

**PROTOCOL ADDITIONAL TO THE AGREEMENT BETWEEN THE
REPUBLIC OF THE PHILIPPINES AND THE INTERNATIONAL
ATOMIC ENERGY AGENCY FOR THE APPLICATION OF
SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-
PROLIFERATION OF NUCLEAR WEAPONS**

WHEREAS the Republic of the Philippines (hereinafter referred to as "the Philippines") and the International Atomic Energy Agency (hereinafter referred to as the "Agency") are parties to an Agreement for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter referred to as the "Safeguards Agreement"), which entered into force on 16 October 1974;

AWARE OF the desire of the international community to further enhance nuclear non-proliferation by strengthening the effectiveness and improving the efficiency of the Agency's safeguards system;

RECALLING that the Agency must take into account in the implementation of safeguards the need to: avoid hampering the economic and technological development of the Philippines or international co-operation in the field of peaceful nuclear activities; respect health, safety, physical protection and other security provisions in force and the rights of individuals; and take every precaution to protect commercial, technological and industrial secrets as well as other confidential information coming to its knowledge;

WHEREAS the frequency and intensity of activities described in this Protocol shall be kept to the minimum consistent with the objective of strengthening the effectiveness and improving the efficiency of Agency safeguards;

NOW THEREFORE the Philippines and the Agency have agreed as follows:

**RELATIONSHIP BETWEEN THE PROTOCOL AND THE SAFEGUARDS
AGREEMENT**

ARTICLE 1

The provisions of the Safeguards Agreement shall apply to this Protocol to the extent that they are relevant to and compatible with the provisions of this Protocol. In case of conflict between the provisions of the Safeguards Agreement and those of this Protocol, the provisions of this Protocol shall apply.

PROVISION OF INFORMATION

ARTICLE 2

a. The Philippines shall provide the Agency with a declaration containing:

- (i) A general description of and information specifying the location of nuclear fuel cycle-related research and development activities not involving nuclear material carried out anywhere that are funded,

specifically authorized or controlled by, or carried out on behalf of, the Philippines.

(ii) Information identified by the Agency on the basis of expected gains in effectiveness or efficiency, and agreed to by the Philippines, on operational activities of safeguards relevance at facilities and locations outside facilities where nuclear material is customarily used.

(iii) A general description of each building on each site, including its use and, if not apparent from that description, its contents. The description shall include a map of the site.

(iv) A description of the scale of operations for each location engaged in activities specified in Annex I to this Protocol.

(v) Information specifying the location, operational status and the estimated annual production capacity of uranium mines and concentration plants and thorium concentration plants, and the current annual production of such mines and concentration plants for the Philippines as a whole. The Philippines shall provide, upon request by the Agency, the current annual production of an individual mine or concentration plant. The provision of this information does not require detailed nuclear material accountancy.

(vi) Information regarding source material which has not reached the composition and purity suitable for fuel fabrication or for being isotopically enriched, as follows:

(a) The quantities, the chemical composition, the use or intended use of such material, whether in nuclear or non-nuclear use, for each location in the Philippines at which the material is present in quantities exceeding ten metric tons of uranium and/or twenty metric tons of thorium, and for other locations with quantities of more than one metric ton, the aggregate for the Philippines as a whole if the aggregate exceeds ten metric tons of uranium or twenty metric tons of thorium. The provision of this information does not require detailed nuclear material accountancy;

(b) The quantities, the chemical composition and the destination of each export out of the Philippines, of such material for specifically non-nuclear purposes in quantities exceeding:

(1) Ten metric tons of uranium, or for successive exports of uranium from the Philippines to the same State, each of less than ten metric tons, but exceeding a total of ten metric tons for the year;

(2) Twenty metric tons of thorium, or for successive exports of thorium from the Philippines to the same State, each of less than twenty metric tons, but exceeding a total of twenty metric tons for the year;

(c) The quantities, chemical composition, current location and use or intended use of each import into the Philippines of such material for specifically non-nuclear purposes in quantities exceeding:

(1) Ten metric tons of uranium, or for successive imports of uranium into the Philippines each of less than ten metric tons, but exceeding a total of ten metric tons for the year;

(2) Twenty metric tons of thorium, or for successive imports of thorium into the Philippines each of less than twenty metric tons, but exceeding a total of twenty metric tons for the year;

it being understood that there is no requirement to provide information on such material intended for a non-nuclear use once it is in its non-nuclear end-use form.

(vii) (a) Information regarding the quantities, uses and locations of nuclear material exempted from safeguards pursuant to Article 37 of the Safeguards Agreement;

(b) Information regarding the quantities (which may be in the form of estimates) and uses at each location, of nuclear material exempted from safeguards pursuant to Article 36(b) of the Safeguards Agreement but not yet in a non-nuclear end-use form, in quantities exceeding those set out in Article 37 of the Safeguards Agreement. The provision of this information does not require detailed nuclear material accountancy.

(viii) Information regarding the location or further processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 on which safeguards have been terminated pursuant to Article 11 of the Safeguards Agreement. For the purpose of this paragraph, "further processing" does not include repackaging of the waste or its further conditioning not involving the separation of elements, for storage or disposal.

(ix) The following information regarding specified equipment and non-nuclear material listed in Annex II:

(a) For each export out of the Philippines of such equipment and material: the identity, quantity, location of intended use in the receiving State and date or, as appropriate, expected date, of export;

(b) Upon specific request by the Agency, confirmation by the Philippines, as importing State, of information provided to the Agency in accordance with paragraph (a) above.

(x) General plans for the succeeding ten-year period relevant to the development of the nuclear fuel cycle (including planned nuclear fuel

cycle-related research and development activities) when approved by the appropriate authorities in the Philippines.

b. The Philippines shall make every reasonable effort to provide the Agency with the following information:

(i) A general description of and information specifying the location of nuclear fuel cycle-related research and development activities not involving nuclear material which are specifically related to enrichment, reprocessing of nuclear fuel or the processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 that are carried out anywhere in the Philippines but which are not funded, specifically authorized or controlled by, or carried out on behalf of, the Philippines. For the purpose of this paragraph, "processing" of intermediate or high-level waste does not include repackaging of the waste or its conditioning not involving the separation of elements, for storage or disposal.

(ii) A general description of activities and the identity of the person or entity carrying out such activities, at locations identified by the Agency outside a site which the Agency considers might be functionally related to the activities of that site. The provision of this information is subject to a specific request by the Agency. It shall be provided in consultation with the Agency and in a timely fashion.

c. Upon request by the Agency, the Philippines shall provide amplifications or clarifications of any information it has provided under this Article, in so far as relevant for the purpose of safeguards.

ARTICLE 3

a. The Philippines shall provide to the Agency the information identified in Article 2.a.(i), (iii), (iv), (v), (vi)(a), (vii) and (x) and Article 2.b.(i) within 180 days of the entry into force of this Protocol.

b. The Philippines shall provide to the Agency, by 15 May of each year, updates of the information referred to in paragraph a. above for the period covering the previous calendar year. If there has been no change to the information previously provided, the Philippines shall so indicate.

c. The Philippines shall provide to the Agency, by 15 May of each year, the information identified in Article 2.a.(vi)(b) and (c) for the period covering the previous calendar year.

d. The Philippines shall provide to the Agency on a quarterly basis the information identified in Article 2.a.(ix)(a). This information shall be provided within sixty days of the end of each quarter.

e. The Philippines shall provide to the Agency the information identified in Article 2.a.(viii) 180 days before further processing is carried out and, by 15 May of each year, information on changes in location for the period covering the previous calendar year.

f. The Philippines and the Agency shall agree on the timing and frequency of the provision of the information identified in Article 2.a.(ii).

g. The Philippines shall provide to the Agency the information in Article 2.a.(ix)(b) within sixty days of the Agency's request.

COMPLEMENTARY ACCESS

ARTICLE 4

The following shall apply in connection with the implementation of complementary access under Article 5 of this Protocol:

a. The Agency shall not mechanistically or systematically seek to verify the information referred to in Article 2; however, the Agency shall have access to:

(i) Any location referred to in Article 5.a.(i) or (ii) on a selective basis in order to assure the absence of undeclared nuclear material and activities;

(ii) Any location referred to in Article 5.b. or c. to resolve a question relating to the correctness and completeness of the information provided pursuant to Article 2 or to resolve an inconsistency relating to that information;

(iii) Any location referred to in Article 5.a.(iii) to the extent necessary for the Agency to confirm, for safeguards purposes, the Philippines' declaration of the decommissioned status of a facility or location outside facilities where nuclear material was customarily used.

b. (i) Except as provided in paragraph (ii) below, the Agency shall give the Philippines advance notice of access of at least 24 hours;

(ii) For access to any place on a site that is sought in conjunction with design information verification visits or ad hoc or routine inspections on that site, the period of advance notice shall, if the Agency so requests, be at least two hours but, in exceptional circumstances, it may be less than two hours.

c. Advance notice shall be in writing and shall specify the reasons for access and the activities to be carried out during such access.

d. In the case of a question or inconsistency, the Agency shall provide the Philippines with an opportunity to clarify and facilitate the resolution of the question or inconsistency. Such an opportunity will be provided before a request for access, unless the Agency considers that delay in access would prejudice the purpose for which the access is sought. In any event, the Agency shall not draw any conclusions about the question or inconsistency until the Philippines has been provided with such an opportunity.

e. Unless otherwise agreed to by the Philippines, access shall only take place during regular working hours.

f. The Philippines shall have the right to have Agency inspectors accompanied during their access by representatives of the Philippines, provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

ARTICLE 5

The Philippines shall provide the Agency with access to: