

THE CONGRESS PROJECT

Assignment Prompt Sheet

Nuclear Non-Proliferation Act of 1978

Overview

Act Titles: Nuclear Non-Proliferation Act of 1978

Congress: 95th Congress (1977-1979)

Session/Sessions: 1-2

Statute No: 53 Stat. 1071, Chap. 336

Public Law No: 76 PL 201

Eid: 950242

Gid: 242-007

Bill: HR 8638

Sponsor: [Rep. Jonathan Bingham](#) (D-NY)

House Committees: International Relations; Energy and Natural Resources

Senate Committees: Governmental Affairs; Foreign Relations

Companion Bill: S 897

Related Bills: S 1492

House Rules: Hres 767

Past Bills: 94 S 1439

Introduced Date- Law Date: July 29, 1977-February 9, 1978

House Floor Days: 4

Senate Floor Days: 3

Roll Call Votes: 5 (1 in the House on HR 8638, 1 in the Senate on HR 8638; 3 in the Senate on HR 8638)

Issues: nuclear weapons; foreign policy; business regulation; trade; separation of powers

Procedures: multiple referral; open rule; amendments; voice vote; motion to concur

Last Updated: 6/19/24



(Above) The sponsor of the Senate version of the Nuclear Nonproliferation Act of 1978, Sen. Charles Percy (R-IL). A moderate, Percy frequently clashed with former President Richard Nixon (R-CA). He was a self-declared “conservative on money issues but a liberal on people issues ([Politico 2011](#)).” Percy was also in the public eye when his 21 year old daughter was tragically murdered during his first Senate campaign. The case was never solved ([Chicago Tribune 2016](#); [Washington Post 2011](#)).

THE CONGRESS PROJECT

Legislative History Comments

The Nuclear Nonproliferation Act of 1978 “[p]rohibited the U.S. government from exporting nuclear material unless assurances were received from the recipient nation that it was not to be used in weapons production (Stathis 2014, 363).” It also “establish[ed] a framework of controls and incentives that, if adopted internationally, could reduce the threat of weapons proliferation and promote the peaceful uses of nuclear energy (GAO 1984).” Practically speaking, the measure “basically required that the United States work with countries that had signed the Nuclear Non-Proliferation Treaty if they wanted to import U.S. nuclear energy (Washington Post 2016).” In signing the bill, President Jimmy Carter (D-GA) called it a “major step toward fulfillment of an objective which the United States shares with other nations—a halt in the spread of nuclear weapons capability while preserving the peaceful use of nuclear energy (Carter 1978).”

The NNPA amended the Atomic Energy Act of 1954 (88 PL 703), which set the primary rules for nuclear commerce (CRS 2006). As CQ Almanac (1977) noted, the legislation was particularly complex and consideration was spread across several House and Senate committees. The enacted NNPA “include[d] stringent nonproliferation requirements for significant U.S. nuclear exports (CRS 2024, 1). The measure was a priority for the Carter administration and non-proliferation received more attention both domestically and internationally in the wake of India’s successful nuclear test in 1974 (CQ Almanac 1978). India was suspected to have used nuclear materials imported from the United States despite not being a signee of the Nuclear Nonproliferation Treaty of 1969.

For more on the broader issue of nuclear nonproliferation, see Last Week Tonight (2014), linked below:

- https://www.youtube.com/watch?v=RaMRa8E_Le0

From a process standpoint, this measure is pretty straight-forward. It gets referred to several different committees and is considered across two sessions, but that shouldn’t be a problem to manage. It passes both chambers overwhelmingly, though you do run into some floor amending in the Senate consideration. I’d discuss the Domenici amendment flagged below and it might be worth discussing McClure’s nuclear waste amendment. Otherwise, the floor process should be an easy lift.

Consult the CQ Almanac pieces linked above or e-mail me directly with process questions!

THE CONGRESS PROJECT

Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

#1. Todd

#2. Shiver

Background Questions

1. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress?

The Stathis (2014) piece might worth a citation here.

What does this act actually do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify?

What did existing federal policy look like in this specific issue area? Why did reformers feel it needed to be changed?

2. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? What happened in previous congresses regarding this? Had Congress considered comparable legislation?

What international events led up to this bill? How did U.S. involvement in nuclear non-proliferation abroad evolve in the years leading up to it? What was the Nuclear Nonproliferation Treaty of 1969?¹ What happened in India to motivate consideration of this bill? What about South Africa? Why was the Atomic Energy Act of 1954 (88 PL 703) considered inadequate?

¹ See [CQ Almanac \(1969\)](#) for more on the treaty. Additionally, Martinez (2002) might be worth a look on this.

THE CONGRESS PROJECT

Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes we have offered below.

#1. House Consideration of HR 8638 (September 21-22; 28, 1977)

HR 8638 was introduced in the House on July 29, 1977 by Rep. Jonathan Bingham (D-NY) and referred to the House Committee on International Relations.

On September 21, 1977, Rep. Claude Pepper (D-FL) reported Hres 767, which provided for consideration of HR 8638 under an open rule. After minimal discussion, the House adopted Hres 767 by a 388-0 vote. Debate on HR 8638 would begin the following day.

Bingham began discussion of the measure by stating:

“I need not lecture my colleagues on the gravity of the problem posed by the uncontrolled spread of the capability to detonate nuclear weapons to nations and terrorist groups. The specter that more nations might employ nuclear weapons in what might otherwise be relatively confined local conflicts is very real indeed. The fact that such volatile areas as the Middle East, Africa, South America and Southern Asia might see the introduction of nuclear weapons capability attained from the version of ostensibly peaceful nuclear technology points to the very great need for reassessment of our nuclear export policies (*Congressional Record*, 95th Congress, September 22, 1977, 30293).”

While discussion was generally positive, [Rep. Mike McCormack](#) (D-WA) raised some concern about the bill’s lack of flexibility in its rules governing the export of nuclear fuel to other countries, stating that its cumbersome regulations may cause “disruptive interference in other nations’ management of their own fuel cycles (*Congressional Record*, 95th Congress, September 22, 1977, 30296).” Bingham and [Rep. Paul Findley](#) (R-IL), one of the bill’s cosponsors, were receptive to McCormack’s concerns and agreed to amend the presented bill to add more flexibility.

The bill returned to the floor on September 28, 1977. Bingham offered amendments to address concerns raised during previous debate and to remove redundant portions of the bill. The House accepted the amendments and [passed the bill unanimously, 411-0](#).

#2. Senate Consideration of S 897 & HR 8638 (February 2; 6-7, 1978)

While HR 8638 made its way through the House, the Senate considered its own version of the bill — S 897, which was introduced on March 3, 1977 by [Sen. Charles Percy](#) (R-IL). Substantive floor debate over the Percy measure, which would later be combined with text from S 1432, a measure sponsored by Sen. John Glenn (D-OH), did not occur until the second session of the 95th Congress.

THE CONGRESS PROJECT

S 897 was brought to the floor by unanimous consent on February 2, 1978. Glenn began the discussion by quoting nuclear physicist Hannes Alfvén who had compared “atoms for peace and atoms for war” to “Siamese twins.” Glenn stated that “[t]he objective of this bill is to perform the delicate surgery that is needed to separate these Siamese twins so that as far as nuclear energy is concerned, we can have benefits without bombs (*Congressional Record*, 95th Congress, February 2, 1978, 1928).”

The measure was met with some criticism. Sen. James McClure (R-ID), asserted the measure as written could cause a “resulting loss of exports” that “could have serious and far-reaching impacts on U.S. policy initiatives (*Congressional Record*, 95th Congress, February 2, 1978, 1935).” Additionally, [Sen. Howard Baker](#) (R-TN), for example, cautioned that unilateral action from the U.S. without input from trading nations could be counterproductive. As a result of these concerns, McClure “said he intended to offer scores of amendments to the bill.”²

On February 7, Sen. Jesse Helms (R-NC) announced his opposition to the bill, asserting that: “[A]s with so much other legislation we have seen in recent years, the bill before us, while enshrined with noble purposes, will in fact be counter-productive to its ends (*Congressional Record*, 95th Congress, February 7, 1978, 2526).”

Later that day, [Sen. Pete Domenici](#) (R-NM) put forward an amendment to HR 8638 that removed a requirement for another country to receive an export license every time they made an order of regulated nuclear material from an American supplier. Domenici’s amendment established that once a license was granted, another was not necessary unless the Nuclear Regulatory Commission found there had been a “material change of circumstances (*Congressional Record*, 95th Congress, February 7, 1978, 2534). Domenici’s amendment failed after [a 56-36 vote](#) on a Glenn motion to lay it on the table.

The Senate passed its amended version of HR 8638 in lieu of S 897 with [an 88-3 vote](#) on February 7. Helms was joined in opposition by Sen. William Scott (R-VA) and Sen. Strom Thurmond (R-SC).

House Consideration of the Senate Amendments to HR 8638 (February 9, 1978)

The Senate’s amended version of HR 8638 came back before the house on February 9, 1978. [Rep. Clement Zablocki](#) (D-WI), one of the bill’s cosponsors, noted that the Senate’s amendments did not change the bill substantially, and the House agreed to the Senate’s amendments by voice vote.

President Jimmy Carter signed HR 8638 into law on March 10, 1978.

² Burnham, David. 1978 “Senate Opens Debate on Nuclear Exports.” *New York Times*, February 3. The article further notes that McClure’s criticism was similar to “those expressed in a memorandum distributed to senators last week by the American nuclear Energy Council, an industry lobbying group.”

THE CONGRESS PROJECT

Member Spotlight

Choose one of the following for your member spotlight:

#1. [Rep. Jonathan Bingham](#) (D-NY)³; [Rep. Mike McCormack](#) (D-WA); [Rep. Paul Findley](#) (R-IL); Rep. Claude Pepper (D-FL); Speaker Thomas P. “Tip” O’Neill (D-MA); [Rep. Clement Zablocki](#) (D-WI)

#2: Sen. John Glenn (D-OH)⁴; [Sen. Charles Percy](#) (R-IL); [Sen. Howard Baker](#) (R-TN); [Sen. Pete Domenici](#) (R-NM); Sen. James McClure (R-ID); Sen. Jesse Helms (R-NC)

Aftermath Questions

1. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing?

How has this law evolved over time? Has it been featured in any major Supreme Court cases? Significantly altered by subsequent legislation?

2. How relevant is this issue currently? What about this act specifically? Are there additional issues related to it that reformers have been pushing to change?

How has this act been viewed by scholars? Did it achieve its stated goals? Do scholars highlight any major limitations? Are there aspects of the bill that are viewed more favorably than others? Discuss the relevance of this act as it pertains to contemporary policy.

³ A former diplomat at the United Nations, Bingham was an outspoken liberal who served in the House for nearly 18 years. In addition to the NNPA, Bingham was known for his ultimately unsuccessful attempts to move legislation regulating firearms ([New York Times 1986](#)).

⁴ The first American to orbit the Earth, Glenn has been portrayed in a large number of movies and television shows. After his NASA career ended, he would go on to serve 25 years in the U.S. Senate and was a presidential candidate in 1984. With Percy, he was credited with guiding the NNPA through the Senate and the [Washington Post \(2016\)](#) referred to the legislation as “the defining piece of legislation in Glenn's career and of the U.S. commitment to nuclear nonproliferation efforts.”

THE CONGRESS PROJECT

Suggested Sources

Scholarly Articles

Clinton, Joshua D., and John S. Lapinski. "Measuring legislative accomplishment, 1877–1994." *American Journal of Political Science* 50.1 (2006): 232-249.

Stathis, Stephen W. 2014. *Landmark Legislation, 1774-2012: Major U.S. Acts and Treaties, 2nd Edition*. Washington: CQ Press.

Martinez, J. Michael. "The Carter Administration and the Evolution of American Nuclear Nonproliferation Policy, 1977–1981." *Journal of Policy History* 14.3 (2002): 261-292.

Lodgaard, Sverre. "Prospects for non-proliferation." *Survival* 22.4 (1980): 161-166.

Bourantonis, Dimitris. "The negotiation of the Non-Proliferation Treaty, 1965–1968: A note." *The International History Review* 19.2 (1997): 347-357.

Van der Meer, Sico. "Not that bad: Looking back on 65 years of nuclear non-proliferation efforts." *Security and Human Rights* 22.1 (2011): 37-47.

Horovitz, Liviu. "Beyond pessimism: Why the treaty on the non-proliferation of nuclear weapons will not collapse." *Journal of Strategic Studies* 38.1-2 (2015): 126-158.

Ruzicka, Jan. "Behind the veil of good intentions: power analysis of the nuclear non-proliferation regime." *International Politics* 55 (2018): 369-385.

Walker, J. Samuel. "Nuclear power and nonproliferation: The controversy over nuclear exports, 1974–1980." *Diplomatic History* 25.2 (2001): 215-249.

THE CONGRESS PROJECT

Newspaper Pieces

- <https://sgp.fas.org/crs/nuke/IB10091.pdf>
- <https://www.washingtonpost.com/archive/politics/1983/07/22/stop-this-nuclear-sale/c8c020d5-e8bc-468d-86ff-bd0053005117/>
- <https://www.politico.com/story/2011/09/ex-sen-charles-percy-dies-at-91-063739>
- https://www.washingtonpost.com/local/obituaries/2011/09/13/gIQAlrMgZK_story.html
- <https://www.chicagotribune.com/2016/09/18/50-years-ago-the-unsolved-slaying-of-valerie-percy/>
- <https://www.washingtonpost.com/archive/politics/1978/12/06/carters-nuclear-policy-wins-few-converts-abroad/330ab096-0297-4aab-a39b-ba7d5e50e20f/>
- <https://www.washingtonpost.com/archive/politics/1978/02/08/senate-approves-strict-controls-on-nuclear-exports/6596a096-7ec1-44e9-8fda-c123cb3267fa/>
- <https://www.vox.com/future-perfect/23593348/build-nuclear-energy-from-nuclear-bombs-ukraine-war>
- <https://www.armscontrol.org/act/2008-12/looking-back-1978-nuclear-nonproliferation-act>
- <https://www.nytimes.com/1994/09/09/world/us-criticized-for-helping-japan-over-plutonium-will-stop.html>
- <https://www.nytimes.com/1978/02/15/archives/us-nuclear-industry-sees-a-threat-to-exports-in-bill-us-nuclear.html>
- <https://www.nytimes.com/1984/01/10/us/glenn-asks-action-on-proliferation.html>
- <https://www.nytimes.com/1978/04/05/archives/france-balks-at-talks-on-us-nuclear-supplies.html>
- <https://muse.jhu.edu/article/446241/pdf>
- <https://www.vox.com/politics/2023/7/24/23800777/oppenheimer-christopher-nolan-atomic-bomb-true-story-los-alamos-manhattan-project>
- <https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/17/the-u-n-just-passed-a-treaty-outlawing-nuclear-weapons-that-actually-matters/>
- <https://www.npr.org/2018/07/01/625187594/nuclear-non-proliferation-treaty-turns-50>
- <https://www.washingtonpost.com/news/the-fix/wp/2016/12/08/3-times-in-his-senate-career-the-late-john-glenn-really-had-the-right-stuff/>
- <https://www.gao.gov/products/ocg-81-2#:~:text=The%20Nuclear%20Nonproliferation%20Act%20of,peaceful%20uses%20of%20nuclear%20energy.>
- <https://time.com/6296257/oppenheimer-nuclear-nonproliferation/>