

REPUBLIC ACT NO. 8180

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 hereinbelow 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 Five hundred thousand pesos (P500,000) to One million pesos (P1,000,000).

SEC. 10. *Other Prohibited Acts.* – To ensure compliance with the provisions of this Act, the failure to comply with any of the following shall likewise be prohibited: (1) submission of any reportorial requirements; (2) maintenance of the minimum inventory; and (3) use of clean and safe (environment and worker-benign) technologies.

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 two (2) years and fine ranging from Two hundred fifty thousand pesos (P250,000) to Five hundred thousand pesos (P500,000).

CHAPTER II TRANSITION PHASE

SEC. 11. *Phases of Deregulation.* – In order to provide a smooth implementation of deregulation, the policy shift shall be done in two phases: Phase I (Transition Phase) and Phase II (Full Deregulation Phase).

SEC. 12. *OPSF Claims/Buffer Fund.* – Upon the effectivity of this Act and prior to Phase I, the Secretary of DOE shall seek the condonation of all outstanding claims against the OPSF: *Provided, however,* That it shall keep or provide a buffer fund of One billion pesos (P1,000,000,000) therein.

SEC. 13. *OPSF Coverage.* – Paragraph (c) Section 8 of Presidential Decree No. 1936, as amended by Executive Order No. 137, is hereby further amended to read as follows:

"c) Any additional amount to be imposed on petroleum products to augment the resources of the Fund through an appropriate Order that may be issued by the Board requiring payment by persons or companies engaged in the business of importing, manufacturing and/or marketing of petroleum products, including persons or companies that will directly import refined petroleum products for their own use."

SEC. 14. *Automatic Oil Pricing Mechanism.* – To enable the domestic price of petroleum products to approximate and promptly reflect the price of oil in the international market, an automatic pricing mechanism shall be established. To this end, the following laws are hereby amended:

(a) Paragraph (a), Section 8 of Republic Act No. 6173, as amended by Section 3 of Executive Order No. 172, to read as follows:

"SEC. 8. *Powers of the Board Upon Notice and Hearing.*

– The Board shall have the power:

(a) To set the wholesale posted price of petroleum products during the transaction phase.

For this purpose and for the protection of the public interest, the Board shall, after due notice and hearing at which any consumer of petroleum products and other parties who may be affected may appear and be heard, and within three (3) months after the effectivity of this Act, approve a formula to determine the wholesale posted prices (WPP) of petroleum products based on the Singapore posting of refined petroleum products.

Thereafter, the Board shall at the proper times automatically adjust the WPP of petroleum products based on the Singapore posting using the approved formula, through appropriate orders, without the need for notice and hearing.

The Board shall, on the dates of effectivity of the automatic oil pricing formula, the initial WPP or the adjusted WPP, publish the same, together with the corresponding computation, in two (2) newspapers of general circulation."

(b) Paragraph 1 of Letter of Instruction No. 1441, to read as follows:

"1. To review and reset prices of domestic petroleum products up or down as necessary on or before the third Monday of each month to reflect the new WPP of refined petroleum products based on the approved automatic pricing formula."

(c) Paragraph 2 of Letter of Instruction No. 1441 is hereby deleted. In lieu thereof a new paragraph is inserted to read as follows:

"2. The price adjustment shall be reflected automatically in the approved wholesale posted prices of each petroleum product. Any price increase by beyond Fifty centavos (P0.50) per liter shall be charged against the OPSF. For this purpose, the OPSF accrued

balance shall be initially fixed at One billion pesos (P1,000,000,000)."

(d) The provisions of Section 3 (a) and (c) and Section 5 of Executive Order No. 172 to the contrary notwithstanding, the Board shall, during the Transition Phase, maintain the current margin of dealers and the rates charged by water transport operators, haulers and pipeline concessionaires. Depending on the basis of the automatic pricing mechanism, the Board may, within three (3) months after the effectivity of this Act and after proper notice and full public hearing, prescribe a formula which will automatically set the margins of the refiners, marketers and dealers, and the rates charged by water transport operators, haulers and pipeline concessionaires: *Provided*, That such formula shall take effect simultaneously with the effectivity of the automatic oil pricing formula. Thereafter, the Board shall set the said margins and rates based on the approved formula without the necessity for public notice and hearing.

The Board shall, on the day of the effectivity of the aforesaid formula, publish in at least two (2) newspapers of general circulation the mechanics of the formula for the information of the public.

CHAPTER III FULL DEREGULATION PHASE

SEC. 15. *Implementation of Full Deregulation.* – Pursuant to Section 5 (e) of Republic Act No. 7638, the DOE shall, upon approval of the President, implement the full deregulation of the downstream oil industry not later than March, 1997. As far as practicable, the DOE shall time the full deregulation when the prices of crude oil and petroleum products in the world market are declining and when the exchange rate of the peso in relation to the US dollar is stable. Upon the implementation of the full deregulation as provided herein, the transition phase is deemed terminated and the following laws are deemed repealed:

- (a) Republic Act No. 6173, as amended;
- (b) Section 5 of Executive Order No. 172, as amended;

- (c) Letter of Instruction No. 1431 dated October 15, 1984;
- (d) Letter of Instruction No. 1441, dated November 20, 1984, as amended;
- (e) Letter of Instruction No. 1460, dated May 9, 1985;
- (f) Presidential Decree No. 1889; and
- (g) Presidential Decree No. 1956, as amended by E.O. No. 137.

SEC. 16. Section 3 of Executive Order No. 172, is hereby amended to read as follows:

"SEC. 3. *Jurisdiction, Powers and Functions of the Board.* – The Board shall, upon proper notice and hearing, fix and regulate the rate of schedule or prices of piped gas to be charged by duly franchised gas companies which distribute gas by means of underground pipe system."

SEC. 17. *Foreign Exchange Forward Cover.* – Any law to the contrary notwithstanding and upon full deregulation, no foreign exchange forward cover shall be extended by the Government to any private importation of crude oil and petroleum products.

SEC. 18. *OPSF Balance.* – Upon full deregulation, all outstanding claims during the transition phase against the OPSF shall be settled out of the One billion peso (P1,000,000,000) buffer fund and the balance, if any, shall be transferred to the General Fund.

CHAPTER IV FINAL PROVISIONS

SEC. 19. *Implementing Rules and Regulations.* – The DOE, in coordination with the Board, the Department of Environment and Natural Resources, Department of Labor and Employment, Department of Health, Department of Finance,

Department of Trade and Industry and National Economic and Development Authority, shall formulate and issue the necessary implementing rules and regulations within sixty (60) days after the effectivity of this Act.

SEC. 20. *Administrative Fine.* – The DOE may, after due notice and hearing, impose a fine in the amount of not less than One hundred thousand pesos (P100,000) but not more than One million pesos (P1,000,000) upon any person or entity who violates any of its reportorial and minimum inventory requirements, without prejudice to criminal sanctions.

The Secretary of the DOE may recommend to the proper government agency the suspension or revocation and termination of the business permit of the offender concerned.

SEC. 21. *Public Information Campaign.* – The DOE, in coordination of the Board and the Philippine Information Agency, shall undertake an information campaign to educate the public on the deregulation program of the downstream oil industry.

SEC. 22. *Budgetary Appropriations.* – Such amount as may be necessary to effectively implement this Act shall be taken by the DOE from its annual appropriations and the DOE's Special Fund created under Section 8 of Presidential Decree No. 910, as amended.

SEC. 23. *Separability Clause.* – If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such parts not affected thereby shall remain in full force and effect.

SEC. 24. *Repealing Clause.* – All laws, presidential decrees, executive orders, issuances, rules and regulations or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 25. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved, March 28, 1996.