

Administration of Joseph R. Biden, Jr., 2023

Message to the Congress Transmitting a Proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of the Philippines Concerning Peaceful Uses of Nuclear Energy

November 30, 2023

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to subsections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the "Act"), the text of an Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of the Philippines Concerning Peaceful Uses of Nuclear Energy (the "Agreement").

I am also pleased to transmit my written approval, authorization, and determination concerning the Agreement and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement. In accordance with section 123 of the Act, a classified annex to the NPAS, prepared by the Secretary of State, in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately. The joint memorandum submitted to me by the Secretaries of State and Energy and a letter from the Chair of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed. An addendum to the NPAS containing a comprehensive analysis of the export control system of the Republic of the Philippines with respect to nuclear-related matters, including interactions with other countries of proliferation concern and the actual or suspected nuclear, dual-use, or missile-related transfers to such countries, pursuant to section 102A(w) of the National Security Act of 1947 (50 U.S.C. 3024(w)), is being submitted separately by the Director of National Intelligence.

The Agreement has been negotiated in accordance with the Act and other applicable law. In my judgment, it meets all applicable statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States of America.

The Agreement contains all of the provisions required by subsection 123 a. of the Act. It provides a comprehensive framework for peaceful nuclear cooperation with the Republic of the Philippines based on a mutual commitment to nuclear nonproliferation. It would permit the transfer of material, equipment (including reactors), components, and information for peaceful nuclear purposes. It would not permit the transfer of Restricted Data or sensitive nuclear technology. Any special fissionable material transferred could only be in the form of low enriched uranium, with the exception of small quantities of material for use as samples, standards, detectors, or targets, or for such other purposes as the parties may agree.

Through the Agreement, the Republic of the Philippines would affirm its intent to rely on existing international markets for nuclear fuel services rather than acquiring sensitive nuclear technology (i.e., for enrichment and reprocessing), and the United States would affirm its intent to support the supply of reactors, material, and equipment in order to ensure a reliable supply of low enriched uranium fuel to the Republic of the Philippines.

The Agreement has a term of 30 years, although it can be terminated by either party upon providing 1 year's advance written notice. In the event of termination or expiration of the Agreement, key nonproliferation conditions and controls will continue in effect as long as any material, equipment, or components subject to the Agreement remain in the territory of the party concerned or under its jurisdiction or control anywhere, or until such time as the parties agree that

such material, equipment, or components are no longer usable for any nuclear activity relevant from the point of view of safeguards.

The Republic of the Philippines has an excellent track record on nonproliferation and has consistently reiterated its commitment to nonproliferation. Through its constitution, the Republic of the Philippines has adopted and pursued a policy of freedom from nuclear weapons in its territory. It is a party to the Treaty on the Non-Proliferation of Nuclear Weapons and has concluded a Comprehensive Safeguards Agreement and Additional Protocol with the International Atomic Energy Agency. The Republic of the Philippines was also among the early sponsors of and is a State Party to the Treaty on the Southeast Asia Nuclear Weapon-Free Zone. A more detailed discussion of the Republic of the Philippines' domestic civil nuclear activities and its nuclear nonproliferation policies and practices is provided in the NPAS and its classified annex.

I have considered the views and recommendations of the interested departments and agencies in reviewing the Agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the Agreement and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both subsections 123 b. and 123 d. of the Act. My Administration is prepared to begin immediately consultations with the Senate Foreign Relations Committee and the House Foreign Affairs Committee, as provided in subsection 123 b. Upon completion of the 30 days of continuous session review provided for in subsection 123 b., the 60 days of continuous session review provided for in subsection 123 d. shall commence.

JOSEPH R. BIDEN JR.

The White House,
November 30, 2023.

NOTE: An original was not available for verification of the content of this message.

Categories: Communications to Congress : Philippines, nuclear energy cooperation with U.S., message transmitting agreement.

Subjects: Director of National Intelligence; International Atomic Energy Agency; Non-Proliferation of Nuclear Weapons, Treaty on the; Nuclear Regulatory Commission; Nuclear weapons, nonproliferation efforts; Philippines, nuclear energy cooperation with U.S.; Secretary of Energy; Secretary of State.

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