

Part I. LEGAL DOCUMENTS

THE GOVERNMENT

Decree No. 29/2009/ND-CP of March 26, 2009, on seagoing ship registration, purchase and sale

THE GOVERNMENT

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

Pursuant to Vietnam's Maritime Code of June 14, 2005;

Pursuant to the November 29, 2005 Enterprise Law;

Pursuant to the November 29, 2005 Investment Law;

Pursuant to the November 29, 2005 Bidding Law;

At the proposal of the Minister of Transport,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Decree provides for the registration, purchase and sale of seagoing ships (below referred to as ships).

2. This Decree does not apply to ship purchase and sale in the following cases:

a/ Ships built by Vietnamese enterprises under shipbuilding contracts signed with foreign

organizations or individuals.

b/ Foreign ships coercively auctioned in Vietnam under decisions of competent state agencies.

c/ Ships used for defense and security purposes and nuclear powered ships.

3. This Decree also applies to the registration, purchase, sale and building of public-duty ships.

Article 2. Subjects of application

This Decree applies to Vietnamese and foreign organizations and individuals involved in ship registration, purchase and sale.

Article 3. Interpretation of terms

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

1. Ship purchase and sale means a process of market research, preparation of a project dossier, decision on purchase and sale, and signing and performance of a contract on purchase and sale of a ship.

2. Ship purchase and sale project means a project to purchase and sale one or more than one ship, including a shipbuilding project.

3. Ship purchaser and seller means organizations and individuals purchasing and selling a ship.

4. State capital means development investment capital from the state budget, credit capital guaranteed by the State, development investment capital credit of the State and other investment capital of the State.

5. Ship purchase and sale contract means a contract on purchase and sale of one or more than one ship, including a shipbuilding contract.

6. Ship purchase loan contract means a specific contract whereby the ship purchaser and seller agree to use a credit loan possibly provided by the ship

seller to the purchaser for purchasing a ship accompanied with conditions to secure the purchaser's payment liability specified in the contract.

7. Small ship means a motor ship with main engine power of under 75 kW, a non-motor ship with a gross tonnage of under 50 GT or a dead weight of under 100 tons or a design waterline of under 20 m.

Chapter II

SHIP REGISTRATION

Section 1. VIETNAM SHIP REGISTRARS

Article 4. Vietnam ship registrars

Vietnam ship registrars include:

1. The national ship registrar, which is Vietnam Maritime Administration.
2. Regional ship registrars, which are maritime sub-departments or port authorities decided by the director of Vietnam Maritime Administration.

Article 5. Tasks of the national ship registrar

1. To guide and examine Vietnam ship registration activities at regional ship registrars.
2. To sum up, make statistics on, maintain and update a database on ship registration and ship mortgage registration; to supply relevant information to interested organizations or individuals.
3. To perform the unified management of the printing and issuance of ship registration certificates and ship mortgage registration certificates.
4. To enter into international cooperation on ship registration.

Article 6. Tasks of regional ship registrars

1. To effect ship registration and ship mortgage

registration according to their assigned competence.

2. To compile and manage the Vietnam National Ships Registration Book in assigned regions; to supply relevant information to interested organizations or individuals.

3. To collect, remit and use fees for ship registration and ship mortgage registration according to law.

4. To build databases, make statistics and reports on ship registration and ship mortgage registration.

Section 2. VIETNAM SHIP REGISTRATION

Article 7. Forms of Vietnam ship registration

1. Indefinite registration means registration of ships which are eligible for being granted Vietnam ship registration certificates.

2. Time registration means registration of ships for a given period of time; time registration is applicable to foreign ships chartered by Vietnamese organizations or individuals under bareboat charter or hire-purchase contracts or to foreign ships registered for a given period of time in Vietnam.

3. Re-registration means registration of ships which were previously registered in the Vietnam National Ships Registration Book, but later the registration of which is suspended.

4. Change registration means registration of ships which have been registered in the Vietnam National Ships Registration Book, but have seen changes in their name or shipowner, structure and technical particulars, regional ship registrar or ship register.

5. Provisional registration of ships means ship registration in the following cases:

- a/ Charges and fees have not yet been paid under regulations;

- b/ There is no ship deregistration certificate yet but there is a commitment in the ship purchase and

sale contract that the seller shall hand over the ship deregistration certificate to the purchaser within 30 days after the minutes on ship handover is signed. In this case, the certificate of provisional registration of Vietnam ship is valid only from the date the purchaser and seller sign the handover minutes;

c/ A newly built ship is tested or received for delivery to the registration place on the basis of the shipbuilding contract;

d/ It is so decided by the Minister of Transport in special cases.

e/ A certificate of provisional registration of Vietnam ship mentioned in this Clause is valid for 180 days from the date of its issuance.

In case the certificate of provisional registration of Vietnam ship expires when the ship cannot yet arrive in Vietnam for carrying out official registration procedures, the regional ship registrar that has issued the certificate may extend it only once for not more than 180 days from the date of its issuance.

After the expiration of the extended validity duration of the certificate of provisional registration of Vietnam ship, if the ship cannot yet arrive in Vietnam for carrying out official registration procedures for *force majeure* reasons, extension of the duration of provisional registration shall be decided by the Minister of Transport.

Article 8. Permits for provisional sailing under Vietnamese flag

In case Vietnamese organizations or individuals buy ships of foreign organizations or individuals but have not yet made provisional registration for the ships under Clause 5, Article 7 of this Decree, the diplomatic missions or consulates of Vietnam in the foreign countries where the ships are handed over shall issue permits for provisional sailing under Vietnamese flag in accordance with Appendix XII to this Decree (*not printed herein*) in order to deliver

the ships home.

A permit for provisional sailing under Vietnamese flag is only valid during the time of taking the ship from the place of handover to a Vietnamese port for completing registration procedures as stipulated in this Decree.

Article 9. Limits of the ages of ships registered in Vietnam for the first time

1. In case of first-time registration in Vietnam, used ships must be of the following ages counting from the year of their building:

a/ Not more than 10 years, for passenger ships;

b/ Not more than 15 years, for ships of other types.

In special cases, the ship age shall be decided by the Minister of Transport but must not be 5 years higher than the maximum age prescribed for each type of ship at Points a and b of this Clause.

2. For foreign ships coercively auctioned in Vietnam under decisions of competent agencies, the ship ages specified in Clause 1 of this Article do not apply.

3. For foreign ships purchased by loan or hire-purchase method by Vietnamese organizations or individuals, after the expiration of the period of registration of flying foreign flag, they may change to registration of flying Vietnam flag provided that at the time of signing of the loan or hire-purchase contract, their age is compliant with Clause 1 of this Article.

Article 10. Naming of ships and registration ports

1. Ship names may be given by shipowners, which, however, must not identical with the names of ships already registered in the Vietnam National Ships Registration Book.

2. In case ships are named after historical figures or events, such must be approved by regional ship

registrars according to regulations.

3. Shipowners may select the name of a port for registration of their ships among seaports in the region managed by the regional ship registrar concerned.

Article 11. Ship registration dossiers

1. Indefinite registration of ships

A dossier for indefinite registration of a ship comprises:

a/ The ship registration declaration, made according to the form in Appendix I to this Decree (not printed herein);

b/ The ship deregistration certificate or ship pre-acceptance test and handover minutes, for a newly built ship;

c/ The ship purchase and sale or building contract or other evidence of equivalent legal validity on ship ownership transfer;

d/ The ship tonnage certificate;

e/ Photocopies of charge and fee payment receipts (accompanied with the originals for comparison);

f/ A photocopy of the ship classification certificate (accompanied with the original for comparison);

g/ A copy of the business registration certificate or permit for setting up a branch or representative office in Vietnam.

If the shipowner is a Vietnamese individual, a copy of his/her identity card or permanent residence certificate is required.

2. Time registration of ships

A dossier for time registration of a ship comprises:

a/ The papers specified at Points a, d, f and g, Clause 1 of this Article;

b/ The registration suspension certificate;

c/ A copy of the ship hire-purchase or bareboat charter contract.

3. Re-registration of ships

A dossier for re-registration of a ship comprises the papers specified at Points a, d, f and g, Clause 1 and Point b, Clause 1 or Point b, Clause 2 of this Article.

4. Change registration

a/ Renaming of ships

A dossier for registration of renaming of a ship comprises a document stating the reason for the renaming, and the ship registration certificate.

b/ Change of shipowner

A dossier for registration of shipowner comprises the papers specified at Points a, c, e and g, Clause 1 of this Article.

c/ Change of structure and technical particulars

A dossier for registration of structure and technical particulars comprises:

- A document stating the reason for change of ship structure and technical particulars;

- Certificates of technical safety related to the change of ship structure and technical particulars which were issued by a ship register.

d/ Change of ship registrar

A dossier for registration of change of ship registrar comprises a document stating the reason for change of regional ship registrar, and the ship registration certificate.

e/ Change of ship register

A dossier for registration of change of ship register comprises:

- A document clearly stating the reason for change of ship register;

- The papers specified at Points d and f, Clause 1 of this Article.

Article 12. Dossiers for provisional ship

registration and dossiers for grant of permits for provisional sailing under Vietnamese flag

1. Provisional ship registration

a/ In case charges and fees are not yet paid, a dossier for provisional ship registration comprises the papers specified at Points a, b, c, d, f and g, Clause 1, Article 11 of this Decree.

b/ In case charges and fees are not yet paid and the ship deregistration certificate is not yet issued, a dossier for provisional ship registration comprises the papers specified at Points a, c, d, f and g, Clause 1, Article 11 of this Decree.

c/ In case a newly built ship is tested or received for delivery to the registration place under a ship building contract, a dossier for provisional ship registration comprises the papers specified at Points a, c, d, f and g, Clause 1, Article 11 of this Decree.

In case a newly built ship is received for delivery to the registration place, the papers specified at Point b, Clause 1, Article 11 of this Decree are additionally required.

2. Permits for provisional sailing under Vietnamese flag: The shipowner shall comply with the provisions of Clause 1 of this Article.

Article 13. Dossiers for registration of ships under construction

A dossier for registration of a ship under construction comprises:

1. The papers specified at Points a and g, Clause 1, Article 11 of this Decree.
2. The shipbuilding contract.
3. The written certification of the ship backbone placement by the shipyard.

Article 14. Dossiers for registration of small ships

A dossier for registration of a small ship comprises:

1. The papers specified at Points a, b, c, e and g, Clause 1, Article 11 of this Decree.

2. Ship technical safety inspection book.

Article 15. Dossiers for ship registration suspension or deregistration

A dossier for ship registration suspension or deregistration comprises:

1. The ship registration suspension or deregistration declaration, made according the form in Appendix II to this Decree (*not printed herein*).

2. The certificate of Vietnam ship registration. If the certificate is unavailable, the reason therefor must be specified.

3. The written approval of ship registration suspension or deregistration by the ship mortgagee under Clause 2, Article 19 of Vietnam's Maritime Code.

Article 16. Grant of ship registration certificates

1. Regional ship registrars may grant the following certificates:

a/ Vietnam ship registration certificates, made according to the form in Appendix III to this Decree (*not printed herein*);

b/ Registration suspension or deregistration certificates, made according to the form in Appendix IV to this Decree (*not printed herein*);

c/ Time registration certificates, made according to the form in Appendix V to this Decree (*not printed herein*);

d/ Provisional registration certificates, made according to the form in Appendix VI to this Decree (*not printed herein*);

e/ Certificates of registration of ships under construction, made according to the forms in Appendix VII to this Decree (*not printed herein*).

2. Regional ship registrars shall base themselves on the archived dossiers to re-grant ship registration

certificates with the old registration numbers and note down the word "re-grant", for lost, torn or damaged certificates.

3. Regional ship registrars shall grant certificates specified in Clauses 1 and 2 of this Article within 5 working days after receiving complete and valid dossiers. In case of refusal to grant a certificate, they shall notify in writing shipowners thereof.

Section 3. REGISTRATION OF VIETNAM SHIP MORTGAGES

Article 17. Places of registration of Vietnam ship mortgages

Vietnam ship mortgages can be registered at regional ship registrars where the ships concerned are registered.

Article 18. Dossiers for registration of Vietnam ship mortgages

A dossier for registration of Vietnam ship mortgage comprises the following papers:

1. The ship mortgage registration declaration, made according to the form in Appendix VIII to this Decree (*not printed herein*).

2. The ship mortgage contract.

Article 19. Dossiers for deregistration of Vietnam ship mortgage

A dossier for deregistration of Vietnam ship mortgage comprises the following papers:

1. The ship mortgage deregistration declaration, made according to the form in Appendix IX to this Decree (*not printed herein*).

2. The Vietnam ship mortgage registration certificate, made according to the form in Appendix X to this Decree (*not printed herein*).

3. The ship mortgagee's written approval of ship demortgage.

Article 20. Grant of Vietnam ship mortgage

registration certificates or Vietnam ship mortgage deregistration certificates

Regional ship registrars shall record in the Vietnam National Ships Registration Book the mortgage registration or the mortgage deregistration immediately after receiving complete and valid dossiers, and shall, within 3 working days, grant Vietnam ship mortgage registration certificates or Vietnam ship mortgage deregistration certificates, made according to the form in Appendix XI to this Decree (*not printed herein*). In case of refusal to grant a certificate, they shall notify in writing shipowners thereof.

Article 21. Registration of mortgage extension

Registration of mortgage extension complies with Articles 17, 18, 19 and 20 of this Decree.

Section 4. REGISTRATION OF VIETNAMESE ORGANIZATIONS' OR INDIVIDUALS' SHIPS FLYING FOREIGN FLAG

Article 22. Registration of ships flying foreign flag

1. Ships owned by Vietnamese organizations or individuals can be registered for flying foreign flag in the following cases:

a/ Ships purchased or hire-purchased from foreign countries but ineligible for registration in the Vietnam National Ships Registration Book under Article 16 of Vietnam's Maritime Code and this Decree.

b/ Ships operated on the basis of ship bareboat charter contracts or hire-purchase contracts signed between Vietnamese organizations or individuals and foreign organizations or individuals for which ownership registration must be retained in the Vietnam National Ship Registration Book.

2. Procedures for registration for flying foreign flag for Vietnamese ships

a/ The shipowner shall make ship registration

suspension or deregistration under Clauses 1 and 2, Article 15 of this Decree;

b/ The regional ship registrar shall carry out procedures for registration suspension or deregistration of flying of Vietnamese flag, withdraw the Vietnam ship registration certificate and grant a new Vietnam ship registration certificate indicating the registration of ship ownership.

Article 23. Procedures for registration of foreign ships purchased by Vietnamese organizations and individuals and registered for flying foreign flag

1. In case Vietnamese organizations or individuals only register for flying foreign flag but do not register for ship ownership in foreign countries, they shall make ship ownership registration at regional ship registrars.

2. A dossier for registration of ship ownership comprises:

a/ A written request for registration of ship ownership;

b/ A copy of the ship registration certificate;

c/ A copy of the ship purchase and sale contract or lawful paper evidencing ship ownership.

3. Within 5 working days after receiving complete and valid dossiers, regional ship registrars shall grant Vietnam ship registration certificates indicating ship ownership registration. In case of refusal, they shall notify in writing shipowners thereof.

Chapter III

SHIP PURCHASE, SALE AND BUILDING

Article 24. Principles on ship purchase, sale and building

1. Ship purchase, sale and building are a specific investment activity. The order and procedures for

investment in ship purchase, sale and building comply with Vietnam's Maritime Code and this Decree.

2. Ship purchase, sale and building projects must comply with the sectoral development master plans and the national ship fleet; ensure conditions on maritime safety and security and environmental pollution prevention and control in accordance with Vietnamese law and relevant treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 25. Ship purchase, sale and building projects

Ship purchase, sale and building projects shall be classified by source of capital as follows:

1. Projects funded with 30% or more of state capital, referred to as state-funded projects.

2. Projects funded with non-state capital or less than 30% of state capital, referred to as non-state-funded projects.

Article 26. Forms of ship purchase, sale and building

1. For state-funded ship purchase and sale projects:

a/ Ship purchase and sale between Vietnamese and foreign organizations or individuals shall be conducted in the form of competitive offers in accordance with international practices from at least 3 (three) offerers such as shipowners or ship charterers, ship managers, ship operators, brokers and shipbuilding yards;

b/ Ship purchase and sale between Vietnamese organizations and individuals shall be conducted in the form of auction or competitive offer in accordance with international practices.

2. State-funded shipbuilding projects shall be implemented with competitive offers from at least 3 shipbuilding yards or their representatives.

3. For non-state-funded ship purchase, sale and building projects, concerned organizations and individuals shall decide on the form of ship purchase, sale and building.

Article 27. Process of implementation of ship purchase, sale and building projects

For state-funded ship purchase, sale and building projects, the following process must be complied with:

1. Selecting ships or ship purchasers and shipbuilding yards.

2. Elaborating and submitting for approval ship purchase, sale and building projects.

3. Deciding on ship purchase, sale and building.

Article 28. Competence to decide on ship purchase, sale and building

1. For state-funded ship purchase, sale and building projects:

a/ Ministers, heads of ministerial-level agencies or government-attached agencies, presidents of People's Committees of provinces and centrally run cities, boards of directors of state groups and corporations (set up by the Prime Minister) may decide on investment in projects capitalized at VND 75 billion or more.

b/ Directors of general departments or departments under ministries or state corporations (decided by ministers) may decide on investment in projects capitalized at under VND 75 billion.

For projects not yet included in approved sectoral master plans, investors shall report them to relevant line ministries for investment decision.

2. For non-state-funded ship purchase, sale and building projects, concerned organizations and individuals shall make decision.

Article 29. Ship purchase, sale and building

dossiers

1. A ship purchase dossier comprises:

a/ A report on ship purchase;

b/ The ship purchase project, indicating the necessity of investment, type of ship, quantity and basic technical specifications of the ship, estimated ship price, funding source for ship purchase, form of ship purchase, method of operation, economic benefits and other necessary issues;

c/ A copy of the ship registration certificate;

d/ The report on technical survey of the ship, made by Vietnam or foreign register or international ship surveyor designated by the ship purchaser and seller and accredited by Vietnam register;

e/ The ship's copies of certificates of maritime safety and environmental pollution prevention and control which are issued by a competent register;

f/ The loan guarantee agreement, if so requested by the ship seller or loan provider.

2. A ship sale dossier comprises:

a/ A report on the ship sale proposal;

b/ A copy of the Vietnam ship registration certificate indicating the ship ownership status;

c/ The ship's copies of certificates of maritime safety and environmental pollution prevention and control which are issued by a competent register;

3. A ship building dossier comprises:

a/ A report on ship building;

b/ The ship purchase project, indicating the necessity of shipbuilding, projected shipbuilding yard, time of building and delivery of the ship, total investment, investment source structure; payment method and schedule, basic technical specifications of the ship, method of operation, economic benefits and other necessary issues;

c/ The basic ship design dossier;

d/ Principal provisions of the draft contract or

equivalent written agreement;

e/ The loan guarantee agreement, if so requested by the ship seller or loan provider.

4. For non-state-funded ship purchase, sale and building projects, concerned organizations and individuals shall decide on their dossiers, except for ship purchase projects which must comply with Points c, d and e, Clause 1 of this Article.

Article 30. Decision on ship purchase, sale and building

On the basis of ship purchase, sale and building dossiers specified in Article 29 of this Decree, competent persons defined in Article 28 of this Decree may decide on ship purchase, sale and building.

Article 31. Responsibilities and powers of ship purchasers, sellers and builders

1. Ship purchasers, sellers and builders shall take responsibility for:

a/ The truthfulness and lawfulness of documents in the ship purchase, sale or building dossier submitted to the organization or individual competent to decide on ship purchase, sale or building;

b/ The genuineness and technical quality of the ship, ship purchase and sale or building cost and financial conditions of the ship purchase, sale and building project;

c/ The terms of the draft contract on ship purchase, sale or building. They may officially sign the contract only after obtaining approval of the organization or individual competent to decide on ship purchase, sale or building.

2. Ship purchasers, sellers and builders have the following powers:

a/ To directly negotiate and sign the contract on ship purchase, sale or building. And carry out

procedures for handover and receipt and import and export of ships in line with competent authorities' ship purchase, sale and building decisions;

b/ If finding it necessary, to hire project elaboration consultants or entrust others to carry out procedures for handover and receipt and import and export of ships.

Article 32. Ship import and export procedures

On the basis of ship purchase, sale and building decisions and contracts, written records of handover and receipt of ships and Vietnam Register's certificates of the technical conditions of ships, customs offices shall carry out ship import and export procedures.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 33. Effect

1. This Decree takes effect on June 1, 2009, and replaces the Government's Decree No. 49/2006/ND-CP of May 18, 2006, on ship registration, purchase and sale.

2. This Decree is attached with 12 appendices (not printed herein).

Article 34. Organization of implementation

1. The Ministry of Finance shall specify the collection, remittance and use of ship registration and mortgage fees.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and presidents of provincial/municipal People's Committees shall have to implement this Decree.-

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG