

Republic of the Philippines
Congress of the Philippines
Metro Manila

Tenth Congress

Republic Act No. 8479

February 10, 1998

**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 1998."

Section 2. *Declaration of Policy.* – It shall be the policy of the State to liberalize and deregulate the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high-quality petroleum products. To this end, the State shall promote and encourage the entry of new participants in the downstream oil industry, and introduce adequate measures to ensure the attainment of these goals.

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

Section 4. *Definition of Terms.* – For purposes of this Act, the following terms are hereinbelow defined:

- (a) *Basel Convention* shall refer to the international accord which governs the trade or movement of hazardous and toxic wastes across borders;
- (b) *Board* shall refer to the Energy Regulatory Board;
- (c) *BOI* shall refer to the Board of Investments;
- (d) *Crude Oil* shall refer to oil in its natural state before the same has been refined or otherwise treated, but excluding water, bottoms, sediments and foreign substances;
- (e) *Dealer* shall refer to any person, whether natural or juridical, who is engaged in the marketing and direct selling of petroleum products to motorists, end users, and other consumers;
- (f) *DOE* shall refer to the Department of Energy;

(g) *DOJ* shall refer to the Department of Justice;

(h) *Downstream Oil Industry(DOI) or 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 products;

(i) *Hauler* shall refer to any person, whether natural or juridical, engaged in the transport, distribution, hauling, and carriage of petroleum products, whether in bulk or packed form, from the oil companies and independent marketers to the petroleum dealers and other consumers;

(j) *LPG Distributor* shall refer to any person or entity, whether natural or juridical, engaged in exporting, refilling, transporting, marketing, and/or selling of LPG to end users and other consumers;

(k) *New Industry Participants* shall refer to new participants in a particular sub-sector of the downstream oil industry with investments and initial business operations commencing after January 1, 1994;

(l) *Person* shall refer to any person, whether natural or juridical, who is engaged in any activity of the downstream oil industry;

(m) *Petroleum* shall refer to the 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;

(n) *Petroleum Products* shall refer to products formed in the case 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, solvents, kerosenes, aviation fuels, diesel oils, fuel oils, waxes and petrolatums, asphalt, bitumens, coke and refinery sludges, or other 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;

(o) *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;

(p) *Singapore Posting* shall refer to the price of petroleum products periodically posted by oil refineries in Singapore and reported by independent international publications; and

(q) *Wholesale Posted Price (WPP)* shall refer to the ceiling price of petroleum products set by the Board based on its duly approved automatic pricing formula.

CHAPTER II LIBERALIZATION OF THE DOWNSTREAM OIL INDUSTRY AND PROMOTION OF FREE COMPETITION

Section 5. Liberalization of the Industry. – 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 his or its own trade name, or use the same for his or its own requirement: *Provided*, that any person who shall engage in any such activity shall give prior notice thereof to the DOE for monitoring purposes: *Provided, further*, That such notice shall 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.

Section 6. Tariff Treatment. – (a) Any law to the contrary notwithstanding and starting with the effectivity of this Act, a single and uniform tariff duty shall be imposed and collected both on imported crude oil and imported refined petroleum products at the rate of three percent (3%): *Provided, however*, That the President of the Philippines may, in the exercise of his powers, reduce such tariff rate when in his judgment such reduction is warranted, pursuant to Republic Act No. 1937, as amended, otherwise known as the *Tariff and Customs Code*: *Provided, further*, That beginning January 1, 2004 or upon implementation of the Uniform Tariff Program under the World Trade Organization and ASEAN Free Trade Area commitments, the tariff rate shall be automatically adjusted to the appropriate level notwithstanding the provisions under this Section.

(b) 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.

Section 7. Promotion of Fair Trade Practices. – The Department of Trade and Industry (DTI) and DOE shall take all measures to promote fair trade and prevent cartelization, monopolies, combinations in restraint of trade, and any unfair competition in the Industry as defined in Article 186 of the Revised Penal Code, and Articles 168 and 169 of Republic Act No. 8293, otherwise known as the "Intellectual Property Law". The DOE shall continue to encourage certain practices in the industry which continue to encourage certain practices in the Industry which serve the public interest and are intended to achieve efficiency and cost reduction, ensure continuous supply of petroleum products, and enhance environmental protection. These practices may include borrow-and-loan agreements, rationalized depot and manufacturing operations, hospitality agreements, joint tanker and pipeline utilization, and joint actions on spill control and fire prevention.

The DOE shall monitor the relationship between the oil companies (refiners and importers) and their dealers, haulers and LPG distributors to help ensure the observance of fair and equitable practices and to ensure the enforcement of existing contracts: *Provided*, That the DOE shall conciliate and arbitrate any dispute that may arise with respect to the contractual relationship between the oil companies and the dealers, haulers and LPG distributors involving the dealers' mark-up, the freight rate in transporting petroleum products and the margins of LPG distributors for the protection of the public and to prevent ruinous competition: *Provided, further*, That the arbitration award of the DOE shall be subject to judicial review under existing law.

Section 8. Program to Encourage the Entry of New Participants in the Industry. – The DOE, the Department of Foreign Affairs (DFA) and the DTI shall jointly formulate and establish a program that will promote the entry of new participants in the Industry. Such program shall, among others, include a strategic international information campaign to be implemented through selected embassies and consular offices of the Philippines. This program shall commence implementation after three (3) months from the effectivity of this Act.

In this regard, the DOE shall provide a "Philippine Downstream Oil Industry Investment Guide" to new industry participants and prospective participants. This guide, shall, among others, contain:

- (a) An introduction to the Philippine Downstream Oil Industry and the government's unwavering commitment to deregulation;
- (b) The entry requirements;
- (c) Information on the benefits and incentives for new industry participants which shall specify: (i) all the incentives and benefits they can enjoy, and (ii) the procedural and substantive requirements needed for entitlement; and
- (d) Such other information the DOE may deem necessary to promote the entry of new participants.

Section 9. Incentives for New Investments. – To the extent applicable, persons with new investments as determined by the DOE and registered with the BOI in refining, storage, marketing and distribution of petroleum products, shall be extended the same incentives granted to BOI-registered enterprises engaged in a preferred area of investments pursuant to Executive Order No. 226, otherwise known as the "Omnibus Investments Code of 1987".

Such incentives shall include:

- (1) Income tax holiday;
- (2) Additional deduction for labor expenses;
- (3) Minimum tax and duty of three percent (3%) and value-added tax (VAT) on imported capital equipment;
- (4) Tax credit on domestic capital equipment;
- (5) Exemption from contractor's tax;
- (6) Unrestricted use of consigned equipment;
- (7) Exemption from the real property tax on production equipment or machineries;
- (8) Exemption from taxes and duties on imported spare parts; and
- (9) Such other applicable incentives under Article 39 of Executive Order No. 226.

Any provision of the law to the contrary notwithstanding, the said incentives may be availed by persons with new investments for a period of five (5) years from registration with the BOI: *Provided, however,* That in the storage, marketing and distribution of petroleum products, only the investments of new industry participants shall be entitled to incentives provided in the said Code. As used herein, "marketing of petroleum products" shall include the establishment of gasoline stations.

For this purpose, the industry shall be included in the annual Investment Priorities Plan (IPP): *Provided,* That nothing in herein contained shall preclude qualified persons or entities as provided under the "Omnibus Investments Code" from applying from or continue enjoying incentives and benefits under the said Code.

Section 10. Promotion of Retail Competition. – To achieve the social and policy objective of fair prices, facilitate the attainment of a truly competitive product market in the retail level, the DOE shall promote and encourage by way of information dissemination, networking, and management/skills training, the active and direct participation of the private sector and cooperatives in the retailing of petroleum products through joint venture/supply agreements with new industry participants for the establishment and operation of gasoline stations: *Provided*, That the training herein shall include LPG retailing.

To this end, the DOE shall, in accordance with the Technology and Livelihood Resource Center (TLRC) and Technical Education and Skills Development Authority (TESDA), coordinate with new industry participants and existing petroleum dealers' associations in the formulation and implementation of a two-fold program on management and skills training for the establishment, operation, and maintenance of gasoline stations.

Persons who successfully complete the two-fold program shall be entitled to government assistance being extended by government lending agencies, in the form of medium- to long-term loans with low interest rates and to the gasoline training station training and loan fund provided hereunder, to serve as capital for the establishment and operation of gasoline stations.

For these purposes, there is hereby established a gasoline station and loan fund with the initial amount of Three hundred million pesos (P 300,000,000.00) to be provided by the Philippine Amusement and Gaming Corporation (PAGCOR) and administered by the DOE under a separate account.

Of this amount, two percent (2%) plus any additional funding shall be allocated for the two-fold program; one percent (1%) plus any additional funding shall be set aside for administrative, maintenance, and other operating expenses; ninety-four percent (94%) shall be used exclusively for lending and financial assistance; the remaining three percent (3%) shall be utilized in accordance with the provisions of Section 26 of this Act: *Provided*, That the loans to be awarded herein shall be from short- to medium-term with low interest rates; *Provided, further*, That these loans shall be awarded to qualified persons who are able to comply with the conditions set forth in the next two (2) preceding paragraphs.

CHAPTER III ANTI-TRUST SAFEGUARDS, OTHER PROHIBITED ACTS AND REMEDIES

Section 11. Anti-Trust Safeguards. – To ensure fair competition and prevent cartels and monopolies in the Industry, the following acts are hereby prohibited:

(a) *Cartelization* which means any agreement, combination or concerted action by refiners, importers and/or dealers, or their representatives, to fix prices, restrict outputs or divide markets, either by products or by areas, or allocate markets, either by products or by areas, in restraint of trade or free competition, including any contractual stipulation which prescribes pricing levels and profit margins;

(b) *Predatory pricing* which means selling or offering to sell any oil product at a price below the seller's or offeror's average variable cost for the purpose of destroying competition, eliminating a competitor or discouraging a potential competitor from entering the market: *Provided, however*, That pricing below average variable cost in order to match the lower price of the competitor and not for the purpose of destroying competition shall not be deemed predatory pricing. For purposes of this provision, "variable cost" as distinguished from "fixed cost", refers to costs such as utilities or raw materials, which vary as the output increases or decreases and "average variable cost" refers to the sum of all variable costs divided by the number of units of outputs.

Any person, including but not limited to the chief operating officer, chief executive officer or chief finance officer of the partnership, corporation or any entity involved, who is found guilty of any of the said prohibited acts shall suffer the penalty of three (3) to seven (7) years imprisonment, and a fine ranging from One million pesos (P 1,000,000.00) to Two million pesos (P 2,000,000.00).

Section 12. *Other Prohibited Acts.* – To ensure compliance with the provisions of this Act, the refusal to comply with any of the following shall likewise be prohibited:

- (a) submission of any reportorial requirements;
- (b) use of clean and safe (environment and worker-benign) technologies;
- (c) any order or instruction of the DOE Secretary issued in the exercise of his enforcement powers under Section 15 of this Act; and
- (d) registration of any fuel additive with the DOE prior to its use as an additive.

Any person, including but not limited to the chief operating officer or chief executive officer of the partnership, corporation or any entity involved, who is found guilty of any of the said prohibited acts shall suffer the penalty of imprisonment for two (2) years and a fine ranging from Two hundred fifty thousand pesos (P 250,000.00) to Five hundred thousand pesos (P 500,000.00).

Section 13. *Remedies.* – (a) Government Action. – Whenever it is determined by the Joint Task Force created under Section 14 (d) of this Act, there is a threatened or imminent or actual violation of Section 11 of this Act, it shall direct the provincial or city prosecutors having jurisdiction to institute an action to prevent or restrain such violation with the Regional Trial Court of the place where the defendants reside or has his place of business. Pending hearing of the complaint and before final judgment, the court may at any time issue a temporary restraining order or an injunction as shall be deemed just within the premises, under the same conditions and principles as injunctive relief is granted under the Rules of Court.

Whenever it is determined by the Joint Task Force that the Government or any of its instrumentalities or agencies, including government-owned or –controlled corporations, shall suffer loss or damage in its business or property by reason of violation of Section 11 of this Act, such instrumentality, agency or corporation may file an action to recover damages and the costs of the suit with the Regional Trial Court which has jurisdiction as provided above.

(b) Private Complaint. – Any person or entity shall report any violation of Section 11 of this Act to the Joint Task Force. The Joint Task Force shall investigate such reports in aid of which the DOE Secretary may exercise the powers under Section 15 of this Act. The Joint Task Force shall prepare a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made at the discretion of the Joint Task Force. In the event that the Joint Task Force determines that there has been a violation of Section 11 of this Act, the private person or entity shall be entitled to sue for and obtain injunctive relief, as well as damages, in the Regional Trial Court having jurisdiction over any of the parties, under the same conditions and principles as injunctive relief is granted under the Rules of Court.

CHAPTER IV POWERS AND FUNCTIONS OF THE DOE AND DOE SECRETARY

Section 14. *Monitoring.* – (a) The DOE shall monitor and publish daily international crude oil prices, as well as follow the movements of domestic oil prices. 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 that are aligned with the

national standards/protocols of quality. The Bureau of Product Standards of the DTI, together with the Department of Environment and Natural Resources (DENR), the DOE, the Department of Science and Technology (DOST), representatives of the fuel and automotive industries and the consumers, shall set the specifications for all types of fuel and fuel-related products to improve fuel composition for increased efficiency and reduced emissions. The BPS shall also specify the allowable content of additives in all types of fuels and fuel-related products.

(b) 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.

(c) 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 importations, local purchases, sales and/or consumption, and inventory on a per crude/product basis.

(d) 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 the DOE-DOJ Task Force is hereby mandated to determine within thirty (30) days the merits of the report and initiate the necessary actions warranted under the circumstance: *Provided*, That nothing herein shall prevent the said task force from investigating and/or filing the necessary complaint with the proper court or agency *motu proprio*.

Upon the effectivity of this Act, the Secretaries of Energy and Justice shall jointly appoint the members of a committee who shall be tasked with the drafting of the rules and guidelines to be adopted by the Task Force in the performance of its duty. These guidelines shall ensure the efficiency, promptness, and effectiveness in the handling of its cases. The Task Force shall be organized and its members appointed within one (1) month from the effectivity of this Act.

(e) In times of national emergency, when the public interest so requires, the DOE may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any person or entity engaged in the Industry.

Section 15. Additional Powers of the DOE Secretary. – In connection with the enforcement of this Act, the DOE Secretary shall have the following powers:

(a) To gather and compile appropriate information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person or entity in the Industry;

(b) To require, by general or special orders, persons or entities engaged in a particular activity of the industry: (i) to file an annual or special report, or both in such form as the Secretary may prescribe; or (ii) to answer specific questions in writing, furnishing to the Secretary such information as he may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective persons or entities filing such reports or answer. Such reports and/or answer shall be filed with the Secretary under oath and within such reasonable time as the Secretary may prescribe;

(c) Upon the direction of the President or either House of Congress, to investigate and report the facts relating to any alleged violation of this Act by any person or corporation;

(d) Upon the application of the Secretary of Justice, to investigate and make recommendations for the readjustment of the business of any person or entity alleged to

be violating this Act in order that such person or entity may thereafter maintain his or its organization, management, and conduct of business in accordance with law;

(e) To recommend to the proper government agency the suspension or revocation and termination of the business permit of an offender;

(f) Concomitant with the policy of ensuring a continuous, adequate and economic supply of energy to exercise his powers and functions provided under Section 5 (c) of Republic Act No. 7638;

(g) To make public from time to time such portions of the information obtained by him hereunder as are in the public interest; and to make annual and special reports to Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of his reports and decisions in such form and manner as may be best adapted for public information and use: *Provided*, That the Secretary shall have any authority to make public any trade secret or any commercial or financial information which is obtained from any person or entity which is privileged or confidential, except that the Secretary may disclose such information to officers and employees of appropriate law enforcement agencies or to any officer or employee of any such law enforcement agency upon the prior certification by an officer of any such law enforcement agency that such information will be maintained in confidence and will be used only for official law enforcement purposes; and

(h) Whenever a final order has been entered against any defendant in any suit brought by the government to prevent and restrain any violation of the anti-trust provisions of this Act to make investigation, upon his initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Secretary of Justice, it shall be his duty to make such investigation. He shall transmit to the Secretary of Justice a report embodying his findings and recommendations as a result of any such investigation, and the report shall be made public at the discretion of the Secretary.

CHAPTER V TRANSITION PHASE

Section 16. *Phases of Deregulation.* – In order to provide a smooth implementation of deregulation, the policy shift shall be done in two (2) phases: Phase I (Transition Phase) and Phase II (Full Deregulation Phase).

Section 17. *Buffer Fund.* – The President may, when the interest of the consumers so requires, taking into account the rise in the domestic prices of petroleum products, use the "Reserve Control Account" as a buffer fund in an amount not exceeding Two billion nine hundred million pesos (P 2,900,000,000.00) to cover increases in the prices of petroleum products, except premium gasoline, during the Transition Phase over the prices prevailing as of the date of the effectivity of this Act. The "Reserve Control Account" refers to a lump sum collation of reserve impositions deducted from the appropriations approved by Congress for the operation of the government and the implementation of projects and programs.

Section 18. *Automatic Oil Pricing Mechanism.* – To enable the domestic price of petroleum products to approximate and promptly reflect the prices 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 Transition 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 one (1) month after the effectivity of this Act, approve a market-oriented formula to determine the WPP of petroleum products based solely on the changes of either the Singapore Posting of refined petroleum products, the SIP or the crude landed cost.

"Thereafter, the Board shall at the proper times automatically adjust the WPP of petroleum products based on 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) national newspapers of general circulation."

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

"1. To review and reset the 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 WPP of each petroleum product."

(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 rates charged by water transport operators, haulers and pipeline concessionaires. Depending on the basis of the APM, the Board shall, within one (1) month after the effectivity of this Act and after proper notice and full public hearing, prescribe a formula which will automatically set the margins of 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 VI FULL DEREGULATION PHASE

Section 19. Start of Full Deregulation. – Full deregulation of the Industry shall start five (5) months following the effectivity of this Act: *Provided, however,* That when the public interest so requires, the President may accelerate the start of full deregulation upon the recommendation of the DOE and the Department of Finance when the prices of crude oil and petroleum products in the world market are declining and the value of the peso in relation to the US dollar is stable, taking into account the relevant trends and prospects: *Provided, further,* That the foregoing provisions notwithstanding, the five (5)-month Transition Phase shall continue to apply to LPG, regular gasoline, and kerosene as socially-sensitive petroleum products and said petroleum products shall be covered by the automatic pricing mechanism during the said period.

Upon the implementation of full deregulation as provided herein, the Transition Phase is deemed terminated and the following laws are 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 15, 1984;
- (e) Letter of Instruction No. 1460, dated May 9, 1985;
- (f) Presidential Decree No. 1889; and
- (g) Presidential Decree No. 1956, as amended by Executive Order No. 137:

Provided, however, That in case full deregulation is started by the President in exercise of the authority provided in this Section, the foregoing laws shall continue to be in force and effect with respect to LPG, regular gasoline and kerosene for the rest of the five (5)-month period.

Section 20. Jurisdiction on Pricing of Piped Gas. – 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."

CHAPTER VII FINAL PROVISIONS

Section 21. OPSF Balance. – All outstanding claims against OPSF as of the effectivity of this Act, subject to the existing auditing rules and regulations of the Commission on Audit (COA), shall be considered as accounts payable of the National Government. For this purpose, and any law to the contrary notwithstanding, the reimbursement certificates issued by the DOE covering the said outstanding claims shall be honoured and accepted by the Bureau of Customs and the Bureau of Internal Revenue as payment to the extent of ten percent (10%) per payment of the tariff duties and specific taxes from the creditor-claimants against the OPSF until such claims are settled in full: *Provided,* That the reimbursement certificates shall not be transferable.

Section 22. Initial Public Offering. – In compliance with the constitutional mandate to encourage private enterprises to broaden their base of ownership and in recognition of the vital role of oil in the national economy, any person or entity engaged in the oil refinery business shall

make a public offering through the stock exchange of at least ten percent (10%) of its common stock within a period of three (3) years from the effectivity of this Act or the commencement of its refinery operations: *Provided*, That no single person or entity shall be allowed to own more than five percent (5%) of the stock offering: *Provided, further*, That any crude oil refining company and any stockholder thereof shall not acquire, directly or indirectly, any share of stock offered by any other crude oil refining company pursuant to his Section: *Provided, finally*, That any such company which made the requisite public offering before the effectivity of this Act shall be exempted from the requirement.

Section 23. *Implementing Rules and Regulations.* – The DOE, in coordination with the Board, the DENR, DFA, Department of Labour and Employment (DOLE), Department of Health (DOH), DOF, DTI, National Economic and Development Authority (NEDA) and TLRC, shall formulate and issue the necessary implementing rules and regulations within sixty (60) days after the effectivity of this Act.

Section 24. *Penal Sanction.* – Any person who violates any of the provisions of this Act shall suffer the penalty of three (3) months to one (1) year imprisonment and a fine ranging from Fifty thousand pesos (P 50,000.00) to Three hundred thousand pesos (P 300,000.00).

Section 25. *Public Information Campaign.* – The DOE, in coordination with the Board and the Philippine Information Agency (PIA), shall undertake an information campaign to educate the public on the deregulation program of the Industry.

Section 26. *Budgetary Appropriations.* – Such amount as may be necessary to effectively implement this Act shall be taken by the DOE from its annual appropriations, the DOE' Special Fund created under Section 8 of Presidential Decree No. 910, as amended, and such amount allocated under Section 10 of this Act.

Section 27. *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.

Section 28. *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 immediately modified accordingly.

Section 29. *Effectivity.* – This Act shall take effect upon its complete publication in at least two (2) national newspapers of general circulation.

Approved: February 10, 1998