

118TH CONGRESS
1ST SESSION

H. R. 4619

To authorize the sale of Virginia Class submarines to Australia in support of the trilateral security partnership between Australia, the United Kingdom, and the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2023

Mr. HUIZENGA (for himself and Mr. McCAUL) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Rules, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the sale of Virginia Class submarines to Australia in support of the trilateral security partnership between Australia, the United Kingdom, and the United States, 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.**

4 This Act may be cited as the “AUKUS Submarine
5 Transfer Authorization Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The trilateral security partnership between
2 Australia, the United Kingdom, and the United
3 States (in this Act referred to as the “AUKUS part-
4 nership”) provides an opportunity to deepen mari-
5 time cooperation and coordination among the
6 AUKUS partnership.

7 (2) The AUKUS partnership reflects our
8 shared interest in a global rules-based order in
9 which the sovereignty of nation States, including in-
10 ternal waters and territorial seas, are threatened.

11 (3) Underpinned by the 1951 Australia, New
12 Zealand, United States Security Treaty (commonly
13 referred to as the “ANZUS Treaty”), the Australian
14 Defence Force has long played a role in maintaining
15 peace, security, and prosperity in the Indo-Pacific
16 region and has also been a global security partner
17 in addressing global threats, including the global war
18 on terrorism.

19 (4) The Australian Government Defence Stra-
20 tegic Review, released on April 24, 2023, recognizes
21 the need for a biennial National Defense Strategy.
22 This Review prioritizes the acquisition and need for
23 Australian infrastructure for the sustainment of nu-
24 clear-powered submarines through the AUKUS part-
25 nership.

1 (5) The AUKUS partnership furthers United
2 States national security interests by ensuring part-
3 ner countries develop and provide joint advanced
4 military capabilities to promote security and stability
5 in the Indo-Pacific region without governmental bar-
6 riers to innovation.

7 (6) United States arms exports conducted
8 under the Foreign Assistance Act of 1961 (22
9 U.S.C. 2151 et seq.) and the Arms Export Control
10 Act (22 U.S.C. 2751 et seq.)—

11 (A) advance national security and foreign
12 policy interests of the United States; and

13 (B) also support the United States defense
14 industrial base and defense procurements.

15 **SEC. 3. AUTHORIZATION OF SALE OF VIRGINIA CLASS SUB-**
16 **MARINES TO AUSTRALIA.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of law, the President is authorized to transfer up to
19 two Virginia Class submarines from the inventory of the
20 Department of the Navy to the Government of Australia
21 on a sale basis, during the 15-year period beginning on
22 the date of the enactment of this Act, to implement the
23 AUKUS partnership.

24 (b) COSTS OF TRANSFERS.—Any expense incurred by
25 the United States in connection with a transfer of a vessel

1 authorized under subsection (a) shall be charged to the
2 recipient notwithstanding section 516(e) of the Foreign
3 Assistance Act of 1961 (22 U.S.C. 2321j(e)).

4 (c) REPAIR AND REFURBISHMENT.—

5 (1) IN GENERAL.—To the maximum extent
6 practicable, the President shall require, as a condi-
7 tion of a transfer of a vessel authorized under sub-
8 section (a), that the recipient to which the vessel is
9 transferred have such repair or refurbishment of the
10 vessel as is needed, before the vessel joins the naval
11 forces of that recipient, performed at a shipyard lo-
12 cated in the United States.

13 (2) PERSONNEL.—Repair or refurbishment de-
14 scribed in paragraph (1) may be carried out by per-
15 sonnel of the United States, the United Kingdom, or
16 Australia in accordance with the international ar-
17 rangements governing submarine security activities
18 under the AUKUS partnership.

19 (d) CERTIFICATION.—

20 (1) IN GENERAL.—Not less than 270 days prior
21 to the transfer of a vessel authorized under sub-
22 section (a), the President shall submit to the appro-
23 priate congressional committees and leadership a
24 certification that—

25 (A) the transfer of such vessels—

1 (i) will not impact United States un-
2 dersea operational requirements;

3 (ii) is consistent with United States
4 foreign policy and national security inter-
5 ests; and

6 (iii) is in furtherance of the AUKUS
7 partnership;

8 (B) the United States has the industrial
9 capacity to meet and maintain the submarine
10 production requirements needed to meet both
11 the need for Virginia class and Columbia class
12 submarines;

13 (C) the United States has the capacity to
14 produce enough highly enriched uranium to
15 meet the needs of the Department of Defense
16 for the next 10 years;

17 (D) the Government of Australia has pro-
18 vided the necessary funds and support for the
19 additional capacity required to meet the United
20 States submarine fleet requirements; and

21 (E) the Government Australia has dem-
22 onstrated the sovereign capability to host and
23 operate the vessels authorized to be transferred.

24 (2) JOINT RESOLUTION OF DISAPPROVAL.—

1 (A) IN GENERAL.—The President may not
2 transfer a vessel authorized under subsection
3 (a) if, within the 270-day period prior to the
4 proposed transfer, a joint resolution is enacted
5 into law prohibiting the proposed transfer.

6 (B) SENATE PROCEDURES.—Any joint res-
7 olution described in this paragraph shall be con-
8 sidered in the Senate in accordance with the
9 provision of section 601(b) of the International
10 Security Assistance and Arms Export Control
11 Act of 1976.

12 (C) HOUSE PROCEDURES.—For the pur-
13 pose of expediting the consideration and enact-
14 ment of a joint resolution described in this
15 paragraph, a motion to proceed to the consider-
16 ation of any such joint resolution after it has
17 been reported by the appropriate committee
18 shall be treated as highly privileged in the
19 House of Representatives.

20 (3) NON-APPLICABILITY.—Section 8678 of title
21 10, United States Code, shall not apply with respect
22 to the transfer of vessels authorized under sub-
23 section (a).

24 (e) CREDITING OF RECEIPTS.—

1 (1) IN GENERAL.—Notwithstanding any provi-
2 sion of law pertaining to the crediting of amounts
3 received from a sale under the terms of the Arms
4 Export Control Act (22 U.S.C. 2761), any receipt of
5 the United States as a result of a transfer of vessels
6 authorized under subsection (a) shall—

7 (A) be credited, at the discretion of the
8 Secretary of Defense to—

9 (i) the appropriation, fund, or account
10 used in incurring the original obligation;

11 (ii) an appropriate appropriation,
12 fund, or account currently available for the
13 purposes for which the expenditures were
14 made; or

15 (iii) any other appropriation, fund, or
16 account available for the improvement of
17 the United States submarine industrial
18 base; and

19 (B) remain available for obligation until
20 expended for the same purpose as the appro-
21 priation to which the receipt is credited.

22 (2) REPORT.—Not later than 30 days after the
23 receipt of funds as described in paragraph (1), the
24 Secretary of Defense, in coordination with the Sec-
25 retary of State and the Administrator of the Na-

1 tional Nuclear Security Administration, shall submit
2 to the appropriate congressional committees and
3 leadership a report on the matters described in sub-
4 paragraphs (A) and (B) of paragraph (1).

5 (f) APPLICABILITY OF EXISTING LAW TO TRANSFER
6 OF SPECIAL NUCLEAR MATERIAL AND UTILIZATION FA-
7 CILITIES FOR MILITARY APPLICATIONS.—

8 (1) IN GENERAL.—With respect to any special
9 nuclear material for use in utilization facilities or
10 any portion of a vessel transferred under subsection
11 (a) constituting utilization facilities for military ap-
12 plications under section 91 of the Atomic Energy
13 Act of 1954 (42 U.S.C. 2121), the transfer of such
14 material or such facilities shall only occur in accord-
15 ance with such section 91.

16 (2) USE OF FUNDS.—The Administrator of the
17 National Nuclear Security Administration may use
18 proceeds from a transfer described in subparagraph
19 (1) for the acquisition of submarine naval nuclear
20 propulsion plants and the nuclear fuel to replace the
21 propulsion plants and fuel transferred to the Gov-
22 ernment of Australia.

23 (g) TRANSFER OR EXPORT OF DEFENSE SERV-
24 ICES.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, the President may transfer or au-
3 thorize the export of defense services (as such term
4 is defined in section 47 of the Arms Export Control
5 Act (22 U.S.C. 2794)) to the Government of Aus-
6 tralia and the Government of the United Kingdom
7 in support of a transfer of vessels authorized under
8 subsection (a).

9 (2) AUTHORITY TO EXPORT TO AUSTRALIAN
10 AND UNITED KINGDOM PRIVATE-SECTOR PER-
11 SONNEL.—The transfer or export of defense services
12 under this subsection may be directly exported to
13 private-sector personnel of Australia or to private-
14 sector personnel of the United Kingdom to support
15 the development of the Australian submarine indus-
16 trial base necessary for submarine security activities
17 between members of the AUKUS partnership, in-
18 cluding in the case in which such private-sector per-
19 sonnel are not officers, employees, or agents of the
20 Government of Australia or the Government of the
21 United Kingdom in accordance with the require-
22 ments of the Arms Export Control Act (22 U.S.C.
23 2751 et seq.).

24 (h) REPORT.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act and an-
3 nually thereafter for 15 years, the Secretary of De-
4 fense, in coordination with the Secretary of State
5 and the Administrator of the National Nuclear Secu-
6 rity Administration, shall submit to the appropriate
7 congressional committees and leadership a report de-
8 scribing the status of—

9 (A) the transfer of vessels authorized
10 under subsection (a);

11 (B) the implementation of submarine secu-
12 rity cooperation under the AUKUS partnership
13 and challenges towards its implementation;

14 (C) expansion of the public and private
15 Virginia class submarine production and repair
16 facilities, to include proposed work conducted in
17 Australia and the United Kingdom to meet the
18 additional work required by commitments under
19 the AUKUS partnership;

20 (D) the Integrated Master Schedules for
21 Virginia and Columbia production over the next
22 15 years, to include the total number of nuclear
23 powered attack submarines and nuclear pow-
24 ered ballistic missile submarines the Depart-
25 ment of Defense plans to procure;

1 (E) whether 12 nuclear powered ballistic
2 missile submarines is sufficient to meet the re-
3 quirements of the United States Strategic Com-
4 mand or whether additional nuclear powered
5 ballistic missile submarines will be required;

6 (F) a list of transfers or exports of defense
7 services authorized under subsection (g) and
8 the private-sector personnel of Australia or the
9 private-sector personnel of the United Kingdom
10 to whom the defense services were exported;
11 and

12 (G) bilateral or trilateral agreements be-
13 tween countries of the AUKUS partnership rel-
14 evant to the transfer of vessels authorized
15 under subsection (a).

16 (2) FORM.—The report required by this sub-
17 section shall be submitted in classified form.

18 (i) APPROPRIATE CONGRESSIONAL COMMITTEES AND
19 LEADERSHIP DEFINED.—In this section, the term “ap-
20 propriate congressional committees and leadership”
21 means—

22 (1) the Speaker of the House of Representa-
23 tives and the Committee on Foreign Affairs, the
24 Committee on Armed Services, and the Committee

1 on Appropriations of the House of Representatives;
2 and

3 (2) the majority leader of the Senate and the
4 Committee on Armed Services, the Committee on
5 Foreign Relations, and the Committee on Appropria-
6 tions of the Senate.

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