

THE STATE PRESIDENT

ORDER No. 17/2008/L-CTN OF SEPTEMBER 10, 2008, ON THE PROMULGATION OF ORDINANCE

**THE PRESIDENT OF THE SOCIALIST
REPUBLIC OF VIETNAM**

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

Pursuant to Article 19 of the Law on Organization of the National Assembly;

Pursuant to Article 51 of the Law on Promulgation of Legal Documents,

PROMULGATES:

the Ordinance on Procedures for the Arrest of Seagoing Ships,

which was passed on August 27, 2008, by the XIIth National Assembly Standing Committee.

*President of
the Socialist Republic of Vietnam*
NGUYEN MINH TRIET

**ORDINANCE ON PROCEDURES FOR
THE ARREST OF SEAGOING SHIPS**

(No. 05/2008/UBTVQH12)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

Pursuant to Resolution No. 11/2007/QH12, on the 2008 law- and ordinance making program;

The National Assembly Standing Committee promulgates the Ordinance on Procedures for the Arrest of Seagoing Ships.

Chapter I

GENERAL PROVISIONS :

Article 1.- Scope of regulation

This Ordinance specifies the jurisdiction, order and procedures for the arrest of seagoing ships to secure the settlement of maritime claims, as a provisional urgent measure, to enforce civil judgments or to provide judicial assistance, and the jurisdiction, order and procedures for the release of seagoing ships from arrest.

Article 2.- Subjects of application

This Ordinance applies to Vietnamese and foreign agencies, organizations and individuals involved in the settlement of maritime claims, application of a provisional urgent measure, enforcement of civil judgments or provision of judicial assistance which gives rise to the right to

arrest seagoing ships.

Article 3.- Jurisdiction to decide to arrest seagoing ships

1. People's courts of provinces or centrally run cities (below collectively referred to as provincial-level people's courts) where exist seaports or inland waterway ports (below collectively referred to as ports) at which seagoing ships subject to arrest applications are operating have the jurisdiction to arrest these seagoing ships to secure the settlement of maritime claims, enforcement of civil judgments or exercise of jurisdiction given by foreign courts.

In case a port consists of many berths situated in different provinces or centrally run cities, the provincial-level people's court of the locality where exists the port at which a seagoing ship subject to an arrest application is operating has the jurisdiction to decide to arrest the ship.

2. People's courts currently handling civil cases and provincial-level people's courts in localities where arbitration councils accept to settle disputes have the jurisdiction to decide to arrest seagoing ships as a provisional urgent measure.

3. The president of the Supreme People's Court shall consider and decide to vest a court with the jurisdiction to decide to arrest seagoing ships in case concerned provincial-level people's courts cannot reach agreement on such jurisdiction.

Article 4.- Liability for wrongful applications for arrest of seagoing ships

1. Applicants for the arrest of seagoing ships shall be held responsible before law for their applications. In case a wrongful application for the arrest of a seagoing ship causes loss or damage, the applicant shall pay damages.

2. All losses or consequences of an application for the wrongful arrest of a seagoing ship shall be remedied under agreement between the involved parties. In case no agreement can be reached and a dispute arises, the involved parties may bring the case to a court or an arbitration center for handling under law.

3. Courts that issue decisions to arrest seagoing ships for reasons other than those for which the arrest of these seagoing ships is applied for or decisions to arrest seagoing ships other than those the arrest of which is applied for, causing losses or damage, shall pay damages under law.

Article 5.- Financial security for applications for the arrest of seagoing ships

1. An applicant for the arrest of a seagoing ship shall provide a financial security, except the cases specified at Points c and d, Clause 1, Article 44 of this Ordinance, by either or both of the following modes:

a/ Furnishing the court of jurisdiction with a property guarantee document of a bank or another credit institution or another individual, agency or organization;

b/ Depositing a sum of money, precious metal, gem or negotiable instrument under a decision of the court of jurisdiction on compulsory provision of financial security into a segregated

account at a bank in the locality where the court of jurisdiction is located within forty eight hours after the receipt of that decision.

In case financial security for an application for the arrest of a seagoing ship is provided on a weekend or holiday, the security asset shall be temporarily kept at the court. The court shall only receive a sum of money or a negotiable instrument and seal it up for preservation. On the following working day, the applicant for the arrest of a seagoing ship shall promptly deposit that asset into a bank under the court's supervision.

2. The value of financial security is fixed by the court to be equal to the loss or damage possibly caused by the wrongful application for the arrest of a seagoing ship.

3. Upon deciding to release a seagoing ship from arrest, a judge shall take into account the financial security for the application of the arrest of a seagoing ship specified in Clause 1 of this Article, unless otherwise agreed by the involved parties. Depending on each case, the judge may make one of the following decisions:

a/ To keep the financial security for the application of the arrest of a seagoing ship unchanged in case he/she considers the application wrongful and the value of the financial security is possibly adequate or is inadequate for payment of damages;

b/ To refund part of the value of the financial security for the application for the arrest of a seagoing ship in case he/she considers the application wrongful and the value of the financial security exceeds the liability to pay damages;

c/ To refund the whole financial security for the application for the arrest of a seagoing ship in case he/she considers the application correct.

Article 6.- Fee for the arrest of seagoing ships

1. Applicants for the arrest of seagoing ships shall pay a fee prescribed by law.

2. The fee for the arrest of a seagoing ship to secure the settlement of a maritime claim, as a provisional urgent measure, to enforce a civil judgment or exercise the jurisdiction given by a foreign court shall be paid to the court competent to decide to arrest seagoing ships defined in Article 3 of this Ordinance within forty eight hours after the court demands the fee be paid.

Article 7.- Supervision of the observance of law in the arrest of seagoing ships

People's procuracies shall supervise the observance of law in the arrest of seagoing ships; the exercise the rights to protest under law in order to assure the timely and lawful arrest of seagoing ships.

Article 8.- Documents and evidence enclosed with applications for the arrest of seagoing ships or written requests for the release of seagoing ships from arrest

1. Enclosed with applications for the arrest of seagoing ships or written requests for the release of seagoing ships from arrest must be documents and evidence proving that these applications or requests are grounded and lawful.

2. In case documents and evidence enclosed

with an application for the arrest of a seagoing ship or requests for the release of a seagoing ship from arrest are in a foreign language, their lawfully notarized Vietnamese translations are required under Vietnamese law. Documents and papers which are compiled, issued or certified by competent foreign authorities under foreign laws must be legalized by consular offices, unless that consular legalization is exempt under the provisions of a treaty to which the Socialist Republic of Vietnam is a contracting party.

Article 9.- Execution of decisions to arrest seagoing ships or decisions to release seagoing ships from arrest

1. Immediately after issuing a decision to arrest a seagoing ship or a decision to release a seagoing ship from arrest, the court president shall assign a court officer to serve that decision under Clause 2 of this Article.

2. Within twelve hours after being assigned, the court officer shall arrive at the port to hand two copies of the decision to the director of the seaport authority or the inland waterway port (below referred to as the port authority director) where the seagoing ship in question is operating. The port authority director shall execute the decision to arrest a seagoing ship or the decision to release a seagoing ship from arrest under law and hand one copy thereof to the shipmaster for compliance.

If the court officer cannot arrive at the port within the above time limit, the decision may be sent by fax or e-mail under law.

3. State management agencies in charge of

maritime, security, quarantine, customs, tax, culture and information, fire and explosion prevention and fighting, environmental protection and other state management agencies shall coordinate with one another in executing decisions to arrest seagoing ships at the request of the port authority director and submit to the administration by the port authority director in the coordinated execution of these decisions.

The Vietnam Coast Guard shall coordinate with above agencies in executing decisions to arrest seagoing ships at the request of port authority directors.

4. Owners, charterers or operators of seagoing ships under arrest shall maintain the operation of these seagoing ships.

5. The Government shall specify the execution of court decisions mentioned in Clause 2 of this Article and the handling of seagoing ships which are abandoned by their owners, or the public auction of seagoing ships under arrest.

Article 10.- Notification of the execution of decisions to arrest seagoing ships or decisions to release seagoing ships under arrest

1. Port authority directors shall notify in writing courts, the Vietnam Maritime Administration and concerned state management agencies at their ports of the execution of decisions to arrest seagoing ships or decisions to release seagoing ships under arrest. In case of arresting seagoing ships for the enforcement of civil judgments, they shall promptly notify such to civil judgment enforcement bodies so that the latter can enforce civil judgments.

2. Shipmasters shall notify ship owners, charterers and operators and parties with related interests of the arrest of their seagoing ships or the release of their seagoing ships from arrest.

Chapter II

PROCEDURES FOR THE ARREST OF SEAGOING SHIPS, RELEASE OF SEAGOING SHIPS FROM ARREST OR SUBSEQUENT ARREST OF SEAGOING SHIPS TO SECURE THE SETTLEMENT OF MARITIME CLAIMS

Article II.- Maritime claims giving rise to the right to apply for the arrest of seagoing ships

Maritime claims giving rise to the right to apply for the arrest of seagoing ships are those for:

1. Wages, repatriation allowances, social insurance premiums and other sums of money payable to shipmasters, officers and other crewmembers within the complement of seagoing ships;
2. Damages for the loss of life, personal injuries and other human health damage directly caused by the operation of seagoing ships;
3. Freight, maritime security charge, pilotage, wharfage, and other seaport dues and charges;
4. Seagoing ship salvage remunerations;
5. Property losses and damage outside contract directly caused by the operation of seagoing ships;
6. Damage caused or threatened to be caused by seagoing ships to the environment, coastline or other related interests; measures applied to prevent, mitigate or preclude such damage;
7. Damages; expenses for applied or to-be-applied actual reasonable measures to rehabilitate the environment; averages incurred or likely to be incurred to third parties involved in such damage; similar damage, expenses or averages specified in this Clause;
7. Charges for the raising, movement, recovery, demolition or rendering harmless of shipwrecks, stranded or deserted seagoing ships, including any appurtenance that is or has been onboard seagoing ships, and charges or costs related to the preservation of deserted seagoing ships and expenses due to their crews;
8. Agreements relating to the use or charter of seagoing ships, whether in charter parties or otherwise expressed;
9. Agreements relating to the transportation of cargoes or passengers onboard seagoing ships, whether in charter parties or otherwise expressed;
10. Loss of or damage to cargoes, including luggage carried onboard seagoing ships;
11. General average;
12. Towage;
13. Pilotage;
14. Goods, materials, food, ~~fuels~~ and equipment (including containers) ~~supplied~~ or services provided to seagoing ships for their operation, management, preservation and maintenance;
15. Building, transformation, reconstruction, repair or equipping of seagoing ships;
16. Sums of money paid on behalf of ship owners;

17. Insurance premiums paid by ship owners or other parties on behalf of ship owners or bareboat charterers;

18. Commissions or charges for brokerage or agency for seagoing ships payable by ship owners, bareboat charterers or authorized parties;

19. Disputes as to the title to or ownership of seagoing ships;

20. Disputes between co-owners of seagoing ships over the use of these ships or earnings of these ships;

21. Mortgage or hypothecation of seagoing ships.

22. Disputes arising from contracts of seagoing ship purchase and sale.

Article 12.- The right to apply for the arrest of seagoing ships to secure the settlement of maritime claims

Parties making maritime claims (claimants) specified in Article 11 of this Ordinance may request competent courts specified in Clause 1, Article 3 of this Ordinance to decide to arrest seagoing ships to secure the settlement of maritime claims.

Article 13.- Conditions for arrest of seagoing ships to secure the settlement of maritime claims

1. Upon receiving an application for the arrest of a seagoing ship to secure the settlement of a maritime claim specified in Article 12 of this Ordinance, a court shall decide to arrest the seagoing ship in the following cases:

a/ The ship owner is the party responsible for the maritime claim at the time the maritime claim arose and still owns the ship at the time of its arrest.

b/ The bareboat charterer is the party responsible for the maritime claim at the time the maritime claim arose and still owns the bareboat charterer or the owner of the ship at the time of its arrest;

c/ This maritime claim is based on the mortgage of the seagoing ship concerned;

d/ This maritime claim is related to the right to ownership or possession of the seagoing ship;

e/ This maritime claim is secured by a maritime lien related to the seagoing ship.

2. The arrest may also be effected of another or many other seagoing ships owned by the party held responsible for the maritime claim and, at the time the maritime claim arose, is also:

a/ The owner of the seagoing ship in respect of which the maritime claim arose;

b/ The bareboat charterer, time charterer or voyage charterer of the seagoing ship in respect of which the maritime claim arose.

3. The provisions of Clause 2 of this Article do not apply to maritime claims related to the right to ownership of seagoing ships.

Article 14.- Period of arrest of seagoing ships to secure the settlement of maritime claims

1. The period of arrest of a seagoing ship to secure the settlement of a maritime claim must not exceed thirty days from the date of arrest.

2. During the period of arrest of a seagoing

ship to secure the settlement of a maritime claim, if the applicant institutes a lawsuit at court or brings the dispute to an arbitration center for settlement and maintains the application for the arrest, the period of arrest of a seagoing ship to secure the settlement of a maritime claim will expire when the court decides to or not to apply the arrest of the seagoing ship as a provisional urgent measure.

Article 15.- Applications for the arrest of seagoing ships to secure the settlement of maritime claims

1. Applicants for the arrest of seagoing ships to secure the settlement of maritime claims shall file applications.

2. An application for the arrest of a seagoing ship to secure the settlement of a maritime claim contains the following principal details:

- a/ Date of making;
- b/ Name of the application-receiving court;
- c/ Name, address and nationality of the applicant;
- d/ Name, nationality and identity number of the seagoing ship under regulations of the International Maritime Organization (IMO), tonnage and other specifications of the seagoing ship the arrest of which is applied for; the seaport where the seagoing ship is operating;
- e/ Name, address and nationality of the shipmaster;
- f/ Name, address and nationality of the ship owner;
- g/ Name, address and nationality of the ship

charterer or operator in case of a claim for payment by the ship charterer or operator;

h/ Specific maritime claim which gives rise to the right to apply for the arrest of the seagoing ship and the maximum value of that maritime claim;

i/ Anticipated loss or damage likely to be caused by the application for the arrest of the seagoing ship.

3. In case applicants for the arrest of seagoing ships do not accurately and adequately know the details specified at Point e, f and g, Clause 2 of this Article, they shall write down what they know related to those details.

Article 16.- Filing of applications for the arrest of seagoing ships to secure the settlement of maritime claims and enclosed documents and evidence

Applicants for the arrest of seagoing ships to secure the settlement of maritime claims shall file their applications and enclosed documents and evidence to courts competent to decide to arrest seagoing ships specified in Clause 1, Article 3 of this Ordinance.

Article 17.- Receipt of applications for the arrest of seagoing ships to secure the settlement of maritime claims

Upon receiving applications for the arrest of seagoing ships to secure the settlement of maritime claims and enclosed documents and evidence, courts competent to decide to arrest seagoing ships specified in Clause 1, Article 3 of this Ordinance shall record them in application receipt books.

Court presidents of courts shall promptly assign a judge to handle applications.

Article 18.- Examination of applications for the arrest of seagoing ships to secure the settlement of maritime claims

1. Within forty eight hours after receiving an application for the arrest of a seagoing ship and enclosed documents and evidence, the judge shall examine the application and make one of the following decisions:

a/ To accept the application if finding that the conditions for issuance of a decision to arrest the seagoing ship are fully met, and request the applicant to furnish a financial security for the application and pay an arrest fee;

b/ To return the application if finding that the conditions for issuance of a decision to arrest the seagoing ship are not fully met or the handling of the application falls beyond the court's jurisdiction.

2. In case courts decide to return applications for the arrest of seagoing ships to secure the settlement of maritime claims, courts shall immediately hand or send these applications and enclosed documents and evidence back to applicants.

Article 19.- Complaints about decisions to return applications for the arrest of seagoing ships to secure the settlement of maritime claims, and the settlement thereof

1. Within twenty four hours after receiving a decision to return his/her application for the arrest of a seagoing ship to secure the settlement of a

maritime claim, the applicant may lodge a written complaint with the court president about that decision.

2. Within twenty four hours after receiving a written complaint about the decision to return the application for the arrest of a seagoing ship to secure the settlement of a maritime claim and enclosed documents and evidence, the court president shall make one of the following decisions:

a/ To uphold the decision;

b/ To cancel the decision and receive once again the application and enclosed documents and evidence before officially accepting the application for handling.

3. Court presidents' decisions to settle complaints are final.

Article 20.- Decisions to arrest seagoing ships to secure the settlement of maritime claims

1. Judges shall promptly issue decisions to arrest seagoing ships to secure the settlement of maritime claims when arrest applicants produce receipts or documents evidencing the furnished financial security for their applications for the arrest of seagoing ships specified in Clauses 1 and 2 of Article 5, and the paid fee for the arrest of seagoing ships specified in Article 6 of this Ordinance.

2. A decision to arrest a seagoing ship to secure the settlement of a maritime claim has the following principal details:

a/ Date of issuance;

b/ Name of the decision-issuing court;

c/ Name, address and nationality of the applicant for the arrest of the seagoing ship;

d/ Maritime claim giving rise to the right to apply for the arrest of the seagoing ship within the court's jurisdiction;

e/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship the arrest of which is applied for; seaport where the seagoing ship is operating;

f/ Name, address and nationality of the shipmaster;

g/ Name, address and nationality of the ship owner;

h/ Name, address and nationality of the bareboat charterer or the ship operator;

i/ Assessment by the court and legal grounds for the acceptance of the application;

j/ Decisions of the court.

3. Decisions to arrest seagoing ships to secure the settlement of maritime claims take immediate effect even in case of complaints or protests.

4. The court shall hand two copies of the decision to arrest a seagoing ship to secure the settlement of a maritime claim to the port authority director for execution under Article 9 of this Ordinance; promptly send the decision to the Procuracy of the same level; issue or promptly send the decision to the applicant; and promptly send the decision to the Consular Department of the Ministry of Foreign Affairs of Vietnam in case the seagoing ship under arrest involves foreign elements.

Article 21.- Complaints or protests about

decisions to arrest seagoing ships to secure the settlement of maritime claims, and the settlement thereof

1. Shipmasters, ship owners, bareboat charterers and ship operators may lodge written complaints with court presidents about decisions to arrest seagoing ships to secure the settlement of maritime claims. The time limit for lodging a complaint is forty eight hours after the shipmaster receives the court decision.

The procuracy of the same level may lodge written protests with the court president about decisions to arrest seagoing ships to secure the settlement of maritime claims. The time limit for lodging a protest is forty eight hours after the procuracy of the same level receives the court decision.

2. Within forty eight hours after receiving a written complaint or protest about a decision to arrest a seagoing ship, the court president shall consider and settle it and make one of the following decisions:

a/ To uphold the decision;

b/ To cancel the decision.

3. Court president's decisions to settle complaints or protests are final.

Article 22.- Grounds for release of seagoing ships from arrest to secure the settlement of maritime claims

1. A seagoing ship arrested to secure the settlement of a maritime claim will be promptly released upon the existence of any of the following grounds:

a/ After the ship owner, charterer or operator furnishes substitute security or fully pays debts;

b/ The property obligation of the ship owner, charterer or operator has been guaranteed by another party or insured with a warrant by a prestigious insurance organization. The Finance Ministry shall publicize the list of prestigious insurance organizations;

c/ When the applicant for the arrest of the seagoing ship so requests;

d/ The decision to arrest the seagoing ship is cancelled;

e/ The period of arrest of the seagoing ship under the court decision expires.

2. Substitute security shall be agreed upon by the involved parties. In case no agreement on the amount and form of substitute security can be reached by the involved parties, the court shall decide on the amount and form of substitute security which must not exceed the value of the seagoing ship under arrest or the property obligation being the ground for the arrest of the seagoing ship in case the property obligation is smaller than the value of the seagoing ship.

Article 23.- Requests for the release of seagoing ships from arrest to secure the settlement of maritime claims

1. Upon the existence of any of the grounds specified at Points a, b and c, Clause 1, Article 22 of this Ordinance, ship owners, charterers or operators, shipmasters, applicants for the arrest of seagoing ships and other involved parties may request the release of seagoing ships from arrest. Requests for the release of seagoing ships from

arrest must be made in writing.

2. A written request for the release of a seagoing ship from arrest has the following principal details:

a/ Date of making;

b/ Name of the request-receiving court;

c/ Name and address of the requester;

d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship under arrest; seaport where the seagoing ship under arrest is operating;

e/ Number and date of the decision to arrest the seagoing ship and the issuing court;

f/ Reason(s) for the release of the seagoing ship from arrest;

g/ Guarantee by the requester for the release of the seagoing ship from arrest.

Article 24.- Sending of written requests for the release of seagoing ships from arrest to secure the settlement of maritime claims

Requesters for the release of seagoing ships from arrest to secure the settlement of maritime claims shall send their written requests and enclosed documents and evidence to courts which have issued decisions to arrest these seagoing ships.

Article 25.- Decisions to release seagoing ships from arrest to secure the settlement of maritime claims

1. Upon receiving written requests for the release of seagoing ships from arrest to secure the settlement of maritime claims, court presidents

shall assign a judge to proceed with the release of seagoing ships.

2. Within twenty four hours after receiving written requests for the release of seagoing ships from arrest to secure the settlement of maritime claims and enclosed documents and evidence, if considering these requests are grounded, judges assigned to proceed with the release of seagoing ships shall consider and issue decisions to release seagoing ships. In case of non-acceptance by reason of groundless requests, judges shall notify such in writing to the release requesters, clearly stating the reason for non-acceptance of their release requests.

3. A decision to release a seagoing ship from arrest to secure the settlement of a maritime claim has the following principal details:

- a/ Date of issuance;
- b/ Name of the decision-issuing court;
- c/ Legal grounds for the court to issue the decision;
- d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship under arrest; port where the seagoing ship under arrest is operating;
- e/ Name, address and nationality of the ship owner;
- f/ Name, address and nationality of the ship charterer or operator;
- g/ Name, address and nationality of the shipmaster;
- h/ Reason for the release of the ship from arrest;
- i/ Decisions of the court.

4. Decisions to release seagoing ships from arrest to secure the settlement of maritime claims take immediate effect.

5. The court shall hand two copies of the decision to release a seagoing ship from arrest to secure the settlement of a maritime claim to the port authority director for execution under Article 9 of this Ordinance; promptly send the decision to the procuracy of the same level; issue or promptly send the decision to the requester; and promptly send the decision to the Consular Department of the Ministry of Foreign Affairs of Vietnam in case the seagoing ship under arrest involves foreign elements.

Article 26.- Subsequent arrest of seagoing ships to ensure the settlement of maritime claims

1. A seagoing ship which has been arrested to secure the settlement of a maritime claim and released or for which a substitute security has been furnished for the maritime claim cannot be subsequently arrested on the basis of the same maritime claim, except in the following cases:

- a/ The total value of the substitute security already furnished is still insufficient to fulfill the property obligation as it is smaller than the value of the released seagoing ship;
- b/ The guarantor for fulfillment of the property obligation on behalf of the ship owner, charterer or operator fails to or is unable to fulfill part or the whole of the guaranteed property obligation;
- c/ The release of the seagoing ship or the cancellation of the substitute security has been effected at the request of the applicant for the arrest

of the seagoing ship for justifiable reasons;

d/ The applicant for the arrest of the seagoing ship cannot prevent the release of the seagoing ship or the cancellation of the security though he/ she/it has applied necessary measures.

2. Seagoing ships are not regarded as being released from arrest if their release is effected without release decisions of competent courts or they escape from arrest, except the cases specified at Point d and e, Clause 1, Article 22 of this Ordinance.

3. Procedures for subsequent arrest of seagoing ships to secure the settlement of maritime claims shall be carried out like procedures for the arrest of seagoing ships to secure the settlement of maritime claims specified in this Chapter.

Chapter III

PROCEDURES FOR THE APPLICATION OR CANCELLATION OF THE PROVISIONAL URGENT MEASURE OF ARREST OF SEAGOING SHIPS

Article 27.- Provisional urgent measure of arrest of seagoing ships

The provisional urgent measure of arrest of seagoing ships is a measure applied in the course of handling civil cases under Clause 13, Article 102 of the Civil Procedure Code.

Article 28.- The right to request the application of the provisional urgent measure of arrest of seagoing ships

In the course of handling civil cases, involved

parties and their lawful representatives may request courts handling these cases to apply the provisional urgent measure of arrest of seagoing ships in order to temporarily satisfy urgent claims of involved parties, protect evidence and maintain the current status, thereby avoiding irrecoverable losses or assuring the enforcement of judgments in any of the cases specified in Article 29 of this Ordinance.

Article 29.- Conditions for application of the provisional urgent measure of arrest of seagoing ships

Upon receiving an application for the arrest of a seagoing ship under Article 28 of this Ordinance, a court shall decide to apply the provisional urgent measure of arrest of the seagoing ship in the following cases:

1. The seagoing ship is under arrest to secure the settlement of a maritime claim and the applicant for arrest of the seagoing ship has instituted a civil lawsuit at the court;

2. The ship owner has the property obligation in the case currently handled and still owns the ship at the time of application of the provisional urgent measure of arrest of the seagoing ship;

3. The bareboat charterer, time charterer, voyage charterer or ship operator has the property obligation in the civil case arising from a maritime claim specified in Article 11 of this Ordinance and is still the bareboat charterer, time charterer, voyage charterer, ship operator or the ship owner at the time of application of the provisional urgent measure of arrest of the seagoing ship;

4. A dispute currently settled in the case arises from the mortgage of the seagoing ship;

5. A dispute currently settled in the case is related to the right to ownership or possession of the seagoing ship.

Article 30.- Applications for the provisional urgent measure of arrest of seagoing ships

1. Applicants for the provisional urgent measure of arrest of seagoing ships shall file applications.

2. An application for the provisional urgent measure of arrest of a seagoing ship contains the following principal details:

a/ Date of making;

b/ Name of the application-receiving court;

c/ Name, address and nationality of the applicant;

d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship the arrest of which is applied for; seaport where the seagoing ship is operating;

e/ Name, address and nationality of the shipmaster;

f/ Name, address and nationality of the ship owner;

g/ Name, address and nationality of the ship charterer or operator in case of a claim for payment by the ship charterer or operator;

h/ Specific dispute currently settled in the case and the maximum value of this dispute;

i/ Reason for the application of the provisional urgent measure of arrest of the seagoing ship;

j/ Anticipated loss or damage likely to be caused by the wrongful application for the provisional urgent measure of arrest of the seagoing ship;

k/ Guarantee of the applicant;

l/ Number and date of issuance and contents of the court decision to arrest the seagoing ship to ensure the settlement of a maritime claim (if any).

3. In case applicants for the provisional urgent measure do not know accurately and fully the contents specified at Points, e, f and g Clause 2 of this Article, they shall write down what they know related to those matters in their applications.

Article 31.- Sending of applications for the provisional urgent measure of arrest of seagoing ships and enclosed documents and evidence

Applicants for the provisional urgent measure of arrest of seagoing ships shall send their applications and enclosed documents and evidence to courts currently handling the cases.

Article 32.- Receipt of applications for the provisional urgent measure of arrest of seagoing ships

1. Upon receiving applications for the provisional urgent measure of arrest of seagoing ships and enclosed documents and evidence, courts currently handling the cases shall record their receipt in application receipt books.

2. In case the court currently handling the case is competent to decide to arrest seagoing ships

defined in Clause 2, Article 3 of this Ordinance, it shall handle an application and enclosed documents and evidence as follows:

a/ It shall immediately transfer the application and enclosed documents and evidence to a judge assigned to handle the case if it receives them before the opening of a trial session;

b/ It shall immediately transfer the application and enclosed documents and evidence to the trial panel if it receives them during the trial.

Article 33.- Examination of applications for the provisional urgent measure of arrest of seagoing ships

1. Within three days after receiving an application for the provisional urgent measure of arrest of a seagoing ship and enclosed documents and evidence, the judge shall examine the application and make one of the following decisions:

a/ To accept the application for handling if finding that the conditions for issuance of a decision on the application of the provisional urgent measure of arrest of the seagoing ship are fully met and, at the same time, request the applicant to furnish a financial security and pay an arrest fee within the time limit set by the court instead of the time limit specified in Articles 5 and 6 of this Ordinance. When the applicant produces receipts and documents proving he/she/it has furnished the financial security and paid the arrest fee, the judge shall immediately issue a decision to apply the provisional urgent measure of arrest of the seagoing ship;

b/ To return the application and enclosed documents and evidence if finding that the conditions for issuance of a decision to apply the provisional urgent measure of arrest of the seagoing ship are not fully met.

2. After receiving applications for the provisional urgent measure of arrest of seagoing ships and enclosed documents and evidence, the trial panel shall immediately examine them and make one of the decisions specified in Clause 1 of this Article.

3. In case of decision to return applications for provisional urgent measure of arrest of seagoing ships, the court shall immediately issue or send their decisions together with applications and enclosed documents and evidence to applicants. The trial panel shall publicly announce decisions to return apply the application of the provisional urgent measure of arrest of seagoing ships at trial sessions and record the announcement in trial session minutes.

Article 34.- Complaints and protests about decisions to return applications for the provisional urgent measure of arrest of seagoing ships, and the settlement thereof

1. Within three working days after receiving decisions to return applications for the provisional urgent measure of arrest of seagoing ships, applicants may lodge complaints about these decisions with court presidents.

2. Within three working days after receiving a complaint about a decision to return an application for the provisional urgent measure of arrest of a

seagoing ship and enclosed documents and evidence, the court president shall make one of the following decisions:

a/ To uphold the decision;

b/ To cancel the decision and receive once again the application for the provisional urgent measure of arrest of a seagoing ship and enclosed documents and evidence before officially accepting the application.

3. After being notified of a decision to return the application for the provisional urgent measure of arrest of a seagoing ship at the trial session, the applicant may lodge a complaint or the procuracy may make a protest about that decision with the trial panel and that complaint or protest shall be recorded in the trial session minutes. The trial panel shall immediately settle the complaint or protest and make one of the decisions specified in Clause 2 of this Article.

4. Court presidents' decisions to settle complaints and trial panels' decisions to settle complaints or protests are final.

Article 35.- Decisions to apply the provisional urgent measure of arrest of seagoing ships

1. A decision to apply the provisional urgent measure of arrest of a seagoing ship must contain the following principal details:

a/ Date of issuance;

b/ Name of the decision-issuing court;

c/ Name, address and nationality of the applicant for the provisional urgent measure of arrest of a seagoing ship;

d/ Reason for the application of the provisional urgent measure of arrest of a seagoing ship;

e/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship the arrest of which is applied for; seaport where the seagoing ship is operating;

f/ Name, address and nationality of the shipmaster;

g/ Name, address and nationality of the ship owner;

h/ Name, address and nationality of the bareboat charterer or ship operator;

i/ Assessment by the court and legal grounds for acceptance of the application;

j/ Decisions of the court.

2. Decisions to apply the provisional urgent measure of arrest of seagoing ships take immediate effect even in case of complaints or protests.

3. The court shall hand two copies of the decision to apply the provisional urgent measure of arrest of a seagoing ship to the port authority director for execution under Article 9 of this Ordinance; promptly send the decision to the procuracy of the same level; issue or promptly send the decision to the applicant; and promptly send the decision to the Consular Department of the Ministry of Foreign Affairs of Vietnam in case the seagoing ship under arrest involves foreign elements.

Article 36.- Complaints and protests about decisions to apply the provisional urgent measure of arrest of seagoing ships, and the settlement

thereof

1. Shipmasters, ship owners, charterers or operators may lodge written complaints about decisions to apply the provisional urgent measure of arrest of seagoing ships with court presidents. The time limit for lodging a complaint is three working days after the shipmaster receives a court decision.

The procuracy of the same level may make written protests about decisions to apply the provisional urgent measure of arrest of seagoing ships with the court president. The time limit for making a protest is three working days after the Procuracy of the same level receives a court decision.

2. Within three working days after receiving written a complaint or protest about a decision to apply the provisional urgent measure of arrest of a seagoing ship, the court president shall consider and settle the complaint or protest and make one of the following decisions:

a/ To uphold the decision;

b/ To cancel the decision.

3. At a trial session, the settlement of complaints or protests falls under the jurisdiction of the trial panel. The trial panel shall consider and settle them, and make one of the decisions specified in Clause 2 of this Article.

4. Decisions of court presidents or trial panels to settle complaints or protests are final.

Article 37.- Grounds for cancellation of decisions to apply the provisional urgent measure

of arrest of seagoing ships

Decisions to apply the provisional urgent measure of arrest of seagoing ships shall be cancelled when the conditions for application of the provisional urgent measure no longer exist or at the request of applicants for the provisional urgent measure of arrest of seagoing ships.

Article 38.- Requests for cancellation of decisions to apply the provisional urgent measure of arrest of seagoing ships

1. The following persons may request in writing the cancellation of a decision to apply the provisional urgent measure of arrest of a seagoing ship:

a/ Applicant for the provisional urgent measure of arrest of a seagoing ship;

b/ Ship owner, charterer or operator, shipmaster and other related parties, in case the conditions for application of the provisional urgent measure no longer exist.

2. A written request for the cancellation of a decision to apply the provisional urgent measure of arrest of a seagoing ship contains the following principal details:

a/ Date of making;

b/ Name of the request-receiving court;

c/ Name and address of the requester;

d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship under arrest; seaport where the seagoing ship under arrest is operating;

e/ Number and date of the decision to apply

the provisional urgent measure of arrest of a seagoing ship, and the issuing court;

f/ Reason for the cancellation of the decision to apply the provisional urgent measure of arrest of a seagoing ship;

Article 39.- Sending of written requests for cancellation of decisions to apply the provisional urgent measure of arrest of seagoing ships

Requesters for cancellation of decisions to apply the provisional urgent measure of arrest of seagoing ships shall send their written requests and enclosed documents and evidence to courts which have issued these decisions.

Article 40.- Handling of written requests for cancellation of decisions to apply the provisional urgent measure of arrest of seagoing ships

In case a court currently handling the case receives a written request for the cancellation of a decision to apply the provisional urgent measure of arrest of a seagoing ship, it shall handle that written request as follows:

1. Immediately transferring it to the judge assigned to handle the case, for written requests received before the opening of the trial session;

2. Immediately transferring it to the trial panel currently trying the case, for written requests received during the trial.

Article 41.- Decisions on cancellation of decisions to apply the provisional urgent measure of arrest of seagoing ships

1. Upon receiving a written request for the cancellation of a decision to apply the provisional

urgent measure of arrest of a seagoing ship and enclosed documents and evidence, the judge assigned to handle or the trial panel currently trying the case shall consider and issue a decision to cancel the decision to apply the provisional urgent measure of arrest of a seagoing ship if finding that grounds for that decision are sufficient. In case of non-acceptance of the written request, the judge or the trial panel shall notify in writing the requester of the reason for non-acceptance.

2. A decision to cancel a decision to apply the provisional urgent measure of arrest of a seagoing ship contains the following principal details:

a/ Date of issuance;

b/ Name of the decision-issuing court;

c/ Legal grounds for the court to issue the decision;

d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship the arrest of which is applied for; seaport where the seagoing ship is operating;

e/ Number and date of the decision to apply the provisional urgent measure of arrest of a seagoing ship and the issuing court;

f/ Name, address and nationality of the ship owner;

g/ Name, address and nationality of the ship charterer or operator;

h/ Name, address and nationality of the shipmaster;

i/ Reason for the cancellation of the decision to apply the provisional urgent measure of arrest of a seagoing ship;

j/ Decisions of the court.

2. Decisions to cancel decisions to apply the provisional urgent measure of arrest of seagoing ships take immediate effect.

3. The court shall hand two copies of the decision to cancel a decision to apply the provisional urgent measure of arrest of a seagoing ship to the port authority director for execution under Article 9 of this Ordinance; promptly send the decision to the procuracy of the same level; issue or promptly send the decision to the applicant, and promptly send the decision to the Consular Department of the Ministry of Foreign Affairs of Vietnam in case the seagoing ship to be released involves foreign elements.

Article 42.- Application of the provisional urgent measure of arrest of seagoing ships in case arbitration centers settle disputes

In the course of having their dispute settled by an arbitration center, the involved parties and their lawful representatives may request a competent court defined in Clause 2, Article 3 of this Ordinance to decide to apply the provisional urgent measure of arrest of seagoing ships. Procedures for deciding on the application of the provisional urgent measure of arrest of seagoing ships comply with the provisions of this Chapter.

Chapter IV

PROCEDURES FOR THE ARREST OF SEAGOING SHIPS, RELEASE OF SEAGOING SHIPS FROM ARREST FOR ENFORCEMENT OF JUDGMENTS

Article 43.- The right to apply for the arrest of

seagoing ships for enforcement of judgments

Through competent civil judgment enforcement bodies, parties in favor of whom judgments are enforced under Vietnamese law on civil judgment enforcement may request competent courts specified in Clause 1, Article 3 of this Ordinance to decide to arrest seagoing ships for enforcement of judgments.

Article 44.- Conditions for arrest of seagoing ships for enforcement of judgments

1. Upon receiving an application for the arrest of a seagoing ship for enforcement of a judgment specified in Article 43 of this Ordinance, a court shall decide to arrest the seagoing ship in the following cases:

a/ The ship owner is the party against whom a property judgment is enforced and still owns the ship at the time of its arrest.

b/ The bareboat charterer, time charterer, voyage charterer or ship operator is the party against whom a property judgment in a civil case arising from a maritime claim specified in Article 11 of this Ordinance and still the bareboat charterer, time charterer, voyage charterer, ship operator or the ship owner at the time of arrest;

c/ The obligation to comply with the property judgment is secured by the mortgage of the seagoing ship;

d/ The obligation to comply with the judgment means the obligatory return of the seagoing ship to the party in favor of whom the judgment is enforced.

2. Courts shall only decide to arrest seagoing

ships for enforcement of judgments when civil judgment enforcement bodies cannot apply the measure of property attachment or other coercive measures for enforcement of judgments, except the cases specified at Points c and d, Clause 1 of this Article, or parties against whom judgments are enforced reside in foreign countries and have no other property in Vietnam.

Article 45.- Applications for the arrest of seagoing ships for enforcement of judgments

1. Applicants for the arrest of seagoing ships for enforcement of judgments shall make applications and file them together with copies of court judgments or decisions or arbitral awards.

2. An application for the arrest of a seagoing ship for enforcement of a judgment must contain the following principal details:

- a/ Date of making;
- b/ Name of the application-receiving civil judgment enforcement body;
- c/ Name, address and nationality of the applicant;
- d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship the arrest of which is applied for; seaport where the seagoing ship is operating;
- e/ Name, address and nationality of the shipmaster;
- f/ Name, address and nationality of the ship owner;
- g/ Name, address and nationality of the bareboat charterer or ship operator in case of a claim for payment by the ship charterer or

operator;

h/ Property obligation subject to enforcement of a court judgment or decision or an arbitration award;

i/ Reason for the arrest of the seagoing ship;

j/ Anticipated loss or damage likely to be caused by the wrongful application for the arrest of the seagoing ship.

3. In case applicants for the arrest of seagoing ships for enforcement of judgments do not accurately and adequately know the details specified at Point e, f and g, Clause 2 of this Article, they shall write down what they know related to those details.

Article 46.- Filing of applications for the arrest of seagoing ships for enforcement of judgments and enclosed documents and evidence

Applicants for the arrest of seagoing ships for enforcement of judgments shall file their applications and enclosed documents and evidence with civil judgment enforcement bodies competent to enforce judgments for transfer to competent courts specified in Clause 1, Article 3 of this Ordinance.

Article 47.- Receipt of applications for the arrest of seagoing ships for enforcement of judgments

1. Upon receiving applications for the arrest of seagoing ships for enforcement of judgments and enclosed documents and evidence, civil judgment enforcement bodies shall record them in application receipt books and notify in writing the transfer of these applications and enclosed

documents and evidence to courts competent to **decide** to arrest seagoing ships specified in Clause 1, Article 3 of this Ordinance. Written notices of application transfer must clearly state reasons for the failure to apply the measure of property attachment or other coercive measures for enforcement of judgments.

2. Upon receiving written notices of application transfer from civil judgment enforcement bodies together with applications for the arrest of seagoing ships and enclosed documents and evidence, courts competent to **decide** to arrest seagoing ships specified in Clause 1, Article 3 of this Ordinance shall record them in application receipt books. Court presidents shall immediately assign a judge to handle applications.

Article 48.- Examination of applications for the arrest of seagoing ships for enforcement of judgments.

1. Within forty eight hours after receiving documents specified in Clause 2, Article 47 of this Ordinance, the judge shall examine the application and make one of the following decisions.

a/ To accept the application for the arrest of a seagoing ship for enforcement of a judgment if finding that the conditions for issuance of a decision to arrest the seagoing ship are fully met, and request the applicant to furnish a financial security for the application and pay an arrest fee, except cases in which a financial security is not required;

b/ To return the application for the arrest of a seagoing ship for the enforcement of a judgment

if finding that the conditions for issuance of a decision to arrest the seagoing ship are not fully met or the handling of the application falls beyond the court's jurisdiction.

2. In case courts decide to return applications for the arrest of seagoing ships for enforcement of judgments, courts shall send their decisions to competent civil judgment enforcement bodies; immediately issue or send these decisions together with applications and enclosed documents and evidence to applicants.

Article 49.- Complaints or protests about decisions to return applications for arrest of seagoing ships for enforcement of judgments, and the settlement thereof

1. Within twenty four hours after receiving a decision to the return his/her application for the arrest of a seagoing ship for the enforcement of a judgment, the applicant may lodge a written complaint or the competent civil judgment enforcement body may make a protest about that decision with the court president. Complaints and protests must be made in writing.

2. Within twenty four hours after receiving a written complaint or protest about the decision to return the application for the arrest of a seagoing ship for enforcement of a judgment and enclosed documents and evidence, the court president shall make one of the following decisions:

a/ To uphold the decision;

b/ To cancel the decision and receive again the application and enclosed documents and evidence before officially accepting the

application for the arrest of seagoing ship.

3. Court presidents' decisions to settle complaints or protests are final.

Article 50.- Decisions to arrest seagoing ships for enforcement of judgments

1. Judges shall promptly issue decisions to arrest seagoing ships for enforcement of judgments when applicants produce receipts or documents evidencing the furnished financial security for their applications for the arrest of seagoing ships specified in Clauses 1 and 2, Article 5, except in cases a financial security is not required, and the paid fee for the arrest specified in Article 6 of this Ordinance.

2. A decision to arrest a seagoing ship for enforcement of a judgment has the following principal details:

- a/ Date of issuance;
- b/ Name of the decision-issuing court;
- c/ Name, address and nationality of the applicant for the arrest of the seagoing ship for enforcement of a judgment;
- d/ Reason for the arrest of the seagoing ship for enforcement of a judgment;
- e/ Name of the civil judgment enforcement body competent to enforce the judgment;
- f/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship the arrest of which is applied for; seaport where the seagoing ship is operating;
- g/ Name, address and nationality of the shipmaster;

h/ Name, address and nationality of the ship owner;

i/ Name, address and nationality of the bareboat charterer or the ship operator;

j/ Assessment by the court and legal grounds for the acceptance of the application;

k/ Decisions of the court.

3. Decisions to arrest seagoing ships for enforcement of judgments take immediate effect even in case of complaints or protests.

4. The court shall hand two copies of the decision to arrest a seagoing ship for enforcement of a judgment to the port authority director for execution under Article 9 of this Ordinance; promptly send the decision to the procuracy of the same level; issue or promptly send the decision to the applicant and the competent civil judgment enforcement body; and promptly send the decision to the Consular Department of the Ministry of Foreign Affairs of Vietnam in case the seagoing ship under arrest involves foreign elements.

Article 51.- Complaints or protests about decisions to arrest seagoing ships for enforcement of judgments, and the settlement thereof

1. Ship owners, charterers, operators and shipmasters may lodge written complaints with court presidents about decisions to arrest seagoing ships for enforcement of judgments. The time limit for lodging a complaint is forty eight hours after the shipmaster receives the court decision.

The procuracy of the same level may lodge written protests with the court president about decisions to arrest seagoing ships for enforcement

of judgments. The time limit for lodging a protest is **forty** eight hours after the procuracy of the same level receives the court decision.

2. Within forty eight hours after receiving a written complaint or protest about a decision to arrest a seagoing ship for enforcement of a judgment, the court president shall consider and **settle it and** make one of the following decisions:

- a/ To uphold the decision;
- b/ To cancel the decision.

3. Court presidents' decisions to settle complaints or protests are final.

Article 52.- Grounds for release of seagoing ships arrested for enforcement of judgments

1. A seagoing ship arrested for the enforcement of a judgment will be promptly released upon the existence of any of the following grounds:

a/ After the ship owner, charterer or operator ~~against whom~~ a judgment is enforced furnishes substitute security or fulfill the obligation to ~~comply~~ with the judgment;

b/ The property obligation of the ship owner, charterer or operator has been guaranteed by another party or insured with a warrant by a ~~prestigious~~ insurance organization.

c/ When the applicant for the arrest of the seagoing ship so requests;

2. Substitute security shall be agreed upon by the involved parties. In case no agreement on the amount of substitute security can be reached by ~~the~~ involved parties, the court shall decide on the amount and form of substitute security which must

not exceed the value of the seagoing ship under arrest or the property obligation serving as the ground for the arrest of the seagoing ship in case the property obligation is smaller than the value of the seagoing ship.

Article 53.- Requests for release of seagoing ships arrested for enforcement of judgments

1. Upon the existence of any of the grounds specified in Clause 1, Article 52 of this Ordinance, ship owners, charterers or operators, shipmasters and other involved parties may request in writing the release of seagoing ships arrested enforcement of judgments.

2. A written request for the release of a seagoing ship must have the following principal details:

- a/ Date of making;
- b/ Name of the request-receiving court;
- c/ Name and address of the requester;
- d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship under arrest; seaport where the seagoing ship under arrest is operating;
- e/ Number and date of the decision to arrest the seagoing ship, and the issuing court;
- f/ Reason(s) for the requested release of the seagoing ship from arrest;

Article 54.- Sending of written requests for release of seagoing ships arrested for enforcement of judgments

Requesters for the release of seagoing ships arrested for enforcement of judgments shall send

their written requests and enclosed documents and evidence to courts which have issued decisions on the arrest of these seagoing ships.

Article 55.- Decisions to release seagoing ships arrested for enforcement of judgments

1. Upon receiving written requests for the release of seagoing ships arrested for enforcement of judgments, court presidents shall assign a judge to proceed with the release of seagoing ships.

2. Within twenty four hours after receiving written requests for the release of seagoing ships arrested for enforcement of judgments and enclosed documents and evidence, if finding these requests are grounded, judges assigned to proceed with the release of seagoing ships shall consider and issue decisions to release seagoing ships. In case of non-acceptance by reason of groundless requests, judges shall notify such in writing to the release requesters, clearly stating the reason for non-acceptance of release requests.

3. A decision to release a seagoing ship arrested for enforcement of a judgment has the following principal details:

a/ Date of issuance;

b/ Name of the decision-issuing court;

c/ Legal grounds for the court to issue the decision;

d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship to be released from arrest; port where the seagoing ship is to be released from arrest;

e/ Name, address and nationality of the ship

owner;

f/ Name, address and nationality of the ship charterer or operator;

g/ Name, address and nationality of the shipmaster;

h/ Reason for the release of the ship from arrest;

i/ Decisions of the courts.

4. Decisions to release seagoing ships arrested for enforcement of judgments take immediate effect.

5. The court shall hand two copies of the decision to release a seagoing ship arrested for enforcement of a judgment to the port authority director for execution under Article 9 of this Ordinance; promptly send the decision to the procuracy of the same level; issue or promptly send the decision to the requester and the competent civil judgment enforcement body; and promptly send the decision to the Consular Department of the Ministry of Foreign Affairs of Vietnam in case the seagoing ship to be released from arrest involves foreign elements.

Chapter V

PROCEDURES FOR THE ARREST OF SEAGOING SHIPS OR RELEASE OF SEAGOING SHIPS FROM ARREST TO PROVIDE MUTUAL LEGAL ASSISTANCE

Section 1. GIVING OF JURISDICTION TO FOREIGN COURTS TO ARREST SEAGOING SHIPS

Article 56.- Giving of jurisdiction to foreign courts to arrest seagoing ships

1. In the course of handling a case at a court or settling a dispute at an arbitration center, if there is an application for the arrest of a seagoing ship, a competent Vietnamese court defined in Clause 2, Article 3 of this Ordinance may give jurisdiction to a competent foreign court to arrest that seagoing ship.

2. Vietnamese courts shall give jurisdiction to foreign courts to arrest seagoing ships under Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party, or on the principle of reciprocity.

Article 57.- Documents to give jurisdiction

A document to give jurisdiction to arrest a seagoing ship contains the following principal details:

1. Date and place of making;
2. Name and address of Vietnamese court giving the jurisdiction;
3. Name and address of foreign court to exercise the given jurisdiction;
4. Name, nationality, IMO number, tonnage and other specifications of the seagoing ships the arrest of which is applied for; seaport where the seagoing ship operating;
5. Name, address and nationality of the ship owner;
6. Name, address and nationality of the ship charterer or operator;

7. Reason for the giving of jurisdiction to arrest the seagoing ship;

8. Period of the arrest;

9. Party liable for loss or damage caused by the wrongful application for the arrest of the seagoing ship.

Article 58.- Procedures for the giving of jurisdiction to arrest seagoing ships

1. Competent Vietnamese courts that give jurisdiction to competent foreign courts to arrest seagoing ships shall make and send jurisdiction-giving dossiers to the Vietnamese Justice Ministry. A jurisdiction-giving dossier must consist of the following documents:

a/ The competent Vietnamese court's written request for the giving of jurisdiction to arrest a seagoing ship;

b/ Document to give jurisdiction to arrest a seagoing ship;

c/ Other papers requested by the competent court of the foreign country given with jurisdiction.

2. Within ten working days after receiving a dossier of giving of jurisdiction to arrest a seagoing ship, the Justice Ministry shall record it in the jurisdiction giving book, inspect the legality of the dossier and transfer it to a competent court of a foreign country under a treaty to which the Socialist Republic of Vietnam and that foreign country are contracting parties or through the diplomatic channel. In case of an invalid dossier, the Justice Ministry shall return it to the court that has made it, clearly stating the reason.

3. Within five working days after receiving competent foreign courts' written notices of results of exercise of the given jurisdiction, the Justice Ministry shall forward these notices to competent Vietnamese courts that have sent dossiers of giving of jurisdiction to arrest seagoing ships.

**Section 2. EXERCISE OF JURISDICTION
GIVEN BY FOREIGN COURTS TO
ARREST SEAGOING SHIPS**

Article 59.- Principle of mutual legal assistance in respect of arrest of seagoing ships

1. Mutual legal assistance in respect of arrest of seagoing ships between Vietnamese courts and foreign courts shall be provided on the principles of mutual respect for independence, sovereignty and national territorial integrity, non-interference in internal affairs, equality and mutual benefit, and in compliance with treaties to which the Socialist Republic of Vietnam is a contracting party and Vietnamese law.

2. If the Socialist Republic of Vietnam and a foreign country have neither concluded a bilateral agreement nor acceded to a treaty containing provisions on mutual legal assistance in respect of arrest of seagoing ships, the mutual legal assistance in respect of arrest of seagoing ships may be accepted by Vietnamese courts on the principle of reciprocity, provided it is not contrary to Vietnamese law and international law and practice.

Article 60.- Principles of exercise of given jurisdiction to arrest seagoing ships

1. Vietnamese courts shall exercise the jurisdiction given by foreign courts to arrest seagoing ships under treaties to which the Socialist Republic of Vietnam is a contracting party or on the principle of reciprocity.

2. Vietnamese courts may refuse to exercise the jurisdiction given by foreign courts to arrest seagoing ships in the following cases:

a/ The exercise of the jurisdiction to arrest seagoing ships infringes upon the sovereignty or is detrimental to Vietnam's security;

b/ The exercise of the jurisdiction to arrest seagoing ships falls beyond the competence of Vietnamese courts.

Article 61.- Procedures for the giving of jurisdiction to arrest seagoing ships

1. The giving by foreign courts to Vietnamese courts of jurisdiction to arrest seagoing ships must be established in documents to be sent to the Vietnamese Justice Ministry under treaties to which the Socialist Republic of Vietnam is a contracting party or under Vietnamese law.

2. Upon receiving documents on the giving of jurisdiction to arrest seagoing ships, the Vietnamese Justice Ministry shall immediately forward them to Vietnamese courts competent to arrest seagoing ships specified in Clause 1, Article 3 of this Ordinance.

Article 62.- Documents to give jurisdiction to arrest seagoing ships

A document to give jurisdiction to arrest a seagoing ship contains the following principal

details:

1. Date and place of making;
2. Name and address of the foreign court giving the jurisdiction;
3. Name and address of the Vietnamese court to exercise the given jurisdiction;
4. Name, nationality, IMO number, tonnage and other specifications of the seagoing ships the arrest of which is applied for; seaport where the seagoing ship is operating;
5. Name, address and nationality of the ship owner;
6. Name, address and nationality of the ship charterer or operator;
7. Reason for the giving of jurisdiction to arrest the seagoing ship;
8. Period of the arrest;
9. Party liable for loss or damage caused by the wrongful application for the arrest of the seagoing ship.

Article 63.- Receipt of documents to give jurisdiction to arrest seagoing ships

1. Upon receiving documents to give jurisdiction to arrest seagoing ships and enclosed documents and evidence, the Vietnamese Justice Ministry shall record their receipt in document receipt books and send written notices of transfer of the documents and enclosed documents and evidence to courts competent to decide to arrest seagoing ships specified in Clause 1, Article 3 of this Ordinance.

2. Upon receiving documents to give jurisdiction to arrest seagoing ships and enclosed documents and evidence, courts competent to decide to arrest seagoing ships specified in Clause 1, Article 3 of this Ordinance shall record their receipt in application receipt books. Court presidents shall immediately assign a judge to handle documents to give jurisdiction to arrest seagoing ships.

Article 64.- Examination of documents to give jurisdiction to arrest seagoing ships

1. Within forty eight hours after the receipt of a document to give jurisdiction to arrest a seagoing ship and enclosed documents and evidence, a judge shall examine it and make one of the following decisions:

a/ To accept the document if finding that it adheres to the principles of mutual legal assistance and exercise of given jurisdiction to arrest seagoing ships;

b/ To return the document if finding that it violates the principles of mutual legal assistance or the principles of exercise of given jurisdiction to arrest seagoing ships, or if the handling of this document falls beyond the competence of his/her court.

2. If deciding to return documents to give jurisdiction to arrest seagoing ships, courts shall immediately send their decisions together with these documents and enclosed documents and evidence to the Vietnamese Justice Ministry for notification to foreign courts.

Article 65.- Decisions to arrest seagoing ships

under jurisdiction given by foreign courts

1. Judges shall issue decisions to arrest seagoing ships under the jurisdiction given by foreign courts right after applicants for the arrest of seagoing ships produce receipts or documents evidencing that they have furnished the financial security for their applications specified in Clauses 1 and 2, Article 5, and paid an arrest fee specified in Article 6 of this Ordinance in Vietnam, unless otherwise provided for by a treaty to which the Socialist Republic of Vietnam is a contracting party.

2. A decision to arrest a seagoing ship under the jurisdiction given by a foreign court must contain the following principal details:

- a/ Date of issuance;
- b/ Name of the decision-issuing Vietnamese court;
- c/ Name of the jurisdiction-giving foreign court;
- d/ Name, address and nationality of the applicant for the arrest of the seagoing ship under the jurisdiction given by the foreign court;
- e/ Reason for the application for the arrest of the seagoing ship;
- f/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship the arrest of which is applied for; seaport where the seagoing ship is operating;
- g/ Name, address and nationality of the ship owner;
- h/ Name, address and nationality of the

shipmaster;

i/ Name, address and nationality of the ship charterer or operator;

j/ Assessment by the court and legal grounds for the acceptance of the document to give jurisdiction to arrest the seagoing ship;

k/ Decisions of the court.

3. Decisions to arrest seagoing ships under the jurisdiction given by foreign courts take immediate effect even in case of complaints or protests.

4. The court shall hand two copies of the decision to arrest a seagoing ship under the jurisdiction given by a foreign court to the port authority director for execution under article 9 of this Ordinance; and promptly send the decision to the Justice Ministry and the Procuracy of the same level.

Article 66.- Complaints or protests about decisions to arrest seagoing ships under the jurisdiction given by foreign courts, and the settlement thereof

1. Shipmasters, ship owners, charterers or operators may lodge written complaints with court presidents about decisions to arrest seagoing ships under the jurisdiction given by foreign courts. The time limit for lodging a complaint is forty eight hours after the shipmaster receives the court decision.

The procuracy of the same level may lodge written protests with the court president about decisions to arrest seagoing ships under the jurisdiction given by foreign courts. The time limit

for lodging a protest is forty eight hours after the Procuracy of the same level receives the court decision.

2. Within forty eight hours after receiving a written complaint or protest about a decision to arrest a seagoing ship under the jurisdiction given by a foreign court, the court president shall consider and settle it and make one of the following decisions:

a/ To uphold the decision;

b/ To cancel the decision.

3. Court presidents' decisions to settle complaints or protests are final.

Article 67.- Grounds for release of seagoing ships from arrest under given jurisdiction

A seagoing ship arrested under the jurisdiction given by a foreign court shall be promptly released upon the existence of any of the following grounds:

1. Cancellation of the decision to arrest the seagoing ship;

2. Expiration of the period of the arrest under a court decision;

3. Request of the foreign court that has given the jurisdiction to arrest the seagoing ship.

Article 68.- Requests for the release of seagoing ships from arrest under given jurisdiction

1. Upon the existence of any of the grounds specified in Clause 3, Article 67 of this Ordinance,

foreign courts shall request in writing the release of seagoing ships from arrest. A written request for the release of a seagoing ship from arrest under given jurisdiction must have the following principal details:

a/ Date of making;

b/ Name and address of the foreign court requesting the release of the seagoing ship from arrest;

c/ Name of the request-receiving Vietnamese court;

d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship under arrest; seaport where the seagoing ship under arrest is operating;

e/ Number and date of the decision to arrest the seagoing ship and the decision-issuing court;

f/ Reason for the requested release of the seagoing ship from arrest;

Article 69.- Sending of written requests for the release of seagoing ships from arrest under given jurisdiction

Foreign courts shall send their written requests for the release of seagoing ships from arrest under the jurisdiction given by them and enclosed documents and evidence to the Vietnamese Justice Ministry for subsequent transfer thereof to courts that have issued decisions to arrest these seagoing ships.

Article 70.- Decisions to release seagoing ships from arrest under given jurisdiction

1. Upon receiving a written request for the release of a seagoing ship from arrest under given jurisdiction, the court president shall assign a judge to proceed with the release of the seagoing ship.

2. Within twenty four hours after receiving a written request for the release of a seagoing ship from arrest under given jurisdiction and enclosed documents and evidence, if considering that request is grounded, the judge assigned to proceed with the release of the seagoing ship shall consider and issue a decision to release the seagoing ship. In case of non-acceptance for the reason that the request is groundless, the judge shall notify such in writing to the release requester, clearly stating the reason for non-acceptance of the release request.

3. A decision to release a seagoing ship from arrest under given jurisdiction must have the following principal details:

- a/ Date of issuance;
- b/ Name of the decision-issuing Vietnamese court;
- c/ Legal grounds for the court to issue the decision;
- d/ Name, nationality, IMO number, tonnage and other specifications of the seagoing ship to be released from arrest; port where the seagoing ship is to be released from arrest;
- e/ Name, address and nationality of the ship owner;
- f/ Name, address and nationality of the ship

charterer or operator;

g/ Name, address and nationality of the shipmaster;

h/ Reason for the release of the ship from arrest;

i/ Decisions of the court.

4. Decisions to release seagoing ships from arrest under the jurisdiction given by foreign courts take immediate effect.

5. The court shall hand two copies of the decision on the release of a seagoing ship from arrest under the jurisdiction given by a foreign court to the port authority director for execution under Article 9 of this Ordinance; and promptly send the decision to the Justice Ministry and the procuracy of the same level.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 71.- Effect

This Ordinance takes effect on July 1, 2009.

Article 72.- Implementation guidance

The Government, the Supreme People's Court and the Supreme People's Procuracy shall, within the ambit of their functions and tasks guide the implementation of this Ordinance.

***On behalf of
the National Assembly Standing Committee
Chairman
NGUYEN PHU TRONG***