

Alexander SyCip (1945-1975)
Luciano E. Salazar (1945-1991)
Benildo G. Hernandez (1960-1998)

Hector M. De Leon, Jr.
MANAGING PARTNER

Emmanuel M. Lombos
Rolando V. Medalla, Jr.
Domingo G. Castillo
Luisito V. Liban
Marievic G. Ramos-Añonuevo
Simeon Ken R. Ferrer
Rocky Alejandro L. Reyes
Dante T. Pamintuan
Imelda A. Manguiat
Rose Marie M. King-Dominguez
Ricardo Ma. P.G. Ongkiko
Enrique T. Manuel
Leslie C. Dy
Carlos Roberto Z. Lopez
Ramon G. Songco
Angel M. Salita, Jr.
Rafael L. Encarnacion
Carina C. Laforteza
Maria Teresa D. Mercado-Ferrer
Vicente D. Gerochi IV
Anthony W. Dee
Amer Hussein N. Mambuay
Vida M. Panganiban-Alindogan
Alan C. Fontanosa
Dominador Maphilindo O. Carrillo
Thaddeus R. Alviso
Rodelle B. Bolante
Philbert E. Varona
Marianne M. Miguel
Benedicto P. Panigbatan
Russel L. Rodriguez
Marietta A. Tibayan
Ronald Mark C. Llano
Arlene M. Maneja
Maria Jennifer Z. Barreto
Melyjane G. Bertillo-Ancheta
Hiyasmin H. Lapitan
Jose Florante M. Pamfilo
Aaron Roi B. Riturban
Franco Aristotle G. Larcina
PARTNERS

Andres G. Gatmaitan
SENIOR COUNSEL

Roberto C. San Juan
Nelson T. Antolin
Emmanuel C. Paras
Lozano A. Tan
Mia G. Gentugaya
OF COUNSEL

Cecile M.E. Caro-Selvaggio
Albert Vincent Y. Yu Chang
SPECIAL COUNSEL

Jan Celine C. Abaño-Ranada
John Paul V. de Leon
Christian B. Llido
Ruben P. Acebedo II
Leah C. Abutan
Easter Princess U. Castro
Joanna Marie O. Joson
Bhong Paulo A. Macasaet
John Christian Joy A. Regalado
Joan Mae S. To-Conejos
Maria Viola B. Vista-Villamor
Maria Christina C. Ortua
Emmar Benjoe B. Panahon
Ma. Patricia B. Paz
Rosevee R. Paylip-Guiang
SENIOR ASSOCIATES

MAKATI
SyCipLaw Center, 105 Paseo de Roxas
Makati City, 1226 The Philippines
Phone: (63-2) 982-3500
(63-2) 982-3600
(63-2) 982-3700
Fax: (63-2) 817-3896
(63-2) 817-3567
Email: sshg@syciplaw.com

CEBU
4/F Keppel Center, Cardinal Rosales Ave. cor.
Samar Loop Street, Cebu Business Park
Cebu City, 6000 The Philippines
Phone: (63-32) 233-1211 to 13
(63-32) 233-1950
(63-32) 233-1861
Fax: (63-32) 233-1682
Email: sshgoebu@syciplaw.com

DAVAO
The Penthouse, 17th Flr.
Landco Corporate Centre, J.P. Laurel Avenue
Bajada, Davao City, 8000 The Philippines
Phone: (63-82) 222-2851
(63-82) 221-3917
(63-82) 224-2742
Fax: (63-82) 224-2743
Email: sshgdavao@syciplaw.com

SUBIC
Rms. 134-136 Alpha Bldg. (888)
Subic International Hotel
Central Business District
Subic Bay Freeport Zone, 2222 The Philippines
Phone: (63-47) 252-3983
(63-47) 252-3985
Fax: (63-47) 252-3986
Email: sshgsubic@syciplaw.com

May 5, 2017

Hon. Roberto Eugenio T. Cadiz
COMMISSIONER
COMMISSION ON HUMAN RIGHTS
SAAC Building, Commonwealth Avenue
UP Complex, Diliman
Quezon City
Philippines

In Re: National Inquiry on the Impact of Climate Change on the Human Rights of the Filipino People, CHR-NI-2016-0001:
Ad Cautelam Rejoinder to the Consolidated Reply filed by Greenpeace Southeast Asia et. al.

Dear Commissioner Cadiz:

By way only of special and limited appearance, and without submitting our client ConocoPhillips (“**ConocoPhillips**”) to the Honorable Commission’s jurisdiction, we write in response to the Honorable Commission on Human Rights’ *Order* and *Notice* dated 16 March 2017. The *Order* and *Notice* indicate that Greenpeace Southeast Asia (Philippines) (“**Greenpeace**”), the Philippine Rural Reconstruction Movement, and the other individuals named therein (together, the “**Petitioners**”) filed a *Consolidated Reply* dated 5 February 2017 (“**Consolidated Reply**”) and has directed the respondents who have not responded to the Petition and those who had earlier lodged responses to file, on or before 5 May 2017, their respective “answers, rejoinders, or other submissions. . .”

This letter constitutes ConocoPhillips’ *Ad Cautelam Rejoinder* pursuant to the *Order* and *Notice*.

At the outset, ConocoPhillips reiterates and incorporates by reference the discussion in its *Ad Cautelam Letter-Response* dated September 12, 2016

Austin Claude S. Alcantara • Kim M. Aranas • Roshni V. Balani • Sherlyn Lourdes T. Bautista • Vera Marie H. Bautista-King • David Rence R. Cabral • Leah Zilpah A. Calderon • Aldous Benjamin C. Cami
Neil Jason T. Casas • Jon Edmarc R. Castillo • Efrén Dominique M. Chatto II • Il Young Choi • Alexandria Demi A. Custodio • Karren Mae C. de Chavez • Kathleen Kay A. de Guzm
Mark Kevin U. Delloso • Rose Angelique P. Dizon • Jenny Jean B. Domino • Camille Angela M. Espeleta • Mary Antonette A. Estoperes • Kristina Paola P. Frias • Norberto P. Geraidez, Jr. • Diana S. Gervacio • Laiza Kristel C. Gingoy
Jennifer S. Go-Varias • Bennet A. Gubat • Ricardo Jesus E. Gutierrez • Giselle P. Hernandez • Azyleah V. Ignacio • Anthony Raphael V. Jacoba • Mary Grace L. Javier • Vincent C. Juan • Earla Kahlila Mikhaila C. Langit • Aaron Jeric M. Lega
Debbie Ann Y. Lim • Rommell D. Lumagui • Patricia A. Madarang • Katrina Mae P. Magallanes • Levi Anthony B. Malaylay • Ma. Luisa D. Manalaysay-Sabornay • Lito Paolo T. Martin II • Anna Loraine M. Mendoza • Roxanne Joyce L. Merca
Anne Katherine P. Navarrete • Danielle Mae D. Navarro • Mae Grace June C. Nillama • Jo Marianni P. Ocampo • Ian Dominic M. Oriño • Mark Xavier D. Oyales • Hallin D. G. Quintos • Javierose M. Ramirez • Maricar G. Ramos • Arvin Kristopher A. Raz
Loubell L. Razon • Jo Margarette W. Remollo • Jamuny Kate S. Remulla • Ramon I. Rocha IV • John Paul R. Rotap • Marian B. Salanguit • Izabel F. Serifa • Marianne C. Sibulo • Nikko Emmanuel D. Silva • April Gayle U. Soller • Rizza Anne O.
Tania Stephanie T. Telow • Jericho R. Tiu • Nathaniel Andrew Y. Uy • Jamie Liz F. Yu ASSOCIATES

16 March 2017

(“**September 2016 Letter-Response**”). ConocoPhillips submits that the Petition cannot be maintained as to it for lack of personal jurisdiction and improper extra-territorial service. In the Consolidated Reply, the Petitioners claim that it is unnecessary for the Honorable Commission to acquire personal jurisdiction over ConocoPhillips.¹ The Petitioners argue that in this case, the Honorable Commission is “not acting as a court” but rather “as an investigatory body that is empowered under the Constitution and its own rules to make factual findings, formulate appropriate recommendations to Congress, and initiate proper actions before pertinent government agencies/offices and courts.”²

Petitioners’ arguments have no merit. ConocoPhillips emphasizes that any compulsory process ordered by the Honorable Commission requires that the party so being compelled fall within both its subject matter jurisdiction and personal jurisdiction. That *jurisdiction* is necessary before any person can be bound by a governmental act is a basic point, but worth restating in light of Petitioners’ *Reply*.

Under the 1987 Constitution, the Honorable Commission’s authority to compel persons to comply with its orders emanates from its power to cite for contempt “in accordance with the Rules of Court.”³ The Constitution makes no distinction between the Commission’s exercise of its investigatory powers and the rest of its powers and functions as stated in Article XIII, Section 18. Thus, the Honorable Commission should have observed the provisions of the Rules of Court on service of summons on foreign private juridical entities in this case, as explicitly provided for in its own rules of procedure.⁴ Indeed, it is ironic that the Petitioners assert that “what is only required for any investigation proceeding,

¹ See Consolidated Reply, at p. 15.

² *Ibid.*

³ 1987 PHILIPPINE CONSTITUTION, art. XIII, Section 18: “The Commission on Human Rights shall have the following powers and functions: ... (2) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court.”

⁴ The Commission’s *Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses, and the Provision of CHR Assistance* approved on April 12, 2012 (“**CHR Rules of Procedure**”) provide in relevant part: “[Rule 7,] Section 22. Applicability of the Rules of Court. - In all matters of procedure not covered by the foregoing rules, the provisions of the Revised Rules of Court shall apply in a suppletory character.”

such as this *Petition*, is that due process of law is met ...”⁵ when in fact, proper service of process is itself intended to protect a respondent’s right to due process.⁶

But more than its improper service of summons, the very notion of the Honorable Commission exercising jurisdiction over a foreign entity that does no business in the Philippines whatsoever is itself fundamentally unfair and violative of due process. As discussed in the September 2016 Letter-Response,⁷ the Honorable Commission’s Rules clearly contemplate the exercise of its powers (whether investigative or quasi-judicial) pursuant to the Rules of Court, which in turn only allows foreign corporations to be served with process, and thus be subject to the court’s personal jurisdiction, when that entity “has transacted business in the Philippines.”⁸ Without business activities being generated in Philippines, there would be no factual or legal nexus between the Honorable Commission and ConocoPhillips, and thus no basis for the Honorable Commission to exercise jurisdiction over ConocoPhillips.

One final point bears mention. Should the Honorable Commission decide to entertain Greenpeace’s *Petition* and conduct fact-finding investigations on this matter, the Honorable Commission would still have to decide *who* would be the proper respondents in those investigations. The essential point this submission seeks to convey is that because of its lack of any business presence or activity in the Philippines, it would be both unlawful and unfair for those investigations to include ConocoPhillips. Greenpeace’s Reply points to no instance under Philippine law where the Honorable Commission investigated entities that did no business in the Philippines, pursuant to petitions which sought findings of responsibility or liability against those entities. ConocoPhillips merely asks that the Honorable Commission abide by Philippine law and its own rules in resolving this issue.

⁵ *Id.*, at p. 10.

⁶ *Ma. Imelda M. Manotoc v. Carpio Morales*, G.R. No. 130974, 16 August 2006.

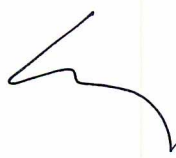
⁷ See ConocoPhillips’ *Ad Cautelam Comment on Petition filed by Greenpeace Southeast Asia et al.*, dated September 12, 2016, at pp. 4-7.

⁸ Rules of Court, Rule 14, Section 12: “*Service upon foreign private juridical entities* – When the defendant is a foreign juridical entity **which has transacted business in the Philippines**, service may be made on its resident agent ...”

Very truly yours,



Carlos Roberto Z. Lopez



for: RG Songco
Ramon G. Songco



John Paul R. Rotap



Ramon I. Rocha IV

*(By way of special and
limited appearance)*

Copies Furnished:

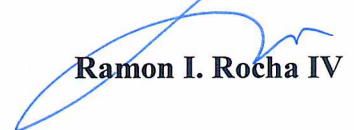
Atty. Zeldania DT Soriano and Atty. Hasminah D. Paudac
Legal Representatives of the Petitioners
Greenpeace Southeast Asia (Philippines)
Rooms 301-302, JGS Building
No. 30 Sct. Tuason,
Brgy. Laging Handa, Quezon City
Philippines

Atty. Grizelda Mayo-Anda
Counsel for the Petitioner Environmental Legal Assistance Center
Carlos Sayang Compound, Mitra Road
Brgy. Sta. Monica, Puerto Princesa City, Palawan
Philippines

Explanation for Service by Registered Mail

Due to time constraints and the distances involved, copies of this letter are being served by registered mail.


John Paul R. Rotap


Ramon I. Rocha IV