

Price Fixing and Anti-Monopoly Act, B.E. 2522 (1979)

Translation

BHUMIBOL ADULYADEJ, REX.,
Given on the 22nd day of April B. E. 2522;
Being the 34th Year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on price fixing and anti-monopoly;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly acting as the National Assembly, as follows:

Section 1

This Act is called the "Price Fixing and Anti-Monopoly Act B.E. 2522 (1979)".

Section 2

This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3

The following shall be repealed:

- (1) Anti-Profitteering Act, B. E. 2490;
- (2) Anti-Profitteering Act (No.2), B. E. 2517.

Section 4

In this Act:

"business" means activities in agriculture, industry, commerce, service or other similar activities;

"product" means goods which may be used for consumption including any document evidencing the rights in such goods, and includes services;

"distributor" means a person who sells, exchanges or transfers the right or possession in any product to other persons and includes importer, exporter, manufacturer and purchaser of products for production and distribution;

"price" means the price of product and includes charges in return for services;

"Committee" means the Central Committee on Price Fixing and Anti-Monopoly or Changwat Committee on Price Fixing and Anti-Monopoly;

"Office" means Office of the Central Committee on Price Fixing and Anti-Monopoly or Office of Changwat Committee on Price Fixing and Anti-Monopoly;

"Secretary-General" means the Secretary-General of the Central Committee on Price Fixing and Anti-Monopoly;

"competent official" means a government official appointed by the Minister for the execution of this Act;

"Minister" means the Minister having charge and control of the execution of this Act.

Section 5

The Minister of Commerce shall have charge and control of the execution of this Act and shall have the power to appoint competent officials and to issue Ministerial Regulations for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

Section 6

This Act shall not apply to government offices of the Central Administration, Provincial Administration or Local Administration.

Chapter I

Committees and Competent Officials

Section 7

There shall be a central committee on price fixing and anti-monopoly called the "Central Committee" consisting of the Minister of Commerce as Chairman, Under-Secretary of State for Commerce as Vice-Chairman and not less than four but not more than eight qualified persons appointed by the Council of Ministers and Secretary-General as members; provided that at least one-half of the number of qualified persons so appointed shall come from the private sector. The Central Committee shall have the powers and duties as specified in this Act over all localities throughout the Kingdom and shall also perform the duties of Changwat Committee on Price Fixing and Anti-Monopoly for Bangkok Metropolis.

The Secretary-General shall be Secretary of the Central Committee.

Section 8

The Central Committee shall have the following powers and duties over all localities throughout the Kingdom;

- (1) to carry out the provisions of Section 23, Section 24, Section 25, Section 26 paragraph two, Section 27, Section 31, Section 32, Section 33, Section 34, Section 38 and Section 40;
- (2) to control or proceed in order to ensure that the production or distribution of products may be sufficient for the public demand;
- (3) to consider complaints filed by a person claiming hardship or damage due to the actions which affect the price of products or actions of monopoly or restrictive trade practices;
- (4) to invite any person to give fact, explanation, recommendation or opinion.

Section 9

In a Changwat other than Bangkok Metropolis, there shall be one Changwat Committee on Price Fixing and Anti-Monopoly called "Changwat Committee" in brief, consisting of Changwat Governor as Chairman and not less than five but not more than nine qualified persons appointed by Changwat Governor, and Changwat Commerce Official as members. Changwat shall have all the powers and duties as specified in this Act within Changwat.

The Changwat Commerce Official shall be Secretary of Changwat Committee.

Section 10

Changwat Committee shall have the following powers and duties within Changwat:

- (1) to carry out the provisions of Section 24, Section 26 paragraph two, Section 28 and Section 40;
- (2) to control or proceed in order to ensure that the production or distribution of products may be sufficient for the public demand;
- (3) to consider complaints filed by a person claiming hardship or damage due to the actions which affect the price of products or actions of monopoly or restrictive trade practices;
- (4) to invite any person to give fact, explanation, recommendation or opinion;
- (5) to comply with the notifications of orders of the Central Committee.

Section 11

The member appointed under Section 7 or Section 9 shall hold office for a term of two years.

In the case where an appointed member vacates office before the expiration of his term or in the case where additional member is appointed during the term of the members already appointed, the appointee shall hold office for the remaining term of the members already appointed.

A member who vacates office at the expiration of his term may be re-appointed.

Section 12

In addition to vacating office at the expiration of the term under Section 11 paragraph one, a member appointed under Section 7 or Section 9 vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed for misconduct by the Council of Ministers or Changwat Governor, as the case may be;
- (4) being a bankrupt;
- (5) being an incompetent or quasi-incompetent person;
- (6) being imprisoned by a final judgment to a term of imprisonment except for an offence committed through negligence or petty offence.

Section 13

At a meeting of the Committee, the presence of not less than one-half of the number of members is required to constitute a quorum.

If the Chairman does not attend or is not present at the meeting, in case of a meeting of the Central Committee, the Vice-Chairman shall preside over the meeting; if the Vice-Chairman does not attend or is not present at the meeting, the meeting shall elect one member to preside over the meeting. In the case of a meeting of Changwat Committee, the meeting shall elect one member to preside over the meeting.

The decision of a meeting shall be by majority of votes.

In casting votes, each member shall have one vote; in case of an equality of votes, the person who presides over the meeting shall have an additional vote as casting vote.

Section 14

The Committee may appoint a Sub-Committee to carry out inquiry or study any matter within the scope of its powers and duties and report to the Committee.

The provisions of Section 13 shall apply *mutatis mutandis* to the meeting of the Sub-Committee.

Section 15

There shall be established an office of the Central Committee on Price Fixing and Anti-Monopoly in the Department of Internal Trade, Ministry of Commerce, having the Director-General of the Department of Internal Trade as Secretary-General *ex officio*, who shall be the superior official and responsible for the official affairs of the Office and shall have the following powers and duties:

- (1) to carry out the administrative works of the Central Committee and perform the duty as coordinating center with Changwat Committee;
- (2) to carry out the study, analysis, and research concerning the products, prices and business operations as well as submit projects, plans or measures concerning price fixing and anti-monopoly or restrictive trade practices to the Central Committee;

- (3) to monitor the price movement of products under control and follow up the conducts of the operator of business under control and report to the Central Committee;
- (4) to receive complaints filed by a person under Section 8 (3);
- (5) to comply with the notifications, regulations and resolutions of the Central Committee and carrying out matters as entrusted by the Central Committee.

Section 16

There shall be established an Office of Changwat Committee on Price Fixing and Anti-Monopoly in every Changwat having Changwat Commerce Official as head of the office *ex officio*, who shall be the superior official and responsible for the official affairs of the Office and shall have the following powers and duties:

- (1) to carry out the administrative works of Changwat Committee and perform the duty as coordinating center with the Central Committee;
- (2) to carry out the study, analysis, and research concerning products, prices and business operations as well as submit projects, plans or measures concerning price fixing and anti-monopoly or restrictive trade practices to Changwat Committee;
- (3) to monitor the price movement of products under control and follow up the conducts of the operator of the business under control and report to Changwat Committee;
- (4) to receive complaints filed by a person under Section 8 (3);
- (5) to comply with the notifications, regulations and resolutions of Changwat Committee and carry out matters as entrusted by Changwat Committee.

Section 17

In the execution of this Act, the competent official shall have the following powers:

- (1) to issue a summons requiring the presence of any person to give statement, fact or explanation in writing of forward books of account, registers, documents or any other evidence for examination or supplementing his consideration;
- (2) to enter an office, factory or warehouse belonging to an operator of business or any person or vehicle belonging to any person between sunrise and sunset or during office hours in order to inspect or search for products when there is reasonable cause to believe that there is a violation of Section 29 or to carry out an examination to ensure due compliance with this Act. For this purpose, he shall have the power to inquire into fact or to request production of books of account, registers, documents or other evidences from the operator of business or the persons concerned;
- (3) in the case where the competent official is of the opinion that there is a violation of Section 30, he shall have the power to detain, attach or seize such products; provided that the seizure of such products must have prior authorization in writing from the Chairman of the Committee.

Section 18

In the performance of duty of the competent official, the persons concerned shall render reasonable facilities.

Section 19

In the performance of duty, the competent official shall produce his identity card to the persons concerned.

An identity card shall be in accordance with the form prescribed in the Ministerial Regulation.

Section 20

The competent official shall serve a summons under Section 17 (1) on the person specified therein at his place of domicile or his office during sunrise and sunset or send it by registered reply-post and it shall be deemed that the summons sent by post has the same effect as if it was served by a competent official.

If the person specified in the summons refuses to accept it without justification, the competent official shall request an administrative or police official to accompany him as witness in order to leave the summons at such place.

If the competent official fails to meet the person specified in the summons at his place of domicile or office, it may be served on any person over twenty years of age who is living or working at the dwelling place or office known to be that of the person specified in the summons.

If no one is found or someone is found but refuses to accept the summons and there is reasonable cause to believe that the person specified therein intends to avoid accepting the service, the summons shall be posted in a conspicuous place at such place of domicile or office.

When the competent official has complied with the procedure specified in paragraph one, paragraph two, paragraph three or paragraph four, it shall be deemed that the person specified in the summons has received such summons.

Section 21

In the execution of this Act, the members, sub-committee members, Secretary-General and competent officials shall be officials under the Penal Code.

Section 22

For the purpose of arrest and suppression of the offenders under this Act, the competent officials shall be administrative or police officials under the Criminal Procedure Code.

Chapter II **Price Fixing**

Section 23

In order to prevent unfair fixing of buying or selling price or conditions and trading practices, the Central Committee shall, with the approval of the Council of Ministers, have the power to issue a notification prescribing any product to be product under control.

The notification of the Central Committee under paragraph one shall be published in the Government Gazette.

Section 24

After a notification prescribing the product under control under Section 23 has been issued, the Committee shall have the following powers:

- (1) to fix the buying or selling price of products under control so that a buyer may not buy at the price lower or the seller may not sell at the price higher than the price so fixed, or to maintain the price at a certain level;
- (2) to fix the maximum profit rate per unit of products under control which the seller may receive from the sale thereof or to fix the differential rates between the buying and selling prices of products under control at each stage of the trade;
- (3) to require a manufacturer or distributor to display the price of products under control;
- (4) to prescribe rules, measures and conditions to be complied with by the manufacturer or distributor of products under control in the production,

- distribution, import, export, purchase, sale or warehousing of products under control;
- (5) to prescribe the locality or period of time for the application of the notification of the Committee;
 - (6) to require the disclosure of quantity, warehouse, production cost, expenses, production process and method of distribution of products under control to the competent officials;
 - (7) to require the reserve or additional reserve of stock of products under control, and to prescribe the locality and places for warehousing the reserve of stock of products under control;
 - (8) to prohibit or permit the sending of products under control outside or the bringing of such products into any locality;
 - (9) to order an operator of business to improve the efficiency in the production, purchase, distribution or warehousing of the products under control as well as to suspend or reduce any expenditure which has been allocated but is considered to be excessive;
 - (10) to provide the rationing of the purchase or sale of products under control or prescribe the conditions for the purchase or sale of products under control;
 - (11) to direct that products under control be sold in prescribed quantity and at prescribed price and that they be sold to such government office or any person as designated by the Committee;
 - (12) to prohibited the distribution, giving, use, movement or transformation of products under control in excess of the specified quantity;
 - (13) to authorize the Secretary-General or any competent official to proceed in connection with the production, transport, purchase, distribution and warehousing of products under control;
 - (14) to prescribe measures to prevent the boarding or the possession of products under control in excess of the specified quantity.

In exercising the power under paragraph one, the Committee shall issue a notification and have it published in the Government Gazette.

The Committee shall, from time to time, review the exercise of powers under paragraph one so as to be in accordance with the prevailing economic situation, taking into account the production cost, distribution cost and the appropriate profit rate, including its effect on the future investment for the expansion of production capacity.

Section 25

The Central Committee shall have the power to publish in the Government Gazette a notification requiring the distributor of product under control to notify the buying or selling prices, names of the product, name and quantity of the component parts, standard, quality, size, quantity and weight per unit of product under control on the day the Central Committee issues the notification and no prices shall be changed without prior permission from the Secretary-General in accordance with the rule prescribed by the Central Committee. For this purpose, the Secretary-General may require the manufacturer or distributor of product under control to notify him of the plan to change the price or the discount rate in the distribution of such product under control.

Section 26

In the case of urgent necessity and secrecy where a meeting of the Committee cannot be convened immediately, for the exercise of powers under Section 24, the Chairman of the Committee has the power to exercise temporarily the power of the Committee as prescribed in Section 24 by having the notification published in the Government Gazette.

After its publication under paragraph one, such notification shall be submitted to the Committee for consideration within three days following the date of its publication in the Government Gazette. If the Committee approves such notification, the Committee shall issue a notification in the Government Gazette giving effect to further application of such notification. If the Committee disapproves such notification, the Committee shall issue a notification repealing it; provided that it shall not affect any set done during the enforcement of such notification.

Section 27

In the performance of duty in accordance with the notification of the Central Committee under Section 24, the Central Committee may pass a resolution entrusting the Secretary-General with the duty to carry out any activity on its behalf.

Section 28

In the performance of duty in accordance with the notification of Changwat Committee under Section 24, Changwat Committee may pass a resolution entrusting the Chairman of Changwat Committee with the duty to carry out any activity on its behalf.

Section 29

No operator of business shall, whether alone, in conspiracy or in cooperation with other persons, instigate any activity with the intention to suppress the price of products or increase the price to unreasonable level or cause the fluctuation in prices.

Section 30

No person shall board the products under control by having in his possession the products under control in excess of the quantity specified in the notification of the Committee under Section 24 (14) or storing the products under control in any place other than that notified to the competent official under Section 24 (6), or no operator of business having in his possession the products under control for distribution shall refuse to distribute or offer for sale in the ordinary course of trade or refuse to make the distribution or delay the distribution or delivery of such products under control without justification.

Chapter III

Anti-Monopoly

Section 31

When it appears that there is monopoly or restrictive trade practices in any business, the Central Committee shall have the power to issue a notification prescribing such business to be business under control.

The notification of the Central Committee under paragraph one shall be published in the Government Gazette.

Section 32

Any operator of business under control under Section 31 shall notify the selling price of the products of which he is a manufacturer or distributor to the competent official in accordance with the rules, procedures, conditions and within the period of time prescribed by the Central Committee in the Government Gazette.

Section 33

In the case where the Central Committee is of the opinion that the price notified under Section 32 is not reasonable having regards to the production cost, distribution expenses and appropriate profit rate, the Central Committee shall have the power to fix the price as it may think fit within thirty days after the date of receiving the notice. If the Central Committee does not fix the price within such period of time, it shall be deemed that the price notified under Section 32 is the price fixed by the Central Committee.

Section 34

In the case where the operator of business under control does not notify the selling price of products under Section 32, the Central Committee shall have the power to fix the price as it thinks fit and the price so fixed shall be deemed to be the price fixed by the Central Committee under paragraph one.

Section 35

No operator of business under control shall act jointly with another with the intention to create monopoly or unfair restrictive trade practices in any manner as follows:

- (1) appoint or authorize any person to be the sole distributor of any type or category of products under control throughout the Kingdom;
- (2) fix the selling price of products under control at the same level or at the level agreed upon;
- (3) divide and allocate the area where, in each area so allocated, an operator of business under control may distribute the products under control, or designate the customers to whom such operator of business under control may distribute the products under control with no competition from other operators of businesses under control;
- (4) divide and allocate the area where each operator of business under control may purchase the products under control, or designate the person from whom such operator of business under control may purchase products under control;
- (5) fix the buying price of products under control at the same level, or reduce the buying price or limit the quantity of products under control which may be brought;
- (6) fix the quantity of products under control which each operator of business under control may produce, purchase or distribute in order to limit the supply below the market demand;
- (7) stipulate conditions or procedure relating to the purchase or distribution of products under control so as to be uniform practice or practice as agreed upon;
- (8) reduce the quality of products under control from the level previously produced or distributed and distribute them at the same or higher price;
- (9) merge various businesses under control or merge the administration or policy control and the administration of business under control;
- (10) conclude an agreement to manipulate or control the market.

Section 36

No operator of business under control shall suspend, reduce or limit the production, purchase, distribution, delivery, import, destroy or cause damage to products under control in order to reduce the supply below the market demand.

Section 37

No operator of business under control shall, for the purpose of restricting the business competition, carry out any act which may destroy, damage, impede, preclude or restrict the operation of business under control of other person, or carry out any act in order to prevent other person from operating the business under control, or cause him to cease operation of the business under control.

Section 38

No operator of business under control shall specify any term or condition in violation of the prohibition prescribed by the Central Committee in the Government Gazette in such a way as to force his customers to restrict their production, purchase, or distribution of products or to restrict the opportunity to purchase products or to procure credits from other operators of businesses under control.

Chapter IV

Miscellaneous

Section 39

With respect to the product seized under Section 17 (3), if its owner or possessor does not appear, or the public prosecutor has issued the final order of non-prosecution, or the Court has passed the final judgment of non-forfeiture of the said products and the owner or possessor does not apply for its return within ninety days from the date of seizure or the date he is notified of the final order of non-prosecution, or of the date of the final judgment of non-forfeiture, as the case may be, such products shall be deemed to belong to no one and shall become the property of the State.

If the product so seized is perishable or if the delay would risk damage or incur storage charge in excess of the market value of such product, the responsible inquiry official may dispose of such product by public auction or by any other means which he deems appropriate before it becomes property of the State or before the case becomes final. The proceeds of sale of such product, after deducting the expenses and other charges, shall be held in lieu of the product.

Section 40

In the case where an offender has been arrested, the court shall, upon request of the public prosecutor, order the payment of a bribe of twenty-five per cent and a reward of thirty per cent of the net proceeds of the sale of the exhibit forfeited on the order of the court to the informer for the arrest and to the person making the arrest respectively. In the case where the exhibit is not forfeited or cannot be disposed, such bribe or reward shall be deducted from the fine paid to the court.

In the case where there is no informer, a reward of thirty per cent of the net proceeds of sale of the exhibit forfeited on the order of the court shall be paid to the person making the arrest. In the case where the exhibit is not forfeited or cannot be disposed of, such reward shall be deducted from the fine paid to the court.

In the case where there are several informers or several persons making the arrest, all persons of each party shall be entitled to share the bribe or reward equally.

In the case where the exhibit is seized but the offender cannot be found, the Committee shall have the power to order the payment of a reward from the net proceeds of sale of the exhibit that has become property of the State in accordance with the regulation prescribed by the Committee but it shall not exceed the rate prescribed herein.

Chapter V

Penalty

Section 41

Whoever fails to comply with the summons of the competent official under seduction 17 (1) or obstructs the performance of duties of the competent official under Section 17 (2) or (3) or Section 20 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand Baht or to both.

Section 42

Whoever fails to render facilities to the competent official under Section 18 shall be liable to a fine not exceeding one thousand Baht.

Section 43

Whoever violates the notification of the Committee under Section 24 (1), (2), (4), (6), (7), (8), (9), (10), (11), (12) or (14) or obstructs the performance of duties of the Secretary-General or competent official under Section 24(13) or changes the price without

permission or of the Central Committee under Section 25, shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand Baht or to both.

Section 44

Whoever violates the notification of the Committee under Section 24 (3) or Section 32 shall be liable to a fine not exceeding ten thousand Baht.

Section 45

Whoever violates Section 29, Section 30, Section 35 or Section 37 shall be liable to imprisonment for a term not exceeding seven years or to a fine not exceeding two hundred thousand Baht or to both.

If the offender under paragraph one is an alien, such alien shall be deported from the Kingdom.

Section 46

Any operator of the business under control who violates Section 34, Section 36 or Section 38 shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand Baht or to both.

Section 47

In the case where the offender who is liable to punishment under this Act is a juristic person, the managing director, manager or representative of such juristic person shall also be liable to the punishment as provided for such offence unless he can prove that such act was committed without his knowledge or consent.

Section 48

For all offences under this Act, which are punishable by fine only, the Secretary-General for Bangkok Metropolis, or the Chairman of Changwat Committee for other Changwat, shall have the power to settle the cases.

After the offender has paid the fine within fifteen days, the case shall be deemed settled.

Transitory Provision

Section 49

The Notification of the Committee issued under the Anti-Profiteering Act, B.E. 2490 as amended by the Anti-Profiteering Act (No.2), B.E. 2517 which are still in force on the day of coming into force of this Act, shall continue to be in force in so far as they are not contrary to or inconsistent with the provisions of this Act until they are replaced by the Notifications of the Committee issued under this Act.

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