Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Thirteenth Congress
First Regular Session

HOUSE BILL NO. 1065

Introduced by Anakpawis Representatives Crispin B. Beltran, Rafael V. Mariano; Bayan Muna Representatives Satur C. Ocampo, Teodoro A. Casiño, Joel G. Virador; Gabriela Women's Party Rep. Liza Largoza-Maza

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EXPLANATORY NOTE

The primary duty and responsibility of stopping the continuing increase in oil prices still rests with the national government headed by President Gloria Macapagal-Arroyo. Any increases in the pricing of oil and petroleum products is a savage attack against the economic well-being of consumers and the majority of poor and working people; and concrete and decisive steps must be implemented to stop these attacks.

Ibon Foundation reports that oil companies overpriced their products by at least 91 centavos in 2003. According to the independent think tank, based on the rule of thumb for the downstream oil industry, a one-dollar change in Dubai oil prices should affect local oil prices by 26 centavos, while a one-dollar adjustment in the foreign exchange should affect domestic oil prices by 13 centavos.

Since there was a $2.4 movement in Dubai oil prices and a $1.9 adjustment in foreign exchange for 2003, there should have been only an 87-centavo increase in local oil prices last year. The actual price increases, however, amounted to P1.78.

Meanwhile, a March 7, 2004 report by the Cordillera-based Northern Dispatch Weekly reveals that the production cost per barrel of crude oil is equivalent to P84 (going by a $1=P56 exchange rate). It is sold in the world market for the equivalent of P1,624 per barrel, amounting to a profit of P1,540 per barrel. Oil companies in the Philippines, Northern Dispatch Weekly adds, are able to sell some 380,000 barrels of oil a day. This is equivalent to a profit of P585.2 million a day. For all these super profits, however, the oil companies continue imposing relentless oil price hikes, clearly abusing the already abusive nature of the deregulation policy in the oil industry.

When the downstream oil industry was deregulated, the big oil companies, Petron, Shell and Caltex virtually became a cartel, manipulating and overpricing gasoline and other petroleum products in the market, to the detriment of the public. Their agenda in pushing for frequent price increases can be summed up in two words: more profit. These companies justify unbearable oil price increases by alleging the landed cost of imported crude oil and the weakening of the peso. Through privatization and deregulation, the government allowed automatic adjustments in the peso landed cost of imported crude oil, a radical departure from the earlier practice of getting the Energy Regulatory Board's prior approval before any oil price increase.

The entry of new oil players in the oil industry exacerbated the situation. There are now more players with similar interest to totally control all phases of the downstream oil industry, from the business of importing, exporting, re-exporting, shipping, transporting, processing, refining, storing, and

distributing to marketing crude oil and petroleum products. Landed cost of crude oil for each of the players in the industry tends to vary, resulting to volatile prices of oil products. The high cost of gasoline and petroleum products in the market can also be attributed to the government. The oil industry is the most heavily taxed sector of the economy. More than fifty percent (50%) of the prices of oil in the country is made up of taxes.

Past and present officials of the government have unsuccessful in formulating and implementing effective policies that provide immediate relief from the oppressive effects of the automatic adjustments in the prices of oil products, free from the hassles of public scrutiny and other transparent processes. The government should not hesitate to institute reforms in order to fully protect the people, even if such an action is contrary to the interest of the powerful and influential transnational oil corporations.

Under the oil deregulation law, the following took place to the detriment of the Filipino people and the national economy:

a) The removal of the limits to profiteering which, prior to the deregulation, the rate of return base (RORB) was pegged at 12%
b) An automatic pricing mechanism was instituted. Before, public hearings at the then Energy Regulatory Board (ERB) were required prior to any oil price hike. Under deregulation, the increases have become automatic. The oil companies are no longer obligated or bound by law to explain the increases; neither are they compelled to announce the increases at an earlier date
c) There are no more limits to the amount they can increase in prices, whereas pre-deregulation, the limit was pegged at P0.50 per liter
d) The subsidies for oil products such as kerosene, LPG, and coal which are the materials used to generate electricity and are the main fuel sources utilized by majority of households
e) Removal of tariff differentials. This means that under deregulation, the lower tariffs for oil companies that have refineries in the Philippines were removed supposedly to ensure that Petron, Caltex and Shell will not be able to have an unfair advantage. This is a naïve assumption because the cartel of the three big corporations is already well-established and it cannot be easily dismantled simply through lower tariffs for their competitors.
f) The removal of the Oil Price Stabilization Fund (OPSF). For all its limitations and loopholes, the fund could have still been utilized by the people if its management was more transparent and in keeping with its genuine purpose.

In short, oil deregulation only worsened problems in the oil industry and further victimized consumers and the economy.

All this leaves the Filipino people with no other option but to demand the immediate and irrevocable junking of the Oil Deregulation Law or RA 8479, otherwise known as the Downstream Oil Deregulation Act of 1998. Critics of the law say that it is.

In a paper by Danilo Arana Arao, Assistant Professor of Journalism, University of the Philippines (UP)and Spokesperson of the broad multisectoral alliance against oil price hikes and the oil deregulation law Kontra Kartel, the arguments defending oil deregulation should be willfully debunked. He dismisses the arguments of the government that because of oil deregulation, there is now a regime of "fair prices" and "adequate and continuous supply of petroleum products" as "fantastic." He wrote his master's thesis on the state of the Philippine downstream oil industry, and has concluded that scrapping the oil deregulation law is an absolute necessity if the country is ever to receive a break from the oil price hikes.

Eight years after the oil industry was deregulated, the Filipino people are more than convinced of the evils of the act. Oil price hikes have become the norm, and there appears to be no end in sight for the

increases in the prices of most petroleum products. Clearly, it's long overdue that Congress re-examine the concept of nationalization of the downstream oil industry as opposed to deregulation.

The arguments for nationalization must be considered at this point when prices of petroleum products continue to increase, and as government officials claim that they cannot do anything to control the prices.

Arao states that unlike in a deregulated atmosphere, a nationalized regime undertakes price control which can minimize the impact of sudden price increases brought about by the peso devaluation and fluctuations in the prices of imported crude oil. Market forces should not be the only determinant of pump prices, for the need to make prices as affordable as possible to consumers should be more important. Socially sensitive products such as diesel, LPG and kerosene should be given more priority and thus subsidized to ensure lower prices.

Nationalization, according to Arao, can correct this set-up by reversing the "depoliticized" price setting and having instead a regulated pricing mechanism. The latter takes cognizance of the need to make petroleum products affordable. It becomes feasible therefore to institute cross-subsidies, such as the pump prices of socially sensitive products like diesel, kerosene and LPG are subsidized.

As regards to ensuring oil supply particularly in remote areas, the experience with oil deregulation shows that the entry of new industry players does not automatically assure accessibility of petroleum products particularly in rural areas. Indeed, the increase in number of industry players did not result in gasoline retail outlets being distributed nationwide.

The control of Petron, Shell and Caltex on the downstream oil industry persists because deregulation has only given them much leeway in engaging in unscrupulous practices like price fixing. They are wont to do this since the downstream oil industry has a captive market given the constant demand for oil in the absence of viable alternative sources of energy. It has been argued that the downstream oil industry provides opportunities for more and more profits as the population increases and industrial expansion happens.

Arao also goes on to state that through nationalization, strict government regulation changes the profit-oriented character of the industry into one that is essentially service-oriented. Unscrupulous practices are checked since the "free-for-all" characteristic of a deregulated regime is eradicated.

Aside from that, the downstream oil industry gets integrated to the thrust towards economic development. State control would enable the industry to respond to the power and energy demand of the economy and the people.

Given all these arguments, there is an urgent need to immediately scrap Republic Act No. 8479 (Downstream Oil Deregulation Act of 1998) and facilitate the nationalization of the downstream oil industry. As it is right now, nationalization is not a temporary fix but an absolute necessity.

In view of the foregoing, approval of this bill is highly and earnestly sought.

Rep. Crispin B. Beltran
Anakpawis

Rep. Rafael V. Mariano
Anakpawis

Rep. Satur C. Ocampo
Bayan Muna

Rep. Teodoro A. Casiño
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AN ACT
REPEALING REPUBLIC ACT NUMBERED 8479, OTHERWISE KNOWN AS THE DOWNSTREAM OIL DEREGULATION ACT OF 1998

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

SECTION 1. Any provision of law to the contrary notwithstanding, Republic Act Numbered 8479 entitled "Downstream Oil Deregulation Act of 1998" is hereby repealed.

SECTION 2. This Act shall take effect in fifteen (15) days after the completion of its publication.

Approved.