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No China 'co-ownership' of Phl marine resources

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Last week President Duterte announced that his administration was considering China's offer to jointly explore an undisputed Philippine territory for potential energy deposits. He was referring to an area off Busuanga, Palawan and the Recto Bank in the West Philippine Sea (WPS), within the country's 370-kilometer exclusive economic zone (EEZ) over which we have sovereign rights.

"Now their (China's) offer is joint exploration, which is like co-ownership," Duterte said. "It's like the two of us would be the owners. I think that's better than fighting [over Recto Bank, on which China also claims sovereign rights]," he added.

That careless statement stirred a hornet's nest. Acting Supreme Court Chief Justice Antonio Carpio took Duterte's "co-ownership" view as tantamount to conceding to China half of the West Philippine Sea. "There is absolutely no way under the Constitution that the Philippine government could give away half of (our) EEZ and make China its co-owner," he said.

Carpio emphasized that, in July 2016, the Permanent Court of Arbitration in The Hague had already ruled that the EEZ west of Palawan belonged to the Philippines and that "we have exclusive sovereign right to get all the oil, gas, other mineral resources and fisheries there." (Carpio was deeply involved in preparing the arguments that won for the Philippines the affirmation of its maritime claims and the tribunal's rejection of China's claim that almost

all of the South China Sea, including our West Philippine Sea, belonged to it. China has adamantly refused to abide by the ruling.)

Before China could enter into a joint exploration deal with the Philippines, Carpio contended, it should first recognize our sovereignty over Recto Bank.

Let's look deeper into the issue, aided by the public explanations of technical matters by Jay Batongbacal, director of the University of the Philippines Institute for Maritime Affairs and Law of the Sea. In recent days, Batongbacal has been posting sustained criticisms in social media of the Duterte government's weak-kneed stance.

There are two areas which China has offered to explore: One, the undisputed Philippine territorial waters 50 kilometers off Busuanga, Palawan's outmost coastal town, designated (for purposes of exploration and exploitation) as Service Contract 57 (SC 57). Two, Recto Bank, where China has built an artificial island with elaborate military installations, designated as SC 72.

In 2006, SC 57 was awarded by the Department of Energy to the Philippine National Oil Co. (PNOC), which then formed an exploration consortium with two foreign firms: China National Offshore Oil Corp. (CNOOC), China's state-owned firm, and Mitra Energy Ltd., a Malaysian company. On the other hand, SC 72 was awarded to Forum Energy, a Philippine firm, which had begun exploratory drilling operations. But after two Chinese vessels harassed and threatened to ram a Philippine government-owned ship in the area

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in 2011, President Benigno Aquino III ordered a stop to the drilling.

Batongbacal said giving China joint exploration rights to both SC 57 and SC 72 was "giving too much, too soon" to the emerging Asian imperialist power. Such a deal, he averred, would raise the status of CNOOC "from mere subcontractor-consortium partner (of state-owned PNOC) to possibly a 'co-owner,' as [Duterte] describes it, not only of EEZ/CS (continental shelf) areas but also of territorial sea and archipelagic waters."

Pushing the proposed deal, Batongbacal continued, would compromise SC 57 and set a precedent for allowing similar arrangements with China into other undisputed Philippine territories. "The government," he stressed, "would be implicitly downgrading its position on SC 57 for the sake of dealing with SC 72." Obviously, the Philippines would end up at the shorter end of the deal.

On Recto Bank, Batongbacal opined that the Philippines' agreeing to a joint exploration and development there "could be a possible step backward" from the Permanent Arbitration Tribunal ruling. Although the tribunal has awarded the area to the Philippines as its own EEZ/CS, he explained, entering into joint development with China could imply recognition that China has a valid claim over it.

"By entering into a joint scheme (whether for exploration, development, or management)," he pointed out, "the Philippines suspends its sole, unilateral,

and legitimate rights and prerogatives over the area and resources subject to joint declaration even though they have already been vindicated by the arbitration." "To the extent that it does so," he concluded, "it may be setting aside the arbitral award."

Defending the government position, Duterte's voluble spokesman Harry Roque claimed that because the area covered by SC 57 was undisputed Philippine territory, it is not affected by the maritime dispute with China. "There can be joint exploration there because there is no dispute, so we are just allowing it," he lamely argued.

Roque used the same line to dispute Carpio's uncompromising stand that China must abide by the arbitration tribunal ruling. "This joint exploration is by way of compromise," he countered, "that we would not fight over the issue on who has sovereign rights there. Let's just benefit from it."

Unashamed, Roque called on critics of the Duterte administration's policy on the West Philippine Sea to unite with the government. He said: "We have to be united on this issue. Please do not claim to have a monopoly of upholding the national interest. President Duterte has been consistent that he will die for Philippine territory, but meantime he will not sacrifice even a single life for an issue that can be resolved on the basis of friendly relations [with China]."

Unite to give up our sovereign rights?
Never!

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