

[REPUBLIC ACT NO. 8180, March 28, 1996]

AN ACT DEREGULATING THE DOWNSTREAM OIL INDUSTRY, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the "Downstream Oil Industry Deregulation Act of 1996."

SEC. 2. *Declaration of Policy.* – It shall be the policy of the State to deregulate the downstream oil industry to foster a truly competitive market which can better achieve the social policy objectives of fair prices and adequate, continuous supply of environmentally-clean and high-quality petroleum products.

SEC. 3. *Coverage.* – This Act shall apply to all persons or entities engaged in any or all the activities of the domestic downstream oil industry, as well as persons or companies directly importing refined petroleum products for their own use.

SEC. 4. *Definition of Terms.* – For purposes of this Act, the following terms are herein below defined:

- a. *Downstream oil industry* shall refer to the business of importing, exporting, re-exporting, shipping, transporting, processing, refining, storing, distributing, marketing and/or selling, crude oil, gasoline, diesel, liquefied petroleum gas (LPG), kerosene, and other petroleum and crude oil products;
- b. *DOE* shall refer to the Department of Energy;
- c. *Board* shall refer to the Energy Regulatory Board;
- d. *Person* shall refer to any person, whether natural or juridical, who is engaged in the downstream oil industry;
- e. *Petroleum* shall refer to a naturally occurring mixture of compounds of hydrogen and carbon with a small proportion of impurities and shall include any mineral oil, petroleum gas, hydrogen gas, bitumen, asphalt, mineral wax, and all other similar or naturally-associated substances, with the exception of coal, peat, bituminous shale, and/or other stratified mineral fuel deposits;
- f. *Crude oil* shall refer to oil in its natural state before the same has been refined or otherwise treated, but excluding water, bottom substances and foreign substances;
- g. *Petroleum products* shall refer to products formed in the course of refining crude petroleum through distillation, cracking, solvent refining and chemical

treatment coming out as primary stocks from the refinery such as, but not limited to, LPG, Naphtha, gasolines, solvent, kerosenes, aviation fuels, diesel oils, fuel oils, waxes and petrolatums, asphalts, bitumens, coke and refinery sludges, or such refinery petroleum fractions which have not undergone any process or treatment as to produce separate chemically-defined compounds in a pure or commercially pure state and to which various substances may have been added to render them suitable for particular uses: *Provided*, That the resultant product contains not less than fifty percent (50%) by weight of such petroleum products;

- h. *Wholesale Posted Price (WPP)* shall refer to the ceiling price of petroleum products set by the Board based on a formula using the Singapore Posting;
- i. *Singapore Import Parity (SIP)* shall refer to the deemed landed cost of a petroleum product imported from Singapore at a free-on-board price equal to the average Singapore Posting for that product at the time of loading;
- j. *Singapore Posting* shall refer to the price of petroleum products periodically posted by oil refineries in Singapore and reported by independent international publications; and
- k. *Basel Convention* shall refer to the international accord which governs the trade or movement of hazardous and toxic waste across borders.

SEC. 5. *Liberalization of Downstream Oil Industry and Tariff Treatment.* –

- a. Any law to the contrary notwithstanding, any person or entity may import or purchase any quantity of crude oil and petroleum products from a foreign or domestic source, lease or own and operate refineries and other downstream oil facilities and market such crude oil and petroleum products either in a generic name or its own trade name, or use the same for his own requirement: *Provided*, That any person or entity who shall engage in any such activity shall give prior notice thereof to the DOE for monitoring purposes: *Provided, further*, That such notice shall not exempt such person or entity from securing certificates of quality, health and safety and environmental clearance from the proper governmental agencies: *Provided, furthermore*, That such person or entity shall, for monitoring purposes, report to the DOE his or its every importation/exportation: *Provided*, finally, That all oil importations shall be in accordance with the Basel Convention.
- b. Any law to the contrary notwithstanding and starting with the effectivity of this Act, tariff duty shall be imposed and collected on imported crude oil at the rate of three percent (3%) and imported refined petroleum products at the rate of seven percent (7%), except fuel oil and LPG, the rate for which shall be the same as that for imported crude oil: *Provided*, That beginning on January 1, 2004 the tariff rate on imported crude oil and refined petroleum products shall be the same: *Provided, further*, That this provision may be amended only by an Act of Congress.
- c. For as long as the National Power Corporation (NPC) enjoys exemptions from taxes and duties on petroleum products used for power generation, the exemption shall apply to purchases through the local refineries and to the importation of fuel oil and diesel.

SEC. 6. *Security of Supply.* – To ensure the security and continuity of petroleum crude and products supply, the DOE shall require the refiners and importers to maintain a minimum inventory equivalent to ten percent (10%) of their respective annual sales volume or forty (40) days of supply, whichever is lower.

SEC. 7. *Promotion of Fair Trade Practices.* – The Department of Trade and Industry (DTI) and DOE shall take all measures to promote fair trade and to prevent cartelization and monopolies and combinations in restraint of trade and any unfair competition, as defined in Articles 186, 188 and 189 of the Revised Penal Code, in the downstream oil industry. The DOE shall continue to encourage certain practices in the oil industry which serve the public interest and are intended to achieve efficiency and cost reduction, ensure continuous supply of petroleum products, or enhance environmental protection. These practices may include borrow-and-loan agreements, rationalized depot operations, hospitality agreements, joint tanker and pipeline utilization, and joint actions on oil spill control and fire prevention.

SEC. 8. *Monitoring.* – The DOE shall monitor and publish daily international oil prices to enable the public to determine whether current market oil prices are reasonable. It shall likewise monitor the quality of petroleum products and stop the operation of businesses involved in the sale of petroleum products which do not comply with the national standards of quality. The Bureau of Product Standards (BPS), in coordination with DOE, shall set national standards of quality that are aligned with the international standards/protocols of quality.

The DOE shall monitor the refining and manufacturing processes of local petroleum products to ensure that clean and safe (environment and worker-benign) technologies are applied. This shall also apply to the process of marketing local and imported petroleum products.

The DOE shall maintain a periodic schedule of present and future total industry inventory of petroleum products for the purpose of determining the level of supply. To implement this, the importers, refiners, and marketers are hereby required to submit monthly to the DOE their actual and projected importations, local purchases, sales and/or consumption, and inventory on a per crude/product basis.

Any report from any person of an unreasonable rise in the prices of petroleum products shall be immediately acted upon. For this purpose, the creation of a Department of Energy (DOE)- Department of Justice (DOJ) Task Force is hereby mandated to determine the merits of the report and to initiate the necessary actions warranted under the circumstances to prevent cartelization, among others.

SEC. 9. *Prohibited Acts.* – To ensure fair competition and prevent cartels and monopolies in the downstream oil industry, the following acts are hereby prohibited:

- a. Cartelization which means any agreement, combination or concerted action by refiners and/or importers or their representatives to fix prices, restrict outputs or divide markets, either by products or by areas, or allocating markets, either by products or by areas, in restraint of trade or free competition; and
- b. Predatory pricing which means selling or offering to sell any product at a price unreasonably below the industry average cost so as to attract customers to the detriment of competitors.

Any person, including but not limited to the chief operating officer or chief executive officer of the corporation involved, who is found guilty of any of the said prohibited acts shall suffer the penalty of imprisonment for three (3) years and fine ranging from