

DECREES:

Chapter 1

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides for the conditions, procedures and competence for grant of permits for fishery activities; responsibilities of owners of foreign fishing vessels engaged in fishery activities in Vietnam's sea areas; responsibilities of state management agencies for fishery activities of foreign fishing vessels in Vietnam's sea areas; examination, control and handling of administrative violations, and complaints and denunciations related to fishery activities of foreign fishing vessels in Vietnam's sea areas.

Article 2. Subjects of application

This Decree applies to owners of foreign fishing vessels engaged in fishery activities in Vietnam's sea areas and concerned agencies, organizations and individuals.

Article 3. Interpretation of terms

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

1. Owner of a fishing vessel means the owner, manager or captain of that fishing vessel.

2. Vietnam's sea areas are the sea areas under the sovereignty, sovereign rights and jurisdiction of the Socialist Republic of Vietnam as defined in the June 26, 2003 Law on National Boundaries and treaties between the Socialist Republic of Vietnam and other countries.

3. Foreign fishing vessel means a fishing vessel flying a foreign flag which is engaged in fishery activities.

Decree No. 32/2010/ND-CP of March 30, 2010, on the management of fishery activities of foreign ships in Vietnam's sea areas

THE GOVERNMENT

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

Pursuant to the November 26, 2003 Fisheries Law;

Pursuant to the July 2, 2002 Ordinance on Handling of Administrative Violations and April 2, 2008 Ordinance No. 04/2008/UBTVQH12 Amending and Supplementing a Number of Articles of the Ordinance on Handling of Administrative Violations;

At the proposal of the Minister of Agriculture and Rural Development,

Article 4. Principles of fishery activities of foreign fishing vessels in Vietnam's sea areas

1. Fishery activities of foreign fishing vessels in Vietnam's sea areas must be carried out on the basis of international cooperation, ensuring equality, mutual benefits and respect for each party's independence, sovereignty and law as well as international law.

2. Fishery activities of foreign fishing vessels in Vietnam's sea areas must comply with fisheries development master plans and plans and ensure safety for fishing vessels and people working on board.

3. Foreign fishing vessels may be engaged in fishery activities in Vietnam's sea areas only after they are granted fishery activity permits by competent Vietnamese agencies.

4. Foreign fishing vessels engaged in fishery activities in Vietnam's sea areas must strictly observe this Decree and other relevant regulations of Vietnam.

Chapter II

CONDITIONS, PROCEDURES AND COMPETENCE FOR THE GRANT, RE-GRANT EXTENSION AND WITHDRAWAL OF FISHERY ACTIVITY PERMITS OF FOREIGN FISHING VESSELS

Article 5. Fishery activity permits of foreign fishing vessels

1. A fishery activity permit (below referred to as permit) will be granted to each fishing vessel. A fishing vessel owner may apply for permits for more than one fishing vessel.

The form of permits is provided in Appendix I to this Decree (*not printed herein*).

2. The maximum validity term of a granted

permit is 12 months, for fishing activities, or 24 months, for other fishery activities.

3. A permit may be extended for no more than 3 times, with each extension not exceeding 12 months.

Article 6. First-time grant of permit

A foreign fishing vessel will be considered and granted a permit if its owner satisfies the following conditions:

1. Having any of the following papers and documents:

a/ The investment license, issued by a competent state management agency;

b/ Documents of a project on aquatic resource survey and exploration or exploration cooperation, approved by the Prime Minister;

c/ Documents of a project on aquatic resource-related technical training and technology transfer, approved by the Minister of Agriculture and Rural Development;

d/ Documents of a project on aquatic product trading, purchase and transportation, approved by the Minister of Agriculture and Rural Development or a provincial-level People's Committee chairperson.

2. A fishing vessel registration certificate, issued by a competent authority of the country of which the fishing vessel bears the nationality.

3. A fishing vessel technical safety certificate, issued by a competent registry of the country of which the fishing vessel bears the nationality or by the registry under the Vietnamese Ministry of Agriculture and Rural Development.

4. A permit for use of radio frequency and radio transceivers, issued by a Vietnamese competent authority

5. Captain and chief engine diplomas and

certificates accredited by a Vietnamese competent authority.

6. A list of crew members and people working on board.

7. At least 1 person proficient in Vietnamese or English working on board the fishing vessel.

Article 7. Re-grant and extension of permits

1. A foreign fishing vessel will be considered for re-grant of its permit in the following cases:

a/ The granted permit is torn or ragged from use;

b/ The permit is lost;

c/ The fishing vessel is changed.

2. A foreign fishing vessel will be considered for extension of its permit if it fully meets the following conditions:

a/ Not having violated Vietnam's laws.

b/ Its investment license or the fishery cooperation agreement remains valid.

The contents of permit extension comply with the form provided in Appendix II to this Decree (*not printed herein*).

Article 8. Order and procedures for the grant, re-grant and extension of permits

1. A dossier of application for the first-time grant of a permit comprises:

a/ An application for the grant of a permit for the fishing vessel (made according to the form provided in Appendix III to this Decree – *not printed herein*);

b/ Notarized copies of papers and documents specified in Clauses 1, 2, 3, 4 and 5, Article 6 of this Decree;

c/ A list of crew members and people working on board the fishing vessel (with their full names,

addresses of permanent residence and posts) and their photos.

2. A dossier of application for the re-grant of a permit comprises:

a/ An application for the re-grant of a permit (made according to the form provided in Appendix IV to this Decree - *not printed herein*);

b/ The granted permit (in case the permit is torn or ragged);

c/ The written certification of the permit loss (clearly stating the reason), made by the administration of the locality where the permit is lost (if the license is lost);

d/ A report on the change of the fishing vessel or its operation (if any).

3. A dossier of application for the extension of a permit comprises:

a/ An application for the extension of the permit (made according to the form provided in Appendix V to this Decree - *not printed herein*);

b/ A copy of the granted permit;

c/ A notarized copy of the fishing vessel's technical safety certificate;

d/ A report on the operation of the fishing vessel during the validity term of its granted permit;

e/ The logbook (for vessels with fishing permits).

4. Organizations and individuals applying for the grant, re-grant or extension of permits shall submit dossiers to agencies defined in Article 11 of this Decree.

Article 9. Cases in which permits are invalidated

1. The fishing vessel terminates its operation in Vietnam's sea areas before its permit expires.

2. The investment license or cooperation contract is suspended or cancelled.
3. The fishing vessel has its permit withdrawn.
4. The permit expires.
5. The fishing vessel is destroyed, sunk or missing.

Article 10. Cases in which permits are withdrawn

1. The permit is erased or modified.
2. The permit is used not for the fishing vessel for which it is granted.
3. The fishing vessel uses prohibited fishing methods or fails to comply with the provisions of its permit.
4. The fishing vessel or people on board the fishing vessel violate Vietnam's law or regulations of international organizations of which Vietnam is a member.

Article 11. Competence to grant, re-grant, extend and withdraw permits

1. The Ministry of Agriculture and Rural Development is the agency competent to grant, re-grant, extend and withdraw permits of foreign fishing vessels operating in Vietnam's sea areas.
2. The grant, re-grant and extension of permits shall be carried out as follows:
 - a/ The time limit for the grant of a permit is 10 working days after receiving a valid and complete dossier;
 - b/ The time limit for re-grant of a permit is 7 working days after receiving a valid and complete dossier;
 - c/ The time limit for extension of a permit is 3 working days after receiving a valid and complete dossier.

Chapter III

RIGHTS AND RESPONSIBILITIES OF OWNERS OF FOREIGN FISHING VESSELS

Article 12. Rights of owners of foreign fishing vessels

1. To carry out fishery activities in Vietnam's sea areas according to their permits.
2. To be promptly notified of the weather conditions by specialized state agencies of Vietnam; to be provided with information relating to their fishery activities and guidance on Vietnam's law upon request.
3. To have their lawful rights and interests protected by the Vietnamese State in the course of carrying out fishery activities in Vietnam.
4. To have other rights provided by Vietnam's law.

Article 13. Responsibilities of owners of foreign fishing vessels

1. To fully pay charges and fees as prescribed and buy insurance for supervisors.
2. At least 7 days before their fishing vessels enter Vietnam's sea areas, to notify such in writing (by fax, e-mail or post) to the General Fisheries Office under the Vietnamese Ministry of Agriculture and Rural Development. Upon arrival in Vietnam, to carry out entry procedures under regulations.
3. To carry along on board their fishing vessels the following papers (originals):
 - a/ The fishery activity permit;
 - b/ The fishing vessel registration certificate;
 - c/ The fishing vessel technical safety certificate;

d/ The permit for use of radio frequency and transceivers.

e/ The register of crewmembers and passports of crewmembers and people working on board the fishing vessel.

4. To make entries in logbooks and report on the operation of fishing vessels according to the following provisions:

a/ To make reports on each voyage, for fishing vessels engaged in aquatic resource survey and exploration;

b/ To make entries in fishing logbooks (according to the form provided in Appendix VI to this Circular - *not printed herein*) and make reports on each voyage, for fishing vessels engaged in fishing activities;

c/ To make reports on each voyage, for fishing vessels engaged in technical training or technology transfer activities;

d/ To make reports for each voyage, for fishing vessels engaged in the trading in, purchase or transportation of aquatic products.

Reports and logbooks shall be presented by captains in either Vietnamese or English and be sent to the Ministry of Agriculture and Rural Development (the General Fisheries Office) within 3 days after the vessel arrives at a Vietnamese port.

5. To observe all relevant laws of Vietnam and treaties which Vietnam has signed or acceded to.

6. To receive and return supervisors:

a/ To receive and return supervisors at designated places approved by the Ministry of Agriculture and Rural Development (the General Fisheries Office);

b/ To ensure working and living conditions for Vietnamese supervisors like officers on board fishing vessels and comply with their instructions

under Article 17 of this Decree.

7. To submit to the inspection and control by control forces in Vietnam's sea areas under Clause 1, Article 22 of this Decree.

8. When meeting with incidents or accidents or being in distress, to send SOS messages according to regulations and immediately notify such to the concerned Vietnamese authority in the nearest place and notify the Ministry of Agriculture and Rural Development (the General Fisheries Office) and local border guards when the vessels call at Vietnamese fishing ports or wharves in all circumstances.

9. Owners of foreign fishing vessels engaged in fishing activities may only sell their products in Vietnam (unless an export contract is included in the approved cooperation projects).

Article 14. Responsibilities of owners of foreign fishing vessels when the vessels terminate operation

1. When a foreign fishing vessel terminates its operation and leaves Vietnam's sea areas, its owner shall fulfill all obligations stated in the granted investment license, approved project or signed contract (unless otherwise agreed upon in the contract) and prescribed by other relevant laws of Vietnam.

2. In case a foreign fishing vessel terminates its operation before its permit expires, its owner shall report such in writing to the permit-granting agency at least 7 working days in advance.

Chapter IV

FISHING VESSEL SUPERVISORS

Article 15. Fishing vessel supervisors

1. To supervise foreign fishing vessels in:

a/ Fishing activities;

- b/ Aquatic resource survey and exploration;
- c/ Fishery-related technical training and technology transfer.

In case an officer of the Agriculture and Rural Development Ministry's marine product research agency currently works on board a foreign fishing vessel under an approved project or contract, appointment of a fishing vessel supervisor is not required.

2. A fishing vessel supervisor must satisfy the following conditions:

- a/ Being a public employee appointed by a state management agency;
- b/ Having experience in and thorough knowledge about the fisheries law and activities which he/she is assigned to supervise;
- c/ Being physically fit and having a good seafaring capacity;
- d/ Being proficient in English or the language used on the foreign vessel.

3. Competence to appoint supervisors

The Ministry of Agriculture and Rural Development (the General Fisheries Office) shall decide to appoint 1 or 2 supervisors to work on board each foreign fishing vessel under this Article.

Article 16. Responsibilities of supervisors

1. To supervise activities of, operation and the observance of Vietnam's law by, people and fishing vessels engaged in fishery activities in Vietnam's sea areas.
2. To fully and promptly report to the Ministry of Agriculture and Rural Development (the General Fisheries Office) and competent authorities information relating to activities of foreign fishing vessels according to their assigned tasks.

Article 17. Powers of supervisors

1. To request officers, crewmembers and people working on board fishing vessels to strictly comply with Vietnam's law and the provisions of their permits.
2. To request captains to steer vessels to the nearest port or landing place, upon detecting serious violations of Vietnam's law committed by foreign people or fishing vessels.
3. To inspect and supervise all activities carried out on board vessels, including the operation of fish finders and communication devices.
4. To use foreign fishing vessels' communication devices for working purposes when necessary.

Article 18. Interests of supervisors

1. To enjoy full insurance bought by owners of foreign fishing vessels during the period of working on board the vessels.
2. To have their working and living conditions on board foreign fishing vessels secured by the vessel owners like officers working on board fishing vessels.
3. To enjoy salaries, working-trip allowances, seafaring allowances and other entitlements (if any) provided by law.
4. To enjoy other allowance and remunerations from cooperative partners, if so stated in the cooperation agreements, projects or contracts.

Chapter V

RESPONSIBILITIES OF STATE MANAGEMENT AGENCIES

Article 19. Responsibilities of the Ministry of Agriculture and Rural Development

The Ministry of Agriculture and Rural

Development shall assist the Government in uniformly managing fishery activities of foreign fishing vessels nationwide:

1. To manage fishery activities of foreign fishing vessels in Vietnam's sea areas under this Decree and relevant law of Vietnam.

2. To notify related matters and send copies of granted, re-granted or extended permits of foreign fishing vessels to the Ministry of National Defense (the Border Guard High Command and the Department of Marine Police), the Ministry of Public Security (the General Department of Security), the Ministry of Transport (the Vietnam Maritime Administration), the Ministry of Finance, the Ministry of Natural Resources and Environment and concerned provincial-level People's Committees for coordinated management of operations of foreign fishing vessels.

3. To inspect, examine, and settle complaints and denunciations and handle violations according to its competence and law.

Article 20. Responsibilities of ministries and branches

1. The Ministry of Planning and Investment shall coordinate with the Ministry of Agriculture and Rural Development and provincial-level People's Committees in appraising and granting investment licenses to investment projects involving fishery activities of foreign fishing vessels in Vietnam's sea areas.

2. The Ministry of National Defense, the Ministry of Public Security, the Ministry of Transport, the Ministry of Natural Resources and Environment, the Ministry of Finance and other ministries and branches, within the ambit of their functions, tasks and powers, shall:

a/ Coordinate with the Ministry of Agriculture

and Rural Development in performing the state management of fishery activities of foreign fishing vessels in Vietnam's sea areas;

b/ Inspect, examine and settle complaints and denunciations and handle violations of law according to their competence and law.

Article 21. Responsibilities of provincial-level People's Committees

1. To coordinate with the Ministry of Planning and Investment and the Ministry of Agriculture and Rural Development in appraising and granting investment licenses to investment projects involving activities of foreign fishing vessels in Vietnam's sea areas.

2. To approve in principle projects on cooperation with foreign parties in trading in, purchase and transportation of aquatic products in conformity with local and sectoral development plans.

3. To inspect, examine, and settle complaints and denunciations and handle violations of law according to their competence and law.

Chapter VI

EXAMINATION, CONTROL, HANDLING OF ADMINISTRATIVE VIOLATIONS AND SETTLEMENT OF COMPLAINTS AND DENUNCIATIONS

Article 22. Examination and control of fishery activities of foreign fishing vessels in Vietnam's sea areas

1. The forces examining and controlling fishery activities of foreign fishing vessels in Vietnam's sea areas include the fisheries inspectorate, marine police, border guard, waterway traffic police, customs and other competent forces.

These forces shall examine and control fishery activities of foreign fishing vessels in Vietnam's sea areas which are related to domains or sectors under their respective management according to Vietnam's law; handle administrative violations according to their competence defined in the Ordinance on Handling of Administrative Violations and concurrently coordinate with concerned forces in performing their tasks.

2. While on duty, the forces defined in Clause 1 of this Article must wear uniforms, badges, insignias and specialized inspector cards according to law.

Ships and boats engaged in examination and control operations at sea, must display the Vietnamese national flag, pennants and signs of specialized forces according to law.

Article 23. *Handling of administrative violations committed by foreign fishing vessels*

If the owner of a foreign fishing vessel with a permit commits violations of Vietnam's law when carrying out fishing activities in Vietnam's sea areas, he/she shall be sanctioned under the Government's Decree on sanctioning of administrative violations in the fisheries domain and other relevant laws of Vietnam.

Upon detecting any of violations defined in Article 10 of this Decree, persons competent to handle administrative violations shall immediately seize the permit and vessel and notify such to the Ministry of Agriculture and Rural Development (the General Fisheries Office) for issuance of a decision to withdraw the permit.

Article 24. Procedures for handling administrative violations, executing sanctioning decisions and applying measures to prevent administrative violations

1. The procedures for handling administrative

violations comply with the Ordinance on Handling of Administrative Violations and relevant legal documents.

2. The application of measures to prevent administrative violations and secure the handling of administrative violation and management of foreign violators, complies with the Ordinance on Handling of Administrative Violations and the Government's Decree on sanctioning of administrative violations in the fisheries domain.

3. In case a foreign fishing vessel is temporarily seized for handling of administrative violations:

a/ Within 24 hours after a vessel is temporarily seized, the force which seizes the vessel or receives it for investigation shall report the case to the Ministry of Foreign Affairs (the Consular Department), the Ministry of Public Security (the General Department of Security) and the Ministry of Agriculture and Rural Development (the General Fisheries Office) for coordinated handling and propose the expulsion of foreign violators when necessary;

b/ The owner of the fishing vessel shall bear all expenses for the preservation of the fishing vessel and the lodging and repatriation of violators during the time they are kept in custody or managed in Vietnam.

Article 25. Handling of violations committed by persons competent to handle administrative violations

Violations of this Decree committed by persons competent to handle administrative violations will be handled under the 2002 Ordinance on Handling of Administrative Violations and its guiding decree.

Article 26. Complaints and denunciations

1. Individuals may lodge complaints and

denunciations about violations of this Decree according to the law on complaints and denunciations.

2. Competence, procedures and time limits for settlement of complaints and denunciations comply with the law on complaints and denunciations.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 27. Effect

This Decree takes effect on June 1, 2010, and replaces the Government's Decree No. 191/2004/ND-CP of November 18, 2004, on management of fishery activities of foreign fishing vessels in Vietnam's sea areas.

Article 28. Organization of implementation

Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of People's Committees of coastal provinces and centrally run cities shall implement this Decree.-

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG