

THE MINISTRY OF FISHERIES**CIRCULAR No. 02/2004/TT-BTS OF MARCH 22, 2004 GUIDING THE IMPLEMENTATION OF THE GOVERNMENT'S DECREE No. 70/2003/ND-CP OF JUNE 17, 2003 WHICH PRESCRIBES THE SANCTIONING OF ADMINISTRATIVE VIOLATIONS IN THE FISHERY DOMAIN**

On June 17, 2003, the Government promulgated Decree No. 70/2003/ND-CP, prescribing sanctions against administrative violations in the fishery domain (hereinafter called Decree 70 for short).

Pursuant to Article 31 of the Decree, the Ministry of Fisheries hereby guides a number of points as follows:

I. REGARDING GENERAL PROVISIONS**1. Regulation scope and subjects to be sanctioned****a/ Regulation scope of Decree 70**

Decree 70 prescribes violation acts; sanctioning forms, levels, competence and procedures; as well as remedial measures in the sanctioning of administrative-violation acts in the fishery domain in territorial regions, exclusive economic zones and continental shelf of the Socialist Republic of Vietnam.

b/ Subjects to be administratively sanctioned shall comply with Article 6 of the Ordinance on Handling of Administrative Violations and Article 2 of Decree 70.

2. Sanctioning principles, aggravating and extenuating circumstances, ways of calculating time limits and statute of limitations for sanctioning administrative violations:

a/ Principles for sanctioning administrative violations shall comply with the provisions of Article 3 of the Ordinance on Handling of Administrative Violations and specific guidance in Article 3 of the Government's Decree No. 134/2003/ND-CP of November 14, 2003 detailing the implementation of a number of articles of the 2002 Ordinance on Handling of Administrative Violations (hereinafter called Decree 134 for short).

In cases where many persons are on the same fishing means and commit the same act of administrative violation in the fishery domain, the owner of such means shall be sanctioned.

b/ The sanctioning of minors shall comply with the provisions of Article 7 of the Ordinance on Handling of Administrative Violations.

c/ The determination of extenuating and aggravating circumstances shall comply with the provisions of Articles 8 and 9 of the Ordinance on Handling of Administrative Violations and specific guidance in Article 6 of Decree 134.

d/ The time limit for being considered not yet sanctioned for administrative violations shall comply with the provisions of Article 7 of Decree 134.

e/ The ways of calculating time limits and statute of limitations in sanctioning administrative violations are prescribed in Article 9 of Decree 134.

II. BASES FOR DETERMINING A NUMBER OF VIOLATION ACTS

1. Violation of regulations on protection of

habitat of aquatic species:

Acts of polluting habitats of aquatic species shall, depending on the pollution extent and the polluted water acreage, be sanctioned according to Clause 1, Article 8 of Decree 70. The criteria for determining the extent of water area pollution shall be based on permitted concentration limit of some toxic substances, prescribed in Tables 1A and 1B to the Fisheries Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000 amending and supplementing a number of points in Circular No. 04-TS/TT of August 30, 1990 which guides the implementation of the April 25, 1989 Ordinance of the State Council and Decree No. 195 HDQT of June 2, 1990 of the Council of Ministers on aquatic resource protection and development.

2. Violation of regulations on protection of aquatic species:

a/ Acts of exploiting aquatic species of sizes smaller than the prescribed sizes in excess of the permitted mixed exploitation rate shall be sanctioned according to Clause 1, Article 9 of Decree 70. The minimum sizes permitted for exploitation for aquatic species with high economic value living in natural water areas are prescribed in Table 9A to the Fisheries Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000.

The percentage of aquatic species with sizes being smaller than the minimum sizes permitted for mixed exploitation shall not exceed 15% of the output of a haul or of the total exploited output of a fishing trip. If this percentage is exceeded, the aquatic resource exploiters shall be sanctioned.

b/ Acts of exploiting aquatic species in areas banned from exploitation or being in the period of exploitation ban shall be sanctioned according to Clause 2, Article 9 of Decree 70:

- The exploitation ban period for some aquatic

species is prescribed in Table 8A to the Fisheries Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000.

- Areas banned from exploitation are prescribed in Table 10A to the Fisheries Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000.

- Jobs banned from being carried out at some exploitation lines are prescribed at Point d, Clause 5.2, Section II of the Fisheries Ministry's Circular No. 02/2002/TT-BTS of December 6, 2002 guiding the implementation of the Government's Decree No. 86/2001/ND-CP of November 16, 2001 on conditions for conducting aquatic resource production and business lines (hereinafter called Decree 86 for short).

c/ Acts of exploiting aquatic species on the list of those banned from exploitation shall be sanctioned according to Clause 3, Article 9 of Decree 70. The list of aquatic species banned from exploitation is prescribed in Table 7A to the Fisheries Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000.

d/ Additional regulations of the provincial-level People's Committees on contents mentioned in Clause 3, Article 8 of the November 26, 2003 Law on Fisheries, which have been agreed upon by the Fisheries Ministry, shall also serve as bases for determining acts of violating the regulations on aquatic resource protection.

3. Violation of regulations on aquatic resource exploitation:

Acts of violating the regulations on aquatic resource exploitation shall be sanctioned according to Article 10 of Decree 70. The Ministry of Fisheries hereby guides the application of a number of regulations as follows:

a/ Locations for placing fishing gears such as

fish cages, hecks, weirs, traps,... for aquatic resource exploitation shall be prescribed by the agencies granting permits for aquatic resource exploitation.

b/ The use of searchlights in aquatic resource exploitation for some exploitation jobs and locations for placing searchlights are prescribed at Point c, Clause 3, Section II of the Fishery Ministry's Circular No. 02/2002/TT-BTS of December 6, 2002,

c/ Dimensions of fishing nets' meshes permitted for use for some types of jobs are prescribed in Tables 3A and 3B to the Fisheries Ministry's Circular No. 01/2000/TT-BTS of April 28, 2000.

d/ Permits for aquatic resource exploitation shall be uniformly granted nationwide to aquatic resource exploitation jobs (except for those prescribed in Appendix No. 1 to Decree 86) by the Department for Aquatic Resource Exploitation and Protection (the Ministry of Fisheries) and the provincial Sub-Departments for Aquatic Resource Protection. The form of permit for aquatic resource exploitation is prescribed in Appendix No. 2 to Decree 86.

The duration of permits for aquatic resource exploitation is prescribed at Point b, Clause 2, Section II of the Fisheries Ministry's Circular No. 02/2002/TT-BTS of December 6, 2002.

e/ The regulations on aquatic resource exploitation reporting and exploitation diaries shall comply with the Law on Fisheries and its guiding documents when the Law on Fisheries takes effect.

f/ Only acts of using hand-carried electric shock-generating devices to exploit natural aquatic resources shall be sanctioned according to the provisions of Point c, Clause 2 and Point b, Clause 5, Article 10 of Decree 70. Natural aquatic

resources mean aquatic resources in water areas, submerged land surfaces and land parts of aquatic species' habitats which do not belong to organizations' or individuals' legal use right for culture or exploitation of cultured aquatic resources (according to the Civil Code).

g/ Specialized aquatic resource inspectors, while performing their official duties, if detecting acts of storing, trading in, or transporting explosives or toxic chemicals used for aquatic resource exploitation, or aquatic resource exploitation tools on the list of those banned from use, shall have to make records thereon and sanction them according to their competence prescribed in Article 38 of the Ordinance on Handling of Administrative Violations at the fine levels prescribed in Clause 2, Article 6 of Decree No. 01/CP of January 3, 1996 on sanctions against administrative violations in the trade domain.

4. Violation of regulations on management of fishing ships:

Acts of violating the regulations on management of fishing ships shall be sanctioned according to Article 11 of Decree 70. The Ministry of Fisheries hereby guides the application of some regulations as follows:

a/ Food hygiene and safety conditions on fishing ships are prescribed in branch standard 28 TCN 135: 1999.

b/ The regulations on equipment for ensuring safety for fishermen and fishing means shall comply with the Fisheries Ministry's Circular No. 05/1998/TT-BTS of December 29, 1998 guiding the implementation of the Government's Decree No. 72/1998/ND-CP of September 15, 1998 on ensuring safety for fishermen and fishing means operating on the sea.

c/ Crew members working on fishing ships who must have crew members' books shall comply with the provisions of Article 6 of the Regulation on registry of fishing ships and registration of fishing ships and crew members, promulgated together with the Fisheries Minister's Decision No. 494/2001/QĐ-BTS of June 15, 2001.

d/ Aquatic resource exploitation practitioners or crew members on fishing ships, who have no fishing ship crew members' books (for crew members working on fishing ships mentioned at Point c, Clause 4, Section II of this Circular), personal papers or professional certificates, shall be sanctioned according to Point c, Clause 1, Article 11 of Decree 70.

e/ Motorized fishing ship or ship engine operators who fail to acquire ship captain's or chief engineer's diplomas prescribed in the Fisheries Ministry's Circular No. 02/2002/TT-BTS of December 6, 2002 shall be sanctioned according to Point a, Clause 3, Article 11 of Decree 70.

f/ All ships and boats, before being put to use, must be registered; fishing ships are subject to registry according to the provisions of Clause 1, Part A, Section II of the Fisheries Ministry's Circular No. 01/2004/TT-BTS of January 15, 2004 guiding the implementation of Clause 1, Article 1 of the Government's Decree No. 80/2002/ND-CP of October 15, 2002 which amends and supplements a number of articles of Decree No. 72/1998/ND-CP of September 15, 1998 on ensuring safety for fishermen and fishing means operating on the sea.

g/ Fishing ships which must have design dossiers upon modification or building are prescribed in Articles 7 and 15 of the Regulation on registry of fishing ships and registration of fishing ships and crew members, promulgated together with the Fisheries Minister's Decision No. 494/

2001/QD-BTS of June 15, 2001 and the Fisheries Ministry's Circular No. 01/2004/TT-BTS of January 15, 2004.

h/ Other specific provisions on fishing ship and crew member registry and registration shall comply with the Regulation on registry of fishing ships and registration of fishing ships and crew members, promulgated together with the Fisheries Minister's Decision No. 494/2001/QD-BTS of June 15, 2001.

5. Violation of regulations on aquaculture:

Acts of violating the regulations on aquaculture shall be sanctioned according to Articles from 12 thru 14 of Decree 70. The Ministry of Fisheries hereby guides the application of some regulations as follows:

a/ Some standards on veterinary sanitation and environmental protection for breeding establishments are prescribed in branch standard 28 TCN 173: 2001.

b/ Some standards on conditions for ensuring food hygiene and safety for shrimp- and fish-rearing establishments and bivalve mollusk-harvesting zones are prescribed in branch standards 28 TCN 190: 2004, 28 TCN 191: 2004, 28 TCN 192: 2004 and 28 TCN 193: 2004.

c/ Professional qualifications of managerial cadres and technical workers of breeding establishments are prescribed in Clause 3, Article 9 of Decree 86.

d/ Aquatic breed quality shall comply with the provisions in the fishery branch standards issued by the Ministry of Fisheries.

e/ The inspection and quarantine of aquatic breeds shall comply with the provisions at Point c, Clause 1, Section III of the Fisheries Ministry's

Circular No. 02/2002/TT-BTS of December 6, 2002.

Transporting aquatic breeds with volumes exceeding 15% of those inscribed in the quarantine certificates shall be sanctioned according to Point a, Clause 2, Article 12 of Decree 70.

f/ The list of aquatic resources (including breeds) permitted for usual import and list of those banned from export shall comply with the Fisheries Ministry's regulations on specialized aquatic goods export and import management.

g/ The use of aquatic feeds, chemicals and veterinary drugs shall comply with the provisions at Point 2.2, Clause 2, Section III of the Fisheries Ministry's Circular No. 02/2002/TT-BTS of December 6, 2002.

h/ The Regulation on management of the environment of the concentrated shrimp-rearing areas is promulgated together with the Fisheries Minister's Decision No. 04/2002/QD-BTS of January 24, 2002.

i/ The regulations on inspection and recognition of aquaculture establishments meeting the food hygiene and safety standards shall comply with the Regulation on inspection and recognition of aquatic resource business establishments meeting the food hygiene and safety standards promulgated together with the Fisheries Ministry's Decision No. 649/2000/QD-BTS of August 4, 2000 (hereinafter called Regulation 649 for short).

j/ The Regulation on testing of aquatic breeds, feeds, drugs, chemicals and bio-preparations used in aquaculture is issued together with the Fisheries Ministry's Decision No. 18/2002/QD-BTS of May 24, 2002.

k/ The Regulation on control of toxic residues in aquatic animals and animal products is issued

together with the Fisheries Ministry's Decision No. 15/2002/QĐ-BTS of May 17, 2002.

V The regulations on epidemic prevention shall comply with Section II of Circular No. 02 TS/TT of June 25, 1994 guiding the implementation of the Government's Decree No. 93/CP of November 27, 1993 on veterinary work for aquatic animals and the products thereof.

6. Violation of regulations on aquatic resource processing:

Acts of violating the regulations on aquatic resource processing shall be sanctioned according to Article 15 of Decree 70. The Ministry of Fisheries hereby guides the application of some regulations as follows:

a/ Conditions for ensuring food hygiene and safety by processing establishments are prescribed in branch standards 28 TCN 130: 1998, 28 TCN 136: 1999, 28 TCN 137: 1999, 28 TCN 138: 1999, 28 TCN 139: 2000 and 28 TCN 175: 2002.

b/ The regulations on inspection and recognition of aquatic resource processing establishments meeting the food hygiene and safety standards shall comply with Regulation 649.

c/ The system of quality management for aquatic resource-industrially processing establishments shall comply with branch standard 28 TCN 129: 1998 Aquatic resource-processing establishments – Program for quality management and food safety according to HACCP.

d/ The list of banned additives, chemicals, detergents, disinfectants and impurities is prescribed in the Fisheries Minister's Decision No. 01/2002/QĐ-BTS of January 22, 2002.

e/ The list of additives, chemicals, detergents

and disinfectants permitted for use in processing is prescribed in the Health Minister's Decision No. 3742/2001/QĐ-BYT of August 31, 2001 and branch standard 28 TCN 156: 2000 Regulations on the use of food additives in aquatic resource processing.

f/ The regulations on professional qualifications of technical cadres or personnel of aquatic resource-industrially processing establishments shall comply with Clause 3, Article 11 of Decree No. 86/2001/ND-CP.

g/ For aquatic resource material evidences which are doubted to contain natural toxins detrimental to human health, when conducting inspection or control, the persons competent to sanction shall have to temporarily keep them for testing and determination. If the testing or determination results show that aquatic resources contain natural toxins detrimental to human health, sanctions shall be imposed according to the provisions at Point e, Clause 5, Article 15 of Decree 70 and such volumes of aquatic resources are subject to forcible destruction. If the testing or determination results show that aquatic resources do not contain toxins, such volumes of aquatic resources must be returned to their owners or handled according to other law provisions.

h/ Acts of collecting, preserving, transporting, processing and/or consuming puffer or puffer products shall be sanctioned according to the provisions at Point e, Clause 5 of Article 15 and Point d, Clause 4 of Article 18 of Decree 70; goods and material evidences used in violations are subject to forcible destruction.

7. Violation of regulations on fishery service lines:

Acts of violating the regulations on fishery

service lines shall be sanctioned according to Articles from 16 thru 20 of Decree 70. The Ministry of Fisheries hereby guides the application of some regulations as follows:

a/ Agencies competent to grant assorted papers:

- The Department for Aquatic Resource Quality, Safety, Hygiene and Veterinary Management shall grant certificates of veterinary drug production registration.

- The provincial/municipal Fisheries Services and Agriculture and Rural Development Services managing aquatic resources shall grant certificates of eligibility for aquatic veterinary drug and feed trading.

- Certificates for aquatic veterinary drug production and/or business practicing and veterinary service provision shall be granted by the Department for Aquatic Resource Quality, Safety, Hygiene and Veterinary Management and the provincial Sub-Departments for Aquatic Resource Protection according to the provisions of the Fisheries Ministry's Circular No. 01/2002/TT-BTS of September 5, 2002 guiding the implementation of Point c, Clause 2, Article 8 of the Government's Decree No. 03/2000/ND-CP of February 3, 2000 which guides the implementation of a number of articles of the Enterprise Law.

b/ The lists of aquatic additives, chemicals, feeds and veterinary drugs permitted for use and restricted from use are prescribed in Decision No. 17/2002/QD-BTS of May 24, 2002 and branch standard 28 TCN 156: 2000, which shall be annually amended and/or supplemented by the Ministry of Fisheries.

c/ Food hygiene and safety standards and conditions for fish ports are prescribed in branch standard 28 TCN 163: 2000.

III. REGARDING SANCTIONING FORMS, PROCEDURES FOR APPLICATION OF PRECLUSIVE MEASURES AND SANCTIONING PROCEDURES

1. The sanctioning forms and remedial measures for administrative violations in the fishery domain are prescribed in Article 7 of Decree 70 and Articles 11 and 12 of Decree 134.

2. The procedures for application of measures to preclude administrative violations in the fishery domain shall comply with Articles from 43 thru 52 of the Ordinance on Handling of Administrative Violations and the following guidance:

a/ While performing their official duties, the fishery specialized inspectors may apply measures to check transport means (including fishing ships); When taking these measures, they must comply with the provisions of Article 48 of the Ordinance on Handling of Administrative Violations.

b/ Procedures and competence to temporarily seize material evidences and/or means used in administrative violations shall comply with Article 46 of the Ordinance on Handling of Administrative Violations.

Where there are grounds to believe that if the material evidences and/or means used in administrative violations are not temporarily seized immediately, they may be dispersed or destroyed, the fishery specialized inspectors shall be entitled to issue decisions to temporarily seize material evidences and/or means used in administrative violations. Within 24 hours after issuing a decision, the decision-maker must report thereon to the provincial/municipal service-level fishery specialized chief inspector or the Fisheries Ministry's fishery specialized chief inspector and

obtain such person's written consent; in cases where such person disagrees therewith, the person who has issued the temporary seizure decision must immediately cancel such decision and return the temporarily seized means and things. The temporary seizure of material evidences and/or means of administrative violations must comply with the provisions of Article 46 of the Ordinance on Handling of Administrative Violations.

c/ In order to prevent violators from continuing to commit administrative violations and to ensure the implementation of the sanctioning decisions against administrative violation acts which, according to the provisions of the Decree, are subject to confiscation of material evidences and/or means of violation, the fishery specialized inspectors, while performing their official duties, may request the carriage of violating persons, material evidences and/or means to anchorage wharves or their head-offices for handling.

3. Sanctioning procedures:

a/ When sanctioning administrative violations in the fishery domain, the competent persons must strictly abide by the provisions of Articles from 53 thru 69 of the Ordinance on Handling of Administrative Violations and the order prescribed in Chapter IV of Decree 13A.

b/ In cases where only form of fine is applied to the violating individuals or organizations, the fishery specialized inspectors may temporarily seize one or several of the following papers until such individuals or organizations have completely executed the sanctioning decisions:

- Permit for exploitation in sea conservation areas and submerged land conservation areas;
- Permit for aquatic resource exploitation;

- Assorted certificates of technical safety (registry);
- Quarantine certificates;
- Certificates of production/business eligibility;
- Goods quality certificates;
- Assorted professional certificates (driving licenses, crew members' books, practicing certificates,...);
- Relevant personal papers.

If the violating individuals or organizations do not possess the above-said papers, the fishery specialized inspectors may request the violating organizations or individuals to bring their means to the anchorage wharves or their head-offices for handling or temporarily seize the material evidences or violating means according to their competence.

When detecting that the above-said papers are granted *ultra vires* or contain contents contrary to law, the persons competent to sanction shall have to immediately withdraw them and at the same time notify the competent State agencies thereof.

c/ Procedures for confiscation of material evidences and means of administrative violations:

- When the confiscation of material evidences or means of administrative violations is inscribed in sanctioning decisions, the persons competent to sanction must make records thereon.

- Where it is necessary to seal up material evidences or means of violations, the sealing must be effected right before the sanctioned persons or representatives of sanctioned organizations and witnesses; if the sanctioned persons or representatives of sanctioned organizations are absent, there must be two witnesses.

- Material evidences or means, which are appropriated or illegally used by violating individuals

be returned to their lawful owners, managers or users.

d/ Handling of material evidences and means of administrative violations

Confiscated material evidences and means of administrative violations must be handled according to Article 61 the Ordinance on Handling of Administrative Violations and the guidance in Articles 31, 32 and 33 of Decree 134.

The handling of material evidences and means of violation in the fishery domain, which are subject to forcible destruction, must observe the following principles:

- For material evidences being aquatic resource exploitation tools on the list of those banned from use, the handling agencies must destroy them or take measures to exclude the possibility of having them re-used for aquatic resource exploitation purpose.

- For material evidences being diseased aquatic resources, upon destruction, it is necessary to take measures to exclude the possibility of spreading disease germs.

- For material evidences being aquatic resources containing natural toxins, upon destruction, it is necessary to take measures to exclude impacts of such toxins on human health and natural environment.

- Material evidences of administrative violations being substances easily causing fire or explosion shall be handled according to the provisions of Clause 2, Article 25 of Decree 70.

Upon handling of material evidences or means of violations in the fishery domain, which are subject to forcible destruction, the destruction councils must be set up. The councils for handling of material evidences of violations in the fishery domain, which are subject to forcible destruction, must be

composed of:

- Representatives of persons competent to impose sanctions,

- Representatives of fishery State management bodies,

- Representatives of environment and public security bodies.

Depending on the nature of to be-destroyed material evidences, representatives of other functional agencies may also be invited.

e/ The postponement of execution of decisions on fines shall comply with Article 65 of the Ordinance on Handling of Administrative Violations.

The return of papers, material evidences or means temporarily seized in case of postponement of execution of fining decisions shall comply with Article 26 of Decree 134.

f/ Transferring decisions on sanctioning administrative violations:

The transfer of decisions on sanctioning administrative violations in the fishery domain shall only apply to the form of fine inscribed in the decisions. The procedures and order for transferring decisions on sanctioning administrative violations shall comply with Article 26 of Decree 70 and Article 27 of Decree 134.

The agencies issuing the sanctioning decisions must archive dossiers of administrative violation cases and sanctioning decisions' copies.

The agencies executing sanctioning decisions shall have to organize the execution of sanctioning decisions, collect and remit fines according to the provisions of Articles 57, 58, 64 and 66 of the Ordinance on Handling of Administrative Violations; notify the agencies transferring the sanctioning decisions in writing of the results within 3 days after having completely executed the sanctioning

decisions.

4. The procedures for application of measures for forcible implementation of administrative violation-sanctioning decisions shall comply with the Government's separate regulations.

5. For complicated violations which are difficult to be determined as administrative violations or as having constituted crimes prescribed in the Penal Code, the persons competent to sanction administrative violations shall consult with the investigating bodies of the same levels and issue decisions on sanctioning administrative violations or carry out procedures to transfer dossiers for penal liability examination only after obtaining the opinions of the investigating bodies of the same levels. The transfer of dossiers of violation cases which show criminal signs for penal liability examination shall comply with Article 62 of the Ordinance on Handling of Administrative Violations.

IV. REGARDING SANCTIONING COMPETENCE

1. The principles for determining competence to handle violations shall comply with Article 42 of the Ordinance on Handling of Administrative Violations and the specific guidance in Article 13 of Decree 134. The competence to sanction administrative violations in the fishery domain is prescribed in Articles from 22 thru 25 of Decree 70.

2. The fishery specialized inspectorates, which, for the immediate future, act as the aquatic resource protection inspectorates, set up by the Prime Minister and organized and operating under Decision No. 415/TTg of August 10, 1994, may sanction administrative violations according to their competence prescribed in Article 23 of Decree 70:

a/ The Fisheries Ministry's fishery specialized inspectorate acts as the central aquatic resource protection inspectorate;

b/ The provincial/municipal Fisheries Services' fishery specialized inspectorates act as the provincial aquatic resource protection inspectorates.

3. The sanctioning competence of fishery specialized inspectors and chief inspectors of various levels prescribed in Article 23 of Decree 70 is the competence applicable to an administrative violation. In case of fine, the sanctioning competence shall be determined on the basis of the maximum level of the fine bracket prescribed for each specific violation act in Decree 70.

4. In case of sanctioning a person who commits many administrative violation acts, the sanctioning competence shall be determined on the following principles:

a/ If the sanctioning forms and levels prescribed for each act all fall under the sanctioning persons' competence, such persons shall still have the sanctioning competence;

b/ If the sanctioning forms and levels prescribed for one of acts fall beyond the sanctioning persons' competence, such persons must transfer the violation cases to authorities competent to impose sanctions;

c/ If acts fall under sanctioning competence of many persons of different sectors, the sanctioning competence shall belong to the presidents of the People's Committees of the levels with sanctioning competence of the localities where the violations are committed.

5. While conducting inspection or control on the sea, if detecting acts of infringing upon the territorial

waters, territorial water-contiguous areas, exclusive economic zones or continental shelf of the Socialist Republic of Vietnam for the purpose of research, prospection or exploitation of aquatic resources, the fishery specialized inspectorates shall have to make records thereon and arrest violating persons and means in order to transfer them to competent functional agencies for handling according to the provisions of Vietnamese law, and at the same time coordinate with such agencies in handling thereof.

6. Authorization to sanction administrative violations shall comply with Article 41 of the Ordinance on Handling of Administrative Violations and the specific guidance in Article 14 of Decree 134.

V. SOME FORMS AND PAPERS USED IN SANCTIONING ADMINISTRATIVE VIOLATIONS IN THE FISHERY DOMAIN:

Based on Decree 134, the Ministry of Fisheries promulgates together with this Circular the list of the following forms of records and decisions used in sanctioning administrative violations in the fishery domain:

1. Form 01 - BBXP: Record on administrative violations in the fishery domain
2. Form 02 – BBXP: Record on temporary seizure of papers, material evidences and means of administrative violations in the fishery domain
3. Form 03 – BBXP: Record on confiscation of material evidences and means of administrative violations in the fishery domain
4. Form 04 – BBXP: Record on inspection of transport means and articles according to administrative procedures
5. Form 05 – BBXP: Record on hand-over or

return of papers, material evidences and means of administrative violations in the fishery domain

6. Form 06 – BBXP: Record on destruction of material evidences and means of administrative violations in the fishery domain

7. Form 07 – QDXP: Decision on sanctioning administrative violations in the fishery domain

8. Form 08 – QDXP: Decision on sanctioning administrative violations in the fishery domain in form of fine (according to simple procedures)

9. Form 09 – QDXP: Decision on sanctioning administrative violations in the fishery domain in form of caution

10. Form 10 – QDXP: Decision on temporary seizure of papers, material evidences and means of administrative violations in the fishery domain

11. Form 11 – QDXP: Decision on forcible implementation of decisions on sanctioning administrative violations in the fishery domain

12. Form 12 – QDXP: Decision on postponement of sanctioning administrative violations in the fishery domain

13. Form 13 – QDXP: Decision on transfer of dossiers of administrative violations in the fishery domain to legal-proceedings agencies.

VI. ORGANIZATION OF IMPLEMENTATION

1. The ministries and branches competent to handle administrative violations in the fishery domain and the People's Committees of all levels shall direct and guide the implementation of the regulations on sanctioning administrative violations in the fishery domain among ministries, branches and units under their respective management, and

regularly coordinate with the Ministry of Fisheries in implementing Decree 70.

2. The Legal Department shall assist the Minister; the directors of the provincial/municipal Services of Fisheries and Services of Agriculture and Rural Development shall assist the presidents of the provincial/municipal People's Committees, in propagating and disseminating the contents of Decree 70 and the Ordinance on Handling of Administrative Violations to organizations and individuals engaged in fishing and relevant activities.

The Department for Aquatic Resource Exploitation and Protection and the Department for Aquatic Resource Quality, Safety, Hygiene and Veterinary Management shall coordinate with the Legal Department and the Fisheries Ministry's Inspectorate in organizing training on the work of administrative violation sanctioning for the fishery specialized inspectorates.

3. The directors of the provincial/municipal Services of Fisheries and Services of Agriculture and Rural Development managing aquatic resources shall have to assist the provincial/municipal People's Committees in directing the implementation of Decree 70 in their respective localities; sum up the situation on examination and

sanctioning of administrative violations by the provincial fishery specialized inspectorates and report thereon to the provincial People's Committees and the Ministry of Fisheries; propose in time to the Ministry of Fisheries problems arising in the implementation of Decree 70 and this Circular.

4. This Circular takes effect 15 days after its publication in the Official Gazette and replaces the Fisheries Ministry's Circular No. 04-TT/BVNLTS of October 10, 1996 guiding the implementation of the Government's Decree No. 48/CP of August 12, 1996 which prescribes the sanctioning of administrative violations in the aquatic resource protection domain and the Fisheries Ministry's Circular No. 01/1998/TT-BTS of February 19, 1998 amending and supplementing a number of points of the Fisheries Ministry's Circular No. 04-TT/BVNLTS of October 10, 1996 guiding the implementation of the Government's Decree No. 48/CP of August 12, 1996 which prescribes the sanctioning of administrative violations in the aquatic resource protection domain; all previous regulations contrary to this Circular are hereby annulled.

Minister of Fisheries
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