



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 29 2020

The Honorable James E. Risch
Chairman
Committee on Foreign Relations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice (“the Department”) on the amendment in the nature of a substitute to H.R. 1632, the “Southeast Asia Strategy Act.” As we explain below, the amendment raises a constitutional concern.

Section 3 of the amendment states that it is “the policy of the United States” to “deepen cooperation with” the Association of Southeast Asian Nations (“ASEAN”), “to affirm the importance of” ASEAN, and to “establish and communicate a comprehensive strategy toward the Indo-Pacific region that articulates,” among other things, the value of the U.S.-ASEAN relationship. Section 4 would require the Secretary of State to submit to the Congress “a comprehensive strategy for engagement with Southeast Asia and ASEAN.” To the extent that these provisions are intended to require the President to adopt foreign policies consistent with the policies and strategy set out in the bill, they would interfere with the President’s “authority to represent the United States” in foreign affairs “and to pursue its interests outside the borders of the country.” *The President’s Compliance with the “Timely Notification” Requirement of Section 501(b) of the National Security Act*, 10 Op. O.L.C. 159, 160 (1986); *see also Am. Ins. Ass’n v. Garamendi*, 539 U.S. 396, 414–15 (2003). They also would duplicate similar reporting requirements under the Asia Reassurance Initiative Act of 2018 (“ARIA”), Pub. L. No. 115-409, §§ 306–307, 406, 410, 132 Stat. 5387, 5406–07, 5409–10, which were the subject of a presidential signing statement in December 2018, *see* Statement on Signing the Asia Reassurance Initiative Act of 2018, Daily Comp. Pres. Doc. No. DCPD201800878. The content required under the ARIA report is largely the same as what is included in this requested strategy. Furthermore, the United States already has an extensive dialogue with ASEAN under our strategic partnership, including a five-year plan of action on specific areas of cooperation.

Thank you for the opportunity to present our views. We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this

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or any other matter. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

A handwritten signature in black ink that reads "Prim Escalona". The signature is written in a cursive style with a large, prominent initial "P".

Prim F. Escalona
Principal Deputy Assistant Attorney General

cc: The Honorable Bob Menendez
Ranking Member