

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 3678



**Introduced by Reps. CARLOS ISAGANI T. ZARATE, EMMI A. DE JESUS,
ANTONIO L. TINIO, ARLENE D. BROSAS, FRANCE L. CASTRO
ARIEL B. CASILAO, and SARAH JANE I. ELAGO**

AN ACT
**INSTITUTING CENTRALIZED PROCUREMENT OF PETROLEUM IN THE
COUNTRY**

EXPLANATORY NOTE

Up to 95 percent of the country's petroleum requirements are imported, rendering the Philippines exceedingly vulnerable to the dictates of big transnational oil corporations. The worst implication of this system is that our severe dependence on such corporations, which control the importation, refining, and retailing of crude and petroleum products in the world market; and the exploration, exploitation, refining, retailing, and even re-exportation of our country's indigenous petroleum and petroleum-based products, deprives us the opportunity to become self-sufficient.

These corporations, including Exxon-Mobil, Royal Dutch Shell, Chevron-Texaco (its marketing arm is Caltex), British Petroleum (BP), and CFP-Total, have almost complete control over the oil prices they collusively set worldwide. Even if the largest oil producing countries (Saudi Arabia, Iran, Venezuela, Mexico, and China) control 90 percent of the world's oil reserves, these five transnational oil companies can dictate world prices because they control 60 percent of oil production and hold all levels of the market through their vast global network of exploration and exploitation sites, partnerships with nationalized oil companies, refineries, pipelines, tankers, and stations.

For the longest time, the Big Three (3), or the local subsidiaries of Shell and Caltex and Petron, claim and justify that they do not overprice, that they set prices based on the price increases of Dubai oil exchanged over the spot market and on Peso-Dollar exchange rate fluctuations. Moreover, they deny the existence of a cartel, alleging that they merely follow the movements of world oil prices. They claim these even as they are minimally affected by prices in world markets and even as they are able to trade in the same currency between subsidiaries.

Even when international oil prices slumped in 2015 the corresponding downward adjustment of local oil prices was hardly commensurate to the price movement in the international oil market.

While in 2013, when world oil prices prompted oil firms operating in the Philippines to hike pump prices of gasoline and diesel for seven straight weeks – from May 3 to June 25, 2013. Overall, local pump prices were raised 14 times so far this year, bringing unleaded gasoline prices to between P47.75 to 55 a liter and diesel to between P38.70 to 42.05 a liter. Liquefied petroleum gas (LPG) is priced between P619.00-743.00 per 11-kilogram tank.

Studies by independent economic research institution IBON on the prices of Dubai crude at US\$55.4 per barrel, with exploration costs at US\$3-4 per barrel, production costs at US\$7-8 per barrel, and royalties at US\$8 per barrel, show that a staggering US\$35-37 per barrel (63-67%) is taken home as super profits by the transnational oil corporations. This is only for the initial stage of production; more is expected to be raked-in from hidden transfer-pricing between company subsidiaries.

Because these subsidiaries under the same corporations are both the buyers (refiners in the downstream petroleum industry) and the sellers (producers in the upstream petroleum industry), they can fix and pad prices through hidden transfer pricing every step of the way, including the mere sale of petroleum and petroleum products from refiners to dealers. Estimates show that 67 percent of world trade in oil is done through term contracts, or transactions between subsidiaries of the same companies, bypassing exchanges over world markets.

Moreover, our dependence on imported petroleum and petroleum products has continually depleted our foreign currency reserves, which has caused the further devaluation of the Peso and has made importation more and more expensive. Even without factoring in increases in the world demand for oil and the artificial effects of speculation, world oil prices are unreasonably and unjustifiably high because they are under the control of monopolistic transnational oil corporations.

Republic Act No. 8479, or the “Downstream Oil Industry Deregulation Act of 1998”, aimed to “ensure a truly competitive market under a regime of fair prices” through the liberalization and the deregulation of the local downstream oil industry. To begin with, R.A. 8479 has the wrong premise that the world pricing of petroleum and petroleum products is fair and justifiable.

Hence, this deregulation law merely advocates fair pricing through the “mediation” between big oil companies (refiners and importers) and relatively small dealers, haulers, and LPG distributors; the opening of the market to new industry participants nonetheless dependent on big transnational oil corporations; and the relatively insignificant financial and operational support for small-scale gasoline station retailers.

From the very beginning, R.A. 8479 was bound to fail to implement fair prices since it ignored monopoly-pricing practices and cartel behavior by the giant transnational oil corporations. Worse, deregulation has given transnational oil corporations even more room to manipulate prices through automatic oil price hikes; less transparency in pricing, profits, and operations; and virtually no accountability to the consuming public.

Petroleum is a sensitive commodity, since its price directly affects the cost of almost all other commodities and services, including essentials such as food, housing, social services, as well as transportation. Deregulation has allowed oil price increases to go unchecked. Deregulation has given transnational oil corporations even more leeway to influence the country's cost of living, livelihoods, business and commerce, employment, and the National Budget. The detrimental effects of an unfair world set-up dominated by giant, monopolistic, transnational oil corporations are magnified by liberalization and deregulation.

There is a pressing need to interdict the hidden and unchecked transfer pricing between oil company subsidiaries, including probable price padding in the sale of petroleum and petroleum products between refiners and local subsidiaries, to protect the majority of Filipinos from current runaway increases in oil prices.

But such state intervention can only be effective and truly beneficial if it is part of a program to institutionalize national oil industrialization, so that local oil prices can be brought down from the unreasonable and unjustifiable levels set by giant transnational oil corporations, and prevented from falling prey to further monopoly pricing and manipulation.

This Bill therefore requires the institution of a centralized procurement system of all imported crude oil and refined petroleum products, which includes the creation of buffer supplies to cushion consumers against drastic increases in petroleum prices. This measure was first and originally filed during the 16th Congress by the Makabayan bloc led by Bayan Muna Reps. Neri Colmenares and Carlos Zarate as HB 176.

Immediate passage of this measure is earnestly sought.

Approved,


Rep. CARLOS ISAGANI T. ZARATE
Bayan Muna Party-list


Rep. ANTONIO L. TINIO
ACT Teachers Party-list


Rep. EMMI A. DE JESUS
Gabriela Women's Party


Rep. FRANCE L. CASTRO
ACT Teachers Party-list


Rep. ARLENE D. BROSAS
Gabriela Women's Party


Rep. ARIEL B. CASILAO
Anakpawis Party-list


Rep. SARAH JANE I. ELAGO
Kabataan Party-list

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL No. **3678**

Introduced by Reps. CARLOS ISAGANI T. ZARATE, EMMI A. DE JESUS,
ANTONIO L. TINIO, ARLENE D. BROSAS, FRANCE L. CASTRO
ARIEL B. CASILAO, and SARAH JANE I. ELAGO

AN ACT
INSTITUTING CENTRALIZED PROCUREMENT OF PETROLEUM IN THE
COUNTRY

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

SECTION 1. Short Title. - This Act shall be known as the “**Centralized Petroleum Procurement Act of 2016**”.

SECTION 2. Declaration of Policy.

2.1 Social Justice

Article II, Section X of the 1987 Constitution states: “The State shall promote social justice in all phases of national development.”

Article II, Section XIX of the 1987 Constitution states: “The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos.”

2.2. National Economy and Patrimony

Article XII, Section I of the 1987 Constitution states: “The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the under-privileged.”

Article XII, Section XIII of the 1987 Constitution states: “The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity.”

Article XII, Section XIV of the 1987 Constitution states: "The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed."

Article XII, Section XVIII of the 1987 Constitution states: "The State may, in the interest of national welfare or defense, establish and operate vital industries and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government."

Consistent with the foregoing, petroleum and petroleum products, being vital to national security and their supply at reasonable prices being essential to the general welfare, it is hereby declared to be the policy of the State that the act and business of importing, exporting, re-exporting, distributing, and selling at wholesale of crude oil, gasoline, kerosene, gas, and other refined petroleum products, as well as operations and activities of natural and juridical persons, firms, and entities engaged in the petroleum industry shall be carried out in a manner consistent with the public interest, so as to attain the following objectives and purposes:

- (a) To assure that the indigenous petroleum and petroleum-based resources shall be primarily for the benefit of the general welfare;
- (b) To assure that the country shall have a proper, adequate, and continuous supply of crude oil and refined petroleum products under the most economic and competitive terms possible, considering all available sources of supply;
- (c) To assure the public of reasonable prices for petroleum products and to prevent monopoly, combinations in restraint of trade, unfair competition, and economic domination; and
- (d) To minimize the cost and the outflow of foreign exchange involved in the operations of the petroleum industry.

SECTION 3. Coverage. - This Act shall apply to all natural and juridical persons, firms, and entities engaged in any and all activities of the petroleum industry, as well as persons or companies directly importing or exporting crude or refined petroleum products for their own use or for the use of other natural and juridical persons, firms, and entities engaged in any and all activities of the petroleum industry.

These activities include the act and business of importing, exporting, re-exporting, storing, distributing, and selling both at wholesale and retail of crude oil, gasoline, kerosene, gas, and other refined petroleum products.

SECTION 4. Definition of Terms.-

- (a) **"Exchange"** shall mean the Philippine National Oil Company-National Petroleum Exchange Corporation (PNOC-NPEC).

(b) ***“Logistics Company”*** shall mean the PSTSC or the PNOC (Philippine National Oil Company) Shipping, Transport, and Storage Corporation.

(c) ***“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;

(d) ***“Crude oil”*** or ***“oil”*** shall be used interchangeably with ***“petroleum”***.

(e) ***“Petroleum products”*** shall only refer to liquefied petroleum gas (LPG), naphtha, gasolines, kerosenes, automatic/industrial diesel oils, and industrial/residual fuel oils.

(f) ***“Plan”*** shall refer to the Centralized Petroleum Procurement Plan.

SECTION 5. Creation of the National Petroleum Exchange Corporation. - There is hereby created the National Petroleum Exchange Corporation (NPEC), hereafter referred to as the Exchange, with the primary objective to enable the country to get the best prices, and adequate and stable supplies for its requirements of crude oil and petroleum products. The National Petroleum Exchange Corporation shall be a subsidiary company of the Philippine National Oil Company (PNOC), making Philippine National Oil Company-National Petroleum Exchange Corporation (PNOC-NPEC) the company's formal corporate name.

SECTION 6. Board of Directors of the Exchange. - The Board shall be composed of a Chairperson and six (6) Directors to be appointed by the Board of Directors of the Exchange's mother corporation, the Philippine National Oil Company (PNOC). The Chairperson and the Board Directors shall be natural-born citizens and residents of the Philippines; persons of good moral character; at least thirty-five (35) years of age; of recognized competence in any of the following fields: energy, law, economics, finance, commerce and industry, and management; or the transportation and consumer sectors; and with at least five (5) years of actual and distinguished experience in their respective fields of expertise or sectors: *Provided, That* of the six (6) Directors of the Board, at least one (1) shall have had (10) years experience in the fields of management, economics, or commerce and industry; one (1) shall be a certified public accountant with at least ten (10) years experience in active practice; and one (1) shall be a sector leader who has been active for at least ten (10) years in the transportation, consumer, or industrial sector.

The term of office of the Chairperson and the Board Directors shall be four (4) years: *Provided, That* for the first appointees, the Chairperson shall hold office for four (4) years, one Director shall hold office for four (4) years, another two for three (3) years, and the remaining two Directors shall hold office for two (2) years: *Provided further, That* for subsequent appointees, the successor of each Director shall have the same tenure as his predecessor: *Provided further, That* appointment to any vacancy shall only be for the unexpired term of the predecessor: *Provided finally, That* in no case shall any member serve for more than four (4) years in the Board.

Within three (3) months from the creation of the Exchange, the Chairperson shall submit for the approval by the PNOC Board of Directors the new organization structure and plantilla

positions necessary to carry out the powers and functions of the Exchange.

No person who has worked within four (4) years immediately prior to his appointment or is working in any firm engaged in the petroleum industry or any other entity whose main business is directly or indirectly related to any such firm shall be appointed to the Board. The Chairperson and Directors of the Board shall be prohibited from holding any interest whatsoever, except for the Chairperson of the NPSTSC, either as investor, stockholder, officer, or director, in any company or entity engaged in the business of exploring, exploiting, importing, exporting, re-exporting, shipping, transporting, processing, refining, storing, marketing, distributing, and selling both at wholesale and retail any petroleum resource and must, therefore, divest through sale or legal disposition of any and all interest in the petroleum industry upon assumption of office.

The presence of at least four (4) members of the Board shall constitute a quorum and the vote of three (3) members in a meeting where a quorum is present shall be necessary for the adoption of any rules, rulings, orders, resolutions, decisions, or other acts of the Board in the exercise of its functions.

Former Chairpersons and members of the Board are prohibited from working directly or indirectly in any firm engaged in the petroleum industry or any other entity whose main business is directly or indirectly related to any such firm within one (1) year from the time they have ceased to be officially connected with the Exchange.

The five (5) appointed Board Directors shall devote their full time to the Board and shall not accept any other employment while sitting in the Board.

SECTION 7. Jurisdiction, Powers, Functions, and Duties of the Exchange.- The Exchange shall centralize and strictly regulate the movement of petroleum and petroleum products at the stages of importation, exportation, re-exportation, distribution, storage, and selling both at wholesale and retail of crude oil, gasoline, kerosene, gas, and other refined petroleum products.

For this purpose, the general jurisdiction, powers, functions, and duties of the Exchange shall include the following:

- (a) Instituting a centralized procurement system, which shall take over all importation of crude oil and petroleum products and shall be the sole supplier of crude and petroleum for the local markets—for all local oil subsidiaries, wholesalers, retailers, as well as to all natural and juridical persons, firms, and entities engaged in the act and business of importing, marketing, distributing, and selling both at wholesale and retail crude oil and petroleum products for their own use or for the use of other natural and juridical persons, firms, and entities engaged in any and all activities of the petroleum industry;
- (b) Determining and supplying the country's total annual requirement for crude oil, gasoline, diesel, kerosene, fuel oil, liquefied petroleum gas, and other oil products;
- (c) Determining and sourcing the most economic, stable, and adequate foreign sources of crude oil and petroleum products, based on the following criteria:

- (d) Ownership of petroleum suppliers: shares of small private investors, national governments, and transnational oil corporations; and the
- (e) Inclusion of mutually advantageous commodity swaps and/or foreign exchange arrangements in bilateral petroleum trade agreements.
- (f) Ensuring that locally extracted crude oil, locally refined petroleum, and locally processed petroleum products primarily and singularly serve the country's local petroleum requirements.

SECTION 8. Staff of the Exchange.- The Chairperson and the Directors of the Exchange board shall appoint and maintain their adequate officers, staff, and personnel, including technical boards, to be maintained according to the functions, powers, and duties of the PNOC-NPEC.

SECTION 9. Centralized Petroleum Procurement Plan. - Complete procurement of 100 percent of the national petroleum needs, as determined by the NPEC, shall be effected over a period of not less than four (4) years and not more than five (5) years, for which each year shall cover 20 to 25 percent more than the previous year of the national petroleum needs.

The pace and the time frame of the Centralized Petroleum Procurement Plan shall be based on the following criteria:

- (a) Total national demand forecasts on crude oil and petroleum products, on a weekly, monthly, quarterly, and yearly basis, to be organized and undertaken by the Exchange, which shall be based on the requirements of the local petroleum marketing companies, independent demand projections, and demand forecasts by the Exchange;
- (b) Actual total national requirements on crude oil and petroleum products, for previous months, quarters, and years, to be organized and undertaken by the Exchange, which shall be based on actual sales of local petroleum marketing companies and separate investigations by the Exchange;
- (c) Actual total importations of crude oil and petroleum products, for previous months, quarters, and years, to be organized and undertaken by the Exchange, which shall be based on the records of the Bureau of Customs, actual sales of local petroleum marketing companies, and separate investigations by the Exchange;
- (d) Effective control of the Exchange over shipping, transport, and storage facilities of crude oil and petroleum products, as detailed under Section 12 of this Act;
- (e) Levels of the sources of funding, as delineated under Section 17 of this Act;
- (f) Efficacy of Commodity Swaps and other bilateral trade negotiations between PNOC-NPEC and state-owned oil companies from oil-producing countries as delineated under Sections 10-11 of this Act; and

- (g) Forecasts, feasibility studies, and planning sessions by the Board of the Exchange.

For the first year upon the effectivity of this Act, the Exchange shall utilize the shipping, transport, and storage facilities of Petron Corporation, as renationalized under Section 13-14 of this Act, and of the PNOC Shipping and Transport Corporation (PSTC), and shall progressively augment such facilities and capabilities, for the succeeding years of the Centralized Petroleum Procurement Plan, as delineated under the provisions of Section 12 of this Act.

The ability of the exchange to procure a surplus of imported petroleum over the actual total national requirements, as delineated under Section 15 of this Act as the Buffer Supply, marks the last period of the Centralized Petroleum Procurement Plan.

At the conclusion of the Plan, the National Petroleum Exchange Corporation shall be the sole source of the country's total requirement for petroleum and refined petroleum products. All petroleum marketing companies, petroleum dealers and traders, and all other importers of petroleum and refined petroleum products shall thereby be prohibited to procure by themselves or through other natural and juridical persons, firms, and entities, through importation or any such transportation, shipment, and freight activity, petroleum and refined petroleum products. They shall likewise be prohibited from exporting or re-exporting crude oil and petroleum products within the period of the plan, from which time they will be required to apply for exporting and re-exporting licenses from the Exchange.

Violations of these provisions shall be dealt with by the penalties under Section 19 of this Act.

SECTION 10. Bilateral Negotiations between PNOC-NPEC and state-owned oil companies from oil-producing countries. - When bidding out supply contracts to prospective exporters of crude oil and refined petroleum products, the Exchange shall prioritize, and if possible, restrict supply contracts to 100 percent (100%) state-owned oil companies from oil-producing countries, which have the least influence from transnational oil corporations.

The Exchange shall avoid dealing with state-owned oil companies with strategic linkages with transnational oil corporations and shall, by policy, include in such contracts trade agreements involving non-petroleum products. These trade agreements include, but are not limited to, commodity swaps as delineated under Section 11 of this Act.

The Exchange shall minimize, as much as possible and within the limits of annual appropriations under Section 17 of this Act, cash outlays for performing its procurement activities.

SECTION 11. Commodity Swaps and other bilateral trade and currency agreements. - When bidding out supply contracts to prospective importers of crude oil and refined petroleum products, the Exchange shall, as a matter of policy and especially in trade with state-owned oil companies from oil-producing countries, pursue commodity swaps where the Exchange shall push for special terms in supply contracts of crude oil and refined petroleum products in exchange for equally favorable concessions to exporting countries.

Such swaps shall include the trade of products without the exchange of foreign currencies to minimize the impact of fluctuations in the U.S. Dollar-Philippine Peso exchange rate on the price of oil. An alternative practice shall include the Exchange purchasing petroleum imports using the Philippine Peso, which oil-exporting countries can subsequently use to pay for their imports from the Philippines. These trade practices shall be subject to actual negotiations.

The Exchange, in consultation with the Secretary of the Department of Trade and Industry (DTI), is tasked to spearhead activities relating to commodity swaps and other bilateral trade agreements. It shall conduct studies on which petroleum exporting countries would such arrangements be most feasible before commencing with the bidding and negotiations.

The Exchange, in consultation with the DTI Secretary, shall likewise explore previously untapped trade partners for crude oil and refined petroleum products for which commodity swaps and other bilateral trade agreements may be feasible.

SECTION 12. Shipping, Transport and Storage. - For the Exchange to centralize and strictly regulate the movement of petroleum and petroleum products at shipping, transport, and storage, as well as enable it to get the best shipping, transport, and storage prices for its imported crude oil and petroleum products, Petron Corporation, as renationalized under Sections 13-14 of this Act, with the PNOC Shipping and Transport Corporation (PSTC), another subsidiary company of the Philippine National Oil Company, are hereby tasked to fulfill, in the first year upon the effectivity of this Act, the shipping and transportation needs of the Exchange. Any and all deficiencies in the ability of Petron and the PSTC to fulfill the shipping and transport needs of the Exchange shall be resolved by the Exchange by acquiring, leasing, or renting private shipping and transport facilities, through supplementary appropriations.

To respond to the storage needs of the Exchange, the mandate of the PNOC Shipping and Transport Corporation is hereby extended to include storage, besides shipping and transport. The PSTC is thus renamed as the PNOC Shipping, Transport, and Storage Corporation (PSTSC), hereon referred to as the Logistics Company.

To effectively empower the Exchange, together with the use of the oil depots and storage facilities of Petron Corporation, the newly established PSTSC shall hereby acquire majority equity control over vital, national oil storage facilities through the purchase of stock. PSTSC shall initially acquire, through supplementary appropriations and succeeding general appropriations, majority stake in the top three (3) to five (5) oil depots in the country. PSTSC shall acquire more stock in these corporations and shall likewise take control of, lease, or rent other vital oil storage facilities as the need arises for the Exchange and as is feasible according to the Centralized Petroleum Procurement Plan under Section 8 of this Act.

The Logistics Company shall initially attempt to buy back the shares at the Philippine Stock Exchange. If the minimum 51 percent (51%) equity from the involved corporations is not purchased, the Exchange shall cause the expropriation, subject to just and fair compensation, of shares from foreign investors or from local investors, or whoever/whichever has possession/ownership/control/custody thereof.

SECTION 13. - Transitory Provision: Renationalization of the Petron Corporation upon the Effectivity of this Act.

The Philippine National Oil Company (PNOC) shall, upon the first year of effectivity of this Act, reacquire equity in Petron Corporation by at least 11 percent of its total subscribed stocks singularly from the 20 percent owned and/or traded by individuals or from the 40 percent owned by the Ashmore Group or in a combination of which sum is at least 11 percent of the total subscribed stocks of Petron Corporation. PNOC shall initially buy back the shares at the Philippine Stock Exchange. If the minimum 11 percent is not repurchased, the PNOC shall cause the expropriation, subject to just and fair compensation, of Petron stocks from Ashmore or whoever/whichever has possession/ownership/control/custody thereof.

For the first year upon the effectivity of this Act, four billion pesos (PhP4,000,000,000) shall be appropriated by the National Government for this initial repurchase of Petron stocks. Earnings from the forty percent (40%) stake of PNOC in Petron Corporation shall be utilized as the secondary funding source for this stock repurchase.

SECTION 14. Full Nationalization of Petron Corporation. - The Philippine National Oil Company (PNOC) shall reacquire 100 percent ownership of Petron Corporation over a period of four (4) years. Reacquisition costs shall mainly be funded by the National Government, through annual budget appropriations. The secondary source for the full repurchase shall be the expanding earnings of PNOC from its increasing stake in Petron Corporation over the period of reacquisition.

To achieve this objective, the PNOC is hereby required to aggressively and consistently improve the operations and income of Petron Corporation in line with the policies of this Act. The eventual corporate merger of the PNOC and Petron Corporation shall be a matter of policy.

SECTION 15. Buffer Supply. - Once the Exchange has reached procurement levels where 100 percent of the previous year's actual total importation is already being procured for the current year, the Exchange shall procure greater volume than the present year's total national demand or importation forecasts, if warranted by the availability of funds. Any surplus inventories from present year's petroleum procurement shall serve as stock for the Buffer Supply of the Exchange.

Buffer supplies shall thereon be maintained and expanded during periods of relatively low world prices of oil, lower levels of consumption, and during periods where commodity swaps and bilateral trade negotiations bear extraordinary levels of supply.

These supplies shall be withdrawn during periods of extremely high global prices of oil and during shortages in order to delay any necessary price increases and bridge the gap between import levels and actual domestic demand.

The Exchange shall set minimum Buffer Supply levels at the conclusion of the Centralized Petroleum Procurement Plan. At this point, the Exchange shall set a program to progressively increase the minimum Buffer Supply level until a suitable floor level can be maintained. Minimum Buffer Supply levels and subsequent modifications shall be set by the Board of the Exchange.

When Buffer Supply minimum floor levels have been maintained for at least five (5) years, extraordinary gains from existing inventories due to extremely large increases in global prices can be plowed back, by recommendation of the Board of the Exchange, into the funding resources of the Exchange.

SECTION 16. Waiving of Tariff Duties on Imported Oil. - The PNOC-National Petroleum Exchange Corporation shall hereby be exempted from import tariffs on crude oil and petroleum products, thus amending Section 106 of Presidential Decree No. 1464, otherwise known as the "Tariff and Customs Code of 1978", as follows:

"Sec. 106. Drawbacks. —

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. On Petroleum Oils and Oils Obtained from Bituminous Minerals, Crude Eventually Used for Generation of Electric Power and for the Manufacture of City Gas. — On petroleum oils and oils obtained from bituminous materials, crude oils imported by non-electric utilities, sold directly or indirectly, in the same form or after processing, to electric utilities for the generation of electric power and for the manufacture of city gas, a refund or tax credit shall be allowed not exceeding fifty per cent (50%) of the duty imposed by law upon such oils, which shall be paid or credited under such rules and regulations as may be prescribed by the Commissioner of Customs with the approval of the Secretary of Finance: *PROVIDED, THAT IMPORT TARIFFS FOR SUCH PETROLEUM PRODUCTS SHALL BE WAIVED FOR IMPORTS BY THE PHILIPPINE NATIONAL OIL COMPANY-NATIONAL PETROLEUM EXCHANGE COMPANY (PNOC-NPEC).*

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SECTION 17. Sources of Funds. - The Exchange shall be funded by the following:

17.1 PNOC-NPEC Buffer Supply

After the conclusion of the Centralized Petroleum Procurement Plan of the NPEC and when its Buffer Supply minimum floor levels have been maintained for at least five (5) years, extraordinary gains from existing inventories due to extremely large increases in global prices can be used for the expenses of the Exchange.

17.2 Excise Taxes on Petroleum-based Manufactured Oils and Other Fuels

The PNOC-National Petroleum Exchange Corporation shall be allocated twenty-five percent (25%) of the proceeds from excise taxes on covered petroleum-based manufactured oils and other fuels.

Section 148 of Republic Act No. 8424, otherwise known as Tax Reform Act of 1997, as amended by Republic Act No. 9337, is hereby amended to read:

“SEC. 148. Manufactured Oils and Other Fuels. – There shall be collected on refined and manufactured mineral oils and motor fuels, the following excise taxes which shall attach to the goods hereunder enumerated as soon as they are in existence as such:

“(a) XXXX;

“(b) XXXX;

“(c) XXXX;

“(d) XXXX;

“(e) Naphtha, regular gasoline and other similar products of distillation, per liter of volume capacity, Four pesos and thirty-five (P4.35): [Provided, however, That naphtha, when used as a raw material in the production of petrochemical products or as replacement fuel for natural-gas-fired-combined cycle power plant, in lieu of locally-extracted natural gas during the non-availability thereof, subject to the rules and regulations to be promulgated by the Secretary of Energy, in consultation with the Secretary of Finance, per liter of volume capacity, Zero (P0.00):] *Provided, [further,] That* the by-product including fuel oil, diesel fuel, kerosene, pyrolysis gasoline, liquefied petroleum gases and similar oils having more or less the same generating power, which are produced in the processing of naphtha into petrochemical products shall be subject to the applicable excise tax specified in this Section, except when such by-products are transferred to any of the local oil refineries through sale, barter or exchange, for the purpose of further processing or blending into finished products which are subject to excise tax under this Section; : *PROVIDED FURTHER, THAT OF TOTAL EXCISE TAXES COLLECTED ON NAPHTHA, REGULAR GASOLINE, AND OTHER SIMILAR PRODUCTS OF DISTILLATION, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE PNOC-NATIONAL PETROLEUM EXCHANGE CORPORATION;*

“(f) Leaded premium gasoline, per liter of volume capacity, Five pesos and thirty-five centavos (P5.35); unleaded premium gasoline, per liter of volume capacity, Four pesos and thirty-five centavos (P4.35): *PROVIDED, THAT OF TOTAL EXCISE TAXES COLLECTED ON LEADED PREMIUM GASOLINE, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE PNOC-NATIONAL PETROLEUM EXCHANGE CORPORATION;*

“(g) XXXX;

“(h) XXXX;

“(i) XXXX;

“(j) XXXX;

“(k) XXXX; and

“(l) XXXX.”

17.3 Value-Added Taxes on the Sale of Petroleum and Petroleum Products

The PNOC-National Petroleum Exchange Corporation shall be allocated twenty-five percent (25%) of the proceeds of excise taxes on petroleum-based manufactured oils and other fuels.

Section 106 of Republic Act No. 8424, otherwise known as Tax Reform Act of 1997, as amended by Republic Act No. 9337, is hereby amended to read:

“SEC. 106. Value-Added Tax on Sale of Goods or Properties. –

“(A) XXXX:

“(i) XXXX; or

“(ii) XXXX.

“(1) XXXX.

“(a) XXXX;

“(b) XXXX;

“(c) XXXX;

“(d) XXXX; and

“(e) XXXX;

“The term “gross selling price” means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding the value-added tax. The excise tax, if any, on such goods or properties shall form part of the gross selling price.

PROVIDED, THAT OF THE TOTAL VALUE-ADDED TAXES COLLECTED ON LIQUEFIED PETROLEUM GAS (LPG), NAPHTHA, GASOLINES, KEROSINES, AUTOMATIC/INDUSTRIAL DIESEL OILS, AND INDUSTRIAL/RESIDUAL FUEL OILS, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE PNOC-NATIONAL PETROLEUM EXCHANGE CORPORATION;

“(2) XXXX:

“(a) XXXX:

“(1) XXXX;

“(2) XXXX;

“(3) XXXX;

“(4) XXXX; and

“(5) XXXX.

“(6) The sale of goods, supplies, AND equipment [and fuel] to persons engaged in international shipping or international air transport operations: *PROVIDED*, THAT THE TERM “GOODS” DOES NOT INCLUDE PETROLEUM AND PETROLEUM PRODUCTS AND BY-PRODUCTS.

PROVIDED, THAT OF THE TOTAL VALUE-ADDED TAXES COLLECTED ON LIQUEFIED PETROLEUM GAS (LPG), NAPHTHA, GASOLINES, KEROSENEs, AUTOMATIC/INDUSTRIAL DIESEL OILs, AND INDUSTRIAL/RESIDUAL FUEL OILs, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE PNOC-NATIONAL PETROLEUM EXCHANGE CORPORATION;

“(b) XXXX.

“(c) XXXX.

PROVIDED, THAT OF THE TOTAL VALUE-ADDED TAXES COLLECTED ON LIQUEFIED PETROLEUM GAS (LPG), NAPHTHA, GASOLINES, KEROSENEs, AUTOMATIC/INDUSTRIAL DIESEL OILs, AND INDUSTRIAL/RESIDUAL FUEL OILs, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE PNOC-NATIONAL PETROLEUM EXCHANGE CORPORATION.

“(B) XXXX:

“(1) XXXX;

“(2) XXXX:

“(a) XXXX; or

“(b) XXXX;

“(3) XXXX; and

“(4) XXXX.

“(c) XXXX.”

17.4 Value-Added Taxes on the Sale of Services Directly Involving Petroleum and Petroleum Products

The PNOC-National Petroleum Exchange Corporation shall be allocated twenty-five percent (25%) of the proceeds of these value-added taxes on the sale of services directly involving petroleum and petroleum products.

Section 108 of Republic Act No. 8424, otherwise known as Tax Reform Act of 1997, as amended by Republic Act No. 9337, is hereby amended to read:

“SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. -

“(A) XXXX:

“(i) XXXX; or

“(ii) XXXX.

“The phrase “sale or exchange of services” means the performance of all kinds or services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire another domestic common carriers by land, air and water relative to their transport of goods or cargoes; common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines; sales of electricity by generation companies, transmission, and distribution companies; services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code; services of banks, non-bank financial intermediaries and finance companies; and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties: *PROVIDED, THAT OF THE TOTAL VALUE-ADDED TAXES COLLECTED ON LIQUEFIED PETROLEUM GAS (LPG), NAPHTHA, GASOLINES, KEROSENES, AUTOMATIC/INDUSTRIAL DIESEL OILS, AND INDUSTRIAL/RESIDUAL FUEL OILS, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE PNOC-NATIONAL PETROLEUM EXCHANGE CORPORATION;*

“The phrase ‘sale or exchange of services’ shall likewise include:

- “(1) XXXX;
- “(2) XXXX;
- “(3) XXXX;
- “(4) XXXX;
- “(5) XXXX.
- “(6) XXXX;
- “(7) XXXX; and
- “(8) XXXX.

“XXXX.

“XXXX.

- “(B) XXXX;
- “(1) XXXX;
- “(2) XXXX;
- “(3) XXXX;
- “(4) XXXX;
- “(5) XXXX;

“(6) XXXX; and

“(7) XXXX.

“(c) XXXX.”

SECTION 18. Petroleum Security Procedures. - The Exchange shall draw up plans to cope with such contingencies as may arise should prevailing sources of supply become closed or inaccessible, and enter into such preliminary negotiations or arrangements with possible alternative sources as may be necessary to assure a stable, adequate, and continuous supply of crude oil and refined petroleum products under the most economic and competitive terms possible.

SECTION 19. Penalties for Violations.

- (a) Any person who violates any provision of this Act or any order, decision, ruling, or regulation of the Council shall, upon conviction, be sentenced for a period of not less than six months and not more than five years and a fine of not less than ten thousand pesos and not more than fifty thousand pesos. If the offender is a corporation, partnership, or juridical person, the penalty shall be imposed on the officer or officers responsible for permitting or causing a violation by the corporation, partnership, or juridical person of the provisions of this Act;
- (b) If the offender is a government official or employee, the maximum penalty prescribed in paragraph (a) shall be imposed and the offender shall suffer the additional penalty of perpetual disqualification from public office without prejudice to any administrative action against him;
- (c) If the offender is a member of the PNOC-National Petroleum Corporation or any of its attached agencies and companies, and the commission of the offense is attended by clear abuse of discretion on his part, or by any corrupt practice defined in Republic Act No. 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act”, or other similar irregularity, the penalty imposed shall be a fine of one hundred thousand pesos and imprisonment of not less than ten years. A similar penalty shall be imposed upon any private person, whether in the government service or not, who induces, aids, or abets the offender in the commission of the offense;
- (d) It shall be an offense, penalized as provided in paragraph (b) or (c) above, whichever may be applicable, for any person serving in the PNOC-National Petroleum Corporation or any of its attached agencies and companies, either as a Chairperson, Member, or as a member of the staff or directly or indirectly be employed by, or to receive any compensation from, or to have any direct or indirect financial interest in, any firm engaged in the business of exploring, exploiting, importing, exporting, re-exporting, shipping, transporting, processing, refining, storing, marketing, distributing, and selling both at wholesale and retail any petroleum resource; and
- (e) Any alien violating this Act shall, in addition to the penalty herein provided, be deported after service of sentence and shall not be permitted reentry into the Philippines.

(f) All monetary penalties shall directly accrue to the PNOC-National Petroleum Corporation.

SECTION 20. Implementing Rules and Regulations. - The PNOC-National Petroleum Corporation shall formulate and issue the necessary implementing rules and regulations within thirty (30) days after the effectivity of this Act.

SECTION 21. General Repealing Clause.

(a) Republic Act No. 8479, also known as the “Downstream Oil Industry Deregulation Act of 1998”, is hereby repealed.

(b) All other laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with any of the provisions of this Act, are hereby repealed or amended accordingly.

SECTION 22. Separability Clause. - If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

SECTION 23. Effectivity. - This Act shall take effect fifteen days after its complete publication in two (2) national newspapers of general circulation.

Approved,