

Part I. LEGAL DOCUMENTS

THE GOVERNMENT

Decree No. 21/2012/ND-CP of March 21, 2012, on management of seaports and navigable channels

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 14, 2005 Maritime Code of Vietnam;

At the proposal of the Minister of Transport;

The Government promulgates this Decree on management of seaports and navigable channels,

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Decree provides for investment in, construction, management and operation of seaports and navigable channels, and management of maritime activities in Vietnamese seaports and seas.

2. This Decree's provisions on maritime safety, maritime security and environmental pollution prevention also apply to military ports, fishing ports, and inland ports and harbors located in seaport waters.

Article 2. Subjects of application

1. This Decree applies to Vietnamese and foreign organizations, individuals and vessels and specialized state management agencies involved in the investment in, construction and operation of seaports, navigable channels and in the management of maritime activities in Vietnamese seaports and seas.

2. Where a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions different from those of this Decree, the provisions of such treaty prevail.

Article 3. Application of laws

When operating in Vietnamese seaports and navigable channels, all Vietnamese and foreign organizations, individuals and vessels, and specialized state management agencies shall strictly observe the provisions of this Decree and other relevant provisions of Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 4. Interpretation of terms

In this Decree, the terms below are construed as follows:

1. Harbor consists of wharves, warehouses and depots, storage yards, workshops, office buildings, service facilities, systems of roads, information and communication, electricity and water supply, entrance fairways, and other support works.

2. Wharf is a fixed structure in a harbor for seagoing ships to anchor, berth, load and discharge cargoes, embark and disembark

passengers and provide other services.

3. Offshore oil and gas port is a work constructed and installed for seagoing ships to enter and leave and operate to load and discharge cargoes and provide other services in offshore oil and gas exploitation areas.

4. Pilot boarding area is a water area which is established and announced for vessels to anchor or berth to embark and disembark pilots.

5. Quarantine area is a delimited area in the seaport waters which is established and announced for vessels to anchor or berth for quarantine under law.

6. Vessel turnaround area is a delimited area in the seaport waters which is established and announced for vessels to turn around.

7. Anchorage ground is a delimited area in the seaport waters which is established and announced for vessels to anchor or berth before landing at a wharf, drawing alongside oil vessels, entering a transshipment zone, navigating through a channel or providing other related maritime services.

8. Transshipment zone is a delimited area in the seaport waters which is established and announced for vessels to anchor or berth to transship cargoes or passengers.

9. Storm shelter zone is a delimited area in the seaport waters which is established and announced for vessels to anchor or berth for storm sheltering.

10. Water zones and areas include the pilot

boarding area, quarantine area, vessel turnaround area, anchorage ground, transshipment zone and storm shelter zone in the seaport waters.

11. Public navigable channel is a seaport fairway which is invested, constructed, managed and operated to serve common operations of a seaport.

12. Special-use navigable channel is a seaport sub-fairway or another navigable channel which is invested, constructed, managed and operated to serve the operation of a special-use port.

13. Notice to mariners is a document issued and announced by a competent agency to provide information and instructions for mariners and related organizations and individuals for the purpose of assuring maritime safety and security and environmental pollution prevention.

14. Maritime sign means an equipment, a facility or a vessel used as maritime sign which is established and operates on the water surface or the mainland as instruction for mariners and related organizations and individuals to determine the direction and position of vessels.

15. Vessels include seagoing ships, warships, official-duty vessels, fishing vessels, inland water crafts, seaplanes and other water crafts.

16. Procedure-performing person is the shipowner, ship manager, ship charterer, ship operator, shipmaster or an authorized person.

17. Document on the examination and certification of the implementation of contents of the environmental impact assessment report and requirements of the decision approving the report is a document issued, approved or certified by a competent agency under the law on environment; for oil rigs, floating depots and other floating structures at an offshore oil and gas port, such document is a relevant certificate (if any) issued by a registration organization or an authorized organization;

18. Document on fire prevention and fighting test is a document issued, approved or certified by a competent agency under the law on fire prevention and fighting; for oil rigs, floating depots and other floating structures at an offshore oil and gas port, such document is a relevant certificate (if any) issued by a registration organization or an authorized organization;

19. Port clearance permit is a document issued or certified by the port authority or a competent agency of the last port of call.

20. Maritime facilities include seaports, harbors, wharves, buoy landing stages, water zones and areas, navigable channels, maritime signs, lighthouses, coastal communication station system and other aids of seaports and navigable channels which are invested, constructed or established within the seaport waters and seas of Vietnam.

Article 5. Seaport regulations

1. Directors of port authorities shall base

themselves on the provisions of this Decree and the specific conditions in seaport waters and their assigned management areas to issue seaport regulations after obtaining the approval thereof of the director of the Vietnam Maritime Administration with a view to ensuring maritime safety and security and environmental pollution prevention in maritime activities.

2. Vietnamese and foreign organizations, individuals and vessels shall, when operating in seaport waters and management areas of port authorities, observe seaport regulations.

Article 6. Contents of state management of seaports and navigable channels

1. To formulate and promulgate legal documents on management of seaports and navigable channels; standards, technical regulations and econo-technical norms related to the management, exploitation, maintenance, repair and protection of seaports and navigable channels.

2. To elaborate, approve and implement master plans and plans on development of seaports and navigable channels to serve national or inter-regional socio-economic development.

3. To sign, accede to and implement treaties concerning seaports and navigable channels.

4. To announce the opening and closure of seaports; to announce seaport waters and management areas of port authorities; to announce the operation of harbors, wharves,

buoy landing stages, anchorage ground, transshipment zone and other maritime facilities.

5. To manage the investment in and construction and operation of harbor facilities, wharves and navigable channels.

6. To organize state management of maritime activities; maritime rescue; salvage of sunken property; handling of maritime accidents, coordination in maritime search and rescue; protection of the marine environment, and national defense and security.

7. To announce registers of seaports, navigable channels, maritime signs and notices to mariners.

8. To organize the enforcement of Vietnamese laws and relevant treaties to which Vietnam is a contracting party in maritime activities.

9. To inspect, examine and handle violations in accordance with law.

Article 7. State management responsibilities for seaports and navigable channels

1. The Government shall perform unified state management of seaports and navigable channels.

2. The Ministry of Transport shall perform state management of seaports and navigable channels. The Vietnam Maritime Administration shall perform state management of seaports and navigable channels according

to its assigned functions, tasks and powers.

3. Ministries and provincial-level People's Committees shall, within the scope of their respective tasks and powers, perform state management of seaports and navigable channels.

Article 8. Principles of naming and renaming of seaports, offshore oil and gas ports, harbors, wharves, buoy landing stages and water zones and areas

1. Seaports, offshore oil and gas ports, harbors, wharves, buoy landing stages and water zones and areas may be named or renamed in the course of elaborating development master plans or formulating construction investment projects or announcing their use at the request of investors or related organizations.

2. The name of a seaport or an offshore oil and gas port must be in Vietnamese and may be followed by an English name, starting with the word "*cang bien*" (seaport) or phrase "*cang dau khi ngoai khoi*" (offshore oil and gas port) then the specific name after the name of the place where the seaport or offshore oil and gas port is located.

3. The name of a harbor, wharf, buoy landing stage or water zone or area must be in Vietnamese and may be followed by an English name, starting with the word or phrase "*ben cang*" (harbor), "*cau cang*" (wharf), "*ben phao*" (buoy landing stage), "*khu*" (zone) or "*vung*" (area) then the specific name of the facility.

Chapter II

MANAGEMENT OF INVESTMENT IN
AND CONSTRUCTION AND OPERATION
OF SEAPORTS, NAVIGABLE CHANNELS
AND MARITIME SIGNS

Section I

INVESTMENT IN AND CONSTRUCTION
OF SEAPORTS AND NAVIGABLE
CHANNELS

Article 9. Announcement of the list of classified seaports

1. The Prime Minister shall announce the list of classified seaports at the proposal of the Minister of Transport.

2. The Minister of Transport shall annually update and announce the list of harbors of Vietnamese seaports at the proposal of the director of the Vietnam Maritime Administration.

Article 10. Elaboration, approval and management of master plans on development of seaports and navigable channels

1. The elaboration, approval and management of master plans on development of seaports and navigable channels must comply with this Decree and other relevant laws.

2. Responsibilities of the Ministry of Transport:

a/ To elaborate and submit to the Prime Minister for approval the master plan on

development of Vietnam's seaport system or propose modifications to the approved master plan;

b/ To approve detailed plans on development of seaport groups;

c/ To publicize the approved master plan and guide and examine its implementation;

d/ To decide on specific modifications to detailed plans on seaport groups, harbors and wharves which must not be contrary to their functions and sizes identified in the master plan on development of Vietnam's seaport system.

3. Responsibilities of the Vietnam Maritime Administration:

a/ To elaborate the master plan on development of Vietnam's seaport system and detailed plans on development of seaport groups, and submit them to the Ministry of Transport for approval according to regulations;

b/ To manage the investment in and construction of seaports, harbors, wharves, navigable channels and water zones and areas in accordance with the approved master plan on development of seaports;

c/ To approve detailed plans on harbors, wharves, buoy landing stages, water zones and areas of grade-II and grade-III seaports in accordance with the approved detailed plan on development of seaport groups.

4. Responsibilities of ministries and provincial-level People's Committees:

a/ To coordinate with the Ministry of Transport in organizing management of seaport

development master plans under this Decree and other relevant laws;

b/ To assure land funds and water areas for the construction and development of seaports according to approved master plans.

Article 11. Principles of investment in and construction of seaports and navigable channels

1. All Vietnamese and foreign organizations and individuals that invest in and construct seaports and navigable channels shall strictly observe the provisions of this Decree and other relevant laws.

2. Investment in and construction of seaports and navigable channels must comply with the approved seaport development and other relevant master plans; if an investment project on the construction of a seaport or navigable channel contains differences from the approved seaport development master plan, before implementing the project, the investor shall report such differences to authorities competent to approve such master plan for approval.

3. On the basis of the approved seaport development master plan, the decision on and announcement of forms of investment in seaports and harbors are as follows:

a/ The Prime Minister shall decide on and announce forms of investment in grade-I seaports and extremely important harbors of grade-I seaports;

b/ The Minister of Transport shall decide on and announce forms of investment in harbors

of grade-I seaports other than those stated at Point a of this Clause, and grade-II seaports other than those specified at Point c of this Clause;

c/ Ministers and chairpersons of provincial-level People's Committees shall decide on and announce forms of investment in grade-II seaports which serve their sectors of localities;

d/ Enterprises may decide on forms of investment in grade-III seaports.

Article 12. Supervision of implementation of master plans and plans and construction of seaports and navigable channels

1. Before making a report on investment in and construction of a seaport, harbor, wharf or water zone or area, the investor shall send a written request, made according to Form No. 18 to this Decree, directly or by post to the Vietnam Maritime Administration for reply on compliance with the seaport development master plan. Within 5 working days after receiving the written request of the investor, the Vietnam Maritime Administration shall send its written reply directly or by post to the investor while reporting it to the Ministry of Transport or the provincial-level People's Committee of the locality in which the seaport, harbor, wharf, navigable channel or water zone or area will be constructed; in case of refusal, it should clearly state the reason therefor.

2. Before constructing a seaport, harbor, wharf, navigable channel or water zone or area, the investor shall send to the Vietnam Maritime

Administration a copy of the decision on investment in and construction of the work together with an overall ground plan, a copy of the decision approving the construction design and the plan on assurance of maritime safety.

3. The Vietnam Maritime Administration shall examine and supervise the implementation of master plans and plans and construction of seaports, harbors, wharves, navigable channels and water zones and areas in accordance with the approved master plan to assure maritime safety and security and environmental pollution prevention.

Article 13. Supervision of construction of other facilities in seaport waters

1. Construction of other facilities other than those specified in Article 11 of this Decree within seaport waters must comply with regulations on assurance of maritime safety and security and environmental pollution prevention, investment and construction, and relevant laws.

2. Before constructing a facility, the investor shall send to the port authority of the area in which the facility will be constructed copies of the investment decision and the overall ground drawing of the facility for the latter to supervise the construction by the investor and assure maritime safety.

Article 14. Maritime safety assurance plans

1. Before constructing facilities of a seaport, harbor, wharf, buoy landing stage or water zone

or area, the investor shall submit a maritime safety assurance plan to a competent agency for consideration and approval:

2. Cases in which a maritime safety assurance plan is required:

a/ Seaport facilities;

b/ Facilities of harbors, wharves, buoy landing stages, navigable channels, maritime signs or water zones or areas;

c/ Facilities that intersect seaport waters and navigable channels or works that affect maritime activities such as bridges, power lines, suspension cables, underground structures, rigs, wind power, hydropower, thermal power and other similar facilities;

d/ Facilities to be constructed in Vietnam's sea areas and affect maritime activities.

3. Port authorities shall approve maritime safety assurance plans; particularly for the facilities specified at Points a and c, Clause 2 of this Article, prior consent of the Vietnam Maritime Administration is required.

4. Details of a maritime safety assurance plan:

a/ General information on the facility or construction investment project: name of the facility or work; name and address of the investor; construction location; scope of construction;

b/ Time of construction;

c/ Approved construction methods;

d/ Maritime safety assurance measures;

e/ Implementation organization and coordination plan;

f/ Other necessary details.

5. Procedures for approving a maritime safety assurance plan:

a/ The investor shall send a dossier of request for approval of a maritime safety assurance plan directly or by post to the regional port authority.

b/ A dossier of request for approval of a maritime safety assurance plan comprises:

- The written request for approval of a maritime safety assurance plan, made according to Form No. 19 attached to this Decree;

- A copy of the decision on investment in and construction of the facility;

- A copy of the overall ground plan of the facility;

- The original maritime safety assurance plan.

c/ Order of receiving and processing a dossier:

- The regional port authority receives the dossier, checks its validity and issues a receipt of the dossier and makes an appointment for notifying the result (if directly receiving the dossier);

- If the dossier is improper under Point b of this Clause, within 3 working days after receiving the dossier, the regional port authority guides how to complete it;

- Within 7 working days after receiving a complete dossier according to regulations, the

regional port authority issues a written approval of the maritime safety assurance plan and sends it directly or by post to the investor.

6. Before approving a maritime safety assurance plan, the regional port authority shall collect opinions of maritime safety assurance and pilotage units and other related agencies and units; maritime safety assurance units shall implement the maritime safety assurance plan approved by the investor.

7. The Vietnam Maritime Administration shall direct and guide port authorities in supervising the implementation of approved maritime safety assurance plans.

Section 2

ANNOUNCEMENT OF OPENING AND CLOSURE OF SEAPORTS, HARBORS, WHARVES AND WATER ZONES AND AREAS

Article 15. Conditions for announcement of the opening of seaports, harbors, wharves, buoy landing stages and water zones and areas

1. Seaports, harbors, wharves and water zones and areas have been tested before being put into use according to regulations.

2. Investors produce sufficient valid papers specified in Articles 17 and 18 of this Decree.

Article 16. Competence to announce the opening or closure of seaports, harbors, wharves and water zones and areas

1. The Minister of Transport shall announce

the opening and closure of seaports.

2. The director of the Vietnam Maritime Administration shall announce the opening and closure of harbors, wharves, buoy landing stages and water zones and areas.

Article 17. Procedures for announcing the opening of seaports

1. The investor shall send directly or by post to the Vietnam Maritime Administration a dossier of request for announcement of the opening of a seaport, comprising the following papers:

a/ Written request for announcement of the opening of a seaport, made according to Form No. 20 attached to this Decree;

b/ Written record on the pre-acceptance test of the completely constructed seaport facility before use, enclosed with complete construction drawings of the ground, vertical and horizontal sections of the facility. For offshore oil and gas ports, drawings of vertical and horizontal sections of port facilities are not required;

c/ Written record on the pre-acceptance test by the investor and competent agencies or organizations of the result of survey of obstacles on the bottom of the water area in front of the wharf or seaport fairway, except for offshore oil and gas ports;

d/ Notice to mariners on seaport fairways and water area in front of the wharf, enclosed with a ground plan, or notice to mariners on the safety zone of the offshore oil and gas port, for offshore oil and gas ports;

e/ The document on the examination and certification of the implementation of contents of the environmental impact assessment report and requirements of the decision approving such report;

f/ The document on fire and explosion prevention and fighting test.

2. The opening of a seaport shall be announced as follows:

a/ The Vietnam Maritime Administration receives the dossier, checks its validity and issues a receipt of the dossier, makes an appointment for notifying the result (if directly receiving the dossier), and collects a fee according to regulations; requests the investor to give a new name in case the name of the seaport is improper according to regulations;

b/ Within 7 working days after receiving a complete and valid dossier, the Vietnam Maritime Administration consults the provincial-level People's Committee of the locality in which the seaport is located and proposes in writing the Ministry of Transport to announce the opening of the seaport, enclosed with the dossier specified in Clause 1 of this Article;

c/ Within 3 working days after receiving the written proposal of the Vietnam Maritime Administration, the Ministry of Transport announces the opening of the seaport according to Form No. 28 attached to this Decree and sends its decision by post to the investor or the investor receives such decision directly at the

Ministry of Transport.

Article 18. Procedures for announcing the opening of harbors, wharves and water zones and areas

1. After completing the construction of a harbor, wharf or water zone or area, the investor shall send directly or by post to the Vietnam Maritime Administration 1 set of dossier of request for announcement of the opening of a harbor, wharf or water zone or area.

2. A dossier of request for announcement of the opening of a harbor, wharf or water zone or area comprises:

a/ Written request for announcement, made according to Form No. 21 attached to this Decree;

b/ Written record on the pre-acceptance test of the completely constructed facility before use, enclosed with the complete construction drawings of the ground, vertical and horizontal sections of the harbor, wharf or water zone or area;

c/ Notice to mariners, enclosed with the plan of seaport sub-fairways or vessels to enter and leave the harbor, wharf or water zone or area; written record on the pre-acceptance test by the investor and a competent agency or organization of the result of survey of the bottom of the water area in front of the harbor, wharf or water zone or area;

d/ The document on the examination and certification of the implementation of contents

of the environmental impact assessment report and requirements of the decision approving such report;

e/ The document on fire and explosion prevention and fighting test;

f/ A copy of the harbor security certificate according to regulations.

3. Order of receiving and processing dossiers:

a/ The Vietnam Maritime Administration receives the dossier, checks its validity and issues a receipt of the dossier, makes an appointment for notifying the result (if directly receiving the dossier), and collects a fee according regulations;

b/ If the dossier is improper, within 3 working days after receiving the dossier, the Vietnam Maritime Administration guides how to complete the dossier according to Clause 2 of this Article.

4. Within 3 working days after receiving a dossier under Clause 2 of this Article, the Vietnam Maritime Administration announces the opening of the harbor, wharf or water zone or area according to Form No. 29 attached to this Decree, and sends its decision by post to the investor or the investor shall come to receive the decision directly at the Vietnam Maritime Administration.

Article 19. Notification of the putting of other facilities into use

1. After completing the construction of

another facility in the seaport water specified in Article 12 of this Decree, the investor shall send directly or by post to the port authority and maritime safety assurance unit in the locality in which the facility is constructed 1 set of dossier of notification of the putting of the facility into use, comprising the following papers:

a/ Written notice of the putting of the facility into use, made according to Form No. 22 attached to this Decree;

b/ Written record on the pre-acceptance test and take-over of the facility or a copy of the decision or permit of a competent agency for putting the facility into use.

2. The investor shall announce information on the putting into use of the facility specified in Clause 1 of this Article in the mass media for three consecutive times.

Article 20. Announcement of closure of seaports

1. A seaport may be considered for closure in the following cases:

a/ For security and defense reasons or other special reasons;

b/ The seaport no longer satisfies the required operation conditions;

c/ Other cases requested by investors.

2. Procedures for announcing the closure of a seaport:

a/ Procedures for announcing the closure of

a seaport under Point a, Clause 1 of this Article:

- In case of emergency, the Ministry of Transport shall issue a decision to close a seaport, made according to Form No. 30 attached to this Decree, and report it to the Prime Minister;

- For other cases, within 5 working days, the Ministry of Transport shall consult concerned agencies on the closure of a seaport and issue an announcement on the closure according to Form No. 30 attached to this Decree; in case of disagreement, reasons must be clearly stated.

b/ Procedures for announcing the closure of a seaport under Points b and c, Clause 1 of this Article:

- The requester shall submit directly or by post to the Ministry of Transport a written request for closure of a seaport, made according to Form No. 23 attached to this Decree.

- Order of receiving and processing a dossier:

+ The Ministry of Transport receives the dossier, checks its validity and issues a receipt of the dossier, makes an appointment for notifying the result (if directly receiving the dossier);

+ If the dossier is improper, within 1 working day after receiving the dossier, the Ministry of Transport guides how to complete the dossier according to regulations;

+ Within 5 working days after receiving a dossier of request, the Ministry of Transport consults concerned agencies on the closure of a seaport and issues an announcement of such

closure, made according to Form No. 30 attached to this Decree, and sends it by post to the requester or the requester receives such announcement directly at the Ministry of Transport; in case of disagreement, reasons must be clearly stated.

Article 21. Announcement of closure of harbors, wharves, buoy landing stages and water zones and areas

1. Closure of a harbor, wharf, buoy landing stage or water zone or area in a seaport water may be considered and announced in the following cases:

a/ The harbor, wharf, buoy landing stage or water zone or area no longer exists or does not meet all conditions for operation and its closure is requested by the investor or regional port authority;

b/ The harbor, wharf, buoy landing stage or water zone or area operates ineffectively and its closure is requested by the investor.

2. Procedures for closing a harbor, wharf, buoy landing stage or water zone or area:

a/ The investor or regional port authority shall send directly or by post to the Vietnam Maritime Administration 1 written request for closure of a harbor, wharf, buoy landing stage or water zone or area, made according to Form No. 23 attached to this Decree.

b/ Order of receiving and processing dossiers:

- The Vietnam Maritime Administration

receives the written request, checks its validity and issues a receipt, and makes an appointment for notifying the result (if directly receiving the dossier);

- If the dossier is improper, within 1 working day after receiving the dossier, the Vietnam Maritime Administration guides how to complete the dossier according to Point a of this Clause;

- Within 7 working days after receiving a written request, the Vietnam Maritime Administration consults concerned agencies (if necessary) and issues a decision to close the harbor, wharf, buoy landing stage or water zone or area according Form No. 31 attached to this Decree, and sends it by post to the requester or the requester receives such decision directly at the Vietnam Maritime Administration.

Article 22. Temporary prohibition of vessels from entering or leaving a harbor, wharf, buoy landing stage or water zone or area

1. In order to assure maritime safety and security, protect the environment or for other emergency reasons, directors of port authorities may prohibit vessels from entering or leaving seaports, harbors, wharves, buoy landing stages or water zones or areas.

2. When the reason for prohibiting vessels from entering or leaving seaports, harbors, wharves or water zones or areas has been remedied, the directors of port authorities shall decide to remove the prohibition.

3. Immediately after deciding to prohibit



vessels from entering or leaving seaports or lifting such prohibition, the directors of regional port authorities shall report it to the Vietnam Maritime Administration and at the same time notify it to the shipowners or their agents and specialized state management agencies at seaports.

Article 23. Announcement of seaport waters and management areas of port authorities

1. The Vietnam Maritime Administration shall compile dossiers and submit them to the Ministry of Transport for consideration and announcement of seaport waters and management areas of port authorities, each comprising:

a/ Written request for announcement of the seaport waters;

b/ Written opinion of the related provincial-level People's Committee;

c/ Chart showing the boundaries of the seaport waters and management area of the port authority.

2. Based on the dossier stated in Clause 1 of this Article, the Ministry of Transport shall consider and announce the seaport waters and management areas of port authorities.

Article 24. Management of operation of vessels at inland ports and harbors and fishing ports within seaport waters

1. Inland ports and harbors within the seaport waters may accommodate only Vietnamese

vessels operating along domestic routes.

2. Competent agencies shall manage the investment in and construction of inland ports and harbors and fishing ports within seaport waters in accordance with relevant laws; before replying to investors on the permission for investment in and construction of inland ports, harbors or fishing ports within seaport waters, they shall obtain written opinions of regional port authorities.

3. The Minister of Transport shall detail the management of the operation of vessels at inland ports and harbors and fishing ports within seaport waters.

Article 25. Registers of seaports, nautical charts of seaport waters and navigable channels

1. The Ministry of Transport shall organize the formulation and issuance of nautical charts of seaport waters and navigable channels to serve maritime safety assurance work at the proposal of the director of the Vietnam Maritime Administration.

2. The Vietnam Maritime Administration shall compile, announce and regularly update registers of seaports and navigable channels.

3. Funds for the compilation of registers of seaports and navigable channels and for the formulation and issuance of nautical charts of seaport waters and navigable channels shall be allocated from the state budget and other lawful funding sources.

Article 26. Notices to mariners

1. Notices to mariners include notices of safety assurance conditions of seaports, offshore oil and gas ports, navigable channels, maritime signs, dangerous obstacles, areas with marine facilities under construction, sea areas in which maritime activities are restricted, information on security, meteorological and hydrological conditions, earthquakes, tsunamis, epidemics, search and rescue and other necessary navigational instructions.

2. The Minister of Transport shall detail notices to mariners related to safety assurance conditions of seaports, offshore oil and gas ports, navigable channels, maritime signs, dangerous obstacles, areas with marine facilities under construction, sea areas in which maritime activities are restricted, search and rescue and other necessary navigational instructions; and shall formulate and announce notices to mariners on the following principles:

a/ The Vietnam Maritime Administration shall perform the state management of announcement of notices to mariners according to regulations;

b/ Maritime safety assurance units shall announce notices to mariners with respect to information on the management and operation of navigable channels and maritime signs, operation of seaports, offshore oil and gas ports, harbors, wharves, buoy landing stages, anchorage grounds, transshipment zones, storm sheltering zones, turnaround areas, pilot boarding areas, quarantine areas and seaport sub-fairways;

c/ Port authorities shall announce notices to mariners related to re-transmitted information, navigational instructions related to maritime activities such as information on characteristics of seaport waters, areas in which maritime activities are restricted, sunken property at sea, safety and security, meteorological and hydrological conditions, earthquakes, tsunamis, epidemics, search and rescue and other notices to mariners, excluding notices to mariners specified at Point b of this Clause.

3. Related ministries and sectors shall, within the scope of their respective functions and tasks, specify the formulation and announcement of notices and information on security, meteorological and hydrological conditions, earthquakes, tsunamis, epidemics and other specialized information relating to activities of persons and vessels in seaport waters and seas of Vietnam.

4. The Vietnam Maritime Communication and Electronics Company shall transmit notices to mariners and maritime information according to regulations.

Article 27. Maritime signs

1. Maritime signs include recognizable signs in image, light, sound and radio signals established to instruct seagoing ships' operation.

2. The investment in and construction of maritime signs comply with this Decree and relevant laws.

3. Maritime safety assurance units shall:

a/ Manage assigned maritime signs according to regulations;

b/ Establish makeshift maritime signs as unexpectedly assigned.

4. Organizations and individuals managing and operating seaport sub-fairways, specialized channels and water areas in front of wharves or surveying, constructing and operating facilities for seaport waters and seas of Vietnam are obliged to establish maritime signs along these fairways, channels and water areas according to announced standards and technical regulations.

5. Responsibilities for managing and operating maritime signs:

a/ The Vietnam Maritime Administration shall perform the state management of maritime signs;

b/ Maritime safety assurance units shall manage, operate and take responsibility for the safety of assigned maritime sign systems;

c/ Organizations and individuals shall manage, operate and take responsibility for the safety of maritime signs established by themselves.

6. The Minister of Transport shall issue detailed regulations on the management of the operation of maritime sign systems, and elaborate and announce technical regulations for maritime signs.

Article 28. Procedures for putting maritime signals into use

1. The investor shall compile and send directly or by post to a competent agency specified at Point b or c, Clause 2, Article 26 of this Decree 1 set of dossier of request for permission into put maritime signs into use.

2. A dossier of request for permission to put maritime signs into use comprises:

a/ The written request for permission to put maritime signs into use, made according to Form No. 32 attached to this Decree;

b/ The written record of the take-over test;

c/ The plan on survey and screening of obstacles along navigable channels, for maritime signs along newly constructed maritime routes, which have been carried out by a functional measurement and survey unit which takes joint responsibility together with the investor for the legality of the survey dossier;

d/ The technical design approved by a competent authority.

3. Order of receiving and processing dossiers.

a/ The competent agency receives the dossier, checks its validity and issues a receipt of the dossier, makes an appointment for notifying the result (if directly receiving the dossier);

b/ If the dossier is improper, within 3 working days after receiving the dossier, the competent agency guides the investor how to complete it under Clause 2 of this Article;

c/ Within 5 working days after receiving a complete dossier as stated in Clause 2 of this

Article, the competent agency issues a decision to put maritime signs into use, announces notices to mariners according to regulations and sends its decision directly or by post to the investor.

Section 3

MANAGEMENT AND OPERATION OF SEAPORTS AND NAVIGABLE CHANNELS

Article 29. Principles of management and operation of seaports

1. The management and operation of seaports must comply with law, ensure investment effectiveness and prevent losses and waste.

2. Investors of seaports, harbors or wharves may decide by themselves on the forms of management and operation of such seaports, harbors or wharves on the following principles:

a/ Seaport infrastructure built with state budget funds may be partly or wholly operating leased. Revenues from such operating lease belong to the state budget and are used under the state budget law and prioritized for seaport infrastructure development;

b/ For seaport infrastructure built with other funding sources not specified at Point a of this Clause, investors may decide by themselves on the forms of management and operation in accordance with law;

c/ Quality inspection of seaport

infrastructure facilities shall be conducted once every 5 years and notices to marines shall be announced according to regulations.

Article 30. Principles of management and operation of navigable channels

1. The Ministry of Transport shall direct the Vietnam Maritime Administration in performing state management of development planning, investment in and construction of navigable channels nationwide, and announce the putting into use and manage the operation of these channels.

2. Maritime safety assurance units shall directly manage and operate public navigable channels assigned to them.

3. Specialized navigable channels which have been invested in and constructed by enterprises shall be managed and operated by such enterprises, which shall annually conduct surveys and submit dossiers of announcement of notices to mariners according to regulations. If specialized navigable channels must be converted into public ones, part of invested amounts shall be refunded to enterprises according to regulations of the Ministry of Finance.

Article 31. Investment in and construction of temporary seaport infrastructure facilities

1. Temporary seaport infrastructure facilities include buoy landing stages, anchorage grounds and transshipment zones which are established for operation for a

certain period not exceeding 10 years.

2. Conditions for establishing a temporary seaport infrastructure facility:

a/ The existing seaport infrastructure facility fails to meet an urgent need in the area;

b/ Serving an urgent, temporary requirement of a relevant project or work.

3. The Vietnam Maritime Administration shall reach agreement on the investment in and construction of temporary seaport infrastructure facilities at the proposal of the investor and the regional port authority.

4. Procedures for requesting establishment of a temporary seaport infrastructure facility:

a/ The investor shall send directly or by post to the Vietnam Maritime Administration a written request for establishment of a temporary seaport infrastructure facility, made according to Form No. 24 attached to this Decree, enclosed with a dossier on investment and operation of the facility;

b/ Within 5 working days after receiving a written request, the Vietnam Maritime Administration shall issue a written approval of the establishment of a temporary seaport infrastructure facility; in case of disapproval, it shall clearly state the reason and send its written reply to the investor or the investor shall come to receive it directly at the Vietnam Maritime Administration

5. The investment in, construction and operation of temporary seaport infrastructure

facilities comply with Sections 1 and 2 of this Chapter.

Article 32. Public products and services for maritime safety assurance

1. Public products and services for maritime assurance include:

a/ Public products and services for maritime assurance:

- Operating maritime sign systems;
- Operating public navigable channel systems;

- Surveying and announcing notices to mariners with respect to public navigable channels;

- Dredging and maintaining public navigable channels to ensure their depth according to their approved initial design standards (excluding dredging for the construction of new navigable channels);

- Repairing and upgrading maritime sign systems.

b/ Public products and services for maritime pilotage;

c/ Public products and services for management and operation of coastal communication station systems;

d/ Other public products and services for maritime assurance as provided by law.

2. The Ministry of Transport shall organize the bidding, placement of orders and assignment of plans to providers of public products and

services for maritime assurance according to regulations.

Article 33. Maritime charges and fees

1. Charges and fees for the management, operation and use of seaports and navigable channels comply with the law on charges and fees.

2. The Ministry of Finance shall, after consulting the Ministry of Transport, set the levels of remittance of maritime assurance charges for navigable channels built and operated by enterprises for the purposes of assuring marine maritime safety and security and preventing environmental pollution.

Section 4

MANAGEMENT AND OPERATION OF
STATE-INVESTED HARBOR AND
WHARF INFRASTRUCTURE FACILITIES

Article 34. Principles of management and operation of harbor and wharf infrastructure facilities

1. State-invested harbor and wharf infrastructure facilities may be partly or wholly operating leased.

2. The selection of organizations and individuals for operating lease of state-invested harbor and wharf infrastructure facilities (below referred to as lessees) complies with the following principles:

a/ For harbor and wharf infrastructure facilities which were put into operation and use

before September 1, 2006, their operating lease shall be decided by the Prime Minister; in case of operating lease, this Decree must be complied with;

b/ For harbor and wharf infrastructure facilities which have been put into operation and use since September 1, 2006, their operating lease must comply with this Decree and other relevant laws.

Article 35. Competence to decide on operating lease of harbor and wharf infrastructure facilities

Agencies which decide on investment in and construction of seaports, harbors and wharves are competent to approve plans on operating lease and results of selection of operating lessees of harbor and wharf infrastructure facilities.

Article 36. Plan for operating lease of harbor and wharf infrastructure facilities

1. The lessor shall prepare a plan on operating lease of harbor or wharf infrastructure facilities, which contains the following principal details:

a/ Name of the lessor;

b/ List and technical specifications of assets for lease;

c/ Value of assets for lease;

d/ Lease term;

e/ Rent rate of operating lease of harbor or wharf infrastructure facilities, for submission to a competent agency for decision;

- f/ Lease conditions;
- g/ Recoverability of investment capital;
- h/ Powers, obligations and responsibilities of the lessor and lessee;
- i/ Form of selection of a lessee;
- j/ Contract form;
- k/ Time of selection of a lessee.

2. For harbor and wharf infrastructure facilities under construction, before putting them to use, lessors shall prepare lease plans.

Article 37. Rent rates of operating lease of harbor and wharf infrastructure facilities

1. Rent rates of operating lease of harbor and wharf infrastructure facilities comply with the pricing law. The Minister of Finance shall decide on rent rates for operating lease of harbor and wharf infrastructure facilities at the proposal of investors or agencies approving plans for operating lease of harbor and wharf infrastructure facilities.

2. Rent rates of operating lease of harbor and wharf infrastructure facilities must be approved by agencies which have decided on investment in such seaports, harbors or wharves but must not be lower than those already decided by the Minister of Finance.

3. Rent rates of harbor and wharf infrastructure facilities shall be determined on the basis of the following principal grounds:

a/ Fixed rate, which is the rate calculated based on the annual asset depreciation rate,

payable loan amount and interest (if any), expenses for management and operation of leased harbor and wharf infrastructure facilities and other expenses according to regulations. The useful life of harbor and wharf infrastructure facilities used for calculating the rent rate is maximum 50 years. The rent rate of operating lease of infrastructure facilities must not be lower than the fixed rate;

b/ Adjustable rate, which is a percentage (%) of annual turnover from the operation of leased assets;

c/ Value of leased assets;

d/ Technical specifications of leased assets;

e/ Lease conditions;

f/ Powers, obligations and responsibilities of the parties;

g/ Other necessary conditions.

4. Lessors of harbor and wharf infrastructure facilities shall submit to agencies having decided on investment in seaports, harbors and wharves for consideration and approval adjustments to rent rates in the following cases:

a/ Once every five years;

b/ The inflation rate in Vietnam is over 15%/ year;

c/ Other cases proposed by the lessor or lessee and approved by the investment-deciding agency.

Article 38. Conditions for selection of lessees of harbor and wharf infrastructure

facilities

A lessee of harbor and wharf infrastructure facilities must fully meet the following conditions:

1. Having the legal person status under law.
2. Having experience in seaport operation management.
3. Having financial capacity.
4. Having sufficient personnel for managing and operating harbor and wharf infrastructure facilities to be leased.
5. Having a plan for the most effective operation of harbor and wharf infrastructure facilities.
6. Offering the highest rent rate, which must not be lower than the rent rate stated in the approved plan on operating lease of harbor and wharf infrastructure facilities.

Article 39. Forms of selection of operating lessees of harbor and wharf infrastructure facilities

1. The form, order and procedures for selecting lessees of harbor and wharf infrastructure facilities comply with this Decree and relevant legal provisions on bidding.
2. The Ministry of Transport shall assume the prime responsibility for, and coordinate with related agencies in, developing and issuing forms of dossiers on bidding for operating lease of state-invested harbor and wharf infrastructure

facilities.

Article 40. Contract for operating lease of harbor and wharf infrastructure facilities

1. Operating lease of harbor and wharf infrastructure facilities must be established in a contract agreed upon and signed by the two parties. A contract for operating lease of harbor and wharf infrastructure facilities must be formulated on the basis of the approved selection of lessees and in accordance with relevant laws.

2. A lease contract contains the following principal details:

- a/ Name, address and account number of the lessor;
- b/ Name, address and account number of the lessee;
- c/ Lease term;
- d/ Rent rate and payment conditions and method;
- e/ Rights and obligations of the lessor and lessee;
- f/ List of leased assets;
- g/ Conditions and procedures for modification of the lease contract;
- h/ Dispute settlement.

Article 41. Use of proceeds from the operating lease of harbor and wharf infrastructure facilities

1. Proceeds from the operating lease of

harbor and wharf infrastructure facilities are prioritized for the following purposes and expenses:

a/ Maintaining and repairing harbor and wharf infrastructure facilities which are leased and still fall under the lessor's responsibility;

b/ Upgrading, renovating and expanding seaport infrastructure facilities;

c/ Investing in and constructing new harbors and wharves and other purposes for maritime sector development;

d/ Expenses for planning and selection of a lessee;

e/ Expenses incurred by the lessor for management and operation of seaport infrastructure facilities;

f/ Other reasonable purposes and expenses.

2. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Transport in, issuing specific regulations on the collection, remittance and use of proceeds from operating lease of state-invested harbor and wharf infrastructure facilities.

Article 42. Sub-lease of harbors and wharf infrastructure facilities

1. The lessee may sub-lease part of leased harbor and wharf infrastructure facilities to Vietnamese and foreign organizations and individuals under this Decree, and such sub-lease must be approved in writing and in advance by the lessor.

2. Sub-lease of harbor and wharf infrastructure facilities must be established in a contract, which must not be contrary to the lease contract signed with the lessor.

3. The lessee shall take full responsibility for the sub-lease before the lessor.

4. The sub-lessee of harbor and wharf infrastructure facilities shall manage and operate harbors and wharves in accordance with law and the lease contract and may not further sublease these harbor and wharf infrastructure facilities.

Article 43. Management and operation of harbor and wharf infrastructure facilities

1. Agencies which decide on investment in and construction of seaports, harbors and wharves shall organize management and operation of harbor and wharf infrastructure facilities.

2. Agencies and organizations assigned to manage and operate harbor and wharf infrastructure facilities have the following functions, tasks and powers:

a/ To develop a mechanism for management and operation of harbor and wharf infrastructure facilities and submit it to the investment-deciding agency for approval, and organize the implementation thereof;

b/ To manage state assets and supervise the operation of leased harbor and wharf infrastructure facilities;

c/ To supervise performance of the operating lease contract;

d/ To regularly and periodically examine and supervise the operation of harbor and wharf infrastructure facilities in order to ensure their use according to their functions and technical specifications under regulations;

e/ To collect rents for leased harbor and wharf infrastructure facilities;

f/ To request the lessee to strictly observe the technical process of operation, maintenance and use of harbor and wharf infrastructure facilities under regulations; if the lessee fails to do so, to report it to the investor for settlement;

g/ To coordinate with the operator to handle incidents causing damage to harbor and wharf infrastructure facilities; to supervise the repair and remedy of any breakdowns of harbor and wharf infrastructure facilities under their management;

h/ To promptly inform specialized state management agencies when detecting the depth of seaport fairways, water areas in front of wharves, vessel turnaround zones, maritime sign system and other aids which fails to satisfy approved technical designs;

i/ To receive and propose plans for design, construction, renovation, expansion, upgrading and development of harbor and wharf infrastructure facilities at the request of the lessee or of a specialized state management agency;

j/ To supervise the assurance of fire and explosion prevention and fighting, environmental sanitation, security and order and labor safety within seaports, harbors and wharves;

k/ To summarize the operation of harbor and

wharf infrastructure facilities; to periodically report it to the investor and state management agencies according to regulations;

l/ To perform other assigned jobs.

Section 5

PROTECTION OF SEAPORT AND NAVIGABLE CHANNEL FACILITIES

Article 44. Protection of seaport and navigable channel facilities

1. Protection of seaport and navigable channel facilities covers assuring safety and useful life of facilities of seaports, harbors, wharves, buoy landing stages, transshipment zones, navigable channels, maritime signs, lighthouses, coastal communication station systems and other works related to the management and operation of seaport infrastructure facilities; measures to prevent, stop and handle acts of encroaching these facilities, endangering people's lives and damaging assets of the State and people.

2. The scope of protection of seaport and navigable channel facilities covers works and corridors for protection of facilities, the overhead space, underground area and underwater area which are related to the safety of facilities and maritime activities.

3. Construction and other activities outside the scope of protection of seaport and navigable channel facilities must not affect the safety of these facilities.

Article 45. Principles of protection of

seaport and navigable channel facilities

1. The management, operation, repair and protection of seaport and navigable channel facilities must comply with laws and technical regulations promulgated and announced by competent state agencies.

2. Agencies and organizations managing and operating seaport and navigable channel facilities shall assure the technical safety of these facilities; if detecting any breakdowns which threaten maritime safety and security and environmental protection, to take prompt handling and repairing measures; to take measures to prevent and control natural disasters in order to mitigate damage to these facilities.

3. The construction, and use and exploitation of the space and land and water areas within the scope of protection of, seaport and navigable channel facilities, and the use and exploitation of the space and land and water areas outside this scope which affect the safety of these facilities and maritime safety, must be permitted under law by competent state agencies in charge of protecting seaport and navigable channel facilities.

4. When detecting any encroachments upon or safety risks of seaport and navigable channel facilities, detecting persons shall promptly report them to port authorities, local administrations, units managing these facilities or competent agencies of the nearest place for timely handling.

Article 46. Responsibilities of protection of

seaport facilities and navigable channels

1. The Ministry of Transport shall organize management of the protection of seaport and navigable channel facilities.

2. Ministries and provincial-level People's Committees shall coordinate with the Ministry of Transport in, organizing the protection of seaport and navigable channel facilities in localities.

3. All agencies, organizations and individuals shall comply with the law on protection of seaport and navigable channel facilities.

4. The Ministry of Transport shall assume the prime responsibility for, and coordinate with other ministries and sectors in, drafting regulations on protection of seaport and navigable channel facilities, and submit them to the Government for consideration and decision.

Article 47. Prohibited acts in the protection of seaport and navigable channel facilities

1. Destroying, dismantling or stealing structures, accessories, supplies, construction materials, coastal communication station system, maritime signs and other equipment of seaport and navigable channel facilities.

2. Illegally occupying the scope of protection of seaport and navigable channel facilities.

3. Discharging hazardous substances which damage or affect the durability and useful life of seaport and navigable channel facilities.

4. Obstructing the management, operation, use and protection seaport and navigable channel facilities.

5. Operating vessels and other means against regulations, affecting the quality of seaport and navigable channel facilities

6. Other unsafe acts in the management and operation of seaport and navigable channel facilities.

Article 48. Handling of violations in the protection of seaport and navigable channel facilities

1. All acts illegally affecting seaport and navigable channel facilities must be handled under law.

2. Violators of the law on protection of seaport and navigable channel facilities shall, depending on the nature, seriousness and consequences of their violations, be administratively sanctioned or examined for penal liability, if causing any damage, they shall pay compensations therefor under law.

Chapter III

MANAGEMENT OF MARITIME ACTIVITIES IN SEAPORTS AND NAVIGABLE CHANNELS

Section I

PROCEDURES FOR VESSELS TO ARRIVE AT AND DEPART SEAPORTS

Article 49. General requirements on vessels

entering seaports

1. Vessels of all types, regardless of their flag state, tonnage and use purpose, may enter a seaport only when they satisfy all maritime safety and security, environmental pollution prevention and other conditions provided for by law.

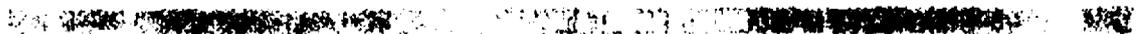
2. Vessels of all types may operate at seaports, harbors and wharves which have been announced and put to use and their operations must be suitable to the utilities of these seaports, harbors and wharves.

3. When a foreign vessel enters a Vietnamese sea area outside seaport waters, procedures must be carried out for its arrival at, entry into and departure from a seaport at the port authority managing such seaport. Port authorities shall supervise the operation of vessels to ensure maritime safety and security and environmental pollution prevention.

Article 50. Procedures for foreign vessels engaged in specific activities to arrive at seaports

1. For foreign warships and foreign vessels arriving in Vietnam at the invitation of the Government of the Socialist Republic of Vietnam and vessels engaged in search and rescue activities in Vietnamese sea areas, procedures shall be carried according to separate regulations.

2. For foreign seagoing ships propelled by nuclear power and ships carrying radioactive



substances:

a/ Procedure-performing persons shall send directly or by post to the Ministry of Transport a document, made according to Form No. 25 attached to this Decree, requesting permission for the foreign seagoing ship propelled by nuclear power or a ship carrying radioactive substances to arrive at a seaport, enclosed with the copies of the seagoing ship registration certificate and certificates of maritime safety and security and environmental pollution prevention of such vessel;

b/ Within 10 working days after receiving all valid papers as required, the Ministry of Transport shall report the case to the Prime Minister for consideration and approval, and issue a written reply to permit the vessel to arrive at a seaport.

3. Foreign vessels to arrive at a port for carrying out scientific research, fishery, salvage, sunken property recovery, towing within seaport waters, training, cultural, sports, marine facility construction, natural resource survey, exploration and exploitation activities or other environment-related activities in Vietnam's sea areas shall produce permits or written approvals of competent Vietnamese agencies.

If such permit or written approval is unavailable, the following procedures must be carried out:

a/ The procedure-performing person shall send directly or by post to the Vietnam Maritime Administration a set of dossier comprising:

- Document, made according to Form No.

26 attached to this Decree, requesting for permission or approval of the arrival of the foreign vessel at a seaport;

- Copies of documents showing the purpose and time of the vessel's arrival at a seaport.

b/ The Vietnam Maritime Administration shall receive and check the validity of the documents, notify the return of documents which are invalid in content and procedure; or issue a note of appointment in case of directly receiving the documents;

c/ Within 7 working days after receiving a valid dossier, the Vietnam Maritime Administration shall send directly or by post a written reply to the procedure-performing person after obtaining opinions of the following agencies:

- The Ministry of Agriculture and Rural Development, for foreign vessels engaged in fishing activities;

- The Ministry of Natural Resources and Environment, for foreign vessels engaged in surveying, exploring and exploiting natural resources and protecting the environment;

- The Ministry of Culture, Sports and Tourism, for foreign vessels engaged in cultural sports and tourist activities;

- The Ministry of Science and Technology, for foreign vessels engaged in scientific research activities.

Article 51. Notification of vessels' arrival at seaports

1. Before the expected time of a vessel's

arrival at a seaport, the procedure-performing person shall send to the authority of the seaport of arrival a notice of the vessel's arrival at the seaport, made according to Form No. 01 attached to this Decree, and a cargo declaration, made according to Form No. 06 attached to this Decree, to be issued to the border-gate customs. For foreign vessels arriving at Vietnamese seaports to conduct specific activities specified in Article 50 of this Decree, permits or written approval of competent Vietnamese authorities must be produced.

2. Time of notification

a/ For vessels of all types, except vessels specified at Point b of this Clause: at least 8 hours before the expected time of arrival at a seaport.

b/ For warships, seagoing ships propelled by nuclear power, ships carrying radioactive substances, and vessels visiting Vietnam at the invitation of the Government of the Socialist Republic of Vietnam: at least 24 hours before the expected time of arrival at a seaport.

3. Cargo ships of a gross tonnage of 500 GT or more, passenger ships and offshore semi-submersible platforms operating along international routes shall send to port authorities ship security notifications, made according to Form No. 02, within 24 hours before the expected time of arrival at a seaport.

4. The following vessels are exempt from notification of arrival of vessels at seaports mentioned in Clause 1 of this Article:

a/ Vietnamese inland waterway vessels, official-duty ships, fishing ships and warships;

b/ Other vessels arriving at seaports for the following purposes:

- Medical emergency aid for crew members or passengers on board;

- Storm sheltering;

- Handing over persons, assets or vessels salvaged from the sea;

- Remediating consequences of maritime incidents or accidents;

- Other cases of necessity.

c/ In a case specified at Point b of this Clause, the shipmaster shall immediately notify the port authority of the reason and purpose of the vessel's arrival at the seaport.

Article 52. Confirmation of vessels' arrival at seaports

1. At least 2 hours before the expected time of arrival at the pilot boarding area, the procedure-performing person shall confirm the exact time of the vessel's arrival to the concerned port authority. If there are ~~any~~ persons, dead persons, persons rescued from the sea or immigrants on board, the shipowner shall notify their names, ages, nationalities, illness conditions or causes of death and other relevant requests in the last confirmation.

2. For a vessel on entry, upon receiving the confirmation of the procedure-performing person, the concerned port authority shall immediately notify its arrival to other

specialized state management agencies for coordination.

3. Confirmation of vessels' arrival at seaports mentioned in Clauses 1 and 2 of this Article does not apply to the following vessels:

a/ Vietnamese inland waterway vessels, official-duty ships, fishing ships and warships;

b/ Other vessels arriving at seaports for the following purposes:

- Medical emergency aid for crew members or passengers on board;
- Storm sheltering;
- Handing over persons, assets or vessels salvaged from the sea;
- Remediating consequences of maritime incidents or accidents;
- Other cases of necessity.

Article 53. Shifting of vessels to seaports

1. Within 2 hours after receiving confirmations that a vessel has arrived at the pilot boarding place, the director of the port authority shall indicate an anchorage or berthing position in seaport waters for the vessel. For a vessel on entry, immediately after shifting the vessel to enter the port, the port authority shall also inform other specialized state management agencies of the indicated anchorage or berthing time and position in the port for the vessel.

2. The director of the port authority shall base himself/herself on the vessel's type and size, cargo type(s), wharf conditions, the port's

management plan and the pilot organization's ship-piloting plan to designate an anchorage or berthing position for the vessel to load and discharge cargoes and embark and disembark passengers. Change in anchorage or berthing positions for vessels shall be decided by the director of the port authority at the request of these vessels' shipmasters.

3. The shifting of vessels to enter seaports shall be performed according to daily vessel-shifting plans of the director of the port authority. The shifting of vessels within seaport waters shall be effected under shifting orders, made according to Form No. 13 attached to this Decree. In case of emergency, the director of the port authority may shift vessels via very high frequencies (VHF), telephone or other appropriate communication media, and shall take responsibility for the shifting.

Article 54. Venues, time limits, dossiers and papers for vessels to enter seaports

1. For Vietnamese vessels operating along domestic routes:

a/ Procedure performance venue: The head office or representative office of the port authority;

b/ Time limit for the procedure-performing person to perform procedures: Within 2 hours after the vessel is anchored or berthed at a wharf or 4 hours after it is anchored or berthed in another position in port waters;

c/ Time limit for the port authority to complete procedures:

- For seagoing ships: Within 1 hour after the procedure-performing person submits and produces all the following papers:

+ Papers to be submitted (the original):

- 1 general declaration (Form No. 03);
- 1 crew list (Form No. 04);
- 1 passenger list (if any - Form No. 05);
- Port clearance permit.

+ Papers to be produced (the original):

• The vessel registration certificate;

• The vessel's technical safety certificates as prescribed;

• The crew book;

• Crew's professional certificates as prescribed.

- For vessels of other types, papers to be submitted and produced comply with relevant laws.

d/ Procedures for port entry specified in this Clause for Vietnamese vessels operating along domestic routes to enter a port shall be completed by the port authority. Other specialized state management agencies at seaports are not required to carry out these procedures.

2. For Vietnamese and foreign vessels on entry:

a/ Procedure performance venue: The head office or representative office of the port authority, except the cases specified at Point b of this Clause.

b/ For cases in which procedures are

performed on board vessels according to the following provisions, related specialized state management agencies shall notify the port authority and procedure-performing person of:

- Procedures, for passenger ships;

- In case there are sufficient grounds to **doubt** the truthfulness of the vessel's quarantine declaration or the vessel's previous ports of call are located in areas affected by human, animal or plant epidemics, related specialized state management agencies shall complete procedures in the quarantine area.

c/ Time limit for procedure-performing persons to perform procedures: Within 2 hours after the vessel is safely anchored or berthed in the position indicated by the director of the port authority.

d/ Time limit for specialized state management agencies to complete procedures: Within 1 hour after the procedure-performing person submits and produces all the following papers:

- Papers to be submitted (the original):

+ 3 general declarations (Form No. 03), to be submitted to the port authority, border guard and border-gate customs office;

+ 3 crew lists (Form No. 04), to be submitted to the port authority, border guard and border-gate customs office;

+ 1 passenger list (if any - Form No. 05), to be submitted to the border guard;

+ 1 cargo declaration (Form No. 06), to be submitted to the border-gate customs office;

+ 3 dangerous cargo manifests (if any - Form No. 07), to be submitted to the border-gate customs office and the port authority;

+ 1 ship's stores declaration (Form No. 08), to be submitted to the border-gate customs office;

+ 1 crew's effects declaration (Form No. 09), to be submitted to the border-gate customs office;

+ 1 maritime declaration of health (Form No. 10), to be submitted to the international medical quarantine office;

+ 1 plant quarantine declaration (if any - Form No. 11), to be submitted to the plant quarantine office;

+ 1 animal quarantine declaration (if any - Form No. 12), to be submitted to the animal quarantine office;

+ Port clearance permit, to be submitted to the port authority;

+ Ship's security notification, made according to Form No. 02 (to be submitted to the port authority).

- Papers to be produced (the original):

+ Vessel registration certificate (to be produced to the port authority);

+ Vessel's technical safety certificates as prescribed (to be produced to the port authority);

+ Crew's professional certificates as prescribed (to be produced to the port authority);

+ Crew's passports or papers of equivalent validity (to be produced to the border guard);

+ Crew book or a paper of equivalent validity

(to be produced to the port authority);

+ Crew's international vaccination certificates (to be produced to the medical quarantine office);

+ Papers related to cargoes carried by the ship (to be produced to the border-gate customs office);

+ Medical quarantine certificate (to be produced to the medical quarantine office);

+ Plant quarantine certificate, if any (to be produced to the plant quarantine office);

+ Animal quarantine certificate of the country of exportation (to be produced to the animal quarantine office);

+ Certificate of insurance for the shipowner's civil liability for environmental pollution, for vessels specializing in transporting petroleum, petroleum products and other dangerous cargoes (to be produced to the port authority);

+ Passports and international vaccination certificates of passengers (if any, at the request of the related specialized state management agency);

+ Ship security certificate as prescribed (to be produced to the port authority);

Particularly for vessels of a deadweight tonnage of 200 DWT or less operating under the flag of a country bordering on Vietnam, when arriving at a seaport in the border area between Vietnam and such country, they are exempt from the papers and dossiers specified in this Clause according to separate regulations of the Minister of Transport.

3. Specialized state management agencies may only request shipowners to submit or produce dossiers or papers related to their management functions which are specified in Clauses 1 and 2 of this Article and shall immediately notify the port authority of the completion of procedures; in case they cannot complete procedures yet, they shall notify such, clearly stating the reason, and the mode of settlement.

4. A vessel that has completed entry procedures at a Vietnamese port is not required to complete entry procedures specified in Clause 2 of this Article when it calls at another port. The port authority of the subsequent port of call shall base itself on the port clearance permit issued by the port authority of the previous port of call and the general declaration of the procedure-performing person to decide to permit the vessel to operate in the port; other specialized state management agencies shall base themselves on the port transfer dossier (if any) provided by the related agencies in the previous port of call to perform their management in accordance with law.

Article 55. Notification on vessels' departure from seaports

1. At least 2 hours before a vessel departs from a port, the procedure-performing person shall notify the port authority of the name of the vessel and the expected time of departure.

2. For a vessel on exit, immediately after receiving the notification of the procedure-

performing person, the port authority shall immediately notify related specialized state management agencies thereof for timely performing exit procedures for the vessel.

Article 56. Venues, time limits, dossiers and papers for vessels to depart from seaports

1. For Vietnamese vessels operating along domestic routes:

a/ Procedure performance venue: The head office or representative office of the port authority;

b/ Time limit for the procedure-performing person to perform procedures: At least 2 hours before the vessel departs from a port;

c/ Time limit for port authorities to complete procedures: Within 1 hour after the procedure-completing person submits and produces all the following papers:

- Papers to be submitted: 1 general declaration (the original).

- Papers to be produced (the original):

+ The vessel's certificates and crew's professional certificates, if there is any change compared to the time of arrival;

+ Papers certifying the payment of charges, fees, fines or debts as prescribed by law.

d/ Procedures for Vietnamese vessels operating along domestic routes to depart from ports specified in this Clause shall be completed by port authorities. Other specialized state management agencies at seaports are not required to carry out these procedures.

2. For vessels on exit:

a/ Procedure performance venue: The head office or representative office of the port authority; particularly for passenger ships, at the request of a specialized state management agency, procedures may be processed on board these ships by such specialized agency;

b/ Time limit for procedure-performing persons to perform procedures: At least 2 hours before the vessel departs from a port. Particularly for passenger ships and vessels operating along fixed routes, no later than before the vessel departs from a port;

c/ Time limit for specialized state management agencies to complete procedures: Within 1 hour after the procedure-performing person submits and produces all the following papers:

- Papers to be produced (the original):

+ 3 general declarations, to be submitted to the port authority, border guard and border-gate customs office;

+ 3 crew lists, if there is any change compared to the time of arrival, to be submitted to the port authority, border guard and border-gate customs office;

+ 1 passenger list, if there is any change compared to the time of arrival, to be submitted to the border guard;

+ 1 ship's stores declaration, to be submitted to the border-gate customs office;

+ 1 cargo declaration, if carrying any cargoes on board, to be submitted to the border-gate customs office;

+ 1 declaration of passengers' effects (if any), to be submitted to the border-gate customs office; particularly for effects of passengers on board foreign passenger ships arriving at and departing from the port on the same voyage, customs declaration is not required;

+ Other papers already issued by specialized state management agencies to the vessel, crew and passengers, for withdrawal.

- Papers to be produced (the original):

+ The vessel's certificates, if there is any change compared to the time of arrival;

+ Crew's professional certificates, if there is any change compared to the time of arrival;

+ Crew's passports or papers of equivalent validity, and passengers' passports, to be submitted to the border guard;

+ Crew's and passengers' international vaccination certificates, if there is any change compared to the time of arrival;

+ The medical quarantine certificate (if any), to be submitted to the plant quarantine office;

+ The animal quarantine certificate (if any), to be submitted to the animal quarantine office;

+ Papers related to cargoes on board the ship, to be submitted to the border-gate customs office;

+ Papers certifying the payment of charges, fees, fines or debts (if any) according to the provisions of law, to be submitted to the port authority or related agencies.

Article 57. Venues, time limits, dossiers and papers for vessels on entry and exit at offshore

oil and gas ports

1. Venues, time limits and papers comply with Articles 54 and 56 of this Decree. The time limit for completion of procedures for vessels on entry and exit at offshore oil and gas ports is regarded as having expired when the shipowner's agent submits all dossiers and papers as prescribed to specialized state management agencies at the head office of the port authority.

2. The dossiers and papers specified in Clause 1 of this Article shall be submitted or produced in the following order:

a/ Upon entry, the procedure-performing person shall send by fax or email to the port authority the following papers:

- 1 general declaration;
- 1 crew list;
- 1 certificate of insurance for the shipowner's civil liability for oil pollution as prescribed.

b/ The port authority shall issue a port clearance permit to the procedure-performing person after receiving all the papers specified at Point a of this Clause;

c/ Within 24 hours after returning to the shore, the procedure-performing person shall submit all the original papers required to be submitted and copies of the port clearance permit and papers which must be produced bearing certification signatures of the shipmaster and appended with the ship's seal.

3. The provisions of this Article also apply to foreign vessels performing entry or exit procedures in the Vietnamese offshore waters for conducting activities specified in Clause 3, Article 50 of this Decree.

Article 58. Exemption from or reduction of port entry or departure procedures in special cases

1. Official-duty ships on duty, ships embarking or disembarking pilots, special-use ships performing search and rescue, maritime safety assurance, fire, explosion or oil spill prevention and fighting or performing other urgent tasks are exempt from performing port entry or departure procedures under this Decree but their shipmasters shall notify such to port authorities in writing or via appropriate communication media.

2. Vessels entering a port for handing over persons, assets or vessels they have salvaged from the sea and expected to depart from the port within 12 hours may carry out entry and departure procedures at the same time and shall submit to the port authority the following papers:

- a/ Notice of vessel arrival;
- b/ Crew list;
- c/ Passenger list (if any).

3. Private sailing ships and boats, yachts, leisure boats and ships are exempt from submitting or producing the dossiers and papers specified in Articles 54 and 56 of this Decree,

if these ships and boats bearing flags of countries which do not require these dossiers or papers.

4. Dossiers or papers to be submitted or produced by Vietnamese warships, official-duty ships, fishing ships, inland waterway vessels, seaplanes upon their entry to or departure from seaports comply with the following provisions:

a/ For inland waterway vessels, they comply with the law on inland waterways;

b/ For fishing ships, they comply with the law on fisheries;

c/ For warships, official-duty ships, seaplanes and other waterway vessels, they comply with the maritime law and relevant laws.

Article 59. Conditions for vessels to depart from seaports

1. A vessel may depart from a seaport only after having completed the procedures specified in this Decree and be issued a port clearance permit by the director of the port authority, except the cases specified in Clauses 2 and 3 of this Article.

2. A vessel is not permitted to depart from a port in the following cases:

a/ It had insufficient papers and documents on maritime safety and security and environmental pollution prevention according to regulations;

b/ Its shown draft is higher than the permitted load line or it is heeled by over 8 degrees in the

free floating state or its hull is not totally watertight;

c/ It is carrying bulky cargoes, grains or extra-long, extra-heavy cargoes, dangerous cargoes, or deck cargoes but lacks necessary security measures as required by the rules on transportation of such cargoes;

d/ It has not yet been repaired to fully meet conditions on maritime safety and security and environmental pollution prevention as required by the port authority, maritime inspectorate or reasonably required or requested by a related specialized state management agency;

e/ Other threats to its own safety and safety of persons or cargoes on board or to the marine environment are detected;

f/ A warrant to arrest or detain it has been issued by a court or a competent agency in accordance with law.

3. In case a vessel has been issued a port clearance permit but it stays in the port for more than 24 hours after receiving such permit, it shall carry out once again the procedures for departure from the port specified in Article 56 of this Decree.

4. In case a vessel entering a port and is expected to stay in the port for no more than 12 hours, its master shall notify such to the regional port authority for coordinating with other related specialized state management agencies in completing arrival and departure procedures for the vessel at the same time.

Article 60. Foreign vessels in transit

1. Procedures of application for permit, notification and confirmation:

a/ Procedures of application for permit:

- At least 12 hours before the expected time of arrival at an anchorage or berthing area for transit, the procedure-performing person shall send to the port authority in charge of such area a notice of arrival of the vessel at the port (in transit).

- Within 2 hours after receiving the notice of arrival of the vessel in transit, the port authority shall notify a permit for transit; in case of refusal, it shall issue a written reply clearly stating the reason.

b/ The notification and confirmation shall be conducted in accordance with Articles 51, 52 and 55 of this Decree.

2. Venues, time limits and papers for completion of procedures:

a/ Venues and time limits for completion of procedures comply with Articles 54 and 56 of this Decree.

b/ At least 2 hours before the vessel makes the transit, the procedure-performing person shall submit and produce to the port authority in charge of the area the following papers:

- Papers to be submitted (the original):

+ 1 general declaration;

+ 1 crew list;

+ 1 passenger list (if any);

+ 1 cargo declaration (if any);

- Papers to be produced (the original):

+ Port clearance permit or paper of equivalent validity issued by a competent agency;

+ The vessel's registration certificate;

+ The vessel's technical safety certificates as prescribed;

+ Crew's professional qualification certificates as prescribed;

+ Crew's passports and the crew book or papers of equivalent;

+ Certificate of insurance for the shipowner's civil liability for environmental pollution, for vessels specializing in transporting oil, oil products and other dangerous cargoes;

+ Passengers' passports (if any).

3. Immediately after issuing a permit for a vessel to transit, made according to Form No. 15 attached to this Decree, the port authority shall notify related specialized state management agencies along the transit route for coordination in managing the transit of the vessel.

Article 61. Time for completion of procedures

Specialized state management agencies at seaports shall perform procedures for vessels entering, departing from or transiting through seaports around the clock all days, including weekends and holidays.

Article 62. Order and form of declaration of procedures for vessels entering, departing

from and operating in seaports

Dossiers and papers of vessels may be sent to specialized state management agencies at seaports via fax or email, directly or by post. In case dossiers and papers of vessels are issued in the form of electronic data or other written forms according to law, procedure-performing persons shall submit only copies of these dossiers and papers and provide the addresses of websites of agencies competent to issue these certificates for verification when necessary.

Article 63. Procedural process commonly applicable to vessels entering, departing from, transiting through and operating in Vietnamese seaports

1. The Ministry of Transport shall promulgate the commonly applicable procedural process and dossiers and forms for declaration upon vessels' entry, departure from, transit through and operation in seaports in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party; apply on a pilot basis electronic procedures for vessels entering, departing from, transiting through and operating in Vietnamese seaports.

2. Related agencies, organizations and individuals shall apply information technology in making electronic declarations when performing procedures for vessels to enter, depart from, transit through and operate in Vietnamese seaports.

3. Funds for the building, and management

and operation of information technology systems for management of seaports and maritime activities come from the state budget and other lawful sources.

Section 2

MARITIME PILOTAGE SERVICE

Article 64. Compulsory pilotage

1. The following vessels are obliged to use the maritime pilotage service when entering or departing from seaports or moving within Vietnamese seaport waters:

a/ Foreign vessels of a gross tonnage of 100 GT or more;

b/ Vietnamese vessels carrying passengers, oil, liquefied gas or chemical buckets and of a gross tonnage of 1,000 GT or more;

c/ Vietnamese vessels of other types other than those specified at Point b of this Clause and of a gross tonnage of 2,000 GT or more.

2. The following vessels are exempt from use of the maritime pilotage service:

a/ Foreign vessels of a gross tonnage of under 100 GT;

b/ Vietnamese vessels carrying passengers, oil, liquefied gas or chemical buckets and of a gross tonnage of under 1,000 GT; Vietnamese vessels of other types of a gross tonnage of under 2,000 GT;

c/ For a vessel of which the shipmaster is a Vietnamese citizen possessing a certificate of professional qualifications in maritime pilotage

and a certificate of maritime pilotage area relevant to the vessel's type and compulsory maritime pilotage areas in which it is operating, its shipmaster may steer it without a pilot, but shall notify his/her steering to related port authorities before shifting his/her vessel.

3. Shipmasters of the vessels specified in Clause 2 of this Article may request a pilot to steer their vessels when finding it necessary.

Article 65. Provision of the maritime pilotage service

1. A procedure-performing person shall send a written request for the pilotage service to a pilotage organization at least 6 hours before the expected time of receiving a pilot on board his/her ship. This time limit for sending a written request may be shorter in emergency cases to prevent maritime accidents.

2. If wishing to change the time of reception of a pilot or to cancel the request for the pilotage service, the procedure-performing person shall notify the change or cancellation to the pilotage organization at least 3 hours before the expected time of reception of the pilot on board his/her ship.

3. The pilotage organization shall work out daily steering plans based on the requests for the pilotage service specified in Clauses 1 and 2 of this Article. A daily steering plan contains the following details: name, flag state, fundamental technical specifications, anchorage or berthing position, time for the pilot to embark the vessel, expected wharf or anchorage or

berthing position, name of the pilot assigned to steer the vessel and other necessary contents.

4. Before 16:00 hours every day, the pilotage organization shall send the steering plan for the subsequent day to the port authority for working out a plan for shifting of vessels to enter, depart from or transit through the port or move within the port waters. In case of a change or another request arises, such change or request must be promptly notified to the port authority for prompt adjustment of the daily shifting plan. The port authority shall work out and send shifting plans to the pilotage organization and port enterprise before 17:00 hours every day.

5. The pilotage organization, port enterprise, shipmaster, pilot and other related organizations and individuals shall implement shifting plans of the port authority.

6. Pilots may wait at the agreed place for 4 hours at most, counting from the expected time of pilot reception, unless the procedure-performing person requests the change of the time of pilotage which is approved by the port authority; past this time limit, the request for the pilotage service shall be invalidated and the requester shall pay a charge for the waiting time according to regulations.

7. Within 1 hour after receiving a shifting plan from the port authority, the pilotage organization shall confirm the expected place and time for a pilot to embark the vessel to the procedure-performing person. If a pilot embarks the vessel late or at a place other than the notified place, thus keeping the vessel waiting

or causing it to move to another place, the pilotage organization shall pay a charge for the vessel's waiting time according to regulations. The procedure-performing person shall promptly notify such to the port authority and the pilotage organization for taking timely handling measures.

Article 66. Responsibilities of pilots

1. Pilots have the following responsibilities:

a/ To exercise the rights and perform the obligations provided in the Maritime Code of Vietnam and other relevant laws;

b/ To strictly comply with shifting plans of port authorities. In case of refusal to steer vessels, to promptly notify the reasons to port authorities and maritime pilotage organizations for timely handling;

c/ While steering vessels, to promptly report to port authorities on maritime accidents or incidents, arrangement of towing ships and safety conditions for wharf landing or departure, change in the state of maritime signs, safety conditions on navigable channels and other events which are unsafe and required to be reported to port authorities;

d/ To recommend shipmasters to strictly observe the law on maritime safety and security assurance and environmental pollution prevention. In case shipmasters refuse to follow recommendations, to promptly notify the refusal to port authorities and pilotage organizations.

2. Pilotage organizations shall designate pilots who have professional certificates

required by law to steer vessels suitable to their professional capability.

Section 3

MANAGEMENT OF VESSEL
OPERATIONS

Article 67. Requirements on vessel operations

1. Vessels may be shifted, anchored, berthed or move within seaport waters and navigable channels only when shifting orders are issued by directors of port authorities. Shifting orders of directors of port authorities shall be complied with in a prompt, accurate and adequate manner. If finding conditions for the compliance is insufficient, shipmasters shall report it to port authorities for handling.

2. When operating in Vietnamese seaport waters and sea areas, all vessels shall observe the Regulations for Preventing Collisions at Sea; and at the same time, their shipmasters shall:

a/ Maintain communication with port authorities through VHF devices on the notified channel or through other communication media;

b/ Keep automatic identification devices operational according to regulations;

c/ Fully observe regulations on the limit speed when navigating in channels, warning signals, lookout regime and other regulations; take the initiative in moving at a safe speed when passing through areas where underwater activities, activities of dredging, laying marking

buoys, salvage and rescue activities, fishery activities are taking place or when passing by other vessels being anchored or shifted in such areas;

d/ Not shift their vessels to pass through areas with bridges or lines stretching over channels with the permitted clearance height lower than the height of these vessels. The navigation of vessels in narrow channels complies with regulations of directors of port authorities; anchor gear and other similar equipment must be constantly ready for quickly executing shipmasters' orders;

e/ Not let their vessels drag or pull anchors underwater while operating in channels or canals, except in emergency cases where it is compulsory to avoid possible accidents;

f/ Use tugboats to assist their vessels in seaport waters according to regulations of directors of port authorities;

g/ Dive or perform underwater jobs only after obtaining approval of port authorities. Procedures for asking for permission are as follows:

- The procedure-performing person shall send a written request, made according to Form No. 27 attached to this Decree, directly or by post to the port authority;

- Within 4 working hours after receiving the written request, the port authority shall reply in writing. In case of refusal to give permission, it shall clearly state the reason.

3. Apart from complying with this Article, shipmasters or commanders of vessels engaged

in the construction of maritime works, vessels specializing in dredging channels or exploiting sand, floating cranes and other working equipment shall ask for permission of related port authorities before conducting activities in port waters. Procedures for asking for permission are as follows:

a/ The procedure-performing person shall send a written request, made according to Form No. 27 attached to this Decree, directly or by post to the port authority;

b/ Within 4 working hours after receiving the written request, the port authority shall reply in writing. In case of refusal to give permission, it shall clearly state the reason.

4. Before entry procedures for vessels to enter seaports are completed or after exit procedures for vessels to depart from seaports are completed, persons on board are prohibited from contacting persons other than the crew, except pilots, shipping agents and other persons who are performing their tasks on board.

Article 68. Requirements on the anchorage or berthing of vessels

1. When a vessel is safely anchored or berthed in a designated position, its main engine must be constantly kept ready to operate when necessary. It must be lighted at night or when visibility is restricted and their signs and warning signals must be sufficiently maintained according to regulations.

2. When a vessel is drifted from its anchorage or berthing position, its master shall

promptly take appropriate handling measures to prevent maritime accidents or incidents and notify such to the port authority.

3. Rudimental and non-self-propelled water crafts may be anchored or berthed only in areas exclusively reserved for them as stipulated by directors of port authorities; in the course of anchorage or berthing, there must be adequate manning and appropriate supporting means on duty and ready for shifting when necessary.

Article 69. Responsibilities of port enterprises

1. To arrange positions for vessels to anchor, berth or move. Before 16:00 hours every day, to notify plans on shifting vessels to enter or depart from ports to port authorities for working out and implementing these plans. In case of any change, to promptly notify it to port authorities for adjusting daily shifting plans.

2. After being notified by the port authority of a shifting plan, the port enterprise shall fulfill the following requirements:

a/ To arrange a wharf with an adequate length and other necessary conditions as required for safe landing. The wharf must be sufficiently lighted at night and clear of any objects on its surface which might obstruct or endanger its anchorage or berthing or other normal activities of the crew and passengers;

b/ To arrange skilled workers to moor or unmoor the vessel upon its entry or departure from a wharf; bollards must be ready for quick

and safe mooring and unmooring. Appropriate warning signals must be maintained at mooring and unmooring positions according to regulations;

c/ To complete the preparation of a wharf at least 1 hour before the expected time of landing of the vessel coming from the sea or at least 30 minutes for the vessel moving or changing its position within the port waters;

d/ To assure security and order conditions in the wharf area for cargo loading and discharge and passenger embarkation and disembarkation;

e/ To equip and maintain normal operation of communication devices in order to assure uninterrupted exchange of information on maritime activities at the seaport according to regulations;

f/ To maintain the technical state of the wharf, warehouses, storing yards, devices and equipment, the depth of the water area in front of the wharf and other water areas which are managed and used by it according to regulations. To organize annual surveys and request announcement of notices to mariners on the water area in front of the wharf and other water areas which are managed and used by it. At least once every five years, to inspect the technical state of the seaports, harbors, wharves and buoy landing stages to assure operation safety;

g/ To implement the law on maritime safety and security assurance and environmental pollution prevention at the seaport. In case a

maritime accident or incident, fire, explosion or environmental incident occurs, to promptly take appropriate preventive measures and notify it to the port authority and related agencies for handling according to regulations.

Article 70. Drawing alongside vessels

1. Directors of port authorities shall base themselves on maritime safety assurance conditions to permit vessels to draw alongside one another at the request of shipmasters concerned while adhering to the following principles:

a/ No more than two seagoing ships of a gross tonnage of 1,000 GT or more may draw alongside each other; no more than three vessels of other types may draw alongside one another, provided that they do not obstruct normal activities in seaport fairways and water areas in front of the wharf;

b/ Bigger vessels are not allowed to draw alongside smaller vessels from outside;

c/ Two vessels drawing alongside one another must be properly tied and there must be anti-collision fenders;

d/ Only vessels supplying water, oil, food provisions, equipment and other provisions, pilot vessels, fire-fighting vessels, vessels transshipping passengers from passenger ships or similar service vessels may draw alongside passenger ships.

2. Shipmasters shall use ropes of appropriate kinds for drawing alongside vessels. Ropes must not be tied to beams, frames or other structures

of port facilities not designated for moorage.

Article 71. Watch-keeping when vessels operating at ports

1. When their vessels operate at a seaport, shipmasters shall arrange look-outs who are ready to deal with the drifting of anchors, broken anchor lines, broken mooring lines or too tense or too loose mooring lines or other unsafe risks to their vessels, cargoes and persons on board; and constantly keep engines, life-saving and fire-fighting devices and stand-by emergency equipment in the ready-to-operate state.

2. On board a vessel anchored or berthed in the seaport waters, at least two-thirds of crewmen must be maintained in appropriate posts, including the master or first deputy master or the chief engine or deputy chief engine, to shift the vessel or deal with emergency cases.

3. Directors of port authorities shall keep shipmasters informed of storm-sheltering plans, storm shelters, necessary maritime instructions and preventive measures to be taken in seaport waters and management areas in which their vessels are operating.

4. When a storm is imminent, vessels shall all quickly move to storm-sheltering areas under order of directors of port authorities.

Article 72. Procedures for detention of seagoing ships

1. Directors of port authorities shall issue decisions to detain seagoing ships in the cases

specified in Clause 1, Article 68 of the Maritime Code of Vietnam. Such a decision, made according to Form No. 16 attached to this Decree, shall be immediately forwarded to the master of the detained ship, the Vietnam Maritime Administration and related state management agencies at the seaport.

2. Upon receiving the decision to detain the seagoing ship issued by the director of the port authority, the shipmaster, shipowner or ship operator shall comply with requirements specified in such decision.

3. After the reason for detention of a seagoing ship no longer exists, the director of the port authority shall issue a decision to terminate the detention of the ship, made according to Form No. 17 attached to this Decree, and send it to the master of the detained ship, the Vietnam Maritime Administration and state management agencies at the seaport.

Section 5

SEARCH, RESCUE AND HANDLING OF MARITIME ACCIDENTS

Article 73. Obligation to search and rescue

1. When in distress and in need for help, seagoing ships, warships, official-duty ships, inland water crafts and seaplanes shall give out SOS signals as prescribed. When detecting an accident or a threat thereof, the detecting person shall immediately give out SOS signals and take appropriate rescue and preventive measures to rescue persons, salvage assets and prevent or mitigate losses.

2. To rescue persons in distress is a compulsory obligation of all organizations, individuals, vessels and other crafts while operating in Vietnamese seaport waters and sea areas. When detecting or receiving SOS signals from persons or other vessels in distress at sea or in seaport waters, if practical conditions permit and it is unlikely to be seriously dangerous to their persons on board and themselves, vessels shall seek all measures to rescue persons in distress, even redirecting or deviating from the scheduled route, and immediately notify such to related organizations and individuals. Less damaged vessels shall help more seriously damaged vessels even though accidents or incidents are not caused by their fault.

3. Directors of port authorities may mobilize all forces and equipment of their ports, and vessels and other crafts available in their ports to search and rescue persons and salvage vessels in distress. All mobilized parties are obliged to obey orders of directors of port authorities. For maritime accidents occurring in seaport waters and affecting maritime activities in navigable channels, directors of port authorities shall assume the prime responsibility for, and coordinate with maritime safety assurance units in these areas in, promptly giving warnings, installing maritime signs and issuing notices to mariners to assure maritime safety and security and prevent environmental pollution.

4. Agencies participating in maritime search and rescue must be ready to organize and coordinate with others in promptly conducting

search and rescue for persons and vessels in distress in areas under their charge and may mobilize persons and vessels to participate in search and rescue activities.

5. The Ministry of Transport shall assume the prime responsibility for, and coordinate with related ministries and sectors in, elaborating regulations on coordination in maritime search and rescue in seaport waters and sea areas, then submitting them to the Prime Minister for consideration and decision.

Article 74. Responsibility to report on and investigate maritime accidents

1. Shipmasters are obliged to report to directors of port authorities on maritime accidents and incidents occurring to their vessels or other maritime accidents and incidents as well as failures and malfunctions of the maritime sign system in Vietnamese seaport waters and sea waters, if detected; to execute requests of directors of port authorities and functional agencies for investigation into maritime accidents under this Decree and other relevant laws.

2. The Minister of Transport shall detail the reporting and investigation of maritime accidents.

Section 5

ASSURANCE OF MARITIME SAFETY AND SECURITY AND ORDER AND SANITATION AT SEAPORTS

Article 75. Flying of flags on board vessels

The flying of flags on board vessels operating in seaports is prescribed as follows:

1. Vietnamese vessels shall fly the national flag of the Socialist Republic of Vietnam at the top of the mast at the stern from sunrise to sunset; foreign vessels shall fly the flag at the top of the highest mast.

2. On the National Day of the Socialist Republic of Vietnam or when a head of state is paying a visit to the seaport, all vessels anchored or berthed in the seaport area shall fly the flag in ceremony as guided by the director of the port authority.

3. Vessels under flags of foreign states, when wishing to fly their flags in ceremony, at half-mast or blow the whistle on the occasion of their national ceremonies, shall notify in advance port authorities thereof and follow the latter's guidance.

4. Directors of port authorities may exempt some rudimentary water crafts operating in seaport waters from flying the national flag of Vietnam.

Article 76. Ladders

Ladders for embarking and disembarking a vessel must be properly lighted and adjusted to ensure safety for users. In ladder areas, there must be always persons on watch and life buoys as prescribed. Ladders must have handrails and protective nets beneath.

Article 77. Maritime safety and security, and order and sanitation on board vessels

1. All vessels must have their names, numbers and IMO numbers (if any) and ports of registration displayed as prescribed.

2. Shipmasters shall assure safety, order and sanitation on board their vessels in accordance with Vietnamese law. Moorings must have rat guards as prescribed.

3. When a vessel is anchored or berthed in the port waters, apart from crewmen in the vessel's complement and passengers carried on board, only persons on duty designated by competent agencies may embark the vessel; for foreign vessels, an embarkation permit issued by the port's border guard or border-gate customs office is additionally required, except for on-duty officials of specialized state management agencies. Shipmasters shall be held totally responsible if they let persons not on duty embark their vessels.

4. A vessel anchored or berthed in the port waters is prohibited from conducting the following acts:

a/ Blowing the whistle or using electric loudspeakers for communication, except for giving out SOS signals or blowing the whistle under the order of the director of the port authority;

b/ Scrapping the funnel or discharging black smoke;

c/ Cleaning cargo holds or the deck, causing environmental pollution;

d/ Pumping out dirty water, dirty residues,

waste, oil or oily compounds and other harmful substances;

e/ Throwing or dumping rubbish or other articles from the vessel into the water or onto the wharf;

f/ Scattering equipment and property on the wharf;

g/ Removing rust and painting the vessel, causing environmental pollution;

h/ Repairing and testing engines or the whistle without permission of the port authority;

i/ Use life-saving and fire-extinguishing devices for improper purposes;

j/ Swimming or otherwise causing disorder in the port;

k/ Disinfecting or fumigating against rats without an advance notice and following instructions of the port authority;

l/ Firing fireworks on ceremonial occasions of the flag state in contravention of specific regulations of the Minister of Culture, Sports and Tourism.

Article 78. Dumping of rubbish and discharge of wastewater and ballast water

1. Vessels, while operating in a seaport, shall dump rubbish, pump out dirty water and ballast water in accordance with regulations and instructions of the port authority.

2. Port enterprises or vessel cleaning service providers in a seaport shall arrange reception facilities for rubbish, dirty water, water

containing oil residues and other hazardous liquids discharged from vessels for treatment or transfer to functional agencies for treatment and may collect service charges in accordance with law.

3. The Ministry of Transport shall reach agreement with related ministries and sectors on detailing the management of collection and treatment of wastes discharged from vessels in seaport waters.

Article 79. Sports activities, maritime search, rescue and security exercises

1. The organization of sports competitions in seaport waters must comply with law, be notified in advance and follow instructions of port authorities.

2. The Ministry of Transport shall direct the Vietnam Maritime Administration in assuming the prime responsibility for, and coordinating with related agencies and units in, organizing exercises in coordinated maritime search and rescue and maritime security in Vietnamese seaport waters and sea areas in accordance with law.

Article 80. Transportation of passengers and cargoes, mining of minerals and fishery activities in seaport waters

1. Transportation of passengers and cargoes, and mining of minerals in seaport waters must comply with relevant provisions of law and be notified in advance to port authorities.

2. The placement of bottom fish traps, fishing and culture of marine species in seaport waters must be approved in writing by directors of port authorities in order to assure maritime safety and security and prevent environmental pollution. Procedures for these activities are carried out as follows:

a/ The applicant shall send directly or by post to the port authority an application for approval, made according to Form No. 27 attached to this Decree;

b/ Within 1 working day after receiving the application, the port authority shall issue a written reply. In case of refusal, it shall clearly state the reason.

Article 81. Responsibilities of shipmasters in cargo loading and discharge, repair and cleaning of their vessels in seaport waters

1. Before carrying out activities of loading and discharging cargoes, repairing and cleaning their vessels, shipmasters shall prepare all necessary conditions for assuring maritime safety and labor safety protection and strictly observe relevant provisions of law.

2. Shipmasters may permit the shut-up of cargo holds or allow persons to go into cargo holds after checking and making sure that no incident will occur.

3. In the course of cargo handling, if detecting any signs of unsafety, shipmasters or persons in charge of cargo handling shall immediately suspend the work and deal with

them.

4. When a labor accident occurs on board a vessel, the shipmaster shall quickly organize the **render** of first aid to the victim(s), take necessary measures to mitigate its consequences, immediately notify such to the port authority, **and** at the same time declare, investigate, make written records and statistics, and report on such labor accident in accordance with the labor law.

Article 82. Assurance of order and safety in port premises

1. Directors of port enterprises shall organize and manage activities of port guards in accordance with relevant provisions of law and practical conditions of their ports.

2. Specialized state management agencies at seaports may use port gates for performing their duties after reaching agreement with port enterprises.

3. When operating in port premises, organizations, individuals and vehicles shall fully observe all relevant provisions of law.

Section 6

FIRE AND EXPLOSION PREVENTION AND FIGHTING AND PREVENTION OF AND RESPONSE TO ENVIRONMENTAL INCIDENTS

Article 83. Responsibilities of port enterprises and vessels for fire and explosion prevention and fighting

1. Shipmasters of vessels operating in

seaports are obliged to observe, and inspect and supervise the observance of, regulations on fire and explosion prevention and fighting.

2. Fire and explosion prevention and fighting equipment of seaports and vessels must be located at prescribed places and always kept in the ready-to-operate state.

3. At all places prone to fire and explosion or in other areas and locations in seaports and on board vessels, there must be warning signs or instructions as prescribed by law.

4. All persons on duty at places prone to fire or explosion on board vessels and in seaports must be adequately trained in fire and explosion prevention and fighting skills.

5. In receiving fuel, vessels shall:

a/ Make ready all fire and explosion prevention and fighting equipment;

b/ Securely close all doors at the side along which fuel is supplied;

c/ Observe all technical safety processes and rules;

d/ Arrange person on duty on the deck and at the fuel reception place.

6. It is strictly prohibited to use fire and explosion prevention and fighting equipment of ports and vessels for improper purposes.

7. It is strictly prohibited to perform spark-emitting work on the deck, in cargo holds or engine cabins without permission of port authorities.

8. In receiving fuel, the following activities are strictly prohibited:

a/ Letting another vessel draw alongside;

b/ Pumping fuel through pipes, hoses or joints not up to technical standards.

9. Before deciding to permit the repair and cleaning of vessels or other maritime activities in port waters which can affect fire and explosion prevention and fighting plans, directors of port authorities shall consult local specialized fire and explosion prevention and fighting departments. Procedures for applying for and granting permission are as follows:

a/ The procedure-performing person shall send directly or by post to the port authority a set of dossier of application comprising the following papers:

- An application, made according to Form No. 27 of this Decree;

- A copy of the fire and explosion prevention and fighting plan.

b/ Within 2 working days after receiving an application, the port authority shall consult other agencies and issue a written reply. In case of refusal, it shall clearly state the reason.

Article 84. Coordination in fire and explosion prevention and fighting at seaports

1. Directors of port authorities shall coordinate with competent fire and explosion prevention and fighting agencies in areas under their management in making necessary fire and explosion prevention and fighting plans for vessels operating in such areas according to

relevant regulations.

2. Directors of port authorities shall command activities of salving vessels involved in a fire or explosion in seaport waters till competent commanders of specialized fire and explosion prevention and fighting forces come to the scene.

3. Directors of port enterprises are responsible for commanding activities of coping with fires and explosions and rescuing victims thereof in port premises till competent commanders of specialized fire and explosion prevention and fighting forces come to the scene.

Article 85. Requirements for oil vessels and other dangerous cargo vessels

Apart from relevant provisions of the environmental protection law, all oil vessels and other dangerous cargo vessels, when operating in seaports, must also strictly comply with the following requirements:

1. Two vessels are prohibited from drawing along side each other while they are loading or discharging flammable or explosive cargoes, except for the case of supplying fuel from one vessel to another or of transshipment.

2. All oil or other dangerous cargo vessels at seaports may only load or discharge cargoes at designated places as announced.

3. At places mentioned in Clause 2 of this Article, there must be equipment for fire and explosion prevention and fighting as well as

environmental pollution incident response according to regulations. In the course of loading or discharging cargoes, such equipment **must be constantly kept in the ready-to-operate state.**

4. The loading, discharge and preservation of flammable and explosive cargoes or other dangerous cargoes must strictly comply with current technical safety processes and rules.

5. When devices for pumping petroleum, petrol, oil, liquefied gas, oil sludge or other hazardous substances are fitted together, shipmasters and related parties shall appoint their representatives for inspection and supervision.

6. Upon the occurrence of an incident or accident related to oil pumping or loading or discharge of other dangerous cargoes, shipmasters shall immediately stop the oil pumping, loading or discharge of such cargoes and promptly apply measures to prevent its consequences; at the same time they shall promptly report such incident or accident to the port authority and related functional agencies for coordination.

Article 86. Requirements on prevention of and response to environmental incidents

1. All organizations, individuals and vessels, when operating at seaports, are obliged to comply with the environmental protection law.

2. In addition to the provisions of Clause 1 of this Article, vessels operating at seaports must

also comply with the following requirements:

a/ All vessels' valves and equipment through which hazardous substances may leak out must be securely shut up, put back to the inoperative state, be lead-sealed, with notice boards shown at their places. The removal of seals from or the pumping of waste matters and dirty water through valves or equipment mentioned in this Clause is subject to approval of directors of port authorities and supervision of staff members of such port authorities. Procedures for these activities are as follows:

- The procedure-performing person shall send directly or by post to the port authority an application, made according to Form No. 27 attached to this Decree, for permission to remove seals or pump waste matters and dirty water through valves or equipment;

- Within 4 working hours after receiving the application, the port authority shall issue a written reply. In case of refusal to give permission, it shall clearly state the reason. The written reply shall be sent directly or by post to the procedure-performing person.

b/ Before pumping dirty water, oily wastewater or other hazardous substances through pipelines laid on deck, all drain holes on deck must be securely covered up and trays must be placed under pipeline joints to collect any leakage;

c/ All activities related to the pumping and discharge of oil or other hazardous substances shall be recorded in detail in a particular diary ready for presentation to officers of competent

Vietnamese agencies when necessary.

Article 87. Reporting of environmental pollution incidents at seaports

1. The reporting of environmental pollution incidents occurring at seaports must comply with law.

2. In addition to the provisions of Clause 1 of this Article, shipmasters of all vessels operating at seaports shall comply with the following requirements:

a/ If detecting a threat or an act of causing environmental pollution, to promptly report it to the port authority; at the same time, to clearly record in the vessel logbook the time, location and characteristics of such environmental pollution incident;

b/ If the environmental pollution incident is caused by their own vessels' activities, to immediately apply measures to effectively respond to the incident, and at the same time, report it to the port authority.

Chapter IV

**COORDINATION IN ACTIVITIES OF
SPECIALIZED STATE MANAGEMENT
AGENCIES AT SEAPORTS**

Article 88. Principles of coordination of management activities

1. Specialized state management agencies at seaports, when performing their duties, shall observe the provisions of law and cause no troubles affecting activities of port enterprises,

shipowners, cargo owners, vessels and other organizations and individuals in seaport areas. Port authorities shall assume the prime responsibility for and coordinate activities of specialized state management agencies at seaports.

2. Specialized state management agencies at seaports shall closely coordinate with one another when performing their duties in order to create favorable conditions for port enterprises, shipowners, cargo owners, vessels and other related organizations and individuals to operate in a safe and effective manner.

3. Any arising problem related to the functions and duties of other specialized state management agencies shall be settled in time through consultation and agreement. Any disagreeing agency shall promptly notify its disagreement to the port authority for solution in accordance with law.

4. When procedures are carried out on board a vessel as specified at Point b, Clause 2, Article 54, and Point a, Clause 2, Article 56 of this Decree or in other special circumstances decided by the director of the port authority, who shall take responsibility for his/her decision, specialized state management agencies may set up a procedure-completing team composed of a representative of the port authority as its head and officers appointed by specialized state management agencies as its members (one member for each agency). Particularly for passenger ships, in order to quickly complete procedures, specialized state

management agencies in charge of border guard and customs may appoint more officers to join the team, provided that the number of these officers is approved by the director of the port authority. If finding it unnecessary to get aboard a vessel, specialized state management agencies may refuse to appoint their officers to join the procedure-completing team mentioned in this Clause but shall promptly notify the port authority of results of performance of procedures at their offices.

5. When a specialized state management agency encounters a problem beyond its settling competence, it shall promptly report the problem to its superior agency for immediate settlement. When necessary, related ministries and sectors shall coordinate with the Ministry of Transport in settling the problem and within 4 hours after receiving the report shall report its settlement decision to the agency, organization or individual concerned.

6. In the course of performing their duties, specialized state management agencies shall coordinate with other related agencies and organizations in the area in strictly implementing the provisions of law on all maritime activities at seaports.

Article 89. Responsibilities for coordinating management activities

1. In coordinating management activities of specialized state management agencies at seaports, port authorities shall:

a/ Assume the prime responsibility for and

direct the coordination of management activities of specialized state management agencies at seaports;

b/ Organize and preside over conferences and all meetings with specialized state management agencies or other related agencies, organizations and enterprises in seaport areas in order to reach agreement on the settlement of problems arising in maritime activities in seaport waters under their charge;

c/ Request other specialized state management agencies at seaports to promptly notify results of performance of procedures and solutions to arising problems; request port enterprises, shipowners and shipmasters of vessels and other related agencies and organizations to supply data and information on maritime activities at seaports;

d/ Propose chairpersons of provincial-level People's Committees in their areas to promptly settle arising problems which fall under the competence of the provinces or cities and are related to specialized state management activities at seaports.

2. Other specialized state management agencies at seaports shall:

a/ Closely coordinate with one another in promptly and lawfully completing procedures related to vessels, cargoes, passengers and crew operating at seaports in accordance with this Decree;

b/ Promptly notify port authorities of results of performance of procedures related to vessels, cargoes, passengers and crew operating in

seaports;

c/ After receiving and processing information on arising problems provided by port authorities or shipowners, promptly notify port authorities of these problems for coordinated settlement in time.

Article 90. Specialized inspection, examination, supervision and control at seaports

1. The inspection, examination, supervision and control by specialized state management agencies and other competent agencies of vessels, cargoes, passengers, crew, infrastructure of ports, wharves and other objects operating at seaports must comply with this Decree and relevant laws.

2. The direct supervision and control on board vessels by specialized state management agencies may be carried out only in the following cases:

a/ Vessels show apparent signs of violation of the law.

b/ In case of necessity to ensure national defense, social security, order and safety and epidemic prevention and combat.

3. Cadres and civil servants on duty are strictly prohibited from committing authoritarian, regionalistic, self-seeking, hassling and other negative acts. All related violations shall be handled in accordance with law.

Article 91. Responsibilities of ministries,

sectors and local administrations for activities of specialized state management agencies at seaports

1. Related ministries, sectors and provincial-level People's Committees shall direct and guide activities of their subordinate specialized state management agencies in properly coordinating state management activities at seaports.

2. To examine, inspect and strictly handle wrongdoings and violations in accordance with law.

3. To organize the application of information technology to management activities to effectively facilitate maritime activities in seaports and navigable channels.

Chapter V

IMPLEMENTATION PROVISIONS

Article 92. Effect

1. This Decree takes effect on June 1, 2012, and replaces the Government's Decree No. 71/2006/ND-CP of July 25, 2006, on management of seaports and navigable channels.

2. Attached to this Decree is an appendix containing a number of declaration, decision, permit and application forms for use in maritime activities (*not printed herein*).

Article 93. Organization of implementation

1. The Minister of Transport shall assume the prime responsibility for, and coordinate with

other related ministries, sectors and provincial-level People's Committees in, organizing the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, and chairpersons of provincial-level People's Committees shall implement this Decree.-

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG