

Calendar No. 494

113TH CONGRESS }
2nd Session }

SENATE

{ REPORT
{ 113-221

S.J. RES. 36, A JOINT RESOLUTION RELATING TO THE APPROVAL AND IMPLEMENTATION OF THE PROPOSED AGREEMENT FOR NUCLEAR COOPERATION BETWEEN THE UNITED STATES AND THE SOCIALIST REPUBLIC OF VIETNAM

JULY 29, 2014.—Ordered to be printed

Mr. MENENDEZ, from the Committee on Foreign Relations,
submitted the following

R E P O R T

[To accompany S.J. Res. 36]

The Committee on Foreign Relations, having had under consideration the joint resolution (S.J. Res. 36), relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the Socialist Republic of Vietnam, reports favorably thereon, with an amendment, and recommends that the resolution (as amended) do pass.

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I. PURPOSE

The purpose of S.J. Res. 36 is to approve and implement the proposed agreement for nuclear cooperation between the United States and the Socialist Republic of Vietnam. S.J. Res. 36 limits civil nuclear cooperation agreements to 30 years unless the President—within the final five years of the agreement—certifies to the appropriate committees that the party to the agreement has continued to fulfill the terms and conditions of the agreement and that the agreement continues to be in the interest of the United States, and Congress enacts a joint resolution permitting the continuation of the agreement for an additional period no longer than 30 years.

II. COMMITTEE ACTION

S.J. Res. 36 was introduced by Senator Menendez on May 22, 2014. On July 22, 2014, the committee considered S.J. Res. 36 and reported it favorably, with amendments, by voice vote. Senator Markey asked to be recorded as voting against S.J. Res. 36.

The committee took the following action with regard to amendments:

A Manager's amendment in the nature of a substitute was offered to the introduced bill and was agreed to by voice vote. This amendment included language to prevent funds being used to implement civil nuclear cooperation agreements beyond 30 years, except with respect to agreements entered into before August 1, 2014, the Taipei Economic and Cultural Representative Office in the United States and the International Atomic Energy Agency, and place additional requirements on the Nuclear Proliferation Assessment Statement which is submitted to the appropriate congressional committees alongside the text of a civil nuclear cooperation agreement.

Senator Corker offered an amendment to add a tenth non-proliferation certification requirement that would accompany the President's submission of civil nuclear cooperation agreements to Congress. Specifically, the amendment would have added a certification regarding a guaranty by the party that it would not possess sensitive nuclear facilities or otherwise engage in activities related to the enrichment or reprocessing of material. The amendment was not agreed to by voice vote.

Senator Markey offered an amendment that would have restricted funds for civil nuclear cooperation agreements for any country that: withdraws from the Nuclear Non-Proliferation Treaty; engages in transfers of nuclear explosive devices or material, equipment and technology related to nuclear enrichment; delivers nuclear enrichment and reprocessing materials, equipment or technology to a country that does not have them; or seeks to develop or acquire nuclear enrichment and reprocessing materials, equipment, or technology, unless the terms of the country's section 123 agreement authorized it. The amendment was not agreed to by a roll call vote of 5 yeas and 11 nays. Senators Boxer, Markey, Corker, Rubio, and Flake voted in favor. Senators Menendez, Cardin, Shaheen, Durbin, Kaine, Coons, Udall, Risch, Johnson, McCain and Barrasso voted against.

III. DISCUSSION

A section-by-section discussion of S.J. Res. 36, as amended, follows:

Section 1

Section 1 states that Congress favors the May 6, 2014, Agreement for Cooperation Between the Government of the United States and the Government of the Socialist Republic of Vietnam Concerning Peaceful Uses of Nuclear Energy. Additionally, this section states that the Agreement will become effective in accordance with the provisions of this joint resolution.

Section 2

Section 2 prohibits the use of funds to implement any aspect of an agreement for civil cooperation pursuant to section 123 of the Atomic Energy Act of 1954 after 30 years has elapsed since the date of entry into force of such agreement.

However, this restriction will not apply if the President, in the last five years of the agreement, certifies to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that the party to such agreement has continued to fulfill the terms and conditions of the agreement, that the agreement continues to be in the interest of the United States, and Congress enacts a joint resolution permitting the continuation of the agreement for an additional period of up to, but not more than, 30 years.

The restriction set forth in section 2 does not apply to any agreement that had entered into force as of August 1, 2014, or to any agreement, or any amendment to an agreement with the Taipei Economic and Cultural Representative Office in the United States, or the International Atomic Energy Agency.

Section 3

Section 3 requires that each proposed export under the Agreement must be subject to whatever United States laws and regulations were in effect at the time of export.

Section 4

Section 4 requires that the Nuclear Proliferation Assessment Statement that the Secretary of State submits to the President in accordance with the requirements of section 123 of the Atomic Energy Act of 1954 must also be submitted to the appropriate congressional committees, and must be accompanied by a classified annex that is to be prepared in consultation with the Director of National Intelligence.

The Nuclear Proliferation Assessment Statement must include an assessment of the consistency of the proposed agreement test, with the criterion set forth in subsection a of section 123 of the Atomic Energy Act of 1954; an assessment of the adequacy of safeguards, peaceful use assurances and other control mechanisms in the agreement that ensure that any assistance furnished in the agreement will not be used to further any military or nuclear explosive purpose; a historical review and assessment of the past proliferation activity of the cooperating party, including any suspect activity or activities potentially inconsistent with a peaceful nuclear program; a list of all treaties and agreements related to non-proliferation of weapons of mass destruction to which the cooperating party has signed; a thorough assessment of the cooperating party's current laws that govern the non-proliferation of materials or equipment related to weapons of mass destruction; an explanation for the negotiated duration of the agreement; a comparison of the agreement to similar agreements between the United States and other countries in the region; an assessment of the strategic, security, stability and regional considerations addressed through the negotiation of this agreement; and an assessment of the physical and environmental security of the nuclear waste cycle that en-

tures that the agreement addresses international concerns relating to such issues.

The section also provides definitions for “appropriate congressional committees” and “cooperating parties.”

IV. COST ESTIMATE

In accordance with Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee provides this estimate of the costs of this legislation prepared by the Congressional Budget Office.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has determined that there is no regulatory impact as a result of this legislation.

VI. CHANGES IN EXISTING LAW

In compliance with Rule XXVI, paragraph 12 of the Standing Rules of the Senate, the committee has determined that there is no change to existing law made by the bill, as reported.