

CRS Report for Congress

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U.S.-India Nuclear Cooperation: A Side-By-Side Comparison of Current Legislation

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Summary

In March 2006, the Bush Administration proposed legislation to create an exception for India from certain provisions of the Atomic Energy Act to facilitate a future nuclear cooperation agreement. After hearings in April and May, the House International Relations Committee and the Senate Foreign Relations Committee considered bills in late June 2006 to provide an exception for India to certain provisions of the Atomic Energy Act related to a peaceful nuclear cooperation agreement. On July 26, 2006, the House passed its version of the legislation, H.R. 5682. Senate consideration of similar legislation is pending. This report provides a thematic side-by-side comparison of the provisions of the two bills, H.R. 5682 (as agreed) and S. 3709 (as reported), with the Administration's proposed legislation, H.R. 4974/S. 2429.

The report concludes with a list of CRS resources that provide further discussion and more detailed analysis of the issues addressed by the legislation presented in the table. This report will be updated as necessary.

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U.S.-India Nuclear Cooperation: A Side-By-Side Comparison of Current Legislation

Overview

In July 2005, President Bush announced his intention to conclude a peaceful nuclear cooperation agreement with India. India, which is not a party to the Nuclear Nonproliferation Treaty (NPT), is considered under U.S. law to be a non-nuclear weapon state, yet has tested nuclear weapons and has an ongoing nuclear weapons program. For these reasons, the President would need to make certain waivers and determinations pursuant to the Atomic Energy Act (AEA) before nuclear cooperation with a state such as India could proceed.

The Administration proposed legislation (introduced as H.R. 4974/ S. 2429) in March 2006 that, in addition to providing waivers of relevant provisions of the AEA (Sections 123 a. (2), 128, and 129), would have allowed a nuclear cooperation agreement with India to enter into force without a vote from Congress, as though it conformed to AEA requirements. In late June, the House International Relations Committee and Senate Foreign Relations Committee reported their versions of legislation (H.R. 5682 and S. 3709), both of which provide the requisite waivers, retain the requirement for a joint resolution of Congress for such an agreement to enter into force, and contain some restrictions. On July 26, 2006, the House passed H.R. 5682 by a vote of 359 to 68.

H.R. 5682

Committee Actions. The House International Relations Committee met on June 27, 2006 to consider H.R. 5682, “United States and India Nuclear Cooperation Promotion Act of 2006,” introduced on June 26 by Representative Hyde.¹ The Committee voted to adopt 6 of 12 amendments (one was withdrawn):

- Representative Royce offered an amendment to ensure that nothing in the Act shall be interpreted as permitting any civil nuclear cooperation with India that would in any way assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons (Section 4 (d) (1));

¹ The National Journal and Congressional Quarterly wrote reports of the HIRC mark-up, available at [http://nationaljournal.com/members/markups/2006/06/mr_20060627_5.htm] and [<http://www.cq.com/display.do?dockkey=/cqonline/prod/data/docs/html/committees/109/committees109-2006062700228055.html@committees&metapub=CQ-COMMITTEEMARKUPS&searchIndex=0&seqNum=1>].

- Representative Sherman offered an amendment to strengthen one of the determinations the President must make to implement the waivers pertaining to the Nuclear Suppliers Group (NSG), stipulating that the required NSG decision would not permit nuclear commerce with any other non-nuclear weapon state that does not have full-scope International Atomic Energy Act (IAEA) safeguards (Section 4 (b) (7)).
- Representative Schiff offered an amendment with three components: to add a provision to U.S. policy with respect to South Asia (Section 3 (b)(7)) encouraging India not to increase its production of fissile material at military facilities pending a multilateral moratorium on production of such material for nuclear weapons; to add a reporting requirement for the Presidential submission to implement the waivers (Section 4 (c) (2) (I)) on steps taken to ensure the U.S. transfers will not be replicated by India or used in its military facilities and that U.S. nuclear fuel supply does not facilitate military production of high-enriched uranium or plutonium; and to add a reporting requirement for an annual report on the same (Section 4 (o) (2) (C)).
- Representative Crowley offered an amendment to add a requirement (Section 4 (o)(3)) for an annual report on new Indian nuclear facilities.
- Representative Berkley offered two amendments related to India's spent fuel disposal: an annual report describing the disposal of spent nuclear fuel from India's civil nuclear program (Section 4 (o) (4)), and a statement of policy that any spent civilian nuclear fuel in India that might be stored in the United States is considered by Congress under existing procedures of the Atomic Energy Act (Section 3 (b) (7)).

An amendment by Ms. Berkley to prohibit any Indian spent fuel from being stored in the United States was rejected by a vote of 15-19. The Committee also voted down four other amendments, including two by Representative Berman designed to place limits on U.S. cooperation until India halts production of fissile material for nuclear weapons. The first Berman amendment, rejected by a vote of 13-32, sought to condition the President's use of waiver authority (by adding a new determination by the President in Section 4 (b) of the bill) on India's adherence to a unilateral or multilateral moratorium or a multilateral treaty prohibiting the production of fissile material for nuclear weapons. The second amendment, rejected by a vote of 12-31, sought to restrict transfers of U.S. nuclear material under a cooperation agreement until such time that India halted fissile material production for weapons, either by adhering to a unilateral or multilateral moratorium, or a multilateral treaty. The Committee also rejected by a vote of 10-32 an amendment by Representative Sherman to condition the President's use of waiver authority on an additional determination, under Section 4 (b) of H.R. 5682, that India's nuclear weapons program was not using more domestic uranium than it had before July 2005. The amendment would have attached an annual certification that required termination of nuclear cooperation if the certification could not be made. Finally, the Committee rejected, by a vote of 4-37, an amendment by Representative Lee that would have

required India to join the Nuclear Nonproliferation Treaty (NPT) before the President could exercise his waiver authority.

The Committee on Rules held a hearing on July 25th to consider amendments to H.R. 5682 and procedures for handling the bill on the floor. H. Res 947 waived all points of order against the bill, specified the allowed amendments and limited floor debate to one hour. The following six amendments were allowed to be offered on the floor:²

- Rep. Hyde (IL)/Lantos (CA): Manager's amendment, containing technical and conforming changes to the text, as well as one substantive change: removing an amendment proposed by Rep. Sherman and adopted during the full committee markup relating to subsection 4(b)(7).
- Rep. Stearns (FL): Reinforces the intent of Congress that the nuclear cooperation into which the governments of the United States and India would enter is for peaceful, productive purposes, not military
- Reps. Jackson-Lee (TX)/Burton (IN): Sense of Congress declaring the importance of the South Asia region and urging the continuation of the United States' policy of engagement, collaboration, and exchanges with and between India and Pakistan
- Rep. Sherman (CA): Requires that, before any nuclear cooperation with India can go forward, and every year thereafter, the President must certify that during the preceding year India has not increased the level of domestic uranium it sends through its weapons program. Baseline for the determination under the amendment is the 365 day period preceding the July 18, 2005 Bush-Singh declaration on nuclear cooperation
- Rep. Berman (CA): Restricts exports of uranium and other types of nuclear reactor fuel (defined as `source material' and `special nuclear material' in the Atomic Energy Act of 1954) to India until the President determines that India has halted the production of fissile material (i.e. plutonium and highly enriched uranium) for use in nuclear weapons
- Rep. Fortenberry (NE): Provides Congress with the ability to assess, to the extent possible, whether annual levels of India's nuclear fissile production may imply a possible violation of Article I of the Nuclear Nonproliferation Treaty.

Three amendments were not allowed for consideration on the floor.³ These were:

² See description in House Report 109-599, "Providing for Consideration of H.R. 5682, United States and India Nuclear Cooperation Promotion Act of 2006," *Congressional Record*, July 25, 2006, p. H5820.

³ A fourth amendment, proposed by Mr. Hyde, would have implemented a Congressional review process for arms sales and exports under the Arms Export Control Act, but this amendment was withdrawn.

- An amendment by Rep. Woolsey that would have prohibited the export of any nuclear related item to India until the President has implemented and observed all NPT obligations and commitments of the United States and has revised United States policies relating to nuclear weapons accordingly;
- An amendment by Rep. Barbara Lee that would have required India to place all electricity-producing reactors under safeguards, undertake a binding obligation not to transfer any nuclear-weapon-related information or technology (per Article I of the NPT) and take concrete steps toward disarmament;
- An amendment by Reps. Markey and Upton that would have prohibited nuclear cooperation with India from commencing until the President has determined that the United States has secured India's full and active support in preventing Iran from acquiring weapons of mass destruction.

Floor Debate and Votes. The House first considered H. Res 947, which, after several objections to limits on time and the exclusion of certain amendments by Rep. Markey and others, passed by a vote of 311 to 112. Of the six amendments considered, three passed by voice vote (the Managers' amendment, Rep. Jackson-Lee/Burton amendment, and Rep. Fortenberry's amendment); Rep. Stearn's amendment was recorded as 414-0, and the amendments offered by Reps. Sherman and Berman were defeated (the votes, respectively, were 155 to 268, and 184 to 281).

Rep. Markey made a motion to recommit the legislation back to the House International Relations Committee with instructions to include language that would require that nuclear cooperation with India could only commence after the president has determined that the United States has secured India's full support in preventing Iran from acquiring weapons of mass destruction. That motion to recommit was defeated in a vote of 192 to 235.

The House passed H.R. 5682, "Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006," as amended, by 359 to 68.

S. 3709

On June 29, 2006, the Senate Foreign Relations Committee considered legislation (See Senate Report 109-288) to create an exception for India from relevant provisions of the Atomic Energy Act.⁴ The Committee voted to adopt 2 of 3 amendments:

⁴ Details on the mark-up are available at *Congressional Quarterly*, [<http://www.cq.com/display.do?dockkey=/cqonline/prod/data/docs/html/committees/109/committees109-2006062900228090.html@committees&metaPub=CQ-COMMITTEEMARKUPS&searchIndex=0&seqNum=1>] for report of the mark-up.

- Senator Chafee offered an amendment making it U.S. policy to ensure that exports of nuclear fuel to India did not encourage India to increase its production of fissile material (Section 103 (9));
- Senator Obama offered an amendment to ensure that the United States did not encourage other states to continue nuclear exports to India, if the United States exports to India terminated under U.S. law (Section 102 (6)).

The Committee rejected an amendment by Senator Feingold requiring an additional presidential determination in Section 105 of the bill by a vote of 5-13. The Feingold amendment would have conditioned the President's use of waiver authority on a determination that U.S. civil nuclear assistance to India would in no way assist, encourage, or induce India to manufacture nuclear weapons or nuclear devices. The amendment was identical in text to the Schiff amendment to H.R. 5682, but sought instead to require a determination rather than a report.

Table 1: Comparison of Current Legislation on Waivers for U.S.-India Nuclear Cooperation

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Waiver authority	Provides authority for President to waive Atomic Energy Act (AEA) requirements.	<i>Section 1 (a):</i> President may waive sections of AEA (see below) if he makes a determination.	<i>Section 4 (a):</i> Same as H.R. 4974.	<i>Section 104 (a):</i> Same as H.R. 4974.
Section 123 a. (2) of Atomic Energy Act (AEA)	Full-scope safeguards.	<i>Section 1 (a) (1):</i> Waived AND the future cooperation agreement enters into force as though it met all Section 123 a. requirements (does not require a Joint Resolution of Approval).	<i>Section 4 (a) (1):</i> Waived BUT entry into force requires Joint Resolution of Approval as all other exempted agreements (See also <i>Section 4 (e)</i>).	<i>Section 104 (a) (1):</i> Equivalent to H.R. 5682. See <i>Section 104 (b)</i> .
Section 128 of AEA	Annual review by Congress of export license for an agreement exempted from full-scope safeguards requirement.	<i>Section 1 (a) (2):</i> Application of Section 128 waived without conditions.	<i>Section 4 (a) (2):</i> Waiver ends if India engages in any Section 129 actions (see description below for Section 129), except for its ongoing weapons program [129 a. (1) (D)] and future reprocessing transfers to a non-nuclear weapon state [129 a. (2) (C)].	<i>Section 104 (a) (2):</i> Section 128 waived without conditions.

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Section 129 of AEA	<p>a. Terminate U.S. nuclear exports if President determines that a (1) non-nuclear weapon state:</p> <p>(A) Has tested a nuclear device</p> <p>(B) terminates or abrogates IAEA safeguards</p> <p>(C) materially violates IAEA safeguards</p> <p>(D) Has ongoing nuclear weapons program</p> <p>OR if President determines (2) any state</p> <p>(A) materially violates a cooperation agreement</p> <p>(B) assists non-nuclear weapon state in nw-related activities</p> <p>(C) Has agreement or transfers reprocessing material, technology, or equipment to a non-nuclear weapon state.</p>	<p><i>Section 1 (a) (3):</i> “Sanctions” under Section 129 waived.</p>	<p><i>Section 4 (a) (3):</i> Waiver of Section 129 limited to: Indian nuclear tests before 2005 [Section 129 a. (1) (A)] and ongoing nuclear weapons activities [Section 129 a. (1) (D)].</p>	<p><i>Section 104 (a) (3):</i> Equivalent to H.R. 5682 but worded differently. The language specifies waiver for sanctions under Section 129 a. (1) (D), but covers the 1998 Indian nuclear test by waiving any Section 129 sanctions regarding any actions that occurred before July 18, 2005. (There has only been one Presidential determination for India prior to 2005 that is relevant to Section 129 – for the Indian nuclear test in 1998).</p>

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Determination	Establishes threshold for President to use waiver authority.	<i>Section 1b:</i> President must make 1 determination that 7 actions have occurred (see below).	<i>Section 4 (b):</i> Same requirements with minor changes that strengthen measures. Specifies safeguards in perpetuity.	<i>Section 105:</i> Same requirements with minor changes that strengthen measures. Specifies safeguards in perpetuity.
Separation plan	Identification of Indian civilian nuclear facilities to US and IAEA.	(1) India has provided to US and IAEA a credible plan to separate civil and military facilities, materials, and programs, and has filed a declaration regarding its civil facilities with the IAEA.	<i>Section 4 (b) (1):</i> Same language as H.R. 4974.	<i>Section 105 (1) and (2)</i> Same language as H.R. 4974 but separates the declaration provision into <i>Section 105 (2)</i> .
Safeguards plan	India committed to placing additional civilian nuclear facilities under IAEA safeguards under the July 18, 2005, Joint Statement.	(2) Entry into force of safeguards agreement in accordance with IAEA practices for India's civil nuclear facilities as declared in the plan.	<i>Section 4 (b) (2):</i> Specifies safeguards in perpetuity in accordance with IAEA standards, principles and practices. Also mentions safeguards on materials and programs, including materials used in or produced through use of civil nuclear facilities.	<i>Section 105 (3)</i> Specifies safeguards in perpetuity in accordance with IAEA standards, principles and practices. Also mentions safeguards on materials and programs.

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Additional Protocol	An agreement with IAEA to enhance inspections, access, and declarations relevant to safeguards.	(3) Making satisfactory progress toward implementation.	<i>Section 4 (b) (3)</i> Specifies “substantial progress” consistent with IAEA principles, practices and policies.	<i>Section 105 (4)</i> Specifies “substantial progress.”
FMCT (Fissile Material Production Cutoff Treaty)	Future negotiations to end production of fissile material for nuclear weapons.	(4) Working with the United States for conclusion of a multilateral FMCT.	<i>Section 4 (b) (4)</i> Specifies working “actively” for the “early” conclusion.	<i>Section 105 (5)</i> Equivalent to H.R. 4974.
Halting enrichment/reprocessing transfers	July 18, 2005, commitment by India to support U.S. policy to restrict access to enrichment and reprocessing.	(5) Supporting international efforts to prevent the spread of enrichment and reprocessing technology.	<i>Section 4 (b) (5)</i> Specifies “working with and supporting US and international efforts.”	<i>Section 105 (6)</i> Specifies preventing spread “to any state that does not already possess full-scale, functioning enrichment and reprocessing plants.”
Export controls	July 18, 2005 commitment by India to strengthen export controls and adhere to international norms, including Missile Technology Control Regime (MTCR) and Nuclear Suppliers Group (NSG) guidelines.	(6) Ensuring that necessary steps are taken to secure nuclear materials and technology through comprehensive export control legislation and regulations; and harmonization and adherence to MTCR and NSG guidelines.	<i>Section 4 (b) (6)</i> Specifies enactment and enforcement of export control laws; specifies harmonization of laws, regulations, policies and practices with the policies and practices of MTCR and NSG.	<i>Section 105 (7)</i> Specifies effective enforcement actions.

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Nuclear Suppliers Group (NSG)	NSG guidelines currently prohibit nuclear transfers to India; a decision must be taken to allow cooperation. NSG operates by consensus.	(7) Supply to India is consistent with US participation in NSG. This assumes that the NSG will agree to an exception for exports to India.	<i>Section 4 (b) (7)</i> Specifies NSG consensus decision.	<i>Section 105 (8)</i> Specifies NSG consensus decision that does not permit an exception for another non-nuclear weapon state.
Report on Determination	Notify Congress that 7 actions have occurred to allow waiver.	<i>Section 1 c.</i> Report to HIRC, SFRC that 7 actions have occurred, including basis for determination.	<i>Section 4 (c) (2):</i> Provides details about what reports to HIRC, SFRC should contain, specifically on the 7 actions. Also, two other reports are required for the determination: a description of the scope of the 123 agreement with the US and the steps taken to ensure that U.S. assistance will not aid India's nuclear weapons program (Schiff amendment).	<i>Section 105:</i> Determination must be made in writing to appropriate Committees. Similar reports are required in <i>Section 108 (a) (1)</i> , but those reports are not tied to the President's determination.

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Termination	Establish a threshold for halting U.S. exports to India (now contained in Section 129 of the AEA and in the proposed peaceful nuclear cooperation agreement itself, which is not yet drafted).	<i>Section 1d.</i> All waiver authorities (for Section 123 a. (2), Section 128, and Section 129) terminate if India tests a nuclear explosive device.	<i>Section 4 (a) (3):</i> All termination provisions of Section 129 of the AEA (except 129 a.(1) (D)) would be in effect (see description of sec.129 waiver above). <i>ALSO</i> <i>Section 4 (d) (3):</i> Exports would terminate if India makes a materially significant transfer of items in violation of NSG guidelines, or of items in violation of MTCR guidelines.	<i>Section 104 (a) (3):</i> All termination provisions of Section 129 of the AEA (except 129 a.(1) (D)) would be in effect (see description of sec.129 waiver above). <i>No equivalent provision to H.R. 5682 but Section 108 (b) (3) (A) contains a reporting reqt if India does not comply with NSG guidelines and Section 108 (b) (4) (A) requires an annual certification that India is in full compliance with all July 18, 2005 commitments.</i>

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Sense of Congress	To describe Congress's policy objectives with respect to nuclear cooperation with India.	None	<i>Section 2</i> Notes importance of nonproliferation and NPT and focuses on how the United States could strengthen its nonproliferation policy by engaging NPT outliers like India. Sets up criteria (nonproliferation record, democratic government, support for U.S. nonproliferation aims) for engagement and states India meets criteria.	<i>Section 102</i> Notes that engaging India is in the national security interest of the United States, but need to minimize proliferation risk. United States should not facilitate trade by other nations if U.S. exports terminated.

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Statements of Policy (I)	To describe U.S. policy objectives, with respect to nonproliferation.	None	<p><i>Section 3 (a) General</i></p> <p>(1) Oppose nuclear weapons development.</p> <p>(2) Support peaceful uses of nuclear energy, but only with full NPT compliance.</p> <p>(3) Strengthen NSG implementation, including cutoff of exports for violations.</p>	<p><i>Section 103</i></p> <p><i>Section 103 (8):</i> maintain support for NPT.</p> <p><i>No equivalent</i></p> <p><i>Similar to Section 103 (6)</i> on support for NSG.</p>

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Statements of Policy (II)	To describe U.S. policy objectives, with respect to South Asia, U.S.-India bilateral relations, and South Asian proliferation.	None	<p><i>Section 3 (b) South Asia</i></p> <p>(1) Fissile material production moratorium for India, Pakistan, China.</p> <p>(2) FMCT</p> <p>(3) Other nonproliferation activities, like PSI, Australia Group, Wassenaar, Convention on Supplementary Compensation.</p> <p>(4) Support for U.S. policies to prevent Iran from acquiring nuclear weapons.</p> <p>(5) Cap, roll back and eliminate South Asian nuclear arsenals.</p> <p>(6) No spent fuel transfer without Congressional approval.</p> <p>(7) Encourage cap on production of fissile material for weapons, pending moratorium.</p>	<p><i>Section 103 (1)</i>, but moratorium does not include China.</p> <p><i>No equivalent</i></p> <p><i>Section 103 (2)</i>, but no mention of Convention on Supplementary Compensation.</p> <p><i>No equivalent</i></p> <p><i>No equivalent</i></p> <p><i>No equivalent</i></p> <p>Similar to <i>Section 103 (9)</i></p>

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Statements of Policy (III)		None	<p><i>No equivalent provision</i></p> <p><i>No equivalent provision</i></p> <p><i>No equivalent provision</i></p> <p><i>No equivalent provision</i></p> <p><i>No equivalent provision</i></p>	<p><i>Section 103 (3): Full compliance with all nonproliferation obligations.</i></p> <p><i>Section 103 (4): Ensure reliability of safeguards and Additional Protocol.</i></p> <p><i>Section 103 (5): Agreement must meet all other Section 123 a. requirements.</i></p> <p><i>Section 103 (6): Consistency with NSG guidelines.</i></p> <p><i>Section 103 (7): Work with NSG members to restrict transfers of enrichment and reprocessing, also to India.</i></p>

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Expedited procedures	To provide procedures for expedited consideration of Joint Resolution of Approval	None, except as provided already in Section 130 of AEA	<i>Section 4 (f) and (g):</i> track with existing law (Section 130 of AEA). [Sections 4 (h) through (l) deleted in version of bill considered by the House, presumably amended by the Rules Committee. These covered procedures for floor consideration in House and Senate]	None, except as provided already in Section 130 of AEA.
End-Use Monitoring	To provide reasonable assurances that the recipient is complying with relevant requirements, terms and conditions of U.S. export licenses.	None	None	<i>Section 107</i> requires following measures: (1) Obtain and implement assurances and conditions regarding end-use monitoring; (2) a detailed system of reporting on technology transfers, including those authorized by Section 57 b of AEA. (3) Fall-back safeguards, should IAEA be unable to implement safeguards in India.

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Restrictions on cooperation		None	<p><i>Section 4 (d)</i></p> <p>(1) No assistance that would aid India's nuclear weapons program.</p> <p>(2) No transfers if they would violate NSG guidelines.</p> <p>(4) President should seek to prevent cooperation by other states with India if United States terminates exports.</p> <p><i>No equivalent provision</i></p>	<p><i>No equivalent</i></p> <p><i>Similar to Section 103 (6):</i> to act in a manner fully consistent with NSG guidelines (but this is only a Statement of Policy).</p> <p><i>Section 102 (6):</i> United States should not seek to facilitate cooperation by other states with India if United States terminates exports.</p> <p><i>Section 106</i> Bans cooperation on enrichment, reprocessing, and heavy water materials, equipment, and technology with exception for multilateral and bilateral fuel cycle cooperation, if President determines that the export will not improve India's ability to produce nuclear weapons. ability to produce fissile material for weapons.</p>

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Other reporting		None	<p><i>Section 4 (j) (1):</i> annual report on U.S. policy objectives for South Asia (i.e., steps taken by the United States and India, extent of success, and cooperation by other countries).</p> <p><i>Section 4 (j) (2):</i> annual report on U.S. nuclear exports to India, including estimates of Indian uranium mining, fissile material and nuclear weapons production rates; as well as impact of imported uranium on such rates. Report also to describe India's use of any U.S. nuclear equipment, material or technology in an uninspected facility; replication of anything transferred and whether imported nuclear fuel has helped to increase fissile material production for weapons.</p>	<p><i>No equivalent</i></p> <p><i>Section 108 (b)</i> requires annual report on Implementation and Compliance.</p>

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Other reporting, continued		None	<p><i>Section 4 (j) (3):</i> annual report on new Indian nuclear facilities.</p> <p><i>Section 4 (j) (4):</i> annual report on India’s spent fuel disposal.</p> <p><i>Section 4 (j) (5):</i> annual report on growth in India’s military fissile material production, to include information on Indian uranium mining, electricity production, domestic uranium used in civilian electricity production, & military fissile material production, etc.</p> <p><i>No equivalent provision</i></p>	<p><i>Section 108 (b) (2):</i> list of licenses approved by NRC, DOE, Commerce or any other U.S. authorizations of exports and reexports of nuclear materials and equipment.</p> <p><i>Section 108 (b) (1):</i> description of additional nuclear facilities/materials India places under IAEA safeguards.</p> <p><i>Section 108 (a) (3):</i> Implementation & Compliance Report; Information on Nuclear Activities of India; “significant changes in the production by India of nuclear weapons or in the types or amounts of fissile material produced.”</p> <p><i>Section 108 (b) (3):</i> Any significant nuclear commerce between India and other countries that does not comply with NSG guidelines, or would not meet standards applied to U.S.-origin material.</p>

Issue/Provision	Description/Purpose	H.R. 4974/S. 2429 as introduced	H.R. 5682 as passed by House	S. 3709 as reported
Other Presidential certifications		None	None	<i>Section 108 (b) (4):</i> That India is in full compliance with following obligations (listed in Section 108 (a) (1)): Joint Statement commitments, separation plan, safeguards agreement, Additional Protocol, 123 agreement, terms and conditions of approved export licenses. If certification is not possible, report on steps, responses and implications.
Consultation with Congress		None	<i>Section 4 (e) (2):</i> Requires monthly consultations with Congress on progress in 123 agreement negotiations and IAEA safeguards agreement negotiations. <i>No equivalent provision</i>	<i>No equivalent provision</i> <i>Section 108 (a):</i> keep Congress fully informed on India's: (1) non-compliance (2) nuclear facility construction (3) fissile material production (4) changes in operational status of nuclear facilities.

Additional Resources

CRS Report RL33016, *U.S. Nuclear Cooperation with India: Issues for Congress*, by Sharon Squassoni.

CRS Report RL33292, *India's Nuclear Separation Plan: Issues and Views*, by Sharon Squassoni.

CRS Report RL33072, *U.S.-India Bilateral Agreements in 2005*, by K. Alan Kronstadt.

CRS Report RS22474, *Banning Fissile Material Production for Nuclear Weapons: Prospects for a Treaty (FMCT)* by Sharon Squassoni, Andrew Demkee, and Jill Marie Parillo.