

Langis, Buwis, Tokis?: An Educational Discussion on Dennis Uy's Acquisition of Malampaya Gas Field Atty. Fernando S. Peñarroyo



Alternative Learning Classroom Experience

University of the Philippines

UP Organization of Palaweño Students

11 December 2021



- Master of Laws (Univ. of Melbourne), Bachelor of Laws & Bachelor of Science in Geology, (UP)
- Managing Partner, Peñarroyo and Palanca Law
- Group's Legal Counsel and General Manager for Business Development, Polyard Petroleum International Group Co. Ltd (energy company listed at the HK Stock Exchange)
- Past President, Geological Society of the Philippines
- Presidential Adviser on Energy, Integrated Bar of the Philippines
- VP and Trustee, Philippine Mining and Exploration Association
- Legal Counsel - National Geothermal Association of the Philippines and Philippine Chamber of Coal Mines
- Legal Committee, Petroleum Association of the Philippines
- Geology Board Reviewer in Resources and Environmental Law
- Former Lecturer, Asian Institute of Technology (Bangkok), UP National Institute of Geological Sciences
- Contributes articles on legal, regulatory and policy issues on resources and energy to Philippine Resources Journal <http://www.philippine-resources.com/>



ATTY. FERNANDO PEÑARROYO

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Learning Outcomes

After the presentation, the participants are expected to:

- Understand the economic importance of the Malampaya gas field to national and economic interest
- Learn the nature of the the West Philippine Sea arbitration case and its implications to petroleum exploration and development
- Be updated on the ongoing Senate Committee on Energy Investigation in Aid of Legislation of the Malampaya divestments
- Analyze the possible political and legal ramifications of the Udenna acquisition of the Malampaya project

MALAMPAYA DEEPWATER GAS-TO-POWER PROJECT

- Employs deepwater technology to draw natural gas that fuels three gas-fired power plants and provides 30% of Luzon's power generation requirements
- Delivers through 6 Gas Sales and Purchase Agreements and fuels 2,700 MW of power stations (baseload plants) and 500+ MW (mid-merit and peaking plants)
- Data from the DOE indicated that given the present production level and continuous decrease in reservoir pressure, drop in supply is expected by 2022.



Additional Reserves and Resources

SC 38 Reserves & Resources

| Field | | Remaining Gas Reserve (Billion Cubic Feet) as of June 2020 |
|------------------|-----|---|
| Malampaya-Camago | (1) | 863 BCF (High Case) |

| Field/Prospect | | Unrisked Volume Gas Resource (BCF) |
|-----------------------|------|---------------------------------------|
| Bagong Pagasa - Nido | (4) | 358 |
| San Martin | (9) | 280 |
| Iloc | (3) | 260 |
| Bagong Pagasa - Galoc | (5) | 232 |
| Malampaya East | (2) | 140 |
| San Martin North | (12) | 133 |
| San Martin SE Ext. | (11) | 80 |
| San Diego | (10) | 55 |
| Destacado East | (8) | 43 |
| Camago East | (6) | 25 |
| Camago South | (7) | 21 |
| Total | | 1,607 BCF |



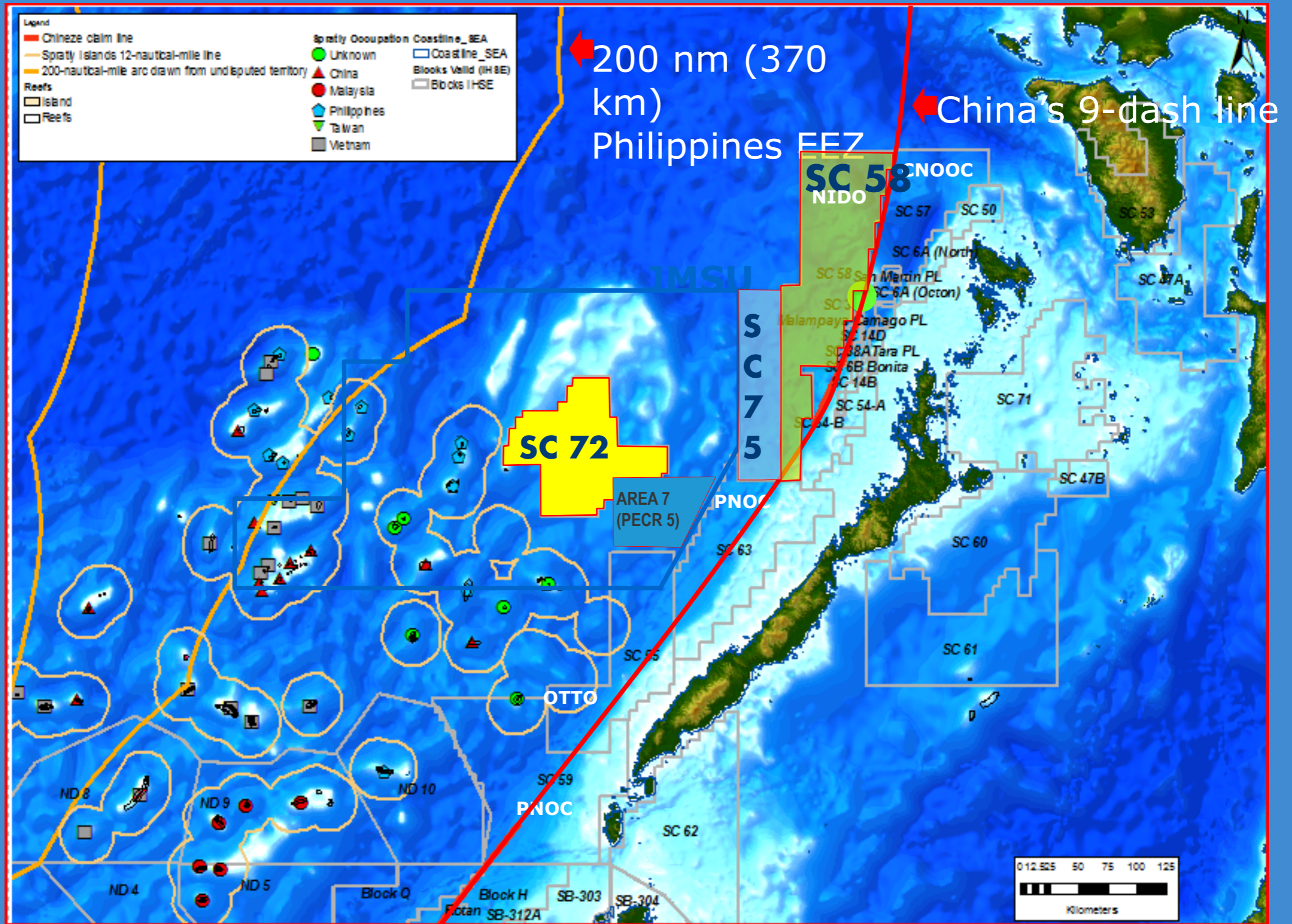
WEST PHILIPPINE SEA DISPUTE ARBITRAL RULING



CHINA'S NINE-DASH LINES



West Philippine Sea Service Contracts



Chinese Interference in Philippine Petroleum Exploration Activities

China Claimed Reed Bank - SC 72 in February 2010

In August 2010, Chinese Embassy Official in Manila informed Nido Petroleum that SC 58 was claimed by China



Chinese Interference in Philippine Petroleum Exploration Activities

In 2011, Chinese government protested the inclusion of Areas 3 and 4 in the PECR 5

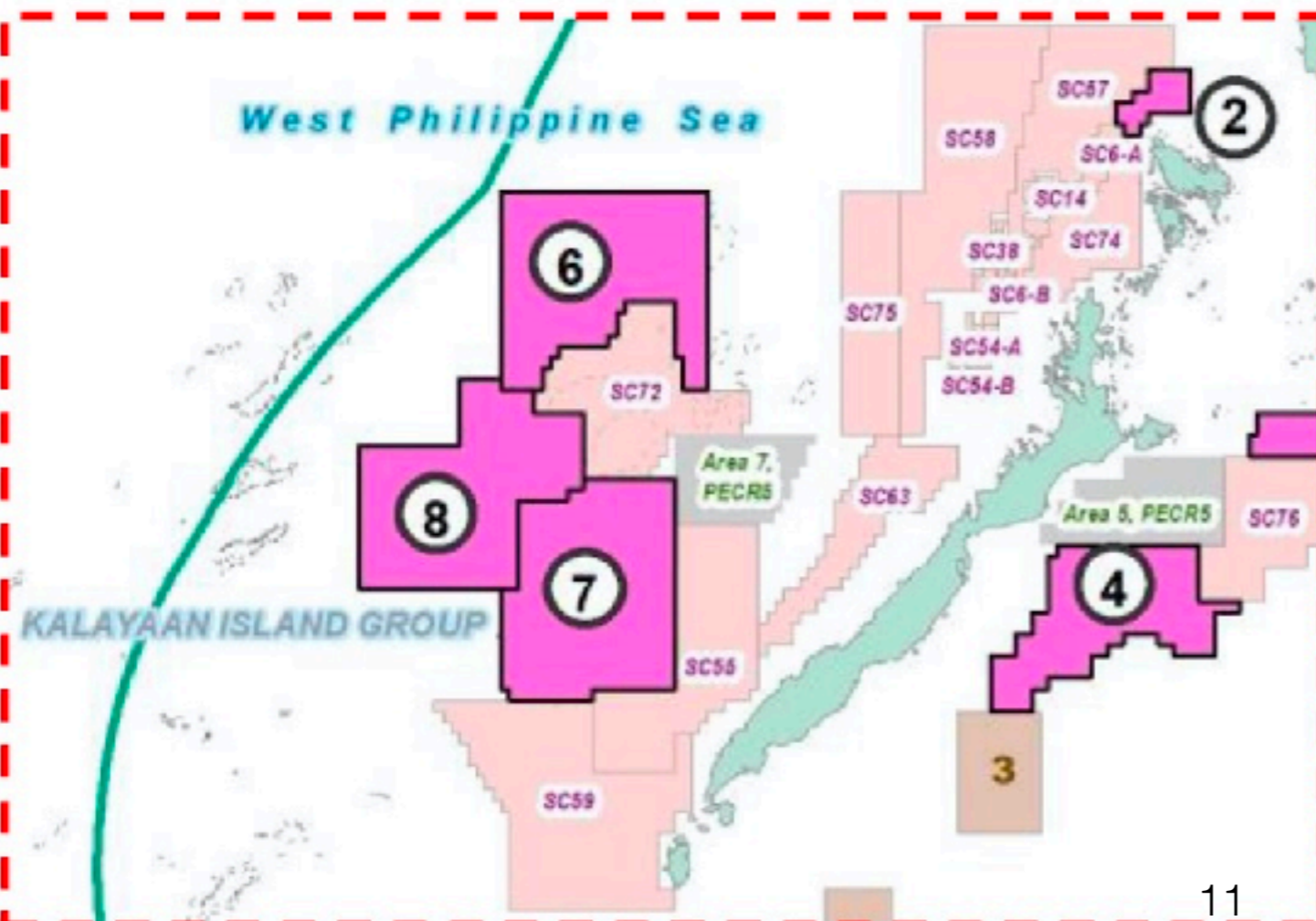
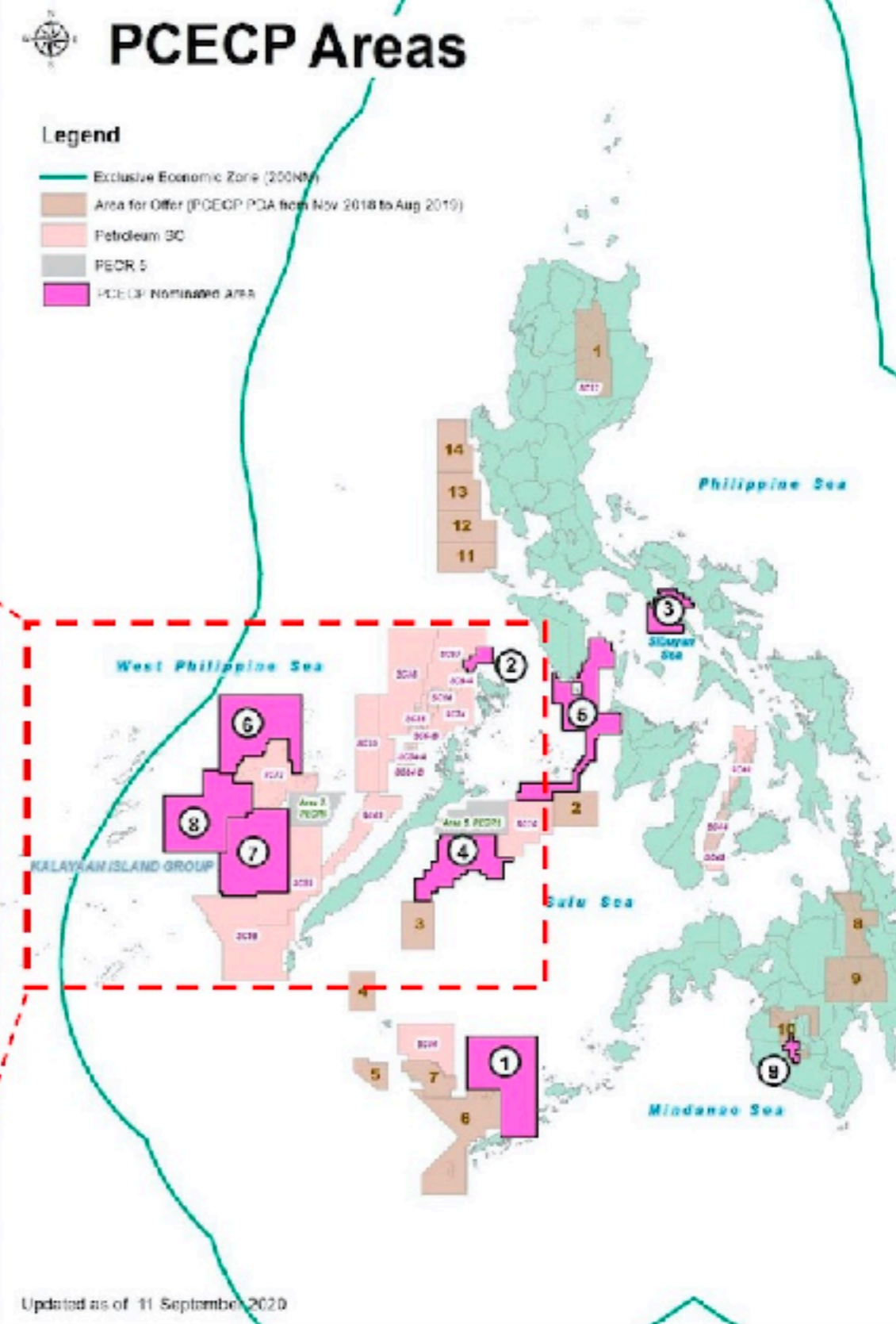
In March 2011, Chinese coast guard vessels prevented a seismic vessel from conducting a survey for in Reed Bank



Petroleum Exploration Challenges WPS

2. West Philippine Sea (WPS)

- 4 PDAs (PDAs 11 to 14) in the West Luzon Basin were offered despite the prevailing maritime dispute; no applications were received
- 3 Nominations were submitted and processed (NAs 6, 7, 8) in the Recto Bank Basin; currently in the recommendation / endorsement stage for awarding of a PSC
- DOE shall continue to facilitate the PCECP application process for WPS areas especially now that the Moratorium on all petroleum exploration activities has been lifted



PERMANENT COURT OF ARBITRATION RULING

- China's Claim to historic rights under the Nine-Dash Lines is contrary to UNCLOS and cannot be the basis of any maritime entitlements (territorial sea, exclusive economic zone, extended continental shelf)
- All historic rights in the EEZ were extinguished upon the effectivity of UNCLOS
- China violated the exclusive right of the Philippines to its EEZ by interfering with the petroleum activities of Filipino vessels within the EEZ
- **However, China does not recognize the ruling.**

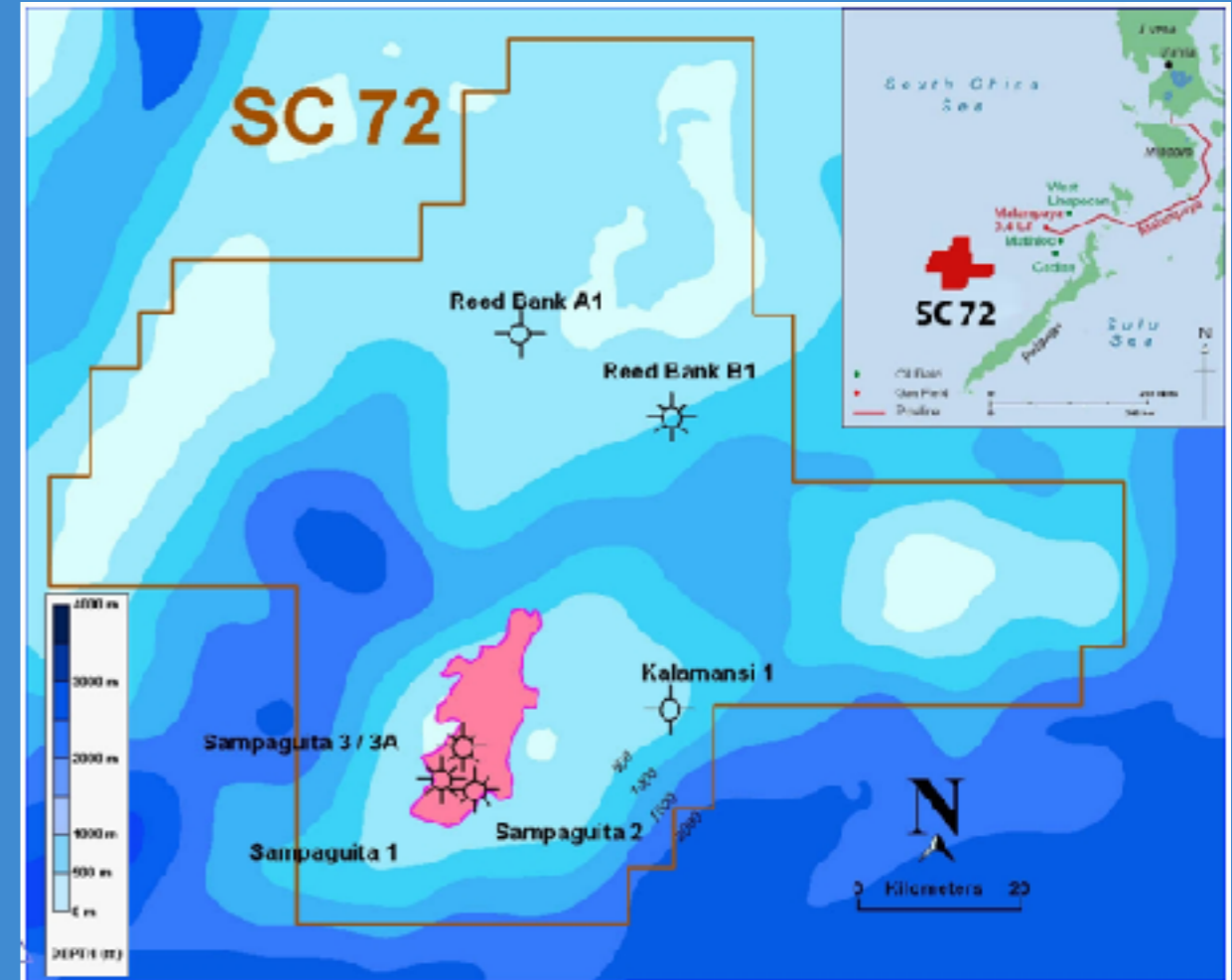
NATURE OF THE UPSTREAM PETROLEUM INDUSTRY

- **Highly regulated and controlled** – Petroleum resources are owned by the State. Exploration and production activities can only be undertaken under a Service Contract with the Government.
- **High risk** – Exploration success rate in the Philippines is about 10%. Thus, the risk of failure (no oil or gas found) is about 90%.
- **Capital intensive** – The most promising areas are located offshore. Depending on the location and water depth, drilling one exploration well could cost between USD50 million to USD 100 million.
- **Requires long-term commitment** – The standard Service Contracts awarded by the Government provide for an exploration term of 7 years (extendible for 3 years) and a production term of 25 years (extendible for 15 years).

Senate Committee on Energy Investigation in Aid of Legislation

- Divestment of Chevron's and SPEX's Interest
- Udenna's Capitalization and Financial Situation
- No Proper DOE Evaluation
- PNOC's Right to Match under Joint Operating Agreement
- DOE's Position/Udenna's Defense
- Other Implications of Udenna Takeover

Service Contract No. 72 (Recto Bank)



Proximity of Sampaguita Field to Malampaya



Criminal Complaint with the Ombudsman

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,

- 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.

Conclusion



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.

For more references on the energy industry and a copy of the presentation materials, visit my website

penarroyo.com

Fernando "Ronnie" Sanchez Peñarroyo

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