

FURTHER AMENDING REPUBLIC ACT NO. 6173, AS AMENDED, BY PROVIDING THE BASIS FOR AN ADMINISTRATIVE MECHANISM DESIGNED TO ENSURE THAT EXTRAORDINARY GAINS RESULTING FROM GOVERNMENT-...

PRESIDENTIAL DECREE NO. 389-A, February 14, 1974

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WHEREAS, in this period of rising prices, extraordinary gains are realized from increases in inventory values due to government-approved price increases;

WHEREAS, because of the magnitude of the recent increases in crude cost, the offsetting price increase, even on the basis of cost recovery, would be such that extraordinary appreciation in the value of inventory acquired prior to such cost increase would result; and

WHEREAS, such extraordinary gains resulting from government-approved price increases should be channeled for special economic and social development projects;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby decree and order:

SECTION 1. A new paragraph to be cited as paragraph (j) is hereby added to Section 7 of Republic Act No. 6173, as amended, as follows:

"SEC. 7 (j). Whenever an authorized increase in the prices of petroleum products would result in an extraordinary gain from existing inventories, the Commission is hereby empowered to take such measures, including the payment by the companies benefited to a Special Fund which is hereby created, to be determined by the Oil Industry Commission in an appropriate directive of such inventory gain, as would assure that said extraordinary gain shall redound to the public interest.

Until otherwise provided, the Special Fund herein created shall be utilized either directly, or in the form of loans thru financial institutions of the Government, for projects relating to the consumption or use of crude oil, gas and other petroleum products and other sources of energy including exploration and development researches on conservation, anti-pollution and other similar studies, and to subsidize the importation of crude oil by any government-owned corporation to assure adequate and continuous supply of petroleum products at reasonable prices. The Special Fund shall be administered as the President of the Philippines may direct."

SEC. 2. Section eleven of Republic Act No. 6173, as amended, is hereby amended as follows:

"SEC. 11. Review of Commission's Order; Commission's Authority to Grant Provisional Relief. — A party adversely affected by a decision or any order of the Commission fixing or adjusting the price or prices of petroleum product or products may, within a period of seven (7) days from receipt of said decision or order, appeal in writing, stating clearly and distinctly the grounds relied upon, to the Office of the President, which shall have exclusive authority and jurisdiction to review, reverse, modify or amend the same. The decision or

order of the Commission in such cases shall be final, unless reversed, altered or modified, either on appeal or on review motu proprio within the period hereinbelow stated.

The Office of the President shall likewise have the power to review, motu proprio, any decision or order of the Oil Industry Commission fixing the prices of petroleum products. For this purpose, certified copies of such decisions or orders of the Commission shall be forwarded to the Office of the President immediately upon promulgation thereof.

"The decision of the Office of the President, on appeal or after review motu proprio, shall be final. Unless the Office of the President directs otherwise, appeal or motu proprio review shall not stay execution or implementation of the decision or order of the Oil Industry Commission, which shall be executory upon the expiration of seven (7) days after their promulgation.

"The Commission may, upon the filing of an application, petition or complaint or at any stage thereafter, and without prior hearing, on the basis of supporting papers duly verified and authenticated, grant provisional relief on motion of a party in the case or on its own initiative, without prejudice to a final decision after hearing, should the Commission find that the pleadings, together with such affidavits, documents and other evidence which may be submitted in support of the motion, substantially support the provisional order.

"This Section shall apply to all pending proceedings in the Commission."

SEC. 3. Section fifteen of Republic Act No. 6173, as amended, is hereby amended as follows:

"SEC. 15. Additional Fee on Importations and Turn-over of Collections. — Effective July one, nineteen hundred and seventy-one, there shall be levied, assessed and collected, an additional fee of one tenth of one percent of the CIF value of crude oil and petroleum products imported into the Philippines. The fee imposed herein shall be collected at the same time, in the same manner and subject to the same penalties as the duties and taxes regularly imposed on such products. This fee shall not be a basis for any increase in the price of any petroleum product as of the approval of this Act.

"The Commissioner of Customs shall turn over the collections to the Treasurer of the Philippines monthly within the first ten days of the succeeding month."

SEC. 4. All acts, executive orders, administrative orders, rules and regulations or parts thereof which are inconsistent herewith are hereby repealed or modified accordingly.

SEC. 5. This Decree shall take effect upon approval.

Done in the City of Manila, this 14th day of February, in the year of Our Lord, nineteen hundred and seventy-four.

(Sgd.) FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.) ALEJANDRO MELCHOR

Executive Secretary

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