

September 18, 1964

AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES, THE UNITED STATES OF AMERICA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY ON THE APPLICATION OF SAFEGUARDS TO FISSIONABLE MATERIALS LEASED TO THE PHILIPPINES BY THE UNITED STATES

Note: The Agreement entered into force, September 24, 1965 upon the acceptance by the Agency of the initial inventory provided for on Sec. 6 of the Agreement.

WHEREAS the Government of the United States of America (hereinafter called the "United States") and the Government of the Republic of the Philippines (hereinafter called the "Philippines") have been co-operating on the civil uses of atomic energy under their Agreement for Cooperation of 27 July 1955, as amended on 11 June 1960 and 7 August 1963 (hereinafter called the "Agreement for Cooperation"), which requires that equipment, devices and materials made available to the Philippines by the United States be used solely for peaceful purposes and establishes a system of safeguards to that end; and

WHEREAS the Agreement for Cooperation reflects the mutual recognition of the two Governments of the desirability of arranging for the International Atomic Energy Agency (hereinafter called the "Agency") to administer safeguards as soon as practicable; and

WHEREAS the Agency is, pursuant to its Statute and the action of its Board of Governors, now in a position to apply safeguards to certain materials, equipment and facilities in accordance with the Agency's safeguards procedures set forth in the Safeguards Document and in the Inspectors Document; and

WHEREAS the two Governments have reaffirmed their desire that equipment, devices and materials supplied by the United States under the Agreement for Cooperation or produced by their use or otherwise subject to safeguards under that Agreement shall not be used for any military purpose and have requested the Agency to apply, insofar as it has appropriate provisions to do so safeguards to such materials, equipment and facilities as are covered by this Agreement; and

WHEREAS the Board of Governors of the Agency has acted favourably upon that request on 11 June 1964;

NOW, THEREFORE, the two Governments and the Agency agree as follows;

ARTICLE I

Use of Materials, Devices and Facilities for Peaceful Purposes

Section 1. The Philippines hereby undertakes that, during the term of this Agreement, it will not use in such a way as to further any military purpose any material, equipment or facility listed in the inventory for the Philippines provided for in paragraphs 1 and 2 of the Annex.

Section 2. The United States hereby undertakes that, during the term of this Agreement, it will not use in such a way as to further any military purpose any special fissionable material listed in the inventory for the United States provided for in paragraph 3 of the Annex.

Section 3. The Agency hereby agrees to apply safeguards, during the term of and in accordance with the provisions of this Agreement, to materials, equipment and facilities while they are listed in the inventories provided for in the Annex, to ensure that they will not be used in such a way as to further any military purpose, provided that there need be no application of safeguards to:

(a) Nuclear materials, except to the extent that the quantity of PN material of that type in the State, including that listed in the inventory provided for in the Annex, is in excess of:

(i) In the case of natural uranium or depleted uranium with a uranium — 235 content of 0.5 per cent or greater — 10 metric tons;

(ii) In the case of depleted uranium with a uranium — 235 content of less than 0.5 per cent — 20 metric tons;

(iii) In the case of thorium — 20 metric tons;

(iv) In the case of special fissionable material: plutonium, uranium — 233 or fully enriched uranium or its equivalent in the case of partially enriched uranium — 200 grams;

(b) Reactors specified by the Philippines and determined by the Agency to have a maximum calculated power for continuous operation of less than three thermal megawatts, provided that the total such power of the reactors thus specified by the Philippines under this and all other agreements providing for safeguards by the Agency in the Philippines may not exceed 6 thermal megawatts;

(c) Mines, mining equipment or ore-processing plants.

Section 4. The Philippines and the United States undertake to facilitate the application of such safeguards and to co-operate with the Agency and each other to that end.

Section 5. The United States agrees that its rights under Article VI of the Agreement for Cooperation to apply safeguards to equipment, devices and materials subject to that Agreement will be suspended with respect to materials, equipment and facilities while they are listed in the Inventory for the Philippines provided for in the Annex. It is understood that no other rights and obligations of the United States and the Philippines between each other under Article VI and other provisions of the Agreement for Cooperation, including those arising by reason of paragraph B of Article VII will be affected by this Agreement. If the Board determines, pursuant to Section 15(a) or otherwise, that the Agency is unable to apply safeguards to any such material, equipment or facility, it shall thereby be removed from such inventory until the Board determines that the Agency is able to apply safeguards to it.

ARTICLE II

Application of Agency Safeguards

Section 6. An initial inventory of all the materials, equipment and facilities which are within the jurisdiction of the Philippines and subject to the Agreement for Cooperation and which are within the scope of the Agency safeguards system shall be prepared by the two Governments and submitted to the Agency. Upon the entry into force of this Agreement, the Agency will commence applying safeguards to such materials, equipment and facilities. Thereafter the Philippines and the United States shall jointly notify the Agency of:

(a) Any transfer from the United States to the Philippines under their Agreement for Cooperation of materials, equipment or facilities which are within the scope of the Agency's safeguards system,

(b) Any transfer from the Philippines to the United States of any special fissionable material included in the inventory pursuant to Section 8.

Such materials, equipment and facilities shall be listed in the respective inventory provided for in the Annex, within thirty days of receipt of such notification by the Agency and thereupon become subject to safeguards by the Agency, unless the Agency notifies the two Governments that it is unable to apply safeguards thereto.

Section 7. The notification by the two Governments provided for in Section 6 shall normally be sent to the Agency not more than two weeks after the material, equipment or facility arrives in the recipient country, except that shipments of natural uranium, depleted uranium, or thorium in quantities not exceeding one ton shall not be subject to the two-week notification requirement but shall be reported to the Agency at quarterly intervals. Such notification shall include the type, form and quantity of the material and/or the type and capacity of the equipment or facility involved, the date of shipment, the date of receipt, the identity of the recipient, and any other relevant information. The two Governments also undertake to give the Agency as much advance notice as possible of the transfer of large quantities of nuclear materials or major equipment or facilities. Design information pertinent to safeguards and concerning the facilities listed in the inventory provided for in paragraphs 1(a) and 2 of the Annex shall also be provided to the Agency by the Party concerned at the request of the Agency.

Section 8. The Philippines shall notify the Agency, by means of its routine safeguards reports, of any special fissionable material it has produced, during the period covered by the report, in or by the use of any of the materials, equipment or facilities listed in the principal part of the inventory for the Philippines provided for in the Annex. Upon receipt by the Agency of the notification, such produced material shall be listed in that inventory, provided that any material so produced shall be deemed to be listed and therefore to be subject to safeguards by the Agency from the time it is produced. The Agency may verify the calculations of the amounts of such materials; appropriate adjustment in the inventory provided for in the Annex will be made by agreement of the Parties to the Agreement concerned. Pending final agreement of the Parties concerned, the Agency's calculations will govern.

Section 9. The Philippines and the United States shall jointly notify the Agency of the return to the United States of any materials, equipment or facilities listed in the inventory for the Philippines provided for in the Annex. Upon receipt thereof by the United States;

(a) Materials described in Section 6(b) shall be transferred from the inventory for the Philippines to the inventory for the United States;

(b) Other materials, and equipment or facilities shall be deleted from the inventory provided for in the Annex.

Section 10. The Philippines and the United States shall jointly notify the Agency of any transfer of materials, equipment or facilities listed in the inventory provided for in the Annex to a recipient which is not under the jurisdiction of either the Philippines or the United States. Such materials, equipment or facilities shall thereupon be deleted from such inventory, provided that:

(a) Safeguards by the Agency continue to apply to such materials, equipment or facilities; or

(b) Other safeguards, generally consistent with Agency safeguards and acceptable to the Philippines and the United States, will apply to such materials, equipment or facilities, provided that in the case of materials included in the inventory pursuant to Section 6(b) or 8 such other safeguards are also acceptable to the Agency.

Section 11. The notification by the two Governments provided for in Sections 9 and 10 shall be sent to the Agency at least two weeks before the material, equipment or facility is transferred. In other respects these notifications shall conform, as far as appropriate, to the requirements of Section 7.

Section 12. Agency safeguards applied to nuclear material pursuant to this Agreement will be suspended while such material is transferred, to any other State or group of States or to an international organization, solely for the purpose of processing, reprocessing or testing, under an agreement approved by the Agency and within the scope of the Agreement for Cooperation, or is transferred, under an arrangement approved by the Agency, to a facility within the Philippines or the United States of America to which safeguards are not applied, provided that:

(a) The agreement or the arrangement requires that there be placed under safeguards by the Agency, at a time to be agreed and with due allowance for processing losses, an amount of the same type of nuclear material at least equal to such transferred material and not otherwise subject to safeguards (hereinafter called "substituted material"); or

(b) The quantities of such transferred material are not at any "time in excess of:

(i) In the case of natural uranium or depleted uranium with a uranium — 235 content of 0.5 per cent or greater — 10 metric tons;

(ii) In the case of depleted uranium with a uranium — 235 content of less than 0.5 per cent — 20 metric tons; (iii) In the case of thorium — 20 metric tons;

(iv) In the case of special fissionable material: plutonium, uranium — 233 or fully enriched uranium or its equivalent in the case of partially enriched uranium — 1000 grams.

In the case of materials listed in the inventory pursuant to Section 6(b), the Agency undertakes to give any requisite approvals necessary to allow the suspension of safeguards within the United States.