unsafeguarded nuclear-weapons-related complex, or for any activity related to the research, development, testing, or manufacture of nuclear explosive devices; and
(iii) the provision of nuclear fuel in such a manner as to facilitate the increased production by India of highly enriched uranium or plutonium in unsafeguarded nuclear facilities;

(G) a detailed description of—
(i) United States efforts to promote national or regional progress by India and Pakistan in disclosing, securing, limiting, and reducing their fissile material stockpiles, including stockpiles for military purposes, pending creation of a worldwide fissile material cut-off regime, including the institution of a Fissile Material Cut-off Treaty;
(ii) the responses of India and Pakistan to such efforts; and
(iii) assistance that the United States is providing, or would be able to provide, to India and Pakistan to promote the objectives in clause (i), consistent with its obligations under international law and existing agreements;

(H) an estimate of—
(i) the amount of uranium mined and milled in India during the previous year;
(ii) the amount of such uranium that has likely been used or allocated for the production of nuclear explosive devices; and
(iii) the rate of production in India of—
(I) fissile material for nuclear explosive devices; and
(II) nuclear explosive devices;

(I) an estimate of the amount of electricity India’s nuclear reactors produced for civil purposes during the previous year and the proportion of such production that can be attributed to India’s declared civil reactors;

(J) an analysis as to whether imported uranium has affected the rate of production in India of nuclear explosive devices;

(K) a detailed description of efforts and progress made toward the achievement of India’s—
(i) full participation in the Proliferation Security Initiative;
(ii) formal commitment to the Statement of Interdiction Principles of such Initiative;
(iii) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Controls List of the Wassenaar Arrangement; and
(iv) effective implementation of the decision described in clause (iii);

(L) the disposal during the previous year of spent nuclear fuel from India’s civilian nuclear program, and any plans or activities relating to future disposal of such spent nuclear fuel; and

(M) with respect to the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy (hereinafter in this subparagraph referred to as the “Agreement”) approved under section 101(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act—
(i) a listing of—
(I) all provision of sensitive nuclear technology to India, and other such information as may be so designated by
the United States or India under Article I(Q); and
(II) all facilities in India notified pursuant to Article 7(1) of the Agreement;

(i) a description of—
(I) any agreed safeguards or any other form of verification for by-product material decided by mutual agreement pursuant to the terms of Article I(A) of the Agreement;
(II) research and development undertaken in such areas as may be agreed between the United States and India as detailed in Article 2(2)(a.) of the Agreement;
(III) the civil nuclear cooperation activities undertaken under Article 2(2)(d.) of the Agreement;

(iv) a statement as to whether—
(I) any instances in which the United States or India requested consultations arising from concerns over compliance with the provisions of Article 7(1) of the Agreement, and the results of such consultations; and
(II) any matters not otherwise identified in this report that have become the subject of consultations pursuant to Article 7(2) of the Agreement, including a listing of the receiving country of each such transfer;

(ii) a description of—
(I) any agreed safeguards or any other form of verification for by-product material decided by mutual agreement pursuant to the terms of Article I(A) of the Agreement;
(II) research and development undertaken in such areas as may be agreed between the United States and India as detailed in Article 2(2)(a.) of the Agreement;

(A) Report on proliferation prevention

Each annual report submitted under subsection shall be submitted in unclassified form, but may contain a classified annex.


REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), (2), (3)(A), was in the original “this title”, meaning title I of Pub. L. 109–401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

Section 101(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, referred to in subsec. (g)(2)(M), is section 101(a) of Pub. L. 110–369, which is set out in a note under section 8001 of this title.

CODIFICATION

Section is comprised of section 104 of Pub. L. 109–401.

Subsec. (e) of section 104 of Pub. L. 109–401 amended section 2153(d) of Title 42, The Public Health and Welfare.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–369, § 101(c), substituted “October 8, 2008” for “the enactment of a joint resolution under section 2153(d) of title 42 approving such an agreement”.

Subsec. (g)(1)(B) to (E). Pub. L. 110–369, §105(a), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively.


PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF INDIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY

Determination of President of the United States, No. 2008–26, Sept. 10, 2008, 73 F.R. 54287, provided:

Memorandum for the Secretary of State [and] the Secretary of Energy

The President has determined that the performance of the Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(B) [sic]), I hereby approve the proposed agreement and authorize the Secretary of State to arrange for its execution.

In addition, pursuant to the authority vested in me by the Constitution and the laws of the United States of America, including the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (Public Law 109–401), I hereby determine that:

1. India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA;

2. India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1221 (1973)) to India’s civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials...
used in or produced through the use of India’s civil nuclear facilities;
3. India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India’s civil nuclear program;
4. India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices;
5. India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants;
6. India is taking the necessary steps to secure nuclear and other sensitive materials and technology, including through (A) the enactment and effective enforcement of comprehensive export control legislation and regulations; (B) harmonization of its export control laws, regulations, policies, and practices with the guidelines and practices of the Missile Technology Control Regime (MTCR) and the Nuclear Suppliers Group (NSG); and (C) adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence; and
7. The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

I therefore hereby (1) exempt the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) from the requirement of subsection 123 a.(2) of such section; (2) waive the application of section 128 of the Atomic Energy Act of 1954 (42 U.S.C. 2157) with respect to exports to India; and (3) waive with respect to India the application of:

(A) subsection 129 a.(1)(D) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(a)(1)(D)); and

(B) section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) regarding any actions that occurred before July 18, 2005. The Secretary of State is authorized and directed to publish this determination in the Federal Register.

GEORGE W. BUSH.

DELEGATION OF CERTAIN FUNCTIONS UNDER SECTION 104(g) OF THE UNITED STATES-INDIA PEACEFUL ATOMIC ENERGY COOPERATION ACT OF 2006, AS AMENDED BY PUBLIC LAW 110–369

Memorandum of President of the United States, Apr. 27, 2010, 75 F.R. 23563, provided:

Memorandum for the Secretary of State

The Secretary of Energy is authorized to establish a cooperative nuclear nonproliferation program to pursue jointly with scientists from the United States and India a program to further common nuclear nonproliferation goals, including scientific research and development efforts, with an emphasis on nuclear safeguards (in this section referred to as “the program”).

(b) Consultation

The program shall be carried out in consultation with the Secretary of State and the Secretary of Defense.

(c) National Academies recommendations

(1) In general

The recommendations and assessments prepared under this subsection shall be made publicly available.

(d) Consistency with Nuclear Non-Proliferation Treaty

All United States activities related to the program shall be consistent with United States ob-
lications under the Nuclear Non-Proliferation Treaty.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011. (Pub. L. 109–401, title I, § 109, Dec. 18, 2006, 120 Stat. 2739.)

§ 8008. Definitions

In this chapter:

(1) The term “Additional Protocol” means a protocol additional to a safeguards agreement with the IAEA, as negotiated between a country and the IAEA based on a Model Additional Protocol as set forth in IAEA information circular (INFCIRC) 540.

(2) The term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) The term “dual-use material, equipment, or technology” means material, equipment, or technology that may be used in nuclear or nonnuclear applications.

(4) The term “IAEA safeguards” has the meaning given the term in section 6305(3) of this title.

(5) The term “Indian person” means—

(A) a natural person that is a citizen of India or is subject to the jurisdiction of the Government of India;

(B) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of India or has its principal place of business in India; and

(C) any Indian governmental entity, including any governmental entity operating as a business enterprise.

(6) The terms “Missile Technology Control Regime”, “MTCR”, and “MTCR adherent” have the meanings given the terms in section 2797c(1) of this title.

(7) The term “nuclear materials and equipment” means source material, special nuclear material, production and utilization facilities and any components thereof, and any other items or materials that are determined to have significance for nuclear explosive purposes pursuant to subsection 1 2139(b) of title 42.


(9) The terms “Nuclear Suppliers Group” and “NSG” refer to a group, which met initially in 1975 and has met at least annually since 1992, of Participating Governments that have promulgated and agreed to adhere to Guidelines for Nuclear Transfers (currently IAEA INFCIRC/254/Rev.8/Part 1) and Guide-

1So in original. Probably should be “section”.

lines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology (currently IAEA INFCIRC/254/Rev.7/Part 2).

(10) The terms “nuclear weapon” and “nuclear explosive device” mean any device designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(11) The term “process” includes the term “reprocess”.

(12) The terms “reprocessing” and “reprocess” refer to the separation of irradiated nuclear materials and fissile products from spent nuclear fuel.

(13) The term “sensitive nuclear technology” means any information, including information incorporated in a production or utilization facility or important component part thereof, that is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water.

(14) The term “source material” has the meaning given the term in section 2014(a)(2) of title 42.

(15) The term “special nuclear material” has the meaning given the term in section 2014(aa) of title 42.

(16) The term “unsafeguarded nuclear fuel cycle activity” means research on, or development, design, manufacture, construction, operation, or maintenance of—

(A) any existing or future reactor, critical facility, conversion plant, fabrication plant, reprocessing plant, plant for the separation of isotopes of source or special fissionable material, or separate storage installation with respect to which there is no obligation to accept IAEA safeguards at the relevant reactor, facility, plant, or installation that contains source or special fissionable material; or

(B) any existing or future heavy water production plant with respect to which there is no obligation to accept IAEA safeguards on any nuclear material produced by or used in connection with any heavy water produced therefrom.


REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 109–401, Dec. 18, 2006, 120 Stat. 2728, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.
CHAPTER 88—NUCLEAR NON-PROLIFERATION TREATY—UNITED STATES ADDITIONAL PROTOCOL IMPLEMENTATION

§ 8101. Findings

Congress makes the following findings:

(1) The proliferation of nuclear weapons and other nuclear explosive devices poses a grave threat to the national security of the United States and its vital national interests.

(2) The Nuclear Non-Proliferation Treaty has proven critical to limiting such proliferation.

(3) For the Nuclear Non-Proliferation Treaty to be effective, each of the non-nuclear-weapons State Parties must conclude a comprehensive safeguards agreement with the IAEA, and such agreements must be honored and enforced.

(4) Recent events emphasize the urgency of strengthening the effectiveness and improving the efficiency of the safeguards system. This can best be accomplished by providing IAEA inspectors with more information about, and broader access to, nuclear activities within the territory of non-nuclear-weapons State Parties.

(5) The proposed scope of such expanded information and access has been negotiated by the member states of the IAEA in the form of a Model Additional Protocol to its existing safeguards agreements, and universal acceptance of Additional Protocols by non-nuclear weapons states is essential to enhancing the effectiveness of the Nuclear Non-Proliferation Treaty.

(6) On June 12, 1998, the United States, as a nuclear-weapons State Party, signed an Additional Protocol that is based on the Model Additional Protocol, but which also contains measures, consistent with its existing safeguards agreements with its members, that protect the right of the United States to exclude the application of IAEA safeguards to locations and activities with direct national security significance or to locations or information associated with such activities.

(7) Implementation of the Additional Protocol in the United States in a manner consistent with United States obligations under the Nuclear Non-Proliferation Treaty may encourage other parties to the Nuclear Non-Proliferation Treaty, especially non-nuclear-weapons State Parties, to conclude Additional Protocols and thereby strengthen the Nuclear Non-Proliferation Treaty safeguards system and help reduce the threat of nuclear proliferation, which is of direct and substantial benefit to the United States.

(8) Implementation of the Additional Protocol by the United States is not required and is completely voluntary given its status as a nuclear-weapons State Party, but the United States has acceded to the Additional Protocol to demonstrate its commitment to the nuclear nonproliferation regime and to make United States civil nuclear activities available to the same IAEA inspections as are applied in the case of non-nuclear-weapons State Parties.

(9) In accordance with the national security exclusion contained in Article 1b of its Additional Protocol, the United States will not allow any inspection activities, nor make any declaration of any information with respect to, locations, information, and activities of direct national security significance to the United States.


SHORT TITLE
Pub. L. 109–401, title II, § 201, Dec. 18, 2006, 120 Stat. 2741, provided that: ‘‘This title [enacting this chapter] may be cited as the “United States Additional Protocol Implementation Act”.'