

Part I. LEGAL DOCUMENTS

THE GOVERNMENT

Decree No. 72/2001/ND-CP of July 8, 2010, providing for prevention and combat of environmental crimes and other environment-related violations

THE GOVERNMENT

Pursuant to the 1999 Penal Code and the 2009 Law Amending and Supplementing a Number of Articles of the Penal Code;

Pursuant to the 2003 Criminal Procedure Code;

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

Pursuant to the November 29, 2005 Law on People's Public Security;

Pursuant to the November 29, 2005 Law on Environmental Protection;

Pursuant to the August 20, 2004 Ordinance on Organization of Criminal Investigations; the December 14, 2006 Ordinance Amending and Supplementing Article 9 of the 2004 Ordinance on Organization of Criminal Investigations; and the February 27, 2009 Ordinance Amending and Supplementing a Number of Articles of the 2004 Ordinance on Organization of Criminal Investigations;

Pursuant to the July 2, 2002 Ordinance on Handling of Administrative Violations; the March 8, 2007 Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Handling of Administrative Violations; and the April 2, 2008 Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Handling of Administrative

Violations;

At the proposal of the Minister of Public Security,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides for the organization and activities of prevention and combat of environmental crimes and other environment-related violations; responsibilities of state agencies for and international cooperation in this domain.

Article 2. Subjects of application

This Decree applies to officers and men engaged in prevention and combat of environmental crimes and other environment-related violations; agencies, organizations and citizens of the Socialist Republic of Vietnam; and foreign organizations and individuals residing and operating in the Vietnamese territory.

Article 3. Principles of prevention and combat of environmental crimes and other environment-related violations

1. The prevention and combat of environmental crimes and other environment-related violations is placed under the centralized and unified direction of the Government. The Ministry of Public Security assists the Government in performing the state management of prevention and combat of environmental crimes and other environment-related violations.

2. To comply with provisions of law; to respect the lawful rights and interests as well as normal operation of agencies, organizations and individuals; to ensure economic development and

social security.

3. The prevention and combat of environmental crimes and other environment-related violations shall be carried out in a regular, continuous, swift and effective manner.

4. Agencies, organizations and citizens of the Socialist Republic of Vietnam; and foreign organizations and individuals residing and operating in the territory of the Socialist Republic of Vietnam have the right, obligation and responsibility to strictly comply with the environmental law and the requests of agencies and officials in charge of prevention and combat of environmental crimes and other environment-related violations when the latter perform their official duties.

5. International cooperation in the prevention and combat of environmental crimes and other environment-related violations must be based on the principle of respect for Vietnam's national independence, sovereignty and territorial integrity, mutual benefits and compliance with Vietnamese law, unless otherwise provided for by treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 4. Interpretation of terms

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

1. Specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations are the anti-environmental crime police of the Public Security force.

2. Individuals mean Vietnamese citizens, overseas Vietnamese and foreigners residing and operating in Vietnam.

3. Organizations mean enterprises, associations and unions of enterprises, private production and business households and other organizations established lawfully under law,

which operate in the Vietnamese territory.

Chapter II

CONTENTS OF MEASURES AND
CONDITIONS FOR PREVENTION AND
COMBAT OF ENVIRONMENTAL CRIMES
AND OTHER ENVIRONMENT-RELATED
VIOLATIONS

Article 5. Contents of prevention and combat of environmental crimes and other environment-related violations

1. To advise on and propose the formulation of policies, plans and legal documents on prevention and combat of environmental crimes and other environment-related violations.

2. To guide, inspect and apply measures for prevention and combat of environmental crimes and other environment-related violations; to organize the state management of environment in the People's Public Security force.

3. To organize investigative activities under the Criminal Procedure Code and the Ordinance on Organization of Criminal Investigations, and inspect and handle other environment-related violations under law.

4. To join in councils for appraisal of reports on strategic environmental assessment and reports on environmental impacts assessment of investment projects.

5. To study and apply scientific and technological advances to the prevention and combat of environmental crimes and other environment-related violations.

6. To propagate for, disseminate and educate in, the environment law and the prevention and combat of environmental crimes and other environment-related violations.

7. To organize professional training and refresher courses in prevention and combat of environmental crimes and other environment-

related violations.

8. To perform international cooperation in prevention and combat of environmental crimes and other environment-related violations.

Article 6. Measures to organize prevention and combat of environmental crimes and other environment-related violations

1. Specialized agencies in charge of the prevention and combat of environmental crimes and other environment-related violations may apply the following professional measures:

a/ To use scientific, technological and technical means to monitor, supervise and collect information on activities of subjects committing environment-related illegal acts and to detect environment law-violating instruments, means and modes;

b/ To arrange infiltrators to inquire into criminal activities related to the environment and to detect information, documents, tools and means related to environmental crimes and criminals;

c/ To inspect residences, workplaces, vehicles and other relevant locations used by persons showing signs of committing environmental crimes in order to collect information, documents, instruments and means related to environmental crimes;

d/ To apply professional measures so that criminals expose places where instruments, means, products, things and documents involved in environmental crimes are hidden;

e/ To arrange forces to oversee activities of subjects committing environmental crimes;

f/ To coordinate with concerned bodies of foreign countries in fighting organized and transnational environmental crimes.

2. Specialized agencies in charge of preventing and combating environmental crimes and other environmental-related violations may

apply the following provisional urgent measures:

a/ Temporarily stopping activities of agencies, organizations or enterprises which are directly related to environmental pollution;

b/ Sealing off, temporarily seizing or confiscating assets, things and means involved in violations;

c/ Temporarily holding violators in custody;

d/ Other preventive measures as prescribed by law.

3. To seize product samples, documents and material evidence related to environmental violations for examination.

4. To request organizations or individuals to supply information, documents, assets and objects when having firm grounds to believe them related to environmental crimes and other environment-related violations.

5. To inspect and stop activities related to environmental crimes and other environment-related violations when having adequate grounds as provided for by law.

6. The competence of specialized agencies, order and procedures for prevention and combat of environmental crimes and other environment-related violations comply with the criminal law and criminal procedure law, the Ordinance on Organization of Criminal Investigations, the Ordinance on Handling of Administrative Violations and other relevant laws.

7. The professional measures prescribed in Clause 1 of this Article comply with regulations of the Ministry of Public Security. Information and documents related to these professional measures shall be managed under the secret document regime. It is prohibited to illegally disclose, forge, appropriate, destroy and use these information and documents.

Police officers and collaborators who are tasked by specialized agencies to apply

professional measures prescribed at Points b, c and d, Clause 1 of this Article will be protected and kept secret. Specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations shall coordinate with concerned bodies in applying necessary measures to safely protect the lives, health and lawful rights and interests of police officers and collaborators. Tasked persons who abuse these measures to violate law or act beyond the assigned tasks shall be handled under law.

Article 7. Organizational apparatuses of specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations

Specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations are set up at the Ministry of Public Security, provincial-level Departments of Public Security and district-level Sub-Departments of Public Security. The organizational apparatuses, functions, tasks and specific powers of the specialized agencies at each level shall be prescribed by the Minister of Public Security.

Article 8. Raising the capabilities of specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations

1. The State adopts policies to give priority to the Ministry of Public Security in recruiting outstanding cadres and specialists to serve the prevention and combat of environmental crimes and other environment-related violations and send fully qualified persons for study and training at domestic and foreign training establishments.

2. The State equips specialized agencies with assorted professional means and support instruments, including technical means for

detection, collection and storage of information, documents and product samples; with communications means, vehicles; modern information technology systems and assorted necessary weapons as well as support instruments to effectively carry out the prevention and combat of environmental crimes and other environment-related violations.

3. The State invests in upgrading the environmental inspection centers of the Ministry of Public Security up to national standards to serve the prevention and combat of environmental crimes and other environment-related violations.

Article 9. Coordination in prevention and combat of environmental crimes and other environment-related violations

1. Within the ambit of their respective functions, tasks and powers, specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations at all levels shall:

a/ Assume the prime responsibility for, and coordinate with other agencies, organizations and individuals in, working out plans for, and organizing the prevention and combat of environmental crimes and other environment-related violations;

b/ Receive and handle reports and denunciations on environmental crimes and other environment-related violations; conduct a number of investigative activities and handle environment-related violations detected by themselves or transferred by organizations or individuals under law;

c/ Make preliminary and final reviews and notify coordinating agencies or organizations of the results of coordinated prevention and combat of environmental crimes and other environment-related violations.

2. Within the ambit of their respective tasks and powers, agencies, organizations and individuals shall:

a/ Detect, supply and transfer in time to specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations and competent investigating police offices reports, denunciations, information, documents and objects related to prevention and combat of environmental crimes and other environment-related violations;

b/ Satisfy requests of specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations and competent investigating police bodies in detecting, investigating, preventing and fighting environmental crimes; coordinate with, and create conditions for, these agencies to perform their assigned tasks.

Article 10. Regimes and policies

Officers and men of specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations are entitled to regimes and policies prescribed by law for the People's Public Security officers and men and the following regimes and policies:

1. The regime on allowance for hazardous works as provided for by law.

2. To be equipped with anti-pollution means when performing official duties.

3. In special cases, to enjoy salary raise or rank promotion skipping over the highest rank prescribed for each position.

Article 11. Funds for the prevention and combat of environmental crimes and other environment-related violations

1. Funds for the prevention and combat of environmental crimes and other environment-

related violations will come from annual state budget allocations for the Ministry of Public Security.

2. The prevention and combat of environmental crimes and other environment-related violations will also enjoy supports from annual environment-related non-business expenditure sources, collected fines for administrative violations in the environment domain and collected environment charge arrears in cases detected and handled by police. This funding source will be used for the following purposes:

a/ Support of prevention and combat of environmental crimes and other environment-related violations;

b/ Procurement of equipment and means in service of prevention and combat of environmental crimes and other environment-related violations;

c/ Support of the advisory work guidance, scientific research, preliminary and final reviews of special professional subjects and specific cases; the formulation and finalization of legal documents on environment;

d/ Support of training, retraining, propagation, education and dissemination of the environmental law;

e/ Support for individuals and families with members who get wounded or died in prevention and combat of environmental crimes and other environment-related violations;

f/ Rewards for collectives and individuals recording outstanding achievements in prevention and combat of environmental crimes and other environment-related violations;

g/ Appraisal and assessment of environmental samples in service of prevention and combat of environmental crimes and other environment-related violations;

h/ Conferences, seminars and international

cooperation in prevention and combat of environmental crimes and other environment-related violations.

Article 12. Mobilization of scientific, technical and technological potential in service of prevention and combat of environmental crimes and other environment-related violations

Specialized agencies may mobilize scientific and technological potentials in service of prevention and combat of environmental crimes and other environment-related violations. The mobilization of scientific and technological potential shall comply with the Government's Decree No 169/2007/ND-CP of November 19, 2007, on mobilization of scientific and technological potential in service of public security activities.

Chapter III

RESPONSIBILITIES OF STATE AGENCIES FOR PREVENTION AND COMBAT OF ENVIRONMENTAL CRIMES AND OTHER ENVIRONMENT-RELATED VIOLATIONS

Article 13. Responsibilities of the Ministry of Public Security

1. To organize forces for prevention and combat of environmental crimes and other environment-related violations in accordance with the Criminal Procedure Code, the Law on People's Public Security, the Ordinance on Organization of Criminal Investigations and this Decree.

2. To assume prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment and other concerned bodies in, formulating and implementing strategies, undertakings, policies and plans for prevention and combat of environmental crimes and other environment-related violations.

3. To receive and process information on environmental crimes and other environment-

related violations; to transfer to competent state bodies documents and files on matters or cases, which are probably related to violations of the environmental law for inspection, examination and handling under law.

4. To organize scientific, technical and technological research and application to prevention and combat of environmental crimes and other environment-related violations; to exchange necessary information and documents in the course of investigating and detecting acts of violating the environmental law with the Ministry of Natural Resources and Environment.

5. To train and retrain officials engaged in prevention and combat of environmental crimes and other environment-related violations.

6. To advise on and formulate strategies, undertakings, policies and law on prevention and combat of environmental crimes and other environment-related violations.

7. To coordinate with the Ministry of Natural Resources and Environment, the Ministry of Planning and Investment and the Ministry of Finance in working out plans, short-term and long-term estimates of non-business funds for prevention and combat of environmental crimes and other environment-related violations for submission to the Prime Minister for approval and organize the implementation thereof under law.

Article 14. Responsibilities of the Ministry of Natural Resources and Environment

1. To assume the prime responsibility for, and coordinate with the concerned ministries, sectors, provincial-level People's Committees, Vietnam Fatherland Front and its member organizations in, propagating for, and disseminating the undertakings, policies and law on environmental protection, the results of investigation and handling of environmental crimes and other environment-related violations.

2. To guide, inspect and organize the implementation of policies and law on environmental protection; to coordinate with concerned ministries and sectors in reviewing, adjusting and changing current Vietnam standards on environment, promulgate new environmental standards and technical regulations; to formulate the mechanism for environment-related socialization, supervision and inspection.

3. To inspect, examine, and promptly and severely handle violations of the environmental protection law within the ambit of its functions, tasks and powers; to stop the operation of production, business or service establishments which do not have waste treatment systems or facilities and measures to remedy environmental incidents. To closely coordinate with the Ministry of Public Security in exchanging information, inspecting, examining, and handling violations of the law on environmental protection.

4. To coordinate with the Ministry of Public Security in enhancing the capabilities of specialized agencies in charge of prevention and combat of environmental crimes and environment-related violations.

Article 15. Responsibilities of the Ministry of Finance

To assume the prime responsibility for, and coordinate with the Ministry of Public Security, the Ministry of Planning and Investment, the Ministry of Natural Resources and Environment and concerned ministries and sectors in, formulating and submitting to the Government and the Prime Minister plans, short-term and long-term estimates of non-business funds for prevention and combat of environmental crimes and environment-related violations.

Article 16. Responsibilities of ministries, ministerial-level agencies and government-attached agencies

1. To guide and inspect units under their respective management in implementing this Decree.

2. To inspect and examine violations of the law on environmental protection according to their respective functions and tasks and provisions of law; to coordinate with, and support specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations and other bodies under the Ministry of Public Security, the Supreme People's Procuracy and the Supreme People's Court in investigating, prosecuting and adjudicating environmental crimes.

Article 17. Responsibilities of People's Committees at all levels

1. To guide their attached units and sections to study and implement this Decree within their respective functions and tasks.

2. To closely coordinate with competent state bodies in deploying and urging the implementation of policies, undertakings, strategies and plans for prevention and combat of environmental crimes and environment-related violations.

3. To allocate environmental non-business funds for prevention and combat of environmental crimes and environment-related violations which are allocated by the State to their localities.

Chapter IV

INTERNATIONAL COOPERATION IN PREVENTION AND COMBAT OF ENVIRONMENTAL CRIMES AND ENVIRONMENT-RELATED VIOLATIONS

Article 18. Responsibilities of the Ministry of Public Security for international cooperation in prevention and combat of environmental crimes and environment-related violations

1. To negotiate on, conclude, and organize the

implementation of, treaties and international agreements in the fields of information exchange and prevention and combat of environmental crimes and environment-related violations under the 2005 Law on Conclusion of, Accession to, and Implementation of Treaties and the 2007 Ordinance on Conclusion of International Agreements.

2. To propose the conclusion of, or accession to, treaties on extradition of environmental criminals to accept requests on extraditions and organize the implementation of decisions on extradition of environmental criminals; to conduct activities of criminally legal assistance in prevention and combat of environmental crimes and environment-related violations according to the 2007 Law on Legal Assistance.

Article 19. Contents and forms of, requests for, international cooperation in prevention and combat of environmental crimes and environment-related violations

1. Cooperation contents:

a/ To coordinate in detecting, preventing, investigating and handling environmental crimes and other environment-related violations under Vietnamese laws and treaties to which the Socialist Republic of Vietnam is a contracting party;

b/ To propose negotiations on, conclusion and enforcement of, treaties or international agreements on prevention and combat of environmental crimes and other environment-related violations;

c/ To collect, study and exchange information on and experience in prevention and combat of environmental crimes and other environment-related violations;

d/ To coordinate in professional training and retraining in prevention and combat of environmental crimes and other environment-related violations for cadres and civil servants of concerned agencies and organizations;

e/ To coordinate in organizing conferences and seminars on issues related to prevention and combat of environmental crimes and other environment-related violations;

f/ To realize requests for legal assistance, extradition in investigating, prosecuting, adjudicating and enforcing judgments against environmental crimes;

g/ To provide supports for material, technical and technological foundations, enhancement of capabilities of specialized agencies in charge of prevention and combat of environmental crimes and other environment-related violations.

2. Cooperation forms and requests:

a/ Cooperation requests shall be made in writing with signatures of responsible persons and seals of competent bodies of the requesting countries;

b/ Depending on their contents, written requests for cooperation shall be forwarded to competent bodies according to the 2007 Law on Legal Assistance;

c/ The written requests for cooperation shall cover the following contents: The names of requesting and requested organizations and countries; the request purposes, nature and time limits; the duration of support requests; details and characteristics related to the cooperation requests; copies of evidence and final verdicts of competent bodies of the requesting countries.

3. Cooperation requests will be rejected in the following cases:

a/ They cause harms to Vietnam's national independence, sovereignty or security of other important interests;

b/ They do not comply with treaties to which Vietnam is a contracting party;

c/ They do not fully comply with Clause 2 of this Article or the persons mentioned in those cooperation requests have been or are being

investigated, prosecuted and adjudicated for environmental crimes by Vietnam's competent bodies under Vietnamese law.

Chapter V

IMPLEMENTATION PROVISIONS

Article 20. Effect

This Decree takes effect on September 1, 2010.

Article 21. Implementation responsibilities

1. The Ministry of Public Security shall assume the prime responsibility for, and coordinate with concerned ministries and sectors in, guiding, inspecting and urging the implementation of this Decree.

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

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG