



AN URGENT CALL FOR THE FULL TRANSPARENCY ON THE SALE OF THE MALAMPAYA NATURAL GAS RESOURCE

The Malampaya Deepwater Gas-to-Power Project under Petroleum Service Contract ("SC") No. 38 is a vital resource in the country's energy mix. The project employs deepwater technology to draw natural gas that fuels three gas-fired power plants and provides 30% of Luzon's power generation requirements. Data from the Department of Energy ("DOE") indicate that given the present production level and continuous decrease in reservoir pressure, the drop in supply is expected by 2022. SC 38 will expire in 2024 with no certainty of an extension. Only through further exploration will the extent of Malampaya's life is determined.

It is thus with deep apprehension and concern that the Integrated Bar of the Philippines view the latest developments surrounding the ongoing divestment being done by two parties, Chevron Malampaya LLC ("Chevron") and Shell Philippines Exploration B.V. ("SPEX"), the operator, under the Joint Operating Agreement ("JOA") of SC 38.

There have been numerous allegations against the assignment of Chevron's 45% interest to a subsidiary of Udenna Corp. and the ongoing divestment of SPEX's 45% in favor of another Udenna subsidiary. The assignment of interests, which will ultimately enable Udenna to takeover the Malampaya facility is allegedly detrimental to national security and interest. Regarding the transfer of Chevron's 45% interest to Udenna's subsidiary, UC Malampaya, a criminal complaint was filed with the Ombudsman on 18 October 2021 against officials of the DOE, Udenna, Chevron, SPEX, and the state-owned Philippine National Oil Corporation ("PNOC") and its subsidiary PNOC-Exploration Corporation, alleging among others:

- Udenna's subsidiary is financially and technically unqualified to be the assignee of the interest;
- The DOE and PNOC grossly and inexcusably neglected government's right to match Udenna's offer to buy out Chevron's 45% interest; and

- Officials of the DOE and PNOC criminally conspired with the private respondents to give unwarranted benefits to Udenna and its subsidiary causing undue injury to the government arising from the questioned sale transaction.

In light of the strategic importance of the Malampaya energy resource to national security and economic interest, the Integrated Bar of the Philippines ("IBP") supports the ongoing Senate Committee on Energy's investigation in aid of legislation on the interest divestments to the Udenna subsidiaries. The ongoing Senate investigation will determine if the DOE was transparent in determining the financial and technical qualifications of the Udenna companies to acquire the 90% interest in SC 38. In the meantime, while the Senate investigation is ongoing, the IBP calls on the DOE to:

- rescind its approval of Chevron's transfer of its 45% interest in Malampaya to Udenna's subsidiary, UC Malampaya; and
- hold in abeyance, its approval of SPEX's transfer of its 45% to another Udenna subsidiary, Malampaya Energy XP.

The IBP also calls on the DOE to thoroughly review, study, and consider the extension of SC 38 in favor of the original Malampaya consortium - SPEX, Chevron, and PNOC EC. In this way, the original consortium will be able to conduct further exploration on SC 38 in light of the forthcoming depletion of the Malampaya natural gas field. The extension will also incentivize the original consortium to continue operating SC 38 with their proven technical and financial track record in petroleum exploration and development in contrast to a buyer with no proven experience in operating a highly-technical and capital-intensive operation.

In the event that Chevron and SPEX proceed with their plans to divest their respective interests in Malampaya, the IBP calls for PNOC to exercise its right to match any offer laid before Chevron and SPEX under the JOA. The IBP believes that PNOC being a state-owned petroleum company has the mandate and wherewithal to raise funds for acquiring the controlling interests in Malampaya. A PNOC takeover of SC 38 will be financially advantageous to the Philippine government since Malampaya is a producing field with an existing infrastructure for other petroleum discoveries. In view of this, the IBP calls on Philippine legislators to review and amend the possible legal restrictions imposed by various legislations on PNOC-EC as a government-owned and controlled corporation, such as Republic Act ("RA") No. 9184, "Procurement Law", and RA

10149, "the Government-Owned and Controlled Corporations Governance Law".

Malampaya's 500-kilometer gas pipeline to mainland Luzon is a vital link to the possible development of potential natural gas resources in the Recto Bank, located within the disputed West Philippine Sea maritime area. With PNOC assuming control of the Malampaya operations, the Philippines can be assured that its energy resources will be protected from any possible foreign interference inimical to national security and interests. To fund further exploration and development, a buyer who is not technically and financially capable of operating Malampaya may tap companies from foreign countries having adverse interests in the West Philippine Sea dispute. This will place our strategic energy resources and infrastructure in the hands of hostile foreign interest.

Finally, the IBP calls on the Office of the Ombudsman to expeditiously resolve the complaint against the officials of the DOE, Udenna, Chevron, SPEX, and PNOC in light of the fact that this matter is of utmost economic urgency since the Malampaya field is nearing its depletion and the DOE appears to have no viable alternative to replace a major source of power for Luzon. The DOE must exercise transparency in evaluating transactions in relation to critical energy resources and ensure that developers are financially and technically competent. In this way, the government can forge a sustainable balance in creating a stable investment climate and establishing good governance practice in the management of the country's energy resources.



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