



Republic of the Philippines
Department of Science and Technology

PHILIPPINE NUCLEAR RESEARCH INSTITUTE



**PNRI ADMINISTRATIVE ORDER NO. 01,
Series of 2018**

**AMENDMENT TO PNRI ADMINISTRATIVE ORDER NO. 002 SERIES OF 2009 -
AUTHORIZATION FOR TRANSFERS OF NUCLEAR-RELATED DUAL-USE
EQUIPMENT, MATERIALS, SOFTWARE AND RELATED TECHNOLOGY**

WHEREAS, the Philippine Nuclear Research Institute (PNRI) is mandated by Republic Act No. 5207, as amended by P.D. 1484, to protect the health and safety of workers and of the general public, and to protect against the use of atomic energy facilities and materials for unauthorized purposes;

WHEREAS, the PNRI has published in the Official Gazette the Code of PNRI Regulations (CPR) Part 3, "Standards for Protection Against Radiation", which set requirements to ensure the protection of workers occupationally exposed to radiation, the general public, and the environment against the harmful effects of ionizing radiation;

WHEREAS, the PNRI has published in the Official Gazette CPR Part 26, "Security of Radioactive Sources", which set requirements to prevent unauthorized access or damage to, and loss, theft or unauthorized transfer of radioactive sources, so as to reduce the likelihood of accidental harmful exposure to such sources or the malicious use of such sources to cause harm to individuals, society or the environment and CPR Part 27, "Security in the Transport of Radioactive Material";

WHEREAS, the PNRI has established requirements on the Import and Export of Radioactive Sources in an Appendix to CPR Parts 11, 12, 14, 15 and Section 38 of CPR Part 4;

WHEREAS, the PNRI adopts **IAEA Information Circular/254/Rev.7/Part 2 entitled "Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology"** to avert the proliferation of nuclear weapons and prevent acts of nuclear terrorism, and in the interest of international peace and security;

WHEREAS, the definitions, technical notes, explanatory notes and other information in the Annex to IAEA Information Circular/254/Rev.7/Part 2 shall be applicable when addressed in the Annex herein;

WHEREAS, Section 8, Article II of the 1987 Constitution provides that consistent with the national interest, the Philippines adopts and pursues a policy of freedom from nuclear weapons in its territory.

WHEREAS, pursuant to this Constitutional mandate, including the United Nations Security Council Resolution (UNSCR) 1540,¹ Republic Act No. 10697,² otherwise known as the Strategic Trade Management Act (STMA), was signed into law on November 13, 2015.

WHEREAS, it is the declared policy of the STMA for the State to be free from Weapons of Mass Destruction (WMD) in its territory, consistent with the national interest, to fulfill its international commitments and obligations, to take and enforce effective measures to establish domestic controls to prevent the proliferation of WMDs and their means of delivery; and to maintain international peace and security, and promote economic growth by facilitating trade and investment through the responsible management of strategic goods and the provision of related services.

NOW, THEREFORE, in accordance with the provisions of Republic Act No. 5207 as amended and Republic Act 10697, the following rules and regulations establishing the import and export of nuclear related dual-use equipment, materials, software and related technology, are hereby promulgated:

Section 1. Implementation of the adoption of IAEA Information Circular/254/Rev.7/Part 2.

- a) The PNRI authorizes the transfers of equipment, materials, software, or related technology identified in the **Annex except**: for use in a non-nuclear-weapon state in a nuclear explosive activity or an unsafeguarded nuclear fuel-cycle activity, or in general, when there is unacceptable risk of diversion to such an activity, or when the transfers are contrary to the objective of averting the proliferation of nuclear weapons, or when there is an unacceptable risk of diversion to acts of nuclear terrorism;
- b) The PNRI will make verification of the following information in considering whether to authorize transfers:
 - 1) Whether the recipient state is a party to the Nuclear Non-Proliferation Treaty (NPT) or to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco), or to a similar international legally-binding nuclear non-proliferation agreement, and has an IAEA safeguards agreement in force applicable to all its peaceful nuclear activities;
 - 2) Whether any recipient state that is not party to the NPT, Treaty of Tlatelolco, or a similar international legally-binding nuclear non-proliferation agreement has any facilities or installations that are operational or being designed or constructed that are not, or will not be, subject to IAEA safeguards;
 - 3) Whether the equipment, materials, software, or related technology to be transferred is appropriate for the stated end-use and whether that stated end-use is appropriate for the end-user;
 - 4) Whether the equipment, materials, software, or related technology to be transferred is to be used in research on or development, design, manufacture,

¹ In April 2004, the United Nations Security Council adopted Resolution 1540 which establishes legally binding obligations on all UN Member States to have and enforce appropriate and effective measures against the proliferation of nuclear, chemical, and biological weapons (WMD), and their delivery systems by establishing export controls. UNSCR 1540 closes gaps in nonproliferation treaties and conventions to help prevent terrorists and criminal organizations from obtaining the world's most dangerous weapons.

² An Act Preventing the Proliferation of Weapons of Mass Destruction by Managing the Trade in Strategic Goods, the Provision of Related Services and for Other Purposes.

- construction, operation, or maintenance of any reprocessing or enrichment facility;
- 5) Whether governmental actions, statements, and policies of the recipient state are supportive of nuclear non-proliferation and whether the recipient state is in compliance with its international obligations in the field of non-proliferation;
 - 6) Whether the recipients have been engaged in clandestine or illegal procurement activities;
 - 7) Whether a transfer has not been authorized to the end-user or whether the end-user has diverted for purposes inconsistent with this authorization any transfer previously authorized;
 - 8) Whether there is reason to believe that there is a risk of diversion to acts of nuclear terrorism; and
 - 9) Whether there is a risk of retransfers of equipment, material, software, or related technology identified in the Annex or of transfers of any replica thereof contrary to the provisions in this authorization, as a result of a failure by the recipient State to develop and maintain appropriate, effective national export and transshipment controls.
- c) The transfer will be authorized by PNRI only after it has obtained from the end-user a statement specifying the uses and end-use locations of the proposed transfer and an assurance explicitly stating that the proposed transfer or any replica thereof will not be used in any nuclear weapon activity or unsafeguarded nuclear fuel-cycle activity;
 - d) Before authorizing the transfer of equipment, materials, software, or related technology identified in the Annex to a country not adhering to the IAEA Guidelines, the PNRI requires assurances that its consent will be secured, prior to any transfer to a third country of the equipment, materials, software, or related technology, or any replica thereof;
 - e) PNRI reserves to itself discretion as to the application of the requirements stated herein to other items of significance in addition to those identified in the Annex, and as to the application of other conditions for transfer that it may consider necessary.

Section 2. Definition.

- a) **“Dual-Use Goods”** means equipment, materials, software and related technology which can be used for both the civil and military end-use for Weapons of Mass Destruction (WMD)
- b) **“Nuclear Weapon Activity”** includes research on or development, design, manufacture, construction, testing or maintenance of any nuclear weapon device or components or subsystems of such a device;
- c) **“Unsafeguarded Nuclear Fuel-cycle Activity”** includes research on or development, design, manufacture, construction, operation or maintenance of any reactor, critical facility, conversion plant, fabrication plant, reprocessing plant, plant for the separation of isotopes of source or special fissionable material, or separate storage installation;

Section 3. Implementation of RA 10697.

- a) Pursuant to Section 6 of the STMA, the PNRI was named as one of the supporting agencies in the implementation of the STMA as such the PNRI shall establish and maintain coordination, cooperation, assistance and information sharing with the Strategic Trade Management Office (STMO) and perform such other tasks and functions it may deem necessary to effectively carry out the implementation of the STMA.
- b) Dual use goods not listed in the Annex which are or may be intended, in their entirety or in part, for use in connection with a "nuclear weapon activity" and "unsafeguarded nuclear fuel-cycle activity shall require an authorization from STMO;

SECTION 4. This Order supersedes all issuances, rules, orders, regulations and parts in consistent herewith, or is hereby deemed repealed, modified, or amended accordingly.

SECTION 5. This Order shall take effect fifteen (15) days following the publication in the Official Gazette or in a newspaper of general circulation.

APPROVED:



CARLO A. ARCILLA, PH.D.
Director

Date: _____

