

110TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To approve the United States-India Agreement for Cooperation on Peaceful  
Uses of Nuclear Energy, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. BERMAN introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To approve the United States-India Agreement for Coopera-  
tion on Peaceful Uses of Nuclear Energy, and for other  
purposes.

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

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “United States-India Nuclear Cooperation Approval and  
6 Nonproliferation Enhancement Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Definitions.

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

- Sec. 101. Approval of Agreement.
- Sec. 102. Declarations of policy; certification requirement; rule of construction.
- Sec. 103. Additional Protocol between India and the IAEA.
- Sec. 104. Implementation of Safeguards Agreement between India and the IAEA.
- Sec. 105. Modified reporting to Congress.

TITLE II—STRENGTHENING UNITED STATES NONPROLIFERA-  
TION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION

- Sec. 201. Procedures regarding a subsequent arrangement on reprocessing.
- Sec. 202. Initiatives and negotiations relating to agreements for peaceful nuclear cooperation.
- Sec. 203. Actions required for resumption of peaceful nuclear cooperation.
- Sec. 204. United States Government policy at the Nuclear Suppliers Group to strengthen the international nuclear nonproliferation regime.
- Sec. 205. Conforming amendments.

**1 SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the following definitions  
3 apply:

4 (1) AGREEMENT.—The term “United States-  
5 India Agreement for Cooperation on Peaceful Uses  
6 of Nuclear Energy” or “Agreement” means the  
7 Agreement for Cooperation Between the Government  
8 of the United States of America and the Govern-  
9 ment of India Concerning Peaceful Uses of Nuclear  
10 Energy that was transmitted to Congress by the  
11 President on September 10, 2008.

12 (2) APPROPRIATE CONGRESSIONAL COMMIT-  
13 TEES.—The term “appropriate congressional com-  
14 mittees” means the Committee on Foreign Affairs of

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

3 **TITLE I—APPROVAL OF UNITED**  
4 **STATES-INDIA AGREEMENT**  
5 **FOR COOPERATION ON**  
6 **PEACEFUL USES OF NUCLEAR**  
7 **ENERGY**

8 **SEC. 101. APPROVAL OF AGREEMENT.**

9 (a) IN GENERAL.—Notwithstanding the provisions  
10 for congressional consideration and approval of a proposed  
11 agreement for cooperation in section 123 b. and d. of the  
12 Atomic Energy Act of 1954 (42 U.S.C. 2153 (b) and (d)),  
13 Congress hereby approves the United States-India Agree-  
14 ment for Cooperation on Peaceful Uses of Nuclear En-  
15 ergy, subject to subsection (b).

16 (b) APPLICABILITY OF ATOMIC ENERGY ACT OF  
17 1954, HYDE ACT, AND OTHER PROVISIONS OF LAW.—  
18 The Agreement shall be subject to the provisions of the  
19 Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the  
20 Henry J. Hyde United States-India Peaceful Atomic En-  
21 ergy Cooperation Act of 2006 (22 U.S.C. 8001 et. seq;  
22 Public Law 109–401), and any other applicable United  
23 States law as if the Agreement had been approved pursu-  
24 ant to the provisions for congressional consideration and

1 approval of a proposed agreement for cooperation in sec-  
2 tion 123 b. and d. of the Atomic Energy Act of 1954.

3 (c) SUNSET OF EXEMPTION AUTHORITY UNDER  
4 HYDE ACT.—Section 104(f) of the Henry J. Hyde United  
5 States-India Peaceful Atomic Energy Cooperation Act of  
6 2006 (22 U.S.C. 8003(f)) is amended by striking “the en-  
7 actment of” and all that follows through “agreement” and  
8 inserting “the date of the enactment of the United States-  
9 India Nuclear Cooperation Approval and Nonproliferation  
10 Enhancement Act”.

11 **SEC. 102. DECLARATIONS OF POLICY; CERTIFICATION RE-**  
12 **QUIREMENT; RULE OF CONSTRUCTION.**

13 (a) DECLARATIONS OF POLICY RELATING TO MEAN-  
14 ING AND LEGAL EFFECT OF AGREEMENT.—Congress de-  
15 clares that it is the understanding of the United States  
16 that the provisions of the United States-India Agreement  
17 for Cooperation on Peaceful Uses of Nuclear Energy have  
18 the meanings conveyed in the authoritative representa-  
19 tions provided by the President and his representatives to  
20 the Congress and its committees prior to September 20,  
21 2008, regarding the meaning and legal effect of the Agree-  
22 ment.

23 (b) DECLARATIONS OF POLICY RELATING TO TRANS-  
24 FER OF NUCLEAR EQUIPMENT, MATERIALS, AND TECH-

1 NOLOGY TO INDIA.—Congress makes the following dec-  
2 larations of policy:

3           (1) Pursuant to section 103(a)(6) of the Henry  
4 J. Hyde United States-India Peaceful Atomic En-  
5 ergy Cooperation Act of 2006 (22 U.S.C.  
6 8002(a)(6)), in the event that nuclear transfers to  
7 India are suspended or terminated pursuant to title  
8 I of such Act (22 U.S.C. 8001 et seq.), the Atomic  
9 Energy Act of 1954 (42 U.S.C. 2011 et seq.), or  
10 any other United States law, it is the policy of the  
11 United States to seek to prevent the transfer to  
12 India of nuclear equipment, materials, or technology  
13 from other participating governments in the Nuclear  
14 Suppliers Group (NSG) or from any other source.

15           (2) Pursuant to section 103(b)(10) of the  
16 Henry J. Hyde United States-India Peaceful Atomic  
17 Energy Cooperation Act of 2006 (22 U.S.C.  
18 8002(b)(10)), any nuclear power reactor fuel reserve  
19 provided to the Government of India for use in safe-  
20 guarded civilian nuclear facilities should be commen-  
21 surate with reasonable reactor operating require-  
22 ments.

23           (c) CERTIFICATION REQUIREMENT.—Before ex-  
24 changing diplomatic notes pursuant to Article 16(1) of the  
25 Agreement, the President shall certify to Congress that

1 entry into force and implementation of the Agreement  
2 pursuant to its terms is consistent with the obligation of  
3 the United States under the Treaty on the Non-Prolifera-  
4 tion of Nuclear Weapons, done at Washington, London,  
5 and Moscow July 1, 1968, and entered into force March  
6 5, 1970 (commonly known as the “Nuclear Non-Prolifera-  
7 tion Treaty”), not in any way to assist, encourage, or in-  
8 duce India to manufacture or otherwise acquire nuclear  
9 weapons or other nuclear explosive devices.

10 (d) **RULE OF CONSTRUCTION.**—Nothing in the  
11 Agreement shall be construed to supersede the legal re-  
12 quirements of the Henry J. Hyde United States-India  
13 Peaceful Atomic Energy Cooperation Act of 2006 or the  
14 Atomic Energy Act of 1954.

15 **SEC. 103. ADDITIONAL PROTOCOL BETWEEN INDIA AND**  
16 **THE IAEA.**

17 (a) **IN GENERAL.**—Congress urges the Government  
18 of India to sign and adhere to an Additional Protocol with  
19 the International Atomic Energy Agency (IAEA), con-  
20 sistent with IAEA principles, practices, and policies, at the  
21 earliest possible date.

22 (b) **DEFINITION.**—In this section, the term “Addi-  
23 tional Protocol” has the meaning given the term in section  
24 110(1) of the Henry J. Hyde United States-India Peaceful

1 Atomic Energy Cooperation Act of 2006 (22 U.S.C.  
2 8008(1)).

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

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

9 (1) the Agreement Between the Government of  
10 India and the International Atomic Energy Agency  
11 for the Application of Safeguards to Civilian Nuclear  
12 Facilities, as approved by the Board of Governors of  
13 the International Atomic Energy Agency on August  
14 1, 2008 (the “Safeguards Agreement”), has entered  
15 into force; and

16 (2) the Government of India has filed a declara-  
17 tion of facilities pursuant to paragraph 13 of the  
18 Safeguards Agreement that is not materially incon-  
19 sistent with the plan described in India’s separation  
20 plan presented in the national parliament of India  
21 on May 11, 2006, taking into account the later initi-  
22 ation of safeguards than was anticipated in the sepa-  
23 ration plan.

1 **SEC. 105. MODIFIED REPORTING TO CONGRESS.**

2 (a) INFORMATION ON NUCLEAR ACTIVITIES OF  
3 INDIA.—Subsection (g)(1) of section 104 of the Henry J.  
4 Hyde United States-India Peaceful Atomic Energy Co-  
5 operation Act of 2006 (22 U.S.C. 8003) is amended—

6 (1) by redesignating subparagraphs (B), (C),  
7 and (D) as subparagraphs (C), (D), and (E), respec-  
8 tively; and

9 (2) by inserting after subparagraph (A) the fol-  
10 lowing new subparagraph:

11 “(B) any material inconsistencies between  
12 the content or timeliness of notifications by the  
13 Government of India pursuant to paragraph  
14 14(a) of the Safeguards Agreement and the fa-  
15 cilities and schedule described in paragraph  
16 (14) of the separation plan presented in the na-  
17 tional parliament of India on May 11, 2006,  
18 taking into account the later initiation of safe-  
19 guards than was anticipated in the separation  
20 plan;”.

21 (b) IMPLEMENTATION AND COMPLIANCE REPORT.—  
22 Subsection (g)(2) of such section is amended—

23 (1) in subparagraph (K)(iv), by striking “and”  
24 at the end;

25 (2) in subparagraph (L), by striking the period  
26 at the end and inserting “; and”; and

1           (3) by adding at the end the following new sub-  
2 paragraph:

3           “(M) with respect to the United States-  
4 India Agreement for Cooperation on Peaceful  
5 Uses of Nuclear Energy (hereinafter in this  
6 subparagraph referred to as the ‘Agreement’)  
7 approved under section 101(a) of the United  
8 States-India Nuclear Cooperation Approval and  
9 Nonproliferation Enhancement Act—

10           “(i) a listing of—

11           “(I) all provision of sensitive nu-  
12 clear technology to India, and other  
13 such information as may be so des-  
14 ignated by the United States or India  
15 under Article 1(Q); and

16           “(II) all facilities in India noti-  
17 fied pursuant to Article 7(1) of the  
18 Agreement;

19           “(ii) a description of—

20           “(I) any agreed safeguards or  
21 any other form of verification for by-  
22 product material decided by mutual  
23 agreement pursuant to the terms of  
24 Article 1(A) of the Agreement;

1           “(II) research and development  
2           undertaken in such areas as may be  
3           agreed between the United States and  
4           India as detailed in Article 2(2)(a.) of  
5           the Agreement;

6           “(III) the civil nuclear coopera-  
7           tion activities undertaken under Arti-  
8           cle 2(2)(d.) of the Agreement;

9           “(IV) any United States efforts  
10          to help India develop a strategic re-  
11          serve of nuclear fuel as called for in  
12          Article 2(2)(e.) of the Agreement;

13          “(V) any United States efforts to  
14          fulfill political commitments made in  
15          Article 5(6) of the Agreement;

16          “(VI) any negotiations that have  
17          occurred or are ongoing under Article  
18          6(iii.) of the Agreement; and

19          “(VII) any transfers beyond the  
20          territorial jurisdiction of India pursu-  
21          ant to Article 7(2) of the Agreement,  
22          including a listing of the receiving  
23          country of each such transfer;

24          “(iii) an analysis of—

1           “(I) any instances in which the  
2 United States or India requested con-  
3 sultations arising from concerns over  
4 compliance with the provisions of Ar-  
5 ticle 7(1) of the Agreement, and the  
6 results of such consultations; and

7           “(II) any matters not otherwise  
8 identified in this report that have be-  
9 come the subject of consultations pur-  
10 suant to Article 13(2) of the Agree-  
11 ment, and a statement as to whether  
12 such matters were resolved by the end  
13 of the reporting period; and

14           “(iv) a statement as to whether—

15           “(I) any consultations are ex-  
16 pected to occur under Article 16(5) of  
17 the Agreement; and

18           “(II) any enrichment is being  
19 carried out pursuant to Article 6 of  
20 the Agreement.”.



1 and procedures regarding reprocessing or other alteration  
2 in form or content, as provided for in Article 6 of the  
3 Agreement, shall take effect until the requirements speci-  
4 fied in subsection (c) are met.

5 (c) REQUIREMENTS.—The requirements referred to  
6 in subsection (b) are the following:

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

9 (A) the reasons for entering into such pro-  
10 posed subsequent arrangement;

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

14 (C) a certification that the United States  
15 will pursue efforts to ensure that any other na-  
16 tion that permits India to reprocess or other-  
17 wise alter in form or content nuclear material  
18 that the nation has transferred to India or nu-  
19 clear material and by-product material used in  
20 or produced through the use of nuclear mate-  
21 rial, non-nuclear material, or equipment that it  
22 has transferred to India requires India to do so  
23 under similar arrangements and procedures.

24 (2) A period of 30 days of continuous session  
25 (as defined by section 130 g.(2) of the Atomic En-

1       ergy Act of 1954 (42 U.S.C. 2159 (g)(2)) has  
2       elapsed after transmittal of the report required  
3       under paragraph (1).

4       (d) RESOLUTION OF DISAPPROVAL.—Notwith-  
5       standing the requirements in subsection (c) having been  
6       met, a subsequent arrangement referred to in subsection  
7       (b) shall not become effective if during the time specified  
8       in subsection (c)(2), Congress adopts, and there is en-  
9       acted, a joint resolution stating in substance that Con-  
10      gress does not favor such subsequent arrangement. Any  
11      such resolution shall be considered pursuant to the proce-  
12      dures set forth in section 130 i. of the Atomic Energy Act  
13      of 1954 (42 U.S.C. 2159 (i)), as amended by section 205  
14      of this Act.

15      **SEC. 202. INITIATIVES AND NEGOTIATIONS RELATING TO**  
16                                    **AGREEMENTS FOR PEACEFUL NUCLEAR CO-**  
17                                    **OPERATION.**

18      Section 123 of the Atomic Energy Act of 1954 (42  
19      U.S.C. 2153) is amended by adding at the end the fol-  
20      lowing:

21                    “e. The President shall keep the Com-  
22                    mittee on Foreign Affairs of the House of Rep-  
23                    resentatives and the Committee on Foreign Re-  
24                    lations of the Senate fully and currently in-  
25                    formed of any initiative or negotiations relating

1 to a new or amended agreement for peaceful  
2 nuclear cooperation pursuant to this section  
3 (except an agreement arranged pursuant to sec-  
4 tion 91 c., 144 b., 144 c., or 144 d., or an  
5 amendment thereto). In carrying out this sub-  
6 section, the President shall consult with the  
7 Committee on Foreign Affairs of the House of  
8 Representatives and the Committee on Foreign  
9 Relations of the Senate not less than 15 cal-  
10 endar days before each of the following: (1) The  
11 President's announcement of any initiative re-  
12 lating to such a new or amended agreement. (2)  
13 The initiation of any formal or informal nego-  
14 tiations relating to such a new or amended  
15 agreement. (3) The receipt or transmission of a  
16 draft of such a new or amended agreement.”.

17 **SEC. 203. ACTIONS REQUIRED FOR RESUMPTION OF**  
18 **PEACEFUL NUCLEAR COOPERATION.**

19 Section 129 a. of the Atomic Energy Act of 1954 (42  
20 U.S.C. 2158 (a)) is amended by striking “Congress adopts  
21 a concurrent resolution” and inserting “Congress adopts,  
22 and there is enacted, a joint resolution”.

1 **SEC. 204. UNITED STATES GOVERNMENT POLICY AT THE**  
2 **NUCLEAR SUPPLIERS GROUP TO STRENGTH-**  
3 **EN THE INTERNATIONAL NUCLEAR NON-**  
4 **PROLIFERATION REGIME.**

5 (a) CERTIFICATION.—Before exchanging diplomatic  
6 notes pursuant to Article 16(1) of the Agreement, the  
7 President shall certify to the appropriate congressional  
8 committees that it is the policy of the United States to  
9 work with members of the Nuclear Suppliers Group  
10 (NSG), individually and collectively, to agree to further  
11 restrict the transfers of equipment and technology related  
12 to the enrichment of uranium and reprocessing of spent  
13 nuclear fuel.

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

23 (c) REPORT.—

24 (1) IN GENERAL.—Not later than six months  
25 after the date of the enactment of this Act, and  
26 every six months thereafter, the President shall

1 transmit to the appropriate congressional commit-  
2 tees a report on efforts by the United States pursu-  
3 ant to subsections (a) and (b).

4 (2) TERMINATION.—The requirement to trans-  
5 mit the report under paragraph (1) terminates on  
6 the date on which the President transmits a report  
7 pursuant to such paragraph stating that the objec-  
8 tives in subsections (a) and (b) have been achieved.

9 **SEC. 205. CONFORMING AMENDMENTS.**

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

12 (1) in paragraph (1), by striking “means a joint  
13 resolution” and all that follows through “, with the  
14 date” and inserting the following: “means—

15 “(A) for an agreement for cooperation pursuant  
16 to section 123 of this Act, a joint resolution, the  
17 matter after the resolving clause of which is as fol-  
18 lows: ‘That the Congress (does or does not) favor  
19 the proposed agreement for cooperation transmitted  
20 to the Congress by the President on \_\_\_\_\_ .’,

21 “(B) for a determination under section 129 of  
22 this Act, a joint resolution, the matter after the re-  
23 solving clause of which is as follows: ‘That the Con-  
24 gress does not favor the determination transmitted

1 to the Congress by the President on \_\_\_\_\_ .’,  
2 or

3 “(C) for a subsequent arrangement under sec-  
4 tion 201 of the United States-India Nuclear Co-  
5 operation Approval and Nonproliferation Enhance-  
6 ment Act, a joint resolution, the matter after the re-  
7 solving clause of which is as follows: ‘That the Con-  
8 gress does not favor the subsequent arrangement to  
9 the Agreement for Cooperation Between the Govern-  
10 ment of the United States of America and the Gov-  
11 ernment of India Concerning Peaceful Uses of Nu-  
12 clear Energy that was transmitted to Congress by  
13 the President on September 10, 2008.’,  
14 with the date”;

15 (2) in paragraph (2)—

16 (A) in the first sentence—

17 (i) by striking “a proposed agreement  
18 for cooperation is submitted to the House  
19 of Representatives and the Senate under  
20 section 123 d.” and inserting “a proposed  
21 agreement for cooperation pursuant to sec-  
22 tion 123 d. of this Act, a determination  
23 under section 129 of this Act, or a subse-  
24 quent arrangement under section 201 of  
25 the United States-India Nuclear Coopera-

1                   tion Approval and Nonproliferation En-  
2                   hancement Act, as the case may be, is sub-  
3                   mitted to the House of Representatives  
4                   and the Senate”; and

5                   (ii) by inserting after “such agree-  
6                   ment for cooperation” the following “, de-  
7                   termination, or subsequent arrangement,  
8                   as the case may be,”; and

9                   (B) in the second sentence, by inserting  
10                  after “such an agreement for cooperation” the  
11                  following “, determination, or subsequent ar-  
12                  rangement, as the case may be,”; and

13                 (3) in paragraph (4)—

14                 (A) by inserting after “45 days after its in-  
15                 troduction” the following “(or in the case of a  
16                 joint resolution related to a subsequent ar-  
17                 rangement under section 201 of the United  
18                 States-India Nuclear Cooperation Approval and  
19                 Nonproliferation Enhancement Act, 15 days  
20                 after its introduction)”; and

21                 (B) by inserting after “45-day period” the  
22                 following: “(or in the case of a joint resolution  
23                 related to a subsequent arrangement under sec-  
24                 tion 201 of the United States-India Nuclear Co-

1 operation Approval and Nonproliferation En-  
2 hancement Act, 15-day period)''.