

No. 10131

**UNITED STATES OF AMERICA
and
PHILIPPINES**

**Agreement for co-operation concerning civil uses of atomic
energy (with appendix). Signed at Washington on
13 June 1968**

Authentic text: English.

Registered by the United States of America on 5 January 1970.

**ÉTATS-UNIS D'AMÉRIQUE
et
PHILIPPINES**

**Accord de coopération concernant l'utilisation de l'énergie
atomique à des fins civiles (avec appendice). Signé à
Washington le 13 juin 1968**

Texte authentique: anglais.

Enregistré par les États-Unis d'Amérique le 5 janvier 1970.

AGREEMENT FOR COOPERATION¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES CONCERNING CIVIL USES OF ATOMIC ENERGY

Whereas the Government of the United States of America and the Government of the Republic of the Philippines signed an "Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of the Philippines Concerning Civil Uses of Atomic Energy" on July 27, 1955,² which was amended by the Agreements signed on June 11, 1960,³ August 7, 1963,⁴ and June 27, 1966;⁵ and

Whereas the Government of the United States of America and the Government of the Republic of the Philippines desire to pursue a research and development program looking toward the realization of peaceful and humanitarian uses of atomic energy, including the design, construction, and operation of power-producing reactors and research reactors, and the exchange of information relating to the development of other peaceful uses of atomic energy; and

Whereas the Government of the United States of America and the Government of the Republic of the Philippines are desirous of entering into this Agreement to cooperate with each other to attain the above objectives; and

Whereas the Parties desire this Agreement to supersede the "Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of the Philippines Concerning Civil Uses of Atomic Energy" signed on July 27, 1955, as amended;

The Parties agree as follows :

Article I

The "Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of the Philippines Concerning Civil Uses of Atomic Energy", signed on July 27, 1955, as amended, is superseded on the date this Agreement enters into force.

¹ Came into force on 19 July 1968, the date on which each Government had received from the other Government written notification that it had complied with all statutory and constitutional requirements, in accordance with article XV.

² United Nations, *Treaty Series*, vol. 239, p. 271.

³ *Ibid.*, vol. 377, p. 420.

⁴ *Ibid.*, vol. 531, p. 332.

⁵ *Ibid.*, vol. 607, p. 266.

Article II

For the purposes of this Agreement :

(1) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(2) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(3) "Commission" means the United States Atomic Energy Commission.

(4) "Equipment and devices" and "equipment or devices" means any instrument, apparatus, or facility, and includes any facility, except an atomic weapon, capable of making use of or producing special nuclear material, and component parts thereof.

(5) "Parties" means the Government of the United States of America, including the Commission on behalf of the Government of the United States of America, and the Government of the Republic of the Philippines. "Party" means one of the above "Parties".

(6) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency, or government corporation but does not include the Parties to this Agreement.

(7) "Reactor" means an apparatus, other than an atomic weapon, in which a self-supporting fission chain reaction is maintained by utilizing uranium, plutonium, or thorium, or any combination of uranium, plutonium, or thorium.

(8) "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons, (2) the production of special nuclear material, or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the category of Restricted Data by the appropriate authority.

(9) "Safeguards" means a system of controls designed to assure that any materials, equipment and devices committed to the peaceful uses of atomic energy are not used to further any military purpose.

(10) "Source material" means (1) uranium, thorium, or any other material which is determined by the Commission or the Government of the Republic of

the Philippines to be source material, or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission or the Government of the Republic of the Philippines may determine from time to time.

(11) "Special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission or the Government of the Republic of the Philippines determines to be special nuclear material, or (2) any material artificially enriched by any of the foregoing.

(12) "Superseded Agreement" means the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of the Philippines signed by the Parties on July 27, 1955, as amended by the Agreements signed on June 11, 1960, August 7, 1963, and June 27, 1966.

Article III

A. Subject to the provisions of this Agreement, the availability of personnel and material, and the applicable laws, regulations, and license requirements in force in their respective countries, the Parties shall cooperate with each other in the achievement of the uses of atomic energy for peaceful purposes.

B. Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred, and no services shall be furnished, under this Agreement, if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

C. This Agreement shall not require the exchange of any information which the Parties are not permitted to communicate.

Article IV

Subject to the provisions of Article III, the Parties shall exchange unclassified information with respect to the application of atomic energy to peaceful uses and the problems of health and safety connected therewith. The exchange of information provided for in this Article shall be accomplished through various means, including reports, conferences, and visits to facilities, and shall include information in the following fields :

- (1) Development, design, construction, operation, and use of research, materials testing, experimental, demonstration power, and power reactors, and reactor experiments;

- (2) The use of radioactive isotopes and source material, special nuclear material, and byproduct material in physical and biological research, medicine, agriculture, and industry; and
- (3) Health and safety problems related to the foregoing.

Article V

A. Materials of interest in connection with the subjects of agreed exchange of information as provided in Article IV and subject to the provisions of Article III, including source material, heavy water, byproduct material, other radioisotopes, stable isotopes, and special nuclear material for purposes other than fueling reactors and reactor experiments, may be transferred between the Parties for defined applications in such quantities and under such terms and conditions as may be agreed when such materials are not commercially available.

B. Subject to the provisions of Article III and under such terms and conditions as may be agreed, specialized research facilities and reactor materials testing facilities of the Parties shall be made available for mutual use consistent with the limits of space, facilities, and personnel conveniently available when such facilities are not commercially available.

C. With respect to the subjects of agreed exchange of information as provided in Article IV and subject to the provisions of Article III, equipment and devices may be transferred from one Party to the other under such terms and conditions as may be agreed. It is recognized that such transfers will be subject to limitations which may arise from shortages of supplies or other circumstances existing at the time.

Article VI

The application or use of any information (including design drawings and specifications), and any material, equipment and devices, exchanged or transferred between the Parties under this or the superseded Agreement shall be the responsibility of the Party receiving it, and the other Party does not warrant the accuracy or completeness of such information and does not warrant the suitability of such information, material, equipment and devices for any particular use or application.

Article VII

A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of

the other Party for the transfer of equipment and devices and materials other than special nuclear material and for the performance of services with respect thereto.

B. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Articles V and VIII of this Agreement and subject to the relevant provisions of Article IX and to the provisions of Article X.

C. The Parties agree that the activities referred to in paragraphs A and B of this Article shall be subject to the provisions in Article III and to the policies of the Parties with regard to transactions involving the authorized persons referred to in paragraphs A and B.

Article VIII

A. During the period of this Agreement, and as hereinafter set forth, the Commission will supply to the Government of the Republic of the Philippines or, pursuant to Article VII, to authorized persons under its jurisdiction, under such terms and conditions as may be agreed, all of the requirements of the Republic of the Philippines for uranium enriched in the isotope U-235 for use as fuel in the power reactor program described in the Appendix to this Agreement, which Appendix, subject to the quantity limitation established in Article X, may be amended from time to time by mutual consent of the Parties without modification of this Agreement.

(1) The Commission will supply such uranium enriched in the isotope U-235 by providing after December 31, 1968, to the same extent as for United States licensees, for the production or enrichment, or both, of uranium enriched in the isotope U-235 for the account of the Government of the Republic of the Philippines or such authorized persons. (Upon timely advice that any natural uranium required with respect to any particular delivery of uranium enriched in the isotope U-235 under such service arrangement is not reasonably available to the Government of the Republic of the Philippines or to such authorized persons, the Commission will be prepared to furnish the required natural uranium on such terms and conditions as may be agreed.)

(2) Notwithstanding the provisions of paragraph A(1) above, if the Government of the Republic of the Philippines or such authorized persons so request, the Commission, at its election, may sell the uranium enriched in the isotope U-235 under such terms and conditions as may be agreed.

B. As may be agreed, the Commission will transfer to the Government of the Republic of the Philippines or to authorized persons under its jurisdiction

uranium enriched in the isotope U-235 for use as fuel in defined research applications, including research, materials testing, and experimental reactors and reactor experiments. The terms and conditions of each transfer shall be agreed upon in advance, it being understood that, in the event of transfer of title of uranium enriched in the isotope U-235, the Commission shall have the option of limiting the arrangements to undertakings such as those described in paragraph A(1) of this Article.

Article IX

A. With respect to transfers by the Commission of uranium enriched in the isotope U-235 provided for in Article VII, paragraph B and Article VIII, it is understood that :

(1) Contracts specifying quantities, enrichments, delivery schedules, and other terms and conditions of supply or service will be executed on a timely basis between the Commission and the transferee, and

(2) Prices for uranium enriched in the isotope U-235 sold or charges for enrichment services performed will be those in effect for users in the United States of America at the time of delivery. The advance notice required for delivery will be that in effect for users in the United States of America at the time of giving such notice. The Commission may agree to supply uranium enriched in the isotope U-235 or perform enrichment services upon shorter notice, subject to assessment of such surcharge to the usual base price or charge as the Commission may consider reasonable to cover abnormal production costs incurred by the Commission by reason of such shorter notice.

B. Should the total quantity of uranium enriched in the isotope U-235 which the Commission has agreed to provide pursuant to this Agreement and other Agreements for Cooperation reach the maximum quantity of uranium enriched in the isotope U-235 which the Commission has available for such purposes, and should contracts covering the adjusted net quantity specified in Article X not have been executed, the Commission may request, upon appropriate notice, that the Government of the Republic of the Philippines or other transferees authorized by it execute contracts for all or any part of such uranium enriched in the isotope U-235 as is not then under contract. It is understood that, should contracts not be executed in accordance with a request by the Commission hereunder, the Commission shall be relieved of all obligations with respect to the uranium enriched in the isotope U-235 for which contracts have been so requested.

C. The enriched uranium supplied hereunder may contain up to twenty percent (20%) in the isotope U-235. A portion of the uranium enriched in the

isotope U-235 supplied hereunder may be made available as material containing more than twenty percent (20%) in the isotope U-235 when the Commission finds there is a technical or economic justification for such a transfer.

D. It is understood, unless otherwise agreed, that, in order to assure the availability of the entire quantity of uranium enriched in the isotope U-235 allocated hereunder for a particular reactor project described in the Appendix, it will be necessary for the construction of the project to be initiated in accordance with the schedule set forth in the Appendix and for the Government of the Republic of the Philippines or other transferees authorized by it to execute a contract for that quantity in time to allow for the Commission to provide the material for the first fuel loading. It is also understood that, if the Government of the Republic of the Philippines or other transferees authorized by it desire to contract for less than the entire quantity of uranium enriched in the isotope U-235 allocated for a particular project or terminate the supply contract after execution, the remaining quantity allocated for that project shall cease to be available and the maximum adjusted net quantity of U-235 provided for in Article X shall be reduced accordingly, unless otherwise agreed.

E. Within the limitations contained in Article X, the quantity of uranium enriched in the isotope U-235 transferred under Article VII, paragraph B or Article VIII and under the jurisdiction of the Government of the Republic of the Philippines for the fueling of reactors or reactor experiments shall not at any time be in excess of the quantity necessary for the loading of such reactors or reactor experiments, plus such additional quantity as, in the opinion of the Parties, is necessary for the efficient and continuous operation of such reactors or reactor experiments.

F. When any source material or special nuclear material received from the United States of America requires reprocessing, such reprocessing shall be performed at the discretion of the Commission in either Commission facilities or facilities acceptable to the Commission, on terms and conditions to be later agreed; and it is understood, except as may be otherwise agreed, that the form and content of any irradiated fuel shall not be altered after removal from the reactor and prior to delivery to the Commission or the facilities acceptable to the Commission for reprocessing.

G. Special nuclear material produced as a result of irradiation processes in any part of the fuel leased under this or the superseded Agreement shall be for the account of the lessee and, after reprocessing as provided in paragraph F of this Article, shall be returned to the lessee, at which time title to such material shall be transferred to the lessee, unless the Government of the United States of America shall exercise the option, which is hereby granted, to retain, with a credit to the lessee based on the prices in the United States of America referred to

in paragraph H of this Article, any such special nuclear material which is in excess of the needs of the Republic of the Philippines for such material in its program for the peaceful uses of atomic energy.

H. With respect to any special nuclear material not owned by the Government of the United States of America produced in reactors while fueled with materials obtained from the United States of America by means other than lease which is in excess of the needs of the Republic of the Philippines for such material in the Philippine program for the peaceful uses of atomic energy, the Government of the United States of America shall have and is hereby granted (a) a first option to purchase such material at prices then prevailing in the United States of America for special nuclear material produced in reactors which are fueled pursuant to the terms of an Agreement for Cooperation with the Government of the United States of America, and (b) the right to approve the transfer of such material to any other nation or a group of nations in the event the option to purchase is not exercised.

I. Some atomic energy materials which the Commission may be requested to provide in accordance with this Agreement, or which have been provided to the Government of the Republic of the Philippines under the superseded Agreement, are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Government of the Republic of the Philippines shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any source material or special nuclear material or reactor materials which the Commission may lease pursuant to this Agreement, or may have leased pursuant to the superseded Agreement, to the Government of the Republic of the Philippines, the Government of the Republic of the Philippines shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production or fabrication, the ownership, the lease, and the possession and use of such source material or special nuclear material or reactor materials after delivery by the Commission to the Government of the Republic of the Philippines or to any private individual or private organization under its jurisdiction.

Article X

The adjusted net quantity of U-235 in enriched uranium transferred from the United States of America to the Republic of the Philippines under Articles V, VII and VIII during the period of this Agreement for Cooperation or under the superseded Agreement, shall not exceed in the aggregate 17,600 kilograms. The following method of computation shall be used in calculating transfers,

within the ceiling quantity of 17,600 kilograms of U-235, made under the said Articles or the superseded Agreement :

From :

- (1) The quantity of U-235 contained in enriched uranium transferred under the said Articles or the superseded Agreement, minus
- (2) The quantity of U-235 contained in an equal quantity of uranium of normal isotopic assay,

Subtract :

- (3) The aggregate of the quantities of U-235 contained in recoverable uranium of United States origin either transferred to the United States of America or to any other nation or group of nations with the approval of the Government of the United States of America pursuant to this Agreement or the superseded Agreement, minus
- (4) The quantity of U-235 contained in a equal quantity of uranium of normal isotopic assay.

Article XI

The Government of the Republic of the Philippines guarantees that :

- (1) Safeguards provided in Article XII shall be maintained.

(2) No material, including equipment and devices, transferred to the Government of the Republic of the Philippines or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement or the superseded Agreement, and no special nuclear material produced through the use of such material, equipment or devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.

(3) No material, including equipment and devices, transferred to the Government of the Republic of the Philippines or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of the Philippines except as the Commission may agree to such a transfer to another nation or group of nations, and then only if, in the opinion of the Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or group of nations.

Article XII

A. The Government of the United States of America and the Government of the Republic of the Philippines emphasize their common interest in assuring

that any material, equipment or devices made available to the Government of the Republic of the Philippines or any person under its jurisdiction pursuant to this Agreement or the superseded Agreement shall be used solely for civil purposes.

B. Except to the extent that the safeguards rights provided for in this Agreement are suspended by virtue of the application of safeguards of the International Atomic Energy Agency, as provided in Article XIII, the Government of the United States of America, notwithstanding any other provisions of this Agreement, shall have the following rights :

(1) With the objective of assuring design and operation for civil purposes and permitting effective application of safeguards, to review the design of any

(a) reactor, and

(b) other equipment and devices the design of which the Commission determines to be relevant to the effective application of safeguards,

which are to be made available under this Agreement, or have been made available under the superseded Agreement, to the Government of the Republic of the Philippines or to any person under its jurisdiction by the Government of the United States of America or any person under its jurisdiction, or which are to use, fabricate, or process any of the following materials so made available : source material, special nuclear material, moderator material, or other material designated by the Commission;

(2) With respect to any source material or special nuclear material made available to the Government of the Republic of the Philippines or to any person under its jurisdiction under this Agreement or the superseded Agreement by the Government of the United States of America or any person under its jurisdiction and any source material or special nuclear material utilized in, recovered from, or produced as a result of the use of any of the following materials, equipment or devices so made available :

(a) source material, special nuclear material, moderator material, or other material designated by the Commission,

(b) reactors, and

(c) any other equipment or devices designated by the Commission as an item to be made available on the condition that the provisions of this paragraph B(2) will apply,

(i) to require the maintenance and production of operating records and to request and receive reports for the purpose of assisting in ensuring accountability for such materials; and

(ii) to require that any such materials in the custody of the Government of the Republic of the Philippines or any person under its jurisdiction

be subject to all of the safeguards provided for in this Article and the guarantees set forth in Article XI;

- (3) To require the deposit in storage facilities designated by the Commission of any of the special nuclear material referred to in paragraph B(2) of this Article which is not currently utilized for civil purposes in the Republic of the Philippines and which is not retained or purchased by the Government of the United States of America pursuant to Article IX, transferred pursuant to Article IX, or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties;
- (4) To designate, after consultation with the Government of the Republic of the Philippines, personnel who, accompanied, if either Party so requests, by personnel designated by the Government of the Republic of the Philippines, shall have access in the Republic of the Philippines to all places and data necessary to account for the source material and special nuclear material which are subject to paragraph B(2) of this Article to determine whether there is compliance with this Agreement and to make such independent measurements as may be deemed necessary;
- (5) In the event of non-compliance with the provisions of this Article or the guarantees set forth in Article XI and the failure of the Government of the Republic of the Philippines to carry out the provisions of this Article within a reasonable time, to suspend or terminate this Agreement and to require the return of any materials, equipment and devices referred to in paragraph B(2) of this Article;
- (6) To consult with the Government of the Republic of the Philippines in the matter of health and safety.

C. The Government of the Republic of the Philippines undertakes to facilitate the application of safeguards provided for in this Article.

Article XIII

A. The Government of the United States of America and the Government of the Republic of the Philippines note that, by an agreement signed by the Government of the United States of America on June 15, 1964, and the Government of the Republic of the Philippines and the International Atomic Energy Agency on September 18, 1964,¹ the Agency has been applying safeguards to materials, equipment and facilities transferred to the Government of the Republic

¹ United Nations, *Treaty Series*, vol. 555, p. 205.

of the Philippines under the superseded Agreement. The Parties agree that Agency safeguards as provided in the trilateral agreement, as it may be amended from time to time or supplanted by a new trilateral agreement,¹ shall continue to apply to such materials, equipment and facilities transferred under the superseded Agreement or to be transferred under this Agreement, recognizing that the safeguards rights accorded to the Government of the United States of America by Article XII of this Agreement are suspended during the time and to the extent that Agency safeguards apply to such materials, equipment and facilities.

B. In the event that the trilateral agreement referred to in paragraph A of this Article should be terminated prior to the expiration of this Agreement and the Parties should fail to agree promptly upon a resumption of Agency safeguards, either Party may, by notification, terminate this Agreement. In the event of termination by either Party, the Government of the Republic of the Philippines shall, at the request of the Government of the United States of America, return to the Government of the United States of America all special nuclear material received pursuant to this or the superseded Agreement and still in its possession or in the possession of persons under its jurisdiction. The Government of the United States of America will compensate the Government of the Republic of the Philippines or the persons under its jurisdiction for their interest in such material so returned at the Commission's schedule of prices then in effect in the United States of America.

Article XIV

The rights and obligations of the Parties provided for under this Agreement shall extend, to the extent applicable, to cooperative activities initiated under the superseded Agreement, including, but not limited to, information, materials, equipment and devices transferred thereunder.

Article XV

This Agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of such Agreement and shall remain in force for a period of thirty (30) years.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement.

¹ United Nations, *Treaty Series*, vol. 650, p. 287.

DONE at Washington, in duplicate, this thirteenth day of June, 1968.

For the Government of the United States of America :

Robert W. BARNETT

Glenn T. SEABORG

For the Government of the Republic of the Philippines :

Salvador P. LOPEZ

APPENDIX

PHILIPPINE ENRICHED URANIUM POWER REACTOR PROGRAM

	(1) <i>Reactors</i>	(2) <i>Start of construction</i>	(3) <i>Criticality date</i>	(4) <i>Total kgs. U-235 required</i>
A. 500 MWe	1971	1975	9,100
B. 500 MWe	1973	1977	8,400
				<hr/> TOTAL 17,500