

**THE GOVERNMENT**

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**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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*Hanoi, May 10, 2017*

**DECREE**

**ON GUIDELINES FOR SOME ARTICLES OF THE VIETNAM MARITIME CODE ON  
MANAGEMENT OF MARITIME OPERATIONS**

*Pursuant to the Law on Government Organization dated June 19, 2015;*

*Pursuant to the Vietnam Maritime Code dated November 25, 2015;*

*At the request of the Minister of Transport;*

*The Government promulgates a Decree on guidelines for some articles of the Vietnam Maritime Code on management of maritime operations.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope**

1. This Decree provides for guidelines for some articles of the Vietnam Maritime Code on management of maritime operations, including: investment and construction, operation of seaports, navigational channels, maritime structures, aids to navigation, notices to mariners, operations of marine pilots and operations of ships at seaports and within Vietnamese territorial waters.

2. Regulations of this Decree on maritime safety and security and environmental safety shall be also applied to military ports, fishing ports and ports, inland landing stages within seaport waters.

**Article 2. Regulated entities**

This Decree shall apply to Vietnamese and foreign organizations, individuals or ships, specialized regulatory authorities involved in investment and construction, management and operation of seaports, navigational channels and management of maritime operations carried out within seaport waters and Vietnamese territorial waters.

**Article 3. Definitions**

For the purposes of this law; the terms below shall be construed as follows:

1. “National single-window system” means the system that allows a declarant to submit electronic information and documents to follow administrative procedures for ships’ arrival and departure at seaports, inland waterway ports and offshore oil ports via the National single-window portal. Regulatory authorities shall make decisions via the National single-window portal.
2. “National single-window portal serving the implementation of National single-window system” (hereinafter referred to as “National single-window portal”) refers to the centralized and integrated information system serving e-procedures for ships’ arrival at and departure from ports and completion of procedures at seaports.
3. “e-procedures” mean a method of following procedures via the web portal according to regulations.
4. “web portal” means the National single-window portal or specialized web portal that is used to complete e-procedures.
5. “regulatory authorities at ports” include: port authorities or inland waterway port authorities, border checkpoint customs authorities, border guards at ports (hereinafter referred to as “border guards”), quarantine authorities.
6. “professional information systems belonging to professional regulatory authorities at ports” (hereinafter referred to as “professional information systems”) has the functions that are connected to Nation single-window system portal and subsystems that process information and documents submitted by enterprises following procedures via the National single-window system.
7. “procedures for ships’ arrival at and departure from ports via the National single-window portal” (hereinafter referred to as “e-procedures”) mean the processing of electronic transactions from the time when the declarant follows e-procedures via National single-window system until he/she receives the decision on completion of the procedures issued by relevant regulatory authorities.
8. “e-applications” mean the electronic information including content of forms, documents to be submitted by the declarant as prescribed; notifications, confirmations of tasks performed through National single-window portal between regulatory authorities at ports and the declarant.
9. “digital signature” is digital signature provided by a digital signature authentication service provider that has registered with web portal.
10. “the declarant” includes shipowners or managers, charterers, operators, masters or persons authorized to follow procedures as prescribed in this Decree.
11. “Port Clearance Certificate” is a document issued by a port authority or competent authority in charge of the last port of dispatch.

12. “electronic Port Clearance Certificate” is a permit issued by a port authority to the declarant in the electronic form through the web portal upon completion of e-procedures for ships’ departure from seaports. The electronic Port Clearance Certificate may serve as a replacement for the paper Port Clearance Certificate.

13. “electronic permission for transit” is a permit issued by a port authority to the declarant in the electronic form through the web portal upon completion of e-procedures in transit. The electronic permission for transit may serve as a replacement for the paper permission for transit.

14. “e-dispatch order allowing a ship to arrive at a port” means a port authority allows a ship to arrive a port according to the e-dispatching plan on the web portal or when a ship is dispatched within a maritime area of the seaport waters.

15. “maritime area” is the seaport waters and the area under the management of a port authority. A seaport may have more than one maritime areas.

16. “floating terminal” is a system of anchor buoys, chains, concrete blocks for buoy and equipment that are used for anchoring vessels, handling cargoes, embarking and disembarking passengers as well as providing other maritime services.

17. “compulsory marine pilotage area” (hereinafter referred to as “compulsory pilotage area”) is a restricted area within seaport waters or offshore oil field, stretching from the area where a pilot boards or leaves a wharf, floating terminal, port, anchorage, transshipment area, storm shelter, shipbuilding and repairing plant, offshore petroleum depot and vice versa, where ships must be steered by pilots in accordance with the Vietnam Maritime Code. A compulsory pilotage area includes one or several ship navigation routes.

18. “non-compulsory marine pilotage area” (hereinafter referred to as “non-compulsory pilotage area”) is the waters where ships are not required to be steered by pilots in accordance with the Vietnam Maritime Code.

19. “vessel traffic service” (hereinafter referred to as “VTS system”) is a system that is set up to monitor, assist and control marine traffic in high density traffic areas and areas that may threaten maritime operations to ensure maritime safety and security and environmental safety.

20. “expected arrival position” is the pilot boarding location or the boundary of the seaport waters of the operating area of the ship in Vietnamese territorial waters.

## **Chapter II**

### **MANAGEMENT OF SEAPORTS AND NAVIGATIONAL CHANNELS**

#### **Section 1. INVESTMENT IN AND CONSTRUCTION OF SEAPORTS AND NAVIGATIONAL CHANNELS**

#### **Article 4. Rules for investment in and construction and power to decide the guidelines for investment in seaports and navigational channels**

1. Vietnamese and foreign organizations and individuals investing in and constructing seaports, ports, wharves, floating terminals, anchorages, transshipment areas and navigational channels shall comply with regulations of this Decree and relevant regulations of law.
2. The investment in and construction of seaports, ports, wharves, floating terminals, anchorages, transshipment areas and navigational channels shall conform to the master plan for seaport system development and other relevant approved master plans; in the event a seaport or navigational channel project contravene the approved master plan for seaport system development, before executing such project, the investor must inform and be accepted by the authority that has the power to approve the master plan.
3. The organizations and individuals investing in and constructing specialized seaports, ports, wharves, floating terminals, anchorages, transshipment areas and navigational channels shall invest in and construct seaport infrastructures, specialized navigational channels or dedicated waters unless the nearby current public navigational channel, pilot boarding area, phytosanitary inspection area or turning basin satisfies requirements for operations of ships at such specialized port.
4. The decision on guidelines for investment in seaports, ports, wharves and navigational channels that is financed by funds for public investment shall be made in accordance with the Law on Public Investment.
5. The decision on guidelines for investment in seaports, ports, wharves and navigational channels that is regulated in Clause 4 of this Article shall be made in accordance with the Law on Public Investment. The projects whose investment guidelines are decided by the President of the People's Committee shall obtain the written consent of the Ministry of Transport.

#### **Article 5. Management of investment in and construction of navigational channels**

1. The investment in and construction of navigational channels shall conform to the approved master plan for seaport system development and comply with relevant regulations of law.
2. The Ministry of Transport shall direct the Vietnam Maritime Administration to compile, announce and annually update the list of navigational channels; inspect and supervise the investment in and construction of navigational channels in according to the approved master plan.

#### **Article 6. Agreement on locations and detailed technical specifications of seaports, ports, wharves and navigational channels**

1. Before approving the investment project, the investor shall submit the applications for agreement on locations and detailed technical specifications of seaports, ports, wharves and

navigational channels, directly or by post to the Vietnam Maritime Administration. The application includes:

- a) A written request for agreement on location and detailed technical specifications of a seaport, port, wharf and navigational channel according to the Form No. 01 provided in the Appendix enclosed herewith.
- b) A copy of the written consent to guidelines for investment given by a competent authority according to Clause 4, Article 4 of this Decree;
- c) A drawing of the structure that shows the coordinates of the location of main structure and other auxiliary structures, the distance from the structure boundary to the adjacent structures;
- d) Legal documents about the land area for the project (specifying the coordinates of the boundary of the land area);
- dd) Comments of a competent authority about fire prevention and fighting measures applied to structures that require a fire safety distance from adjacent structures.

2. Within 02 working days from the day on which a valid application submitted by the investor is received, the Vietnam Maritime Administration shall send enquiry forms to relevant authorities about the investor's request. Within 05 working days from the day on which the enquiry form and relevant documents are received, the receiving authority shall send a response to the Vietnam Maritime Administration.

3. Within 03 working days from the day on which the responses are sent by relevant authorities about the investor's request is received, the Vietnam Maritime Administration shall send a written agreement on location and detailed technical specifications, directly or by post, to the investor. In case of rejection, a written response specifying reasons thereof shall be given.

4. Before constructing a seaport, port, wharf and navigational channel, the investor shall submit a copy of the investment and construction decision, enclosed with the overall contour map of the site and a copy of the decision on approval for design to the Vietnam Maritime Administration to serve the management.

#### **Article 7. Supervision of construction of other structures within seaport waters**

1. The construction of other structures within seaport waters that are not regulated in Article 4 of this Decree shall comply with regulations of this Decree on assurance of maritime safety and security and prevention of environmental pollution, and other relevant regulations of law.

2. Before the start of construction, the investor shall submit a copy of the investment decision and the overall contour map of the site of the structure to the local port authority responsible for the area where the structure is constructed, which will supervise the construction by the investor to ensure maritime safety. This Clause shall not apply to the structure that is subject to the plan for maritime safety assurance prescribed in Article 8 of this Decree.

3. The investor in the construction of ports and inland landing stages within seaport waters shall follow procedures prescribed in Article 19 of this Decree.

4. For the project on construction of the structures that intersect seaport waters and navigational channels or that affect maritime operations, such as: bridges, power lines, cable cars, underground structures and other similar structures, upon his/her proposal for project, the investor shall submit an enquiry form to the Vietnam Maritime Administration about the necessity, expected location and scale, vertical clearance and depth of the structure.

Within 05 working days from the day on which the enquiry form and copy of overall contour map of the site are received, the Vietnam Maritime Administration shall give a written response specifying the requirements that need to be complied with to ensure maritime safety and security, and prevent environmental pollution, to the investor. In case of rejection, a written response specifying reasons thereof shall be given.

5. The investor in construction of other structures that are not regulated in Clause 3 and Clause 4 of this Article, upon his/her proposal for investment and construction, shall send an enquiry form for the expected location and scale of the structure to a local port authority. Within 05 working days from the day on which a valid application is received, the local port authority shall give a written response specifying the requirements that need to be complied with to ensure maritime safety and security, and prevent environmental pollution to the investor. In case of rejection, a written response specifying reasons thereof shall be given.

6. The local port authority shall inspect and supervise: conditions for start of the construction of structure in accordance with regulations of law; construction location and scale, watercrafts, equipment, construction measures, construction progress, construction supervision by the investor, measures for maritime safety assurance and other necessary contents throughout the investment in and construction of ports, inland landing stages within seaport waters, compliance with the approved master plan and project, assurance of maritime safety and security and prevention of environmental pollution. The inspection and supervision shall only end when the investor completes the construction and clear the obstacles (if any).

#### **Article 8. Plan for maritime safety assurance**

1. Before constructing seaports, ports, wharves, floating terminals, dedicated waters, the investor shall request a competent authority to consider approving the plan for maritime safety assurance and shall organize the implementation of the approved plan.

2. The cases in which a plan for maritime safety assurance must be prepared:

a) Construction of seaports, ports, wharves, floating terminals, navigational channels, aids to navigation, dedicated waters;

b) Construction of the structures that intersect seaport waters and navigational channels or that affect maritime operations, such as: bridges, power lines, cable cars, underground structures, and

other similar structures, drilling rig, wind power, hydropower, thermal power and other similar structures;

c) The structures that are constructed within Vietnamese territorial waters and affect maritime operations.

3. The port authority shall approve the plan for maritime safety assurance. For the structures specified in Point b, Clause 2 of this Article, the port authority shall obtain the consent of the Vietnam Maritime Administration before giving approval. Within 04 working days from the day on which the plan for maritime safety assurance submitted by the port authority is received, the Vietnam Maritime Administration shall submit a written consent to the plan for maritime safety assurance to the port authority. In case of rejection, a written response specifying reasons thereof shall be given.

4. Contents of the plan for maritime safety assurance include:

a) General information about the project: Name of the project; name and address of the investor; construction location and scale;

b) Duration of the construction;

c) Approved construction measures;

d) Plan for maritime safety assurance;

dd) Plan for organization and cooperation in implementation.

5. Procedures for approving the plan for maritime safety assurance: The investor shall submit 01 application, directly or in other appropriate forms, to the local port authority. An application for approval for the plan for maritime safety assurance includes:

a) A written request for approval for the plan for maritime safety assurance according to the Form No. 02. provided in the Appendix enclosed herewith;

b) A copy of the investment and construction decision;

c) A copy of overall contour map of the site of the structure;

d) The original of the plan for maritime safety assurance.

6. Procedures for receipt and processing of applications:

The local port authority shall receive application. If the application is invalid, within 03 working days from the day on which such application is received, the local port authority shall provide guidance on the completion of the application as prescribed in this Decree. If the application is valid, within 07 working days from the day on which such application is received, the local port

authority shall submit a written approval for the plan for maritime safety assurance, directly or by post, to the investor.

7. The Decision on approval for the plan for maritime safety assurance of the port authority shall specify: general information about the structure and project; duration of transfer of land; duration of the construction; construction measures; plan for maritime safety assurance; installation and adjustment of the aids to navigation; plan for organization, cooperation in implementation, inspection and supervision, and other necessary contents.

8. Before approving the plan for maritime safety assurance, the local port authority shall send enquiry forms to the maritime safety enterprises, pilotage service providers and other relevant authorities and units; the maritime safety enterprise shall implement the approved plan for maritime safety assurance according to regulations of the investor.

9. The Vietnam Maritime Administration and the port authorities shall inspect the implementation of the approved plan for maritime safety assurance.

## **Section 2. REGULATIONS ON NAMING AND RENAMING OF SEAPORTS, OFFSHORE OIL PORTS, PORTS, WHARVES, FLOATING TERMINALS, AND DEDICATED WATERS**

### **Article 9. Rules for naming and renaming of seaports, offshore oil ports, ports, wharves, floating terminals, and dedicated waters**

1. Seaports, offshore oil ports, ports, wharves, floating terminals, and dedicated waters shall be named according to the rules prescribed in Article 77 of the Vietnam Maritime Code.

2. The name of a seaport and offshore oil port must be in Vietnamese and may be followed by an English name, starting with the word "Cảng biển" (seaport) or phrase "Cảng dầu khí ngoài khơi" (offshore oil port) then the proper name after the name of the place where the seaport or offshore oil port is located.

3. The name of a port, wharf or dedicated waters must be in Vietnamese and may be followed by an English name, starting with the word or phrase "Bến cảng" (port), "Cầu cảng" (wharf), "Khu", "Vùng" (dedicated waters) then the proper name of the structure.

### **Article 10. Naming and renaming of seaports, offshore oil ports, ports, wharves, floating terminals, and dedicated waters**

1. A seaport, offshore oil port, port, wharf, floating terminal, or dedicated waters shall be named when a competent authority announces the opening of a seaport, offshore oil port, port, wharf, floating terminal, or dedicated waters at the request of the investor or relevant organizations.

2. The power to decide to rename a seaport, offshore oil port, port, wharf, floating terminal, or dedicated waters:



- a) The Minister of Transport shall decide to rename a seaport or offshore oil port;
  - b) The Vietnam Maritime Administration shall decide to rename a port, wharf, floating terminal, or dedicated waters.
3. Procedures for renaming the announced seaport, offshore oil port, port, wharf, floating terminal, or dedicated waters:
- a) The investor or operator shall submit a written request for renaming of the seaport according to the Form No. 03 provided in the Appendix enclosed herewith, directly or in other appropriate forms, to the Vietnam Maritime Administration.
  - b) Within 02 working days from the day on which a satisfactory application prescribed in Point a of this Clause is received, the Vietnam Maritime Administration shall submit a written request to the Ministry of Transport for permission to rename the seaport or offshore oil port and renaming of the port, wharf, floating terminal or dedicated waters. Within 02 working days from the day on which the written request submitted by the Vietnam Maritime Administration is received, the Ministry of Transport shall consider and issue the decision on renaming of the seaport or offshore oil port. In case of rejection, the Ministry of Transport shall inform the Vietnam Maritime Administration thereof. The Vietnam Maritime Administration shall submit a written notice to the investor or operator of the seaport.

### **Section 3. ANNOUNCEMENT OF THE OPENING OR CLOSURE OF A SEAPORT, OFFSHORE OIL PORT, PORT, WHARF, FLOATING TERMINAL, OR DEDICATED WATERS**

#### **Article 11. Conditions for announcement of the opening or closure of a seaport, offshore oil port, port, wharf, floating terminal, or dedicated waters**

1. The seaport, offshore oil port, port, wharf, floating terminal, or dedicated waters has been commissioned before its first use according to regulations.
2. The investor has all documents prescribed in Articles 13 and 14 of this Decree.

#### **Article 12. Power to announce the opening or closure of a seaport, offshore oil port, port, wharf, floating terminal, or dedicated waters**

1. The Minister of Transport shall decide to announce the opening or closure of a seaport or offshore oil port.
2. The Director General of the Vietnam Maritime Administration shall decide to announce the opening or closure of a port, wharf, floating terminal, or dedicated waters.

#### **Article 13. Procedures for announcing the opening of a seaport or offshore oil port and announcing the first use of a navigational channel**

1. The investor shall submit 01 application, directly or in other appropriate forms, to the Vietnam Maritime Administration. The application includes:

a) A written request for announcement of the opening of a seaport or offshore oil port according to the Form No. 04 provided in the Appendix enclosed herewith;

b) The record on the commissioning of the completed seaport, offshore oil port or navigational channel (in the event the navigational channel is opened at the same time as the opening of the seaport), enclosed with the written consent to the commissioning results, as-built drawing of the land, vertical and horizontal sections of the seaport (not mandatory for offshore oil ports).

c) The commissioning record signed by the investor and competent organizations on the results of survey of obstacles on the bottom of the waters in front of the wharf or navigational channel, except for the offshore oil port;

d) A notice to mariners about the navigational and waters in front of the wharf, enclosed with a contour map; or a notice to mariners about safety area of the offshore oil port, for the offshore oil port;

dd) The decision on approval for plan for offshore oil spill.

2. The Vietnam Maritime Administration shall receive the application. If the application is invalid, the Vietnam Maritime Administration shall instruct the investor to complete the application as prescribed in this Decree. If the application is valid, within 07 working days from the day on which such application is received, the Vietnam Maritime Administration shall send an enquiry to the People's Committee of the province where the seaport or offshore oil port is located in writing and submit a written request for decision on the announcement of the seaport or offshore oil port, enclosed with the application prescribed in Clause 1 of this Article to the Ministry of Transport.

3. Within 03 working days from the day on which the written request submitted by the Vietnam Maritime Administration is received, the Ministry of Transport shall issue the decision on announcement of the opening of a seaport or offshore oil port, made using the Form No. 05 provided in the Appendix enclosed herewith and submit the decision by post to the investor or the investor shall receive it directly at the Ministry of Transport.

4. The first use of a navigational channel shall be announced as follows:

a) In the event the navigational channel is opened at the same time as the opening of the seaport, the Ministry of Transport shall make such announcement;

b) In the event the navigational channel is opened after the seaport is opened or the navigational channel is reinvested and reopened due to adjustment, expansion or upgrade, the Vietnam Maritime Administration shall make the announcement.

5. Procedures for request for announcement of the first use of a navigational channel: After the re-investment, adjustment, expansion or upgrade of the navigational channel is completed, the investor or project management organization shall submit 01 application, directly or in other appropriate forms, to the Vietnam Maritime Administration. The application includes:

- a) A written request for approval for announcement of the first use of a navigational channel, made using the Form No. 04 provided in the Appendix enclosed herewith;
- b) The record on the commissioning of the completely constructed structure before its first use, enclosed with the as-built drawing of the navigational channel and aids to navigation system that are invested according to the project;
- c) Procedures for operation of a navigational channel, including: channel standards, aids to navigation system, design specifications of the ship and other specific conditions for operations;
- d) Notice to mariners about the technical specifications of the navigational channel, enclosed with the contour map of the navigational channel; notice to mariners about the aids to navigation system that is invested according to the project; commissioning record signed by the investor and competent organization on the results of survey of obstacles on the bottom of the navigational channel and associated waters.

Within 03 working days from the day on which the application prescribed in this Point is received, the Vietnam Maritime Administration shall announce the first use of the navigational channel as prescribed. In case of rejection, a written response specifying reasons thereof shall be given.

#### **Article 14. Procedures for the opening of a port, wharf, floating terminal, or dedicated waters**

1. After the construction of a port, wharf, floating terminal, or dedicated waters is completed, the investor shall submit 01 application for announcement of the opening of a port, wharf, floating terminal, or dedicated waters, directly or in other appropriate forms, to the Vietnam Maritime Administration.
2. The investor shall select the organization licensed to survey and find obstacles, and clear the obstacles (if any) within the waters of the floating terminal and the waters in front of the port, wharf, navigational channel or dedicated waters in accordance with regulations.

After the survey, scanning and clearance of the obstacles, parties shall commission and make a record on commissioning of survey results, scanning and clearance of the obstacles within the waters of the floating terminal and the waters in front of the port, wharf, navigational channel or dedicated waters.

3. An application for announcement of the opening of a port, wharf or dedicated waters includes:

- a) A written request for the announcement, made using Form No. 06 provided in the Appendix enclosed herewith;
- b) The record on the commissioning of the completely constructed structure before its first use, enclosed with the written consent to the commissioning results, as-built drawing of land, vertical view and cross-section view of the port, wharf and dedicated waters;
- c) The notice to mariners, enclosed with the contour map of the navigational channel through which ships arrive at or depart from a port, wharf or dedicated waters; commissioning record signed by the investor and competent organization on the results of survey of obstacles on the bottom of the waters in front of the port, wharf or dedicated waters;
- d) The decision on approval for the environmental impact assessment report of the project;
- dd) Commissioning record on fire prevention and fighting;
- e) A copy of the certificate of port security according to regulations.

4. Procedures for receipt and processing of applications: The Vietnam Maritime Administration shall receive the application. If the application is invalid, within 03 working days from the day on which such application is received, the Vietnam Maritime Administration shall provide guidance on the completion of the application as prescribed in this Decree. If the application is valid, within 03 working days from the day on which such application is received, the Vietnam Maritime Administration shall issue the decision on announcement of the opening of a port, wharf, floating terminal, or dedicated waters, made using the Form No. 07 provided in the Appendix enclosed herewith and submit the decision by post to the investor or the investor shall receive it directly at the Vietnam Maritime Administration.

5. For the seaport that has only one terminal or wharf, after completing the procedures for announcement of opening of a seaport, the investor shall follow the procedures for announcement of opening of the port or wharf as prescribed in this Article before putting it into operation.

6. The documents prescribed in Points d, dd and e, Clause 3 of this Article are not mandatory for dedicated waters that only serve pilot boarding, phytosanitary inspection or sheltering, is used to anchor ships waiting to enter ports, ports or wharves, anchor public service ship, does not transship or load cargoes or provide other transport services.

#### **Article 15. Announcement of the first use of other structures**

1. After the construction of other structures within seaport waters that are not regulated in Article 4 of this Decree is completed, the investor shall submit the following documents, directly or in other appropriate forms, to a port authority and maritime safety enterprise in the area where the structure is constructed to announce the first use of the structure:

a) A written notice about the first use of the structure, made using the Form No. 08 provided in the Appendix enclosed herewith;

b) A record on commissioning or transfer of the structure or a copy of the decision or permit issued by a competent authority on the first use of the structure.

2. The investor shall publish information about the first use of the structure specified in Clause 1 of this Article on three consecutive issues of a central or local daily newspapers or broadcast it on central or local Radio or Television Stations 03 times in 03 consecutive days.

### **Article 16. Announcement of the closure of a seaport or offshore oil port**

1. The closure of a seaport or offshore oil port shall be considered in the following cases:

a) The seaport or offshore oil port is closed for reasons of national defense and security assurance or other special reasons;

b) The seaport or offshore oil port is no longer eligible to operate as prescribed;

c) Epidemics and natural disasters occur and other cases according to regulations of law.

2. Procedures for announcement of the closure of a seaport or offshore oil port:

a) Procedures for announcement of the closure of a seaport under Point a, Clause 1 of this Article: In case of emergency, the Ministry of Transport shall issue a decision on closure of a seaport, which is made using the Form No. 09 provided in the Appendix enclosed herewith and report it to the Prime Minister. For other cases, within 05 working days from the day on which a written request for closure of a seaport, the Ministry of Transport shall collect comments from relevant authorities about the closure of the seaport and issue an announcement on the closure, which is made using the Form No. 09 provided in the Appendix enclosed herewith. In case of rejection, explanation shall be provided.

b) Procedures for announcement of the closure of a seaport under Points b and c, Clause 1 of this Article: The applicant shall submit an application for permission for closure of a seaport according to the Form No. 10 provided in the Appendix enclosed herewith, directly or in other appropriate forms, to the Ministry of Transport.

The Ministry of Transport shall receive the application. If the application is satisfactory, within 01 working day from the day on which such request is received, the Ministry of Transport shall provide guidance on the completion of the request as prescribed in this Decree. If the application is satisfactory, within 05 working days from the day on which the application is received, the Ministry of Transport shall collect comments from relevant authorities about the closure of the seaport and issue an announcement on the closure, which is made using the Form No. 09 provided in the Appendix enclosed with this Decree, and shall submit the decision by post to the applicant or the applicant shall receive it directly at the Ministry of Transport. In case of rejection, a written response specifying reasons thereof shall be given.

**Article 17. Announcement of the closure of a port, wharf, floating terminal, or dedicated waters**

1. The closure of a port, wharf, floating terminal, or dedicated waters shall be considered in the following cases:

- a) The port, wharf, floating terminal, or dedicated waters no longer exists or is ineligible to operate or its closure is requested by the investor or local port authority;
- b) The port, wharf, floating terminal, or dedicated waters operates ineffectively or its closure is requested by the investor;
- c) The seaport or offshore oil port is closed for reasons of defense and security assurance or other special reasons;

2. Procedures for announcement of the closure of a port, wharf, floating terminal, or dedicated waters:

- a) The investor or the local port authority shall submit an application form that is made using the Form No. 10 provided in the Appendix enclosed herewith, directly or in other appropriate forms, to the Vietnam Maritime Administration;
- b) The Vietnam Maritime Administration shall receive the application form. If the application form is unsatisfactory, within 01 working day from the day on which such form is received, the Vietnam Maritime Administration shall provide guidance on the completion of the form as prescribed in this Decree. If the application form is satisfactory, within 05 working days from the day on which such form is received, the Vietnam Maritime Administration shall send enquiry forms to relevant authorities (if any) and issue the decision on announcement of the closure of a port, wharf, floating terminal, or dedicated waters according to the Form No. 11 provided in the Appendix enclosed herewith and submit the decision by post to the applicant or the applicant shall receive it directly at the Vietnam Maritime Administration.

**Article 18. Announcement of seaport waters, maritime areas and areas under the management of port authorities**

1. The Vietnam Maritime Administration shall submit an application to the Ministry of Transport for consideration and announcement of seaport waters, maritime areas and areas under the management of a port authority, including:

- a) A written request for announcement of seaport waters;
- b) Written comments of the People's Committees of the provinces concerned;
- c) The nautical chart showing the boundaries of the seaport waters and areas under the management of the port authority.

2. According to the application specified in Clause 1 of this Article, the Ministry of Transport shall consider announcing the seaport waters and areas under the management of port authorities.

### **Article 19. Operations of ports, inland landing stages and fishing ports within seaport waters**

1. Competent authorities shall manage the investment in and construction of ports, inland landing stages and fishing ports within seaport waters in accordance with relevant regulations of law; before responding to the investor with the permission for investment in and construction of ports, inland landing stages and fishing ports within seaport waters, they shall send enquiry forms to local port authorities.

2. After the construction of ports, inland landing stages and fishing ports within seaport waters is completed, the investor shall submit relevant documents to a competent authority to request announcement of the first use of the structures as prescribed and shall follow procedures for issuing the announcement of the first use of the structures as prescribed in Article 15 of this Decree.

3. Port authorities are responsible for state management of ports, inland landing stages and fishing ports within seaport waters in terms of maritime safety and security and environmental safety.

4. Competent authorities shall organize state management of operations of ports and inland landing stages within seaport waters in accordance with regulations of the Law on Inland Waterway Transport; and organize state management of operations of fishing ports within seaport waters in accordance with regulations of the Law on Fisheries.

5. Before a ship arrives or departs from a port or inland landing stage within seaport waters, the master or the declarant shall report such to the local port authority and authority performing state management of ports, inland landing stages and fishing ports in order to prepare a plan and provide guidelines for regulations on maritime safety and security assurance and environmental safety.

### **Article 20. Classification of seaports and announcement of the list of seaports and ports of Vietnam**

1. Once every 05 years, in the first quarter, the Vietnam Maritime Administration shall prepare and submit the list of seaports of Vietnam to the Ministry of Transport, which will submit it to the Prime Minister for consideration and announcement in accordance with regulations. The application includes:

- a) The written request for announcement of the list of seaports;
- b) The draft list of seaports;
- c) A copy of the decision on announcement of a seaport or offshore oil port.

2. Every March, the Vietnam Maritime Administration shall prepare and submit the list of ports of Vietnam to the Ministry of Transport. The application includes:

- a) The application form for announcement of the list of ports of Vietnam;
- b) The draft list of ports of Vietnam;
- c) A copy of the decision on announcement of a port.

3. The Vietnam Maritime Administration shall announce the list of seaports of Vietnam and navigational channels and the list of announced ports of Vietnam.

4. The funding for compilation of the list of seaports, ports and navigational channels shall be obtained from the state budget and other legal funding sources.

### **Article 21. Seaport regulations**

1. Seaport regulations include regulations on ships, maritime structures, maritime safety and security, environmental safety and other operations related to maritime operations carried out at seaports and within areas under the management of the port authorities.

2. Seaport regulations shall be made as prescribed in this Decree, other relevant regulations of law and actual maritime operations carried out at seaports and within areas under the management of the port authorities.

3. The Vietnam Maritime Administration shall approve the seaport regulations at the request of the Director of the port authority and comments from relevant organizations.

4. The Director of the port authority shall issue, publish and provide guidelines for and inspect the implementation of seaport regulations as prescribed.

5. Vietnamese and foreign organizations, individuals and ships shall comply with seaport regulations while operating within seaport waters and areas under the management of port authorities.

## **Section 4. MANAGEMENT AND OPERATION OF SEAPORTS, NAVIGATIONAL CHANNELS AND OTHER STRUCTURES WITHIN VIETNAMESE TERRITORIAL WATERS**

### **Article 22. Rules for management and operation of seaports**

1. A seaport shall be managed and operated as prescribed in law to ensure effectiveness of investment and avoid any possible loss and mismanagement.

2. Seaport infrastructures shall undergo quality survey on a periodic basis in accordance with regulations.



3. The surveys on waters in front of the wharves and dedicated waters shall be periodically made and included in the notices to mariners as prescribed.

4. The investor in the construction of a seaport, port and wharf shall decide the method of management and operation according to the following rules:

a) A seaport infrastructure project financed by the state budget shall be partially or entirely leased out in accordance with laws; the revenues generated from such leasing belong to the state budget, and are utilized as prescribed in the law on state budget and prioritized for seaport infrastructure development;

b) The method of management and operation of the seaport infrastructure that is financed by other capital sources not regulated in Point a of this Clause shall be decided by the investor in accordance with regulations of law.

### **Article 23. Rules for management and operation of navigational channels**

1. The Ministry of Transport shall direct the Vietnam Maritime Administration to organize state management of the master plan for development, investment in and construction of navigational channels nationwide, and announce of the first use, and manage and operate these channels.

2. The maritime safety enterprises shall directly manage and operate the public navigational channels assigned to them.

3. Enterprises shall invest in, construct, manage and operate specialized navigational channels. In the event a specialized navigational channel is converted into a public one, part of investment capital shall be refunded to enterprises in accordance with regulations of the Ministry of Finance.

4. The navigational channel operator shall conduct periodic survey in order to issue notices to mariners as prescribed.

5. Management and operation of navigational channels and aids to navigation systems include:

a) Maintenance, upgrade and repair of navigational channels, aids to navigation, and structures and auxiliary equipment for assurance of the safety of maritime operations;

b) Operation of navigational channel systems and aids to navigation systems;

c) Periodic surveys of depth and issuance of notices to mariners according to regulations;

d) Dredging and maintenance of navigational channels for assurance of their depth in accordance with design standards.

6. The organization charged with management and operation of navigational channel routes shall submit an annual report on condition of channel routes and plan for management, operation, maintenance, upgrade, repair, survey and issuance of notices to mariners according to regulations

to the Vietnam Maritime Administration, which will submit the maintenance plan to the Ministry of Transport for approval.

7. When detecting deviations from disposition of aids to navigation or damage or loss of aids to navigation, including their suspension or replacement, the operating organization shall immediately inform the local port authority. In case of change of positions, specifications or purposes, enquiry forms shall be sent to the local port authority and submitted to the Vietnam Maritime Administration for approval.

#### **Article 24. Public maritime safety assurance services**

1. Public maritime safety assurance services include:

- a) Operate and maintain aids to navigation, public navigational channels and maritime routes;
- b) Survey, establish, publish and update nautical charts of seaport waters, navigational channels and maritime routes;
- c) Issue notices to mariners;
- d) Dredge and maintain public navigational channels to ensure their depth meets design standards.
- dd) Provide electronic maritime information;
- e) Repair, improve and upgrade structures and assets to ensure maritime safety;
- g) Undertake unexpected missions to ensure maritime safety.

2. The Ministry of Transport shall implement the procurement procedures and assign maritime safety enterprises to provide maritime safety assurance services and products as prescribed.

#### **Article 25. Investment in and construction of temporary seaport infrastructures**

Temporary seaport infrastructures shall be established to serve the construction of structures and project or satisfy the needs for socio-economic development in the area for a certain period of time.

1. Conditions for establishment of a temporary seaport infrastructure:

- a) The current seaport infrastructure fails to satisfy essential needs in the area;
- b) The construction of structures or projects must be served;
- c) The needs for socio-economic development must be satisfied for a certain period of time.

2. Operations of a temporary seaport infrastructure shall be suspended within 03 years when the construction and project is completed or the seaport infrastructure in the area has satisfied the need. The temporary seaport infrastructure that is a floating terminal or transshipment area in service of local socio-economic development shall be allowed to operate within the period that conforms to the master plan for seaport development.

3. Procedures for agreement on construction of a temporary seaport infrastructure:

a) The investor shall submit a written request for agreement on construction of a temporary seaport infrastructure, directly or in other appropriate forms, to the Vietnam Maritime Administration.

b) Within 02 working days from the day on which the request is received, the Vietnam Maritime Administration shall send enquiry forms to the local port authority and relevant authorities. Within 03 working days from the day on which the written comments are received, the Vietnam Maritime Administration shall request the Ministry of Transport to consider granting a written consent if all conditions are satisfied. Within 03 working days from the day on which the written consent granted by the Vietnam Maritime Administration is received, the Ministry of Transport shall give a written response to the Vietnam Maritime Administration. Within 03 working days after the written response given by the Ministry of Transport is received, the Vietnam Maritime Administration shall give directly or send by post a written response to the investor which specifies whether the construction of the temporary seaport infrastructure is approved.

For the temporary seaport infrastructure that is a floating terminal or transshipment area in service of local socio-economic development in the area, within 03 working days from the day on which the written response sent by the Vietnam Maritime Administration is received, the Ministry of Transport shall, if necessary, send a written notice to the People's Committee of the province where the floating terminal or transshipment area is established. Within 03 working days from the day on which the written notice sent by the People's Committee of the province is received, the Ministry of Transport shall give a written response to the Vietnam Maritime Administration. Within 03 working days after the written response given by the Ministry of Transport is received, the Vietnam Maritime Administration shall give directly or send by post a written response to the investor which specifies whether the construction of the temporary seaport infrastructure is approved.

4. In the event the temporary seaport infrastructure operates beyond the duration prescribed in Clause 2 of this Clause, the investor shall submit a written request for extension enclosed with comments from the local port authority. Within 02 working days from the day on which the written request is received, the Vietnam Maritime Administration shall grant a written consent to the extension to the Ministry of Transport if all conditions are satisfied. Within 03 working days from the day on which the written consent granted by the Vietnam Maritime Administration is received, the Ministry of Transport shall give a written response to the Vietnam Maritime Administration. Within 03 working days after the written response given by the Ministry of Transport is received, the Vietnam Maritime Administration shall give directly or send by post a written response to the investor which specifies whether the extension is approved.

5. Procedures for applying for establishment of a temporary seaport infrastructure:

a) After reaching an agreement on construction of a temporary seaport infrastructure, the investor shall submit a written request for establishment of the temporary seaport infrastructure, made using the Form No. 12 provided in the Appendix enclosed herewith and documents about investment in and operation of seaport infrastructures, directly or in other appropriate forms, to the Vietnam Maritime Administration.

b) Within 03 working days after the written request is received, the Vietnam Maritime Administration shall grant a written consent to the establishment of the temporary seaport infrastructure. In case of rejection, a written response specifying reasons thereof shall be given to the investor by post or the investor shall receive it directly at the Vietnam Maritime Administration.

6. Before constructing a temporary seaport infrastructure, the investor shall submit a copy of the investment and construction decision, enclosed with the overall contour map of the site, a copy of the decision on approval for design and plan for maritime safety assurance to the Vietnam Maritime Administration to serve the management.

7. The temporary seaport infrastructure shall be put into operation as prescribed in Article 14 of this Decree.

#### **Article 26. Charges and fees for the management, operation and use of seaports and navigational channels invested in by enterprises**

1. Charges and fees for the management, operation and use of seaports and navigational channels shall be executed as prescribed in the Law on Fees and Charges.

2. The Ministry of Finance shall, with the consent of the Ministry of Transport, specify the payment of fees for assurance of maritime safety of the navigational channel invested in and operated by enterprises for the purposes of assuring maritime safety and security and preventing environmental pollution.

#### **Article 27. Operations of the structures within Vietnamese territorial waters**

1. The survey, exploration, investment in and construction, and establishment of the structures within Vietnamese territorial waters shall comply with regulations of Vietnam's laws and treaties to which the Socialist Republic of Vietnam is a signatory but must not affect the operational safety of structures on maritime routes and traffic separation within Vietnamese territorial waters.

2. The structures that are installed and constructed within Vietnamese territorial waters must have a safety radius of at least 500 m from the furthest outer edge of the structure. Within 2 nautical miles measured from the furthest outer edge of the structure, unauthorized ships must not anchor.

3. The floating production storage and offloading unit that operates within Vietnamese territorial waters for the first time and functions as an offshore oil port within 15 years from the day on which its keel is laid.

4. When the service life of a structure within Vietnamese territorial waters expires, it must be dismantled. The investor whose equipment and structures at sea have not been dismantled for technical reasons or due to force majeure events shall inform the local port authority of their locations, sizes, shapes and depth, and install marine signs and aids to navigation according to regulations.

5. The investor shall take measures to protect his/her structures and inform such measures to the local port authority.

## **Section 5. MANAGEMENT AND OPERATION OF STATE-FUNDED PORT AND WHARF INFRASTRUCTURE**

### **Article 28. Rules for management and operation, and power to decide the leasing of port and wharf infrastructures**

The authority that makes a decision to invest in and construct port and wharf infrastructures has the power to approve the plan for leasing out such infrastructures and the lessee selection result..

### **Article 29. Plan for leasing out port and wharf infrastructures**

1. The lessor shall prepare a plan for leasing out port and wharf infrastructures. Main contents of the plan include:

- a) Name of the lessor;
- b) List and specifications of leased assets;
- c) Value of leased assets;
- d) Lease term;
- dd) Rent decided by a competent authority;
- e) Lease conditions;
- g) Capacity to recover investment capital;
- h) Rights, obligations and responsibilities of the lessee and lessor;
- i) Method of lessee selection;
- k) Form of contract;

- 1) Time for selecting lessees.
2. For the port and wharf infrastructures that are under construction, the lessor shall prepare a leasing plan before putting such infrastructures into operation.

### **Article 30. Rent for port and wharf infrastructures**

1. The rent for port and wharf infrastructures shall comply with regulations of the Law on Prices. The Ministry of Finance shall decide the rent for port and wharf infrastructures at the proposal of the investors or authorities approving plans for leasing out port and wharf infrastructures.

2. The rent for port and wharf infrastructures shall be approved by the authority that has decided the investment in seaports, ports and wharves, which must not be lower than the rent already decided by the Minister of Finance.

3. The rent for port and wharf infrastructures shall be determined according to the following main contents:

a) The fixed price, which shall be calculated according to the annual asset depreciation rate, amounts used to pay loan principal and interest (if any), expense for management and operation of leased port and wharf infrastructures and other expenses as prescribed. The lifetime of port and wharf infrastructures used to calculate the rent is 50 years at most. The rent for port and wharf infrastructures shall not be lower than the fixed price;

b) The changeable price, which shall be collected according to a percentage (%) of the annual revenue from the operation of the leased assets;

c) Value of leased assets;

d) List and specifications of leased assets;

dd) Lease conditions;

e) Rights, obligations and responsibilities of related parties;

g) Other necessary conditions.

4. The lessor shall request the authority that has decided the investment in seaports, ports and wharves to consider approving the adjustment of the rent in the following cases:

a) Once every 5 years;

b) When the inflation rate in Vietnam exceeds 15% a year;

c) Other circumstances as proposed by the lessor or lessee and approved by the investment-deciding authority.

### **Article 31. Conditions for selection of lessees of port and wharf infrastructures**

A lessee of port and wharf infrastructures must:

1. satisfy all conditions prescribed in Clause 4, Article 86 of the Vietnam Maritime Code.
2. have experience in management and operation of seaports.
3. have adequate staff members for management and operation of port and wharf infrastructures to be leased.
4. offer the highest rent which is not lower than the rent stated in the approved plan for the leasing of port and wharf infrastructures.

### **Article 32. Methods of selection of lessees of port and wharf infrastructures**

1. The methods and procedures for selection of lessees shall comply with the Law on Bidding and this Decree.
2. The Ministry of Transport shall prepare and issue the specimen of the documents about bidding for leasing of state-funded port and wharf infrastructures.

### **Article 33. Contract on leasing of port and wharf infrastructures**

1. The leasing of port and wharf infrastructures shall be carried out under a contract signed by the two parties. Such contract shall be made according to the approved lessee selection result and in accordance with relevant regulations of law.
2. A lease contract must have the following main contents:
  - a) Name, address and bank account number of the lessor;
  - b) Name, address and bank account number of the lessee;
  - c) Purposes of the lease;
  - d) Lease term;
  - dd) Rent and payment conditions and method;
  - e) Rights and obligations of the lessor and lessee;
  - g) List of leased assets;
  - h) Conditions and procedures for modifying the lease contract;

i) Fulfillment of disputes.

### **Article 34. Use of revenues from the leasing of port and wharf infrastructures**

1. Revenues from the leasing of port and wharf infrastructures shall be prioritized for use for the following purposes and expenses:

- a) Return on investment capital for construction of port and wharf infrastructures;
- b) Expenses for maintenance and repair of the port and wharf infrastructures that are leased out if they are covered by the lessor;
- c) Upgrade, improvement and expansion of seaport infrastructures;
- d) Investment in construction of new ports and wharves and for other purposes for the marine development;
- dd) Expenses for preparation of a plan for and selection of lessee;
- e) The lessor's expenses for management and operation of seaport infrastructures;
- g) Other proper purposes and reasonable expenses.

2. The Ministry of Finance shall take charge and cooperate with the Ministry of Transport in specifying a financial mechanism for collection, payment and use of revenues from the leasing of state-funded port and wharf infrastructures.

### **Article 35. Subleasing of port and wharf infrastructures**

1. The lessee may sublease part of ports and wharf infrastructure to a Vietnamese or foreign organization or individual in accordance with this Decree and shall obtain the written consent of the lessor before effecting the sublease.

2. The subleasing of port and wharf infrastructures shall be carried out under a contract, which must not be contrary to the contents of the lease contract signed with the lessor.

3. The lessee must be responsible to the lessor for the sublease. The rights and responsibilities that arise (if any) between the lessor and lessee shall be decided by the two parties.

4. The sublessee of port and wharf infrastructures shall manage and operate ports and wharves in accordance with regulations of law, and the lease contract and may not continue to sublease such infrastructures.

### **Article 36. Organization of management and operation of port and wharf infrastructures**



1. The authority that makes a decision to invest in and construct seaports, ports and wharves shall organize the management and operation of port and wharf infrastructures.

2. The organization that is assigned to manage and operate port and wharf infrastructures has the following functions, tasks and rights:

a) Create a mechanism for management and operation of port and wharf infrastructures and submit it to the investment-deciding authority for approval and organize the implementation thereof;

b) Manage state assets and supervise the operation of the leased port and wharf infrastructures;

c) Supervise the execution of the lease contract;

d) Organize regular and periodical inspection and supervision of the operation of port and wharf infrastructures to ensure they are used according to their functions and specifications as prescribed;

dd) Organize the collection of rent for the leasing of port and wharf infrastructures;

e) Request the lessee to strictly observe the prescribed technical processes for operating, maintaining and using port and wharf infrastructures; report on the lessee's violations, if any, to the investor;

g) Cooperate with the infrastructure operator in dealing with emergencies that damage port and wharf infrastructures; supervise the repair of damaged port and wharf infrastructures under its management;

h) Promptly inform regulatory authority when it is discovered that the depth of navigational channels, waters in front of the wharf, turning basin, aids to navigation systems and other auxiliary structures fails to comply with the technical design approved by a competent authority;

i) Receive and propose plans for design, construction, improvement, expansion or upgrade of port and wharf infrastructures at the request of the lessee or regulatory authority;

k) Supervise the satisfaction of the requirements for fire and explosion prevention and fighting, environmental sanitation, security and order and occupational safety within the seaports, ports and wharves;

l) Review the actual operation of port and wharf infrastructures; periodically report it to the investor and regulatory authorities under regulations;

m) Perform other assigned tasks.

### **Article 37. Survey of seaport infrastructures**

1. Contents and procedures for carrying out a survey of seaport infrastructures shall comply with the Law on Construction.
2. The Ministry of Transport shall direct the Vietnam Maritime Administration to organize the survey of seaport infrastructures.

### **Chapter III**

## **MANAGEMENT OF AIDS TO NAVIGATION AND NOTICES TO MARINERS**

### **Section 1. AIDS TO NAVIGATION**

#### **Article 38. General regulations on aids to navigation**

1. The investment and construction of aids to navigation must comply with regulations of this Decree and the law on investment and construction. The aids to navigation shall be arranged at necessary locations to ensure the maritime safety.
2. The Ministry of Transport shall organize state management of aids to navigation.
3. The local port authority shall inspect the operations of the aids to navigation within seaport waters and areas under its management.
4. The maritime safety enterprises shall be assigned to manage and operate and take responsibility for operational safety of the aids to navigation.
5. An organization or individual that manages and operates public navigational channel, specialized navigational channel, waters in front of wharf or conducts survey, constructs and operates the structures within seaport waters and Vietnamese territorial waters should establish, manage, operate and take responsibility for operational safety of the aids to navigation on such channel and waters according to the announced technical standards and regulations.
6. The Minister of Transport shall elaborate the management and operations of aids to navigation system; and issue national technical regulations on aids to navigation.

#### **Article 39. Investment in and construction of aids to navigation**

1. Based on the scale, nature and features of state-funded investment project on aids to navigation, the Minister of Transport shall consider making decision on investment or authorize the Director General of the Vietnam Maritime Administration to consider making decision on investment.
2. The maritime safety enterprises shall establish the aids to navigation for irregular maritime safety services and immediately report such to the Vietnam Maritime Administration and the local port authority.

3. Organizations and individuals have an obligation to establish the aids to navigation upon management and operation of specialized navigational channels or utilization of the following areas:

- a) Areas where boring geology investigations, and oil and gas extraction are carried out;
- b) Fishing and aquaculture areas;
- c) Construction and salvage areas;
- d) Areas where cables or underground pipes, underground structures and equipment are installed and affect maritime operations;
- dd) Areas where military exercise, search and rescue, fire, and oil spill response drills are carried out;
- e) Areas where oceanographical data collection system is installed;
- g) Areas where entertainment, tourism and sports activities are carried out.

4. Organizations and individuals when building structures that pass the navigational channels or that affects maritime operations, such as: bridges, power lines, cable cars, underground structures, and other similar structures, drilling rig, wind power, hydropower, thermal power and other similar structures shall establish the aids to navigation to ensure maritime safety.

5. Before establishing the aids to navigation, the organizations and individuals specified in Clause 3 of this Article must obtain the consent of the Vietnam Maritime Administration to the location, scale and type of aids to navigation as prescribed in Article 40 of this Decree.

6. The establishment of aids to navigation must comply with the national technical regulations on aids to navigation.

#### **Article 40. Procedures for granting permission for establishment of aids to navigation**

1. An organization or individual shall submit 01 application, directly or in other appropriate forms, to the Vietnam Maritime Administration. The application includes:

- a) A written form made using the Form No. 15 provided in the Appendix enclosed herewith;
- b) Technical design of the maritime signaling devices;
- c) Chart and coordinates of the aids to navigation.

2. The Vietnam Maritime Administration shall receive the application. If the application is invalid, within 02 working days from the day on which such application is received, the Vietnam Maritime Administration shall provide guidance on the completion of the application as

prescribed in this Decree. If the application is valid, within 05 working days from the day on which such application is received, the Vietnam Maritime Administration shall grant a written permission to the establishment of aids to navigation. In case of rejection, explanation shall be provided in writing.

#### **Article 41. Procedures for putting aids to navigation into operation**

1. The investor shall submit 01 application, directly or in other appropriate forms, to the Vietnam Maritime Administration. The application includes:

- a) A written request putting the aids to navigation into operation according to the Form No. 16 provided in the Appendix enclosed herewith;
- b) Record on commissioning and transfer;
- c) A contour map of obstacles found on the newly constructed navigational channel route that is carried out by a unit licensed to measure and survey. Such unit and the investor shall be responsible for the legality of the survey document;
- d) Notice to mariners about the establishment of new aids to navigation.

2. The Vietnam Maritime Administration shall receive the application. If the application is invalid, within 02 working days from the day on which such application is received, the Vietnam Maritime Administration shall provide guidance on the completion of the application as prescribed in this Decree. If the application is valid, within 05 working days from the day on which such application is received, the Vietnam Maritime Administration shall issue the decision to put aids to navigation into operation. In case of rejection, explanation shall be provided in writing.

#### **Article 42. Responsibilities of the unit charged with managing and operating aids to navigation**

1. Prepare a plan for periodic repair, improvement and upgrade of aids to navigation and submit it to a competent authority.
2. Regularly maintain the aids to navigation so that the technical specifications of aids to navigation are always consistent with the issued notices to mariners.
3. Repair the aids to navigation in a timely manner when the aids to navigation are damaged, lost or deviated.
4. Promptly compile a dossier on the extent of damage, loss or deviation of the aids to navigation and submit it to a relevant authority to for investigation and handling when necessary or at the request of the competent authorities.

5. Submit quarterly reports on actual operation of aids to navigation to the Vietnam Maritime Administration according to the Form No. 17 provided in the Appendix enclosed herewith.

6. Inform a competent organization upon change of features of aids to navigation compared with the issued notices to mariners to promptly issue notices to mariners.

## **Section 2. NOTICES TO MARINERS**

### **Article 43. General regulations on issuance of notices to mariners**

1. The Ministry of Transport shall perform the state management of notices to mariners as prescribed.

2. Ministries and relevant organizations shall, within their competence, specify the establishment and disclosure of notices and information about security, meteorological and hydrological conditions, earthquake, tsunami, health, epidemics and other specialized information relating to the activities of people and ships within seaport waters and Vietnamese territorial waters.

3. The Vietnam Maritime Communication and Electronics Company shall transmit notices to mariners and maritime information as prescribed in Article 59 of this Decree.

4. Notices to mariners shall be promptly issued to relevant organizations by a competent organization.

5. Notices to mariners shall be simultaneously transmitted through the coastal communication system and other appropriate means of communication.

6. The issuance of notices to mariners shall comply with relevant regulations of law.

### **Article 44. Classification of notices to mariners**

Based on their purposes, the notices to mariners are classified as follows:

1. The notices to mariners about operations of aids to navigation:

a) The notices to mariners about new establishment of aids to navigation: the location, effect and operational features of visual, audio and radio aids that are established must be included in the notices to mariners according to the Form No. 18 provided in the Appendix enclosed herewith;

b) The notices to mariners about change of operational features of aids to navigation: when the operational features of the aids to navigation are changed, such changes must be issued using the Form No. 19 provided in the Appendix enclosed herewith;

c) The notices to mariners about suspension of operations of aids to navigation: when the aids to navigation are no longer capable of operating in accordance with the announced features, the

operational suspension of such aids to navigation must be issued using the Form No. 20 provided in the Appendix enclosed herewith;

d) The notices to mariners about restoration of operations of aids to navigation: after the breakdown of aids to navigation is completely handled, the restoration of such aids to navigation must be issued using the Form No. 21 provided in the Appendix enclosed herewith;

dd) The notices to mariners about cessation of operations of aids to navigation: after the aids to navigation are no longer effective and recovered, the notice to mariners about cessation of operations of such aids to navigation must be issued using the Form No. 22 provided in the Appendix enclosed herewith;

2. The notices to mariners about technical specifications of navigational channels, waters in front of wharves and dedicated waters:

a) The navigational channels and waters in front of wharves and other dedicated waters, after being constructed, dredged, maintained, improved and upgraded, must have their depth surveyed in order to issue the notices to mariners and periodically surveyed and included in the notices to mariners;

b) Maritime safety enterprises shall survey the depth of public navigational channels and dedicated waters (except for the specialized transshipment areas) to include it in the notices to mariners;

c) The survey of depth and scan of obstacles of the specialized navigational channels, waters in front of wharves and specialized transshipment area shall be carried out by the organizations licensed to carry out measurement and survey. The organization or individual that manages and operates a specialized navigational channel and within waters in front of wharf and specialized transshipment area shall take responsibility for the accuracy of the measurement and survey data provided for issuance of notices to mariners and also take responsibility for losses related to the accuracy of such measurement and survey data;

d) The depth survey and obstacle scanning specified in Point b and c of this Clause must be carried out in line with the method and technical procedures specified by the Ministry of Transport.

dd) The notices to mariners specified in this Clause are made using the Form No. 23 and No. 24 provided in the Appendix enclosed herewith.

3. The notices to mariners about newly-found dangerous obstacles: if there is any maritime accident or emergency resulting in ship sinking or obstacles threatening maritime safety are found, the notice to mariners about such obstacles shall be made using the Form No. 25 provided in the Appendix enclosed herewith.

4. The notices to mariners about construction sites at sea or on navigational channels: the construction sites at sea or on navigational channels affecting the maritime operations shall be

included in the notice to mariners about such structures, made using the Form No. 26 provided in the Appendix enclosed herewith.

5. The notices to mariners about underground structures or structures passing the navigational channels:

a) The location, depth of and other safety conditions for underground structures passing the navigational channels must be included in the notices to mariners;

b) The navigational space and clearance of and other safety conditions for structures passing the navigational channel must be included in the notices to mariners.

The notices to mariners specified in this Clause are made using the Form No. 27 provided in the Appendix enclosed herewith.

6. The notices to mariners about the traffic separation, restrictions or suspension of navigational channels: in special case, ships and vehicles must change their route, be restricted or operations of navigational must shall be suspended, a notice to mariners about the traffic separation, restrictions or suspension of navigational channels shall be made using the Form No. 28 provided in the Appendix enclosed herewith.

7. The notices to mariners about sea areas where maritime operations are restricted or prohibited: in case a sea area is used for, military exercise waste dumping area, prohibited anchorage, search and rescue drill area, areas where oil or toxic substance spills occur, land dumping area, scientific research area, fishery, aquaculture, entertainment, tourism and sports area, area with installation of oceanographical data collection system or other civil activities that, by nature, may endanger ships in such sea area. Therefore, those areas must be included in the notice to mariners, which is made using Form No. 29 provided in the Appendix enclosed herewith.

8. The notices to mariners about retransmitted information and maritime instructions relating to the maritime operations: information about security, meteorological and hydrological conditions, earthquake, tsunami, health, epidemics and other specialized information relating to the activities of people and ships within seaport waters and Vietnamese territorial waters.

9. The notices to mariners about announcement of maritime route and traffic separation within Vietnamese territorial waters: upon announcement of maritime route and traffic separation within Vietnamese territorial waters, the notice to mariners shall be issued using the Form No. 30 provided in the Appendix enclosed herewith.

#### **Article 45. Power to issue notices to mariners**

1. Maritime safety enterprises shall issue the notices to mariners specified in Clauses 1, 2, 3, 4 and 5, Article 44 of this Decree.

2. The port authority shall issue the notices to mariners specified in Clauses 6, 7 and 8, Article 44 of this Decree.

3. The Vietnam Maritime Administration shall issue the notices to mariners specified in Clauses 6, 7 and 8, Article 44 of this Decree.

#### **Article 46. Contents and requirements of notices to mariners**

1. The contents of notices to mariners must be clear, concise, easy to understand and fully and correctly reflect the required information.

2. Requirements of notices to mariners

a) The location specified in a notice to mariners is taken according to the VN-2000 and WGS-84 coordinate system with 1/10-second accuracy;

b) The depth specified in a notice to mariners is the depth of the shallowest point in the area to be announced and is calculated in meter up to the water level “Chart datum” with 1/10-meter accuracy;

c) The geographical name specified in a notice to mariners is taken by the geographical name specified in the nautical chart or in other published nautical materials. In case the geographical name has not been specified in the abovementioned documents, the local common name shall be used;

d) The language used in the notice to mariners is the Vietnamese; it may be translated into English when necessary;

dd) The period on which a notice to mariners comes into force and expires (if any).

#### **Article 47. Responsibilities of organizations for issuance of notices to mariners**

1. The Vietnam Maritime Administration shall inspect and supervise the issuance of notices to mariners.

2. Responsibilities of the issuing organization:

a) Publish the required information in an adequate, accurate and timely manner;

b) Promptly correct and re-issue the notices to mariners upon detection of errors or change of contents.

3. The data and information provider shall be responsible to law for the accuracy of the provided data and information.

#### **Article 48. Procedures for issuance of notices to mariners about the establishment of new aids to navigation**



1. The investor or operator shall submit an application for issuance of the notice to mariners, directly or in other appropriate forms, to the issuing organization as prescribed in Article 45 of this Decree. The application includes:

- a) A written form made using the Form No. 31 provided in the Appendix enclosed herewith;
- b) A copy of a competent authority's written consent to the establishment of aids to navigation;
- c) A copy of technical design;
- d) Record on commissioning and transfer of the structure.

2. Procedures for receipt and processing of applications:

- a) If the application is invalid, within 02 working days from the day on which such application is received, the competent authority shall provide guidance on the completion of the application as prescribed in this Decree;
- b) If the application is valid, within 05 working days from the day on which such application is received, the competent authority shall examine the application and issue the notice to mariners. In case of rejection, a written response specifying reasons thereof shall be given.

**Article 49. Procedures for issuance of notices to mariners about change of features, suspension, restoration and cessation of operations of aids to navigation**

1. The unit charged with managing and operating aids to navigation shall submit 01 application for issuance of the notice to mariners, directly or in other appropriate forms, to the issuing organization according to regulations. The application includes:

- a) A written form for issuance of the notice to mariners about operations of aids to navigation, made using the Form No. 31 provided in the Appendix enclosed herewith;
- b) A record on condition of aids to navigation.

2. Within 24 hours since receipt of the prescribed application, the issuing organization shall examine the application and issue the notice to mariners. In case of rejection, a written response specifying reasons thereof shall be given.

**Article 50. Procedures for periodic issuance of the notices to mariners about technical specifications of navigational channels, waters in front of wharves and dedicated waters**

1. For the specialized navigational channels, waters in front of wharves and specialized transshipment areas that are specified in the periodic notice to mariners: the investor or operator shall submit 01 application for issuance of a notice to mariners, directly or by post or in other appropriate forms, to the issuing organization according to regulations. The application includes:

- a) A written form made using the Form No. 31 provided in the Appendix enclosed herewith;
- b) A record on commissioning of survey results;
- c) A contour map of depth survey carried out within 15 days by the time the application is submitted, a survey report and other relevant documents collected at the site.

2. Procedures for receipt and processing of applications:

- a) If the application is invalid, within 02 working days from the day on which such application is received, the competent authority shall provide guidance on the completion of the application as prescribed in this Decree;
- b) Within 05 working days from the day on which a valid application is received, the competent authority shall examine the application and issue the notice to mariners, submit a written consent to the establishment of aids to navigation. In case of rejection, a written response specifying reasons thereof shall be given.

3. The notices to mariners about technical parameters of public navigational channels and dedicated waters (except for specialized transshipment areas) which are specified in the periodic notices to mariners by the issuing organization shall be issued after the record on commissioning of survey results, contour map of depth survey, survey report and other relevant documents collected at the site are received.

**Article 51. Procedures for first issuance of the notices to mariners about technical specifications of navigational channels, waters in front of wharves and dedicated waters after being built, dredged, maintained, improved and upgraded**

1. The investor or operator shall submit an application for the issuance of notices to mariners, directly or in other appropriate forms, to the issuing organization according to regulations. The application includes:

- a) A written form made using the Form No. 31 provided in the Appendix enclosed herewith;
- b) A copy of a competent authority's written response to the conformity to the master for seaport development;
- c) A copy of the technical design approved by a competent authority;
- d) A copy of as-built drawing;
- dd) Records on commissioning and transfer of the structure;
- e) Records on commissioning of results of the survey and obstacle scan;

g) A contour map of depth survey, which has to be carried out within 15 days before submission of the application, the survey report and other relevant documents collected at the site;

h) A contour map of the scanning route.

2. Procedures for receipt and processing of applications shall be completed as follows:

a) If the application is invalid, within 02 working days from the day on which such application is received, the competent authority shall provide guidance on the completion of the application as prescribed in this Decree;

b) If the application is valid, within 05 working days from the day on which such application is received, the competent authority shall examine the application and issue the notice to mariners. In case of rejection, explanation shall be provided in writing.

**Article 52. Procedures for issuance of notices to mariners about the construction sites at sea or on navigational channels**

1. The investor or operator shall submit an application, directly or in other appropriate forms, to the issuing organization according to regulations. The application includes:

a) A written form made using the Form No. 31 provided in the Appendix enclosed herewith;

b) A copy of the technical design approved by a competent authority;

c) A copy of a competent authority's written consent to the construction;

d) A copy of construction plan or drawing;

dd) A copy of the traffic safety plan approved by a competent authority;

e) Main technical specifications of the construction equipment.

2. Procedures for receipt and processing of applications shall be completed as follows:

a) If the application is invalid, within 02 working days from the day on which such application is received, the competent authority shall provide guidance on the completion of the application as prescribed in this Decree;

b) If the application is valid, within 05 working days from the day on which such application is received, the competent authority shall examine the application and issue the notice to mariners. In case of rejection, a written response specifying reasons thereof shall be given.

**Article 53. Procedures for issuance of the notices to mariners about underground structures or structures passing navigational channels**

1. The investor or operator shall submit an application for the issuance of notices to mariners, directly or in other appropriate forms, to the issuing organization according to regulations. The application includes:

- a) A written form made using the Form No. 31 provided in the Appendix enclosed herewith;
- b) A copy of the technical design approved by a competent authority;
- c) A copy of as-built drawing;
- d) Records on commissioning and transfer of the structures;
- dd) Records on commissioning of results of obstacle scan;
- e) Main technical specifications of the structures.

2. Procedures for receipt and processing of applications shall be completed as follows:

- a) If the application is invalid, within 02 working days from the day on which such application is received, the competent authority shall provide guidance on the completion of the application as prescribed in this Decree;
- b) If the application is valid, within 05 working days from the day on which such application is received, the competent authority shall examine the application and issue the notice to mariners. In case of rejection, a written response specifying reasons thereof shall be given.

**Article 54. Procedures for issuance of notices to mariners about the sea areas where maritime operations are restricted or prohibited**

1. The investor or operator shall submit an application for the issuance of notices to mariners, directly or in other appropriate forms, to the issuing organization according to regulations. The application includes:

- a) A written form made using the Form No. 31 provided in the Appendix enclosed herewith;
- b) A contour map or nautical chart showing the sea areas where maritime operations are restricted or prohibited;
- c) A copy of a competent authority's written consent according to regulations of law (if any);
- d) Necessary documents and information relating to the sea areas where maritime operations are restricted or prohibited (if any).

2. Procedures for receipt and processing of applications:

a) If the application is invalid, within 02 working days from the day on which such application is received, the issuing authority shall provide guidance on the completion of the application as prescribed in this Decree;

b) If the application is valid, within 03 working days from the day on which such application is received, the issuing authority shall examine the application and issue the notice to mariners. In case of rejection, a written response specifying reasons thereof shall be given.

#### **Article 55. Issuance of notices to mariners about the newly-found dangerous obstacle**

After receipt of information about a maritime accident or emergency resulting in ship sinking or upon detection of obstacles threatening maritime safety, the issuing organization shall immediately carry out inspection, survey and issue a notice to mariners about the newly-found dangerous obstacle.

#### **Article 56. Issuance of notices to mariners about traffic separation, restrictions or suspension of navigational channels**

After receipt of the decision on traffic separation, restrictions or suspension of navigational channels within its area, the issuing organization shall immediately issue a notice to mariners.

#### **Article 57. Issuance of notices to mariners about retransmitted information and maritime instructions relating to the maritime operations**

After receipt of the information about security, meteorological and hydrological conditions, earthquake, tsunami, health, epidemics and other specialized information relating to the activities of people and ships within seaport waters and Vietnamese territorial waters, the port authorities shall issue notices to mariners about such information.

#### **Article 58. Issuance of notices to mariners about announcement of maritime routes and traffic separation within Vietnamese territorial waters**

After making a decision or receiving the decision on announcement of maritime routes and traffic separation within Vietnamese territorial waters, the issuing organization shall immediately issue a notice to mariners.

#### **Article 59. Transmission of notices to mariners**

1. After being issued, the physical or electronic notice to mariners must be immediately sent to the Vietnam Maritime Administration, the relevant port authorities, relevant pilotage service providers and the Vietnam Maritime Communication and Electronics LLC and other relevant organizations and individuals.

2. The Vietnam Maritime Communication and Electronics LLC shall transmit the notices to mariners through the Vietnamese coastal communication system in Vietnamese and English

language by appropriate communication modes. The notices to mariners shall be transmitted using the Form No. 32 provided in the Appendix enclosed herewith.

3. The notices to mariners shall be transmitted as follows:

a) The notices to mariners specified in Clauses 1, 2, 4, 5 and 9, Article 44 of this Decree shall be transmitted at least 02 times a day and in 03 consecutive days;

b) The notices to mariners specified in Clauses 3, 6, 7 and 8, Article 44 of this Decree shall be transmitted 04 times a day in a row until a new notice to mariners is transmitted;

c) Based on the actual condition, the Vietnam Maritime Administration shall consider increasing or reducing frequency or stopping transmitting notices to mariners specified in Point b of this Clause at the request of the Vietnam Maritime Communication and Electronics LLC.

4. The issuing organizations and the Vietnam Maritime Communication and Electronics LLC shall publish all contents of notices to mariners on their websites.

5. The funding for announcement and transmission of notices to mariners are granted by the annual operational funding of of authorities and units.

#### **Article 60. Provision of information for notices to mariners**

1. Organizations and individuals have the right to request the provision of notices to mariners.

2. Organizations and individuals engaged in maritime operations within seaport waters, navigational channels and Vietnamese territorial waters shall promptly and accurately provide the issuing organizations with the following information if they discover:

a) Deviations from location or operational features of aids to navigation compared with the contents of announced notices to mariners;

b) New obstacles that are yet to be included in the notices to mariners or marked on the nautical chart;

c) Other information relating to maritime safety.

3. The issuing organization shall receive and examine data and information specified in Clause 2 of this Article to issue notices to mariners.

### **Chapter IV**

## **MANAGEMENT OF OPERATIONS OF SHIPS**

### **Section 1. General requirements applied to operations of ships**

## **Article 61. Flying of flags on ships and welcome ceremony**

1. The flying of flags on ships operating at a seaport shall be carried out as follows:

a) A Vietnamese ship must fly the national flag of the Socialist Republic of Vietnam (hereinafter referred to as "national flag") on top of the mizzenmast; for the ship without mizzenmast, the national flag shall be flown on top of the main mast;

b) A foreign ship must fly the national flag on top of the highest mast;

c) Every day, the national flag shall be raised at sunrise and lowered at sunset. In winter, on foggy days, the national flag shall be raised at a time when it is visible. The national flag shall be raised earlier or lowered later than the time when a ship arrives at or departs from a port, encounters a military ship or two Vietnamese ships see each other;

d) On the National Independence Day of the Socialist Republic of Vietnam or upon a visit by the heads of the Communist Party or the State to the seaport, all ships that are anchored within seaport waters must fly a ceremonial flag under the instructions of the Director of the port authority;

dd) A foreign flagged ship must inform in advance and follow the directions of the port authority when it desires to fly a ceremonial flag or burial flag or sound its horn on its national celebrations;

e) The Director of the port authority may relieve some rudimentary watercraft of responsibility for flying national flag when they operate within seaport waters.

2. Regulations on the flying of flags on Vietnamese ships:

On the major holidays, the ship shall hang an international maritime signal flag line from its forward mast to the mizzen mast through the crossbeams of fore mast and main mast; the national flag shall be flown on top of the fore mast and main mast, mizzen mast and forward mast flying the shipowner's signal flag (if any).

The decoration of signal flags must not affect the handling of cargoes. On other holidays, the ship shall hang an international maritime signal flag line from its forward mast to fore mast and the second line from the main mast to the mizzen mast; the national flag shall be flown on top of the fore mast, main mast and mizzen mast. The Vietnamese and foreign national flag, military flag, insignia flag and red cross flag must not be used for decoration of the ceremonial flag line.

b) Upon the visit by the General Secretary of the Communist Party of Vietnam, President, Vice President, President of the National Assembly, Deputy President of the National Assembly, Prime Minister and Deputy Prime Minister of the Socialist Republic of Vietnam to the ship, in addition to the national flag flown on top of the mizzen mast, another one shall be flown on top of the main mast and shall only be lowered when those leaders leave the ship;

c) On major holidays or days on which a special directive is issued by the Prime Minister, the national flag must be raised to conduct the flag raising ceremony. When a ship is underway at sea and in fine weather conditions, in addition to the national flag flown on top of the mizzen mast, another one shall be flown on top of the main mast;

d) When a ship is anchored at a foreign seaport, the national flag of Vietnam must be raised before and lowered after the national flag of the country where the ship is anchored;

dd) When a ship is underway within the foreign territorial waters or arrives or departs or is anchored within the foreign seaport waters, it must fly the national flag of such country on its main mast;

e) The national flag must be flown in the open state. On the national day of mourning, the national flag must be flown following state funeral protocol.

g) The duty mariner shall raise and lower the national flag on the duty deck officer's orders.

3. Upon a visit by senior leaders of the Communist Party and the State to the ship: In case a notice is issued in advance, the master shall order crew to wear ceremonial costumes, stand in a vertical line along the hallway at the landing, the master must be present at the foot of the stairs to welcome guests. In case a notice is not issued in advance, the duty deck officers must welcome guests at the foot of the stairs and inform the master.

## **Article 62. Requirements applied to ships operating within seaport waters and areas under the management of the port authorities**

1. Ships shall only be anchored, dispatched, berthed and perform side-by-side mooring or carry out other similar operations within seaport waters and navigational channels when the Director of the port authority gives a dispatch order or consent. The dispatch order of the Director of the port authority shall be made in a timely, accurate and adequate manner, in case of ineligibility to do so, the master shall inform the port authority.

2. While operating ships within seaport waters and Vietnamese territorial waters, in addition to complying regulations for preventing collisions at sea, the master shall comply with the following regulations:

a) Maintain contact with the port authority via VHF or other communications equipment;

b) Maintain the operation of the automatic identification system according to regulations;

c) Comply with all regulations on the limit speed when navigating in channels, warning signal, safety regime and other regulations; move at a safe speed when passing through areas where underwater activities are being carried out, channels are being dredged, marker buoys is being set, salvage is being perform, fishery activities are being carried out or when passing through the areas where ships are being anchored or dispatched;



d) Do not dispatch a ship to pass through the areas with bridges or lines stretching over channels while the height of such ship exceeds the vertical clearance. The navigation of ships in narrow channels complies with regulations of the Director of the port authority; anchor gear and other similar equipment must be always ready for quick execution of the master's orders;

dd) Do not let ships drag or pull anchors underwater while operating in channels or canals unless it is compulsory to do so to avoid possible accidents;

e) Only dive or carry out underwater activities after obtaining the consent of the port authority. Procedures for applying for permission are as follows: The declarant shall submit a written request made using the Form No. 35 provided in the Appendix enclosed herewith, directly or by post, to the port authority. Within 04 working hours since receipt of the request, the port authority shall submit a written response. In case of rejection, a written response specifying reasons thereof shall be given.

3. In addition to complying with regulations of this Article, the master or commander engaged in the construction of maritime structures, ships specializing in dredging of channels or extraction of sand or floating cranes and other construction equipment must apply for permission before carrying out activities in the seaport waters. Procedures for applying for permission are as follows: The declarant shall submit a written request made using the Form No. 35 provided in the Appendix enclosed herewith, directly or by post, to the port authority. Within 04 working hours since receipt of the request, the port authority shall submit a written response. In case of rejection, a written response specifying reasons thereof shall be given.

4. Before entry procedures are completed or after exit procedures are completed, persons on board are prohibited from contacting persons other than the crew, except pilots, shipping agents and other persons who are performing their tasks on board.

### **Article 63. Vessel traffic service system**

1. The Ministry of Transport shall direct the Vietnam Maritime Administration to build and put the VTS system into operation and issue regulations on management of operations of the system.

2. The Director of the local port authority shall operate and maintain the VTS system to ensure maritime safety and security and protect the environment as prescribed.

3. The master and pilots who are navigating within the area under surveillance of the VTS system shall accurately, adequately and promptly information about operations of ships as prescribed and follow the instructions of the VTS system operator.

### **Article 64. Ship towage**

When a ship arrives at, departs from and operates at a seaport, a tugboat shall be deployed as follows:

1. A ship with the length overall of 80 m or more that arrives at or depart from a wharf, floating terminal; performs side-by-side mooring; moves or moves within the channel, turns within the waters in front of the wharf, waters of the floating terminal, dedicated waters within seaport waters and area under the management of the port authority, must be assisted by a tugboat.
2. The quantity and power of the tugboat and the situations in which tugboats must be deployed shall be determined according to the length overall, load and characteristics of the ship, actual condition in the area, comments of relevant organizations and individuals and shall be specified in the seaport regulation.
3. The master may request the addition of tugboats or request a tugboat with a larger capacity when necessary.
4. Apart from the regulation specified in Clause 1 of this Article, the master may request a tugboat when necessary.

#### **Article 65. Anchoring**

1. When a ship is safely anchored in a designated location, its main aft must be constantly kept ready to operate when necessary. It must be lighted at night or in case of reduced visibility and all signs and warning signals must be maintained as prescribed.
2. When a ship is drifted, the master shall immediately take appropriate remedial measures to prevent maritime accidents or emergencies and inform such to the port authority.
3. Rudimentary and non-self-propelled watercraft shall only be anchored only in areas exclusively reserved for them as prescribed by the Director of the port authority; during anchoring, man and appropriate equipment must be available for dispatch when necessary.

#### **Article 66. Perpetual anchoring**

1. In the cases where a ship is anchored without cargo handling or embarkation or disembarkation of passengers or does not provide services for 30 days or more, a plan for perpetual anchoring shall be prepared and submitted to the local port authority for approval.
2. The plan for perpetual anchoring includes the following contents:
  - a) Name of the ship;
  - b) Owner and person charged with managing and operating the ship;
  - c) Technical characteristics of the ship;
  - d) Reasons for perpetual anchoring;
  - dd) Expected time and position for perpetual anchoring;

e) The number of crew on board during perpetual anchoring of the ship;

g) Measures for safety assurance;

h) Measures for emergency response.

3. Based on the actual conditions, the port authority shall decide the number of crew on board and approve the safety plan for perpetual anchoring.

### **Section 67. Responsibilities of port enterprises for operations of ships**

1. The port enterprise shall provide space for ships to anchor, berth or move. Before 16:00 every day, the enterprise shall inform the dispatching plan for a ship's arrival or departure to the port authority. In case of any change, the enterprise shall immediately inform the port authority for adjustments to the daily dispatching plan.

2. After receiving notice about the dispatching plan of the port authority, the port enterprise shall fulfill the following requirements:

a) Provide a wharf with a sufficient length and other necessary conditions as prescribed to ensure safe landing of ships. The wharf must be sufficiently lighted and clear of any objects on its surface which might obstruct or endanger its anchoring or berthing or other normal activities of the crew and passengers;

b) Employ skillful workers to moor or unmoor the ship upon its arrival at or departure from a wharf; bollards must be ready for quick and safe mooring and unmooring. At mooring and unmooring locations, appropriate warning signals must be maintained as prescribed;

c) Complete the preparation of a wharf at least 01 hour before the expected time for landing of the ship coming from the sea or at least 30 minutes for the ship moving or changing its location within the port waters;

d) Ensure security and order in the wharf where cargoes or passengers are loaded and unloaded.

dd) Equip and maintain normal operation of means of communication in order to assure continuous exchange of information relating to maritime operations at the seaport as prescribed;

e) Maintain the technical state of the wharves, warehouses, storage yards, equipment, the depth of the waters in front of the wharf and other waters which are managed and used by the port enterprise as prescribed; carry out periodic surveys and apply for issuance of the notices to mariners that include the waters in front of the wharf and other waters which are managed and used by port enterprise. Carry out a survey of the technical state of the seaports in accordance with regulations specified in Article 37 of this Decree and relevant regulations of law to ensure operational safety;

g) Organize the implementation of the regulations of law on maritime safety and security assurance and environmental safety at the seaport. In case of maritime accident or emergency, fire, explosion or environmental emergency, promptly take appropriate preventive measures and inform such measures to the port authority and relevant authorities.

#### **Article 68. Side-by-side mooring**

1. Based on conditions for maritime conditions, the Director of the port authority shall allow ships to perform side-by-side mooring at the request of the relevant masters, but the following rules shall be observed:

a) The ship with a gross tonnage of 1,000 GT or more may moor two abreast. Other types of ships may moor three abreast, provided that they shall not obstruct normal operations in navigational channels and waters in front of wharves;

b) The larger ship is not allowed to perform side-by-side mooring from the outside of the smaller ship;

c) Between ships moored side-by-side to each other, ropes must be properly moored and there must be anti-collision fenders between them;

d) Only public service ships, ships supplying water, oil, food, equipment and other provisions, pilot ships, fire-fighting ships, ships transshipping passengers from passenger ships or similar service ships may be moored side-by-side to the passenger ships.

2. Masters must use appropriate kinds of ropes for ships performing side-by-side mooring. Ropes must not be moored to beams, frames or other structures of the port, and areas not designated for moorage.

3. In the cases where a foreign ship is moored side-by-side to a Vietnamese ship, crew and passengers of both ships must follow border guard procedures according to regulations.

#### **Article 69. Watch-keeping upon operation of ships at seaports**

1. When the ship operates at a seaport, the master shall arrange lookouts who are ready to deal with the drifting of anchors, broken anchor lines, broken mooring lines or too tense or too loose mooring lines or other threats to safety of ships, cargoes and persons on board; and constantly keep engines, life-saving and fire-fighting equipment and stand-by emergency equipment ready for operation.

2. When anchored in the seaport waters, there must be always at least two-thirds of seafarers on board with appropriate positions on board, including the master or chief mate and the chief engineer officer or second engineer officer that are responsible for dispatching ships or dealing with emergency cases.

3. The Director of the port authority shall inform masters of storm-sheltering plans, storm shelters, necessary maritime instructions and preventive measures to be taken in seaport waters and management areas in which ships are operating.

4. When a storm is imminent, ships shall quickly move to storm shelters under orders from the Director of the port authority.

#### **Article 70. Procedures for temporary detention of a ship for investigation into maritime accidents**

1. The Director of the port authority shall issue the decision on temporary detention of a ship as prescribed in Clause 1, Article 114 of the Vietnam Maritime Code. The decision on temporary detention of a ship made using the Form No. 37 provided in the Appendix enclosed herewith shall be immediately delivered to the master of the detained ship, the Vietnam Maritime Administration and regulatory authorities at the seaport.

2. Upon receipt of the decision on temporary detention of a ship issued by the Director of the port authority, the master, shipowner or ship operator must comply with requirements specified in such decision.

3. After the reasons for temporary detention of a ship no longer persist or duration of such temporary detention of a ship expires, the Director of the port authority shall issue a decision to terminate the detention of the ship, made using the Form No.17 provided in the Appendix enclosed herewith, and send it to the master of the detained ship, the Vietnam Maritime Administration and regulatory authorities at the seaport.

4. In case it is necessary to extend the duration of temporary detention of a ship, such extension shall be informed to a competent authority and the temporary detention shall be extended when a written consent is granted.

#### **Article 71. Conditions for ships to depart from seaports**

1. A ship may depart from a seaport after the conditions for technical safety and environmental safety are met as prescribed, the procedures specified in this Decree are completed and it is issued with a Port Clearance Certificate by the Director of the port authority, except the cases specified in Clause 2 of this Article.

2. In case a ship arrives at a seaport and is expected to stay at the seaport within 12 hours, the master shall inform such to the local port authority for cooperating with other relevant regulatory authorities in completing the procedures for ship's arrival at or departure from a seaport at the same time.

3. A ship is not allowed to leave a seaport in the following cases:

a) The cases prescribed in Clause 2, Article 98 of the Vietnam Maritime Code;

b) Its shown draft is higher than the permitted load line or it is heeled over 06 degrees of freedom movement or its hull is not totally watertight;

c) The ship is carrying bulk cargoes, grains or extra-long, extra-heavy cargoes, dangerous cargoes, or deck cargoes but necessary security measures in accordance with the rules for transport of such cargoes are not fully implemented.

d) The ship is yet to be repaired or subject to additional conditions for maritime safety and security and environmental safety at the request of the port authority, maritime inspection authority or other regulatory authorities.

## **Section 2. GENERAL REGULATIONS ON PROCEDURES FOR SHIPS**

### **Article 72. Procedures for ships' entry, exit, arrival at and departure from seaports and operation within Vietnamese territorial waters**

The ship that enters, exits, transits, arrives and departs from seaports and operates within Vietnamese territorial waters must follow procedures according to the following regulations, except for the ship that passes safely as prescribed by law:

1. Ships shall undergo the procedures prescribed in Section 4 of this Chapter.
2. Domestic watercraft shall undergo the procedures for arrival at and departure from seaports as prescribed in Section 5 of this Chapter, except for the cases prescribed in Article 3 and Article 5 of this Decree.
3. Domestic watercraft that enters and exits a seaport shall undergo the same procedures prescribed in Articles 87, 88, 89 and 90 of this Decree.
4. Fishing ships shall be compliant with regulations of the Law on Fisheries.
5. Military ships, public service ships, submarines, submersibles, floating production storage and offloading units, mobile offshore drilling units, hydroplanes, VR-SB domestic watercraft and other watercraft that are not specified in Clauses 2 and 3 of this Article shall undergo the procedures prescribed in Clause 1 of this Article and other relevant regulations of law.

### **Article 73. Procedures for ships' arrival at and departure from wharves, seaports and ports, inland landing stages within seaport waters or maritime areas**

1. The ship that arrives at and departs from the maritime area within a seaport shall undergo the procedures which are the same as the ship that arrives at or departs from a seaport.
2. For the ship that arrives at a seaport or maritime area and then arrives at a port or inland landing stage within such seaport waters or maritime area, the port authority shall only follow the arrival procedures and issue a written dispatch order that is made using the Form No. 45

provided in the Appendix enclosed herewith when the ship moves to a port or inland landing stage; the inland waterway port authority shall follow the departure procedures.

3. For the ship that arrives at a port or inland landing stage within seaport waters or maritime area and then arrives at a wharf or port within the such port or maritime area, the port authority shall only follow the arrival procedures and issue a written dispatch order that is made using the Form No. 45 provided in the Appendix enclosed herewith when the ship moves to a wharf or port; the port authority shall apply the departure procedures.

**Article 74. Regulations on reduction of and exemption from procedures for ship's arrival at and departure from a seaport in special cases**

1. The types of ships that are subject to reduction of and exemption from procedures for arrival at and departure from seaports shall comply with regulations specified in Article 97 of the Vietnam Maritime Code.

2. Ships arriving at a seaport to transfer rescued humans, property and ships and only staying there within 12 hours shall be allowed to complete only one-time procedures for arrival and departure and one of the following documents shall be submitted:

a) General Declaration;

b) Crew list;

c) Passenger list (if any).

3. The private sailing ship, yacht and tourist boat shall be exempted from submitting or presenting the documents specified in Article 4 of this Decree if the country whose flag is flown by such ship or boat does not require these documents.

**Article 75. Procedures to be followed by foreign ships engaged in specific activities**

1. Foreign warships and foreign ships arriving in Vietnam at the invitation of the Government of the Socialist Republic of Vietnam and ships engaged in search and rescue within Vietnamese territorial waters shall follow special procedures prescribed by law.

2. For the foreign nuclear-powered ship or the ship that carries radioactive substances:

a) The declarant shall submit a written request for granting of permission to the foreign nuclear-powered ship or the ship that carries radioactive substances to arrive at a seaport, which is made using the Form No. 39 provided in the Appendix enclosed with this Circular, directly or by post, to the Ministry of Transport, enclosed with a copy of Ship Registration Certificate and copies of the certificates of maritime safety and security, and environmental safety.

b) Within 10 working days from the day on which all valid documents are received, the Ministry of Transport shall inform the Prime Minister for consideration and approval, and issue a written

response to the granting of permission to the foreign nuclear-powered ship or the ship that carries radioactive substances to arrive at a seaport.

3. For the foreign ships that arrives at a seaport to carry out the activities, including scientific research, fishery, salvage, sunken property recovery, towage within seaport waters, training, culture, sports, installation and construction of maritime structures and underground structures in service of natural resource survey, exploration and extraction, ship building and repair services or other environment-related activities within Vietnamese territorial waters:

a) The declarant shall submit an application, directly or in other appropriate forms, to the Vietnam Maritime Administration. The application includes: a written request for consent to the arrival of the foreign ship at a seaport; copies of documents relating to the purposes and duration of the ship's arrival at a seaport; copy of the Ship Registration Certificate.

b) The Vietnam Maritime Administration shall receive the application. If the application is invalid, within 02 working days from the day on which such application is received, the Vietnam Maritime Administration shall provide guidance on the completion of the application as prescribed in this Decree. If the application is valid, within 07 working days from the day on which such application is received, the Vietnam Maritime Administration shall submit a written response, directly or by post, to the declarant. In case of rejection, a written response specifying reasons thereof shall be given.

#### **Article 76. Time for completion of procedures**

The regulatory authorities at the seaport shall be available 24/24 hours a day and 7 days a week at the place where procedures are followed as prescribed in Article 77 of this Decree to fulfill their duties.

#### **Article 77. Places where procedures for ships are followed**

1. Places where procedures are followed: Headquarters or representative offices of the port authority, except for the case specified in Clause 2 of this Article.

2. Places where procedures for ships that have a tonnage of 200 tonnes or below, flies the national flag of the country sharing its border with Vietnam arrive at the seaport in the border area between Vietnam and such country are followed:

a) For the ship that sails under the flag of China, when arriving at the Van Gia transshipment area (Mong Cai, Quang Ninh province) it shall undergo procedures at the headquarters or representative office of the port authority of Quang Ninh.

b) For the ship that sails under the flag of Cambodia, when arriving at Dong Thap seaport, it shall undergo procedures at the headquarters or representative office of the port authority of Dong Thap.



c) For the ship that sails under the flag of Cambodia, when arriving at the seaport in coastal border area of Kien Giang province, it shall undergo procedures at the headquarters or representative office of the port authority of Kien Giang.

3. The procedures shall be completed on board in the following cases:

a) Procedures are applied to passenger ships;

b) The ships arrive from the areas affected by human-, animal- or plant-related epidemics;

c) The violations of law are suspected or sufficient grounds for suspecting the truthfulness of declaration.

4. The relevant regulatory authorities shall inform the port authority and declarant when procedures are completed at the ship.

**Article 78. Authorities that carry out procedures for foreign ships in transit through Vietnam to Cambodia and vice versa**

1. The port authority of Vung Tau shall take charge and cooperate with relevant authorities in carrying out procedures for the foreign ship in transit through Vietnam to Cambodia via Tien river according to regulations of this Decree and relevant regulations of law.

2. The port authority of Can Tho shall take charge and cooperate with regulatory authorities at the seaport in carrying out procedures for the foreign ship in transit through Vietnam to Cambodia via Hau river according to regulations of this Decree and relevant regulations of law.

3. The port authority of Dong Thap shall take charge and cooperate with relevant authorities in carrying out procedures for the foreign ship in transit through Cambodia to Vietnam via Tien river according to regulations of this Decree and relevant regulations of law.

**Article 79. Procedures for domestic watercraft in transit through Vietnam to Cambodia**

The procedures for domestic watercraft in transit through Vietnam to Cambodia and vice versa shall be carried out under the Agreement on Waterway Transportation signed by Vietnam and Cambodia and relevant regulations of law.

**Article 80. Responsibility for information processing and power to complete procedures for ships**

1. The port authority shall inform relevant organizations of the ship that enters, exits, transits, arrives at or departs from a seaport and operates within Vietnamese territorial waters as prescribed to follow procedures and cooperate with each other in dispatching and receiving ships.

2. Other regulatory authorities shall, according to their tasks and information about the ship that enters, exits, transits, arrives at or departs from a seaport and operates within Vietnamese territorial waters to settle procedures for ships under their management and submit the results to the port authority. The power to settle procedures for ship by regulatory authorities:

a) The port authority shall process ship documents and Certificate of Crew's Competency, and shall be the last authority that allows ships to enter, exit, transit, arrive at or depart from a seaport;

b) The border checkpoint customs authority shall examine documents about cargoes, effects, raw materials and fuels on board.

c) The border guards shall process documents about crew, passengers, stowaways and persons boarding and disembarking ships;

d) The health quarantine authority shall process documents about human-related epidemics;

dd) The animal quarantine authority shall process documents about animals on board;

e) The plant quarantine authority shall process documents about plants carried on board;

3. The port authority shall, according to the information about ships and results of procedure settlement by other regulatory authorities, decide to settle procedures for the ship that enters, exits, transits, arrives at or departs from a seaport and and operates within Vietnamese territorial waters.

### **Article 81. Form of declaration of procedures for ships' entry, exit, transit, arrival at or departure from seaports and operation within Vietnamese territorial waters**

The ship documents to the regulatory authority at the seaport shall be submitted via Fax, electronic declaration, directly or by post. In case the ship documents is submitted in the form of electronic database or other written forms according to regulations, the declarant only need to submit their copies and provide the address of the website of the competent authority that issued such documents for verification when necessary.

## **Section 3. E-PROCEDURES**

### **Article 82. Application of e-procedures**

1. E-procedures shall be followed according to regulations of this Decree and relevant regulations of law on national single-window system.

2. The Ministry of Finance shall take charge and cooperate with the Ministry of Transport and relevant ministries in reviewing and completing the mechanism for e-procedures via the national single-window portal.

### **Article 83. Responsibilities of organizations for carrying out e-procedures**

1. Procedures for ships' entry, exit, transit, arrival at or departure from seaports and operation within Vietnamese territorial waters shall be carried out via the web portal. The declarant shall only declare and submit documents via the web portal and do not need to submit and present documents at the place where the procedures are followed as prescribed in this Decree. In case the declaration documents submitted via the web portal are not valid or there is not enough electronic database for examination and comparison, the port authority shall inform and request the declarant to submit and present valid and sufficient documents at the place where procedures are followed.
2. Regulatory authorities, within their competence, shall collect information and electronic documents submitted via the web portal to examine and carry out procedures.
3. The declarants and regulatory authorities shall pay and collect fees and charges for following e-procedures according to regulations.
4. Relevant organizations and individuals shall apply information technology to the completion of e-procedures for ships' entry, exit, transit, arrival at or departure from seaports and operation within Vietnamese territorial waters.
5. Funding for investment, establishment, management and operation of information technology system serving management of seaports and maritime operations shall be provided by the state capital and other legal capital sources.
6. In case the e-procedures are carried out, the port authority shall issue an electronic dispatch order to ships, electronic permission for transit, electronic Port Clearance Certificate or inform the reasons why the procedures are yet to be carried out via the web portal.

### **Article 84. E-documents, conversion from paper documents into e-documents and vice versa upon completion of procedures for ships**

1. E-documents declared or shown to regulatory authorities at seaports through the web portal may be converted from paper documents if the following requirements are met:
  - a) Reflect all the information from paper documents;
  - b) Ensure availability of a digital signature registered with the web portal;
2. Paper documents may be converted from e-documents provided through the web portal if the following requirements are met:
  - a) Reflect all the information from e-documents;
  - b) Paper documents converted from e-documents should bear signs to notice that they are converted from e-documents and printed from the web portal. Such signs include information

about the documents digitally signed by the licensing authority or web portal, name and email address and/or contact phone number of the signer, date of digital signature. The signs shall be published at by web portal management authority;

c) Paper documents converted from e-documents should bear legal signature, full name and seal of the declarant.

3. E-documents shall have the same value as paper documents that are used to file procedures with regulatory authorities.

4. The declarant shall deposit e-documents and paper documents as prescribed.

#### **Article 85. Use of digital signatures upon completion of e-procedures**

1. The declarant shall use his/her digital signatures for declaration on the web portal.

2. Digital signatures used for declaration on the web portal shall be signatures corresponding to digital certificates issued by public or foreign authentication service providers recognized as prescribed by law.

3. The declarant shall register his/her digital signatures for declaration on the web portal.

#### **Article 86. Receipt and resolution of difficulties faced by declarant**

1. Information concerning switchboards and electronic mailboxes shall be published on the web portal or websites of relevant ministries.

2. The ministries shall establish a division that is available 24 hours a day and 07 days a week for receipt and resolution of difficulties faced by declarants.

### **Section 4. PROCEDURES FOR SHIPS' ENTRY, EXIT, TRANSIT, ARRIVAL AT OR DEPARTURE FROM SEAPORTS AND OPERATION WITHIN VIETNAMESE TERRITORIAL WATER**

#### **Article 87. Notice of ship's arrival at or departure from the seaport and notice of transit**

1. Notice of ship's arrival at the seaport and notice of transit:

Before a ship arrives at the seaport, the declarant shall submit the following documents to the port authority where the ship arrives:

a) A ship's security notification made using the Form No. 41 provided in the Appendix enclosed herewith: For the cargo ship with a gross tonnage of 500 GT or more, passenger ship and mobile offshore drilling unit engaged in international voyages, within 24 hours before the ship arrives at the seaport;

b) Notice of ship's arrival at the seaport made using the Form No. 42 provided in the Appendix enclosed herewith: Within 08 hours before the ship arrives at the seaport; within 02 hours before the ship arrives at a designated location at seaport in case the ship is moving among Vietnamese seaports or maritime area within 20 nautical miles. For the ship, military ship, nuclear-powered ship, the ship that carries radioactive substances or the ship that arrives at the invitation of the Government of the Socialist Republic of Vietnam, the notice shall be issued within 24 hours before such ships arrive at the seaports. Within 12 hours before since the ship is expected to arrive at an anchorage waiting for transit.

2. Notice of ship's departure from the seaport:

Within 02 hours before the ship departs from the seaport, the declarant shall issue a notice of ship's departure from the seaport made using the Form 57 provided in the Appendix enclosed herewith, directly or by other communications means, to the port authority.

### **Article 88. Confirmation of arrival of ship at the seaport**

1. In case a ship arrives at the seaport earlier or later than 02 hours after the time specified in the notice of ship's arrival, a confirmation of arrival of ship made using the Form 44 provided in the Appendix enclosed herewith shall be given to the port authority.

2. In case there is an ill person, dead person, rescued person or stowaway on board, a confirmation of arrival of vessel at the seaport, specifying his/her name, age, nationality, illness status or reasons of death and other relevant requirements and made using the Form No. 44 provided in the Appendix enclosed herewith, shall be given.

### **Article 89. Procedures for ships' entry**

1. The declarant shall issue the notice and confirmation of arrival of ship at the seaport as prescribed in Articles 87 and 88 of this Decree.

2. According to the notice and confirmation of arrival of ship at the seaport, within 02 hours before the ship arrives at the seaport, the Director of the port authority shall, according to the actual condition, technical specifications of the ship, types of cargoes, dispatching plan of the port authority, ship pilotage plan of the pilotage service provider and comments of the regulatory authorities, consider deciding to give consent to ship's arrival through the pilotage plan made using the Form No. 46 provided in the Appendix enclosed herewith. In case of rejection, a written notice specifying reasons thereof shall be given to the declarant.

3. Within 02 hours since the ship anchored at the wharf or within 04 hours since the ship anchored at different locations within seaport waters according to the dispatching plan, the declarant shall submit and present the following documents:

a) The documents to be submitted (the original), 01 original per each, including (the Forms are specified in the Appendix enclosed herewith):

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Dangerous goods manifest made using the Form No. 49, Port Clearance Certificate - Submitted to the port authorities;

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Declaration of arms and explosive materials (if any) made using the Form No. 36, Declaration of stowaway (if any) made using the Form No. 34 - Submitted to the border guards;

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Cargo declaration (if any) made using the Form No. 43, House bill of lading declaration (if any) made using the Form No. 13, Dangerous goods manifest made (if any) using the Form No. 49, Ship's stores declaration made using the Form No. 50, Declaration of the passenger and crew's effects ineligible for relief from duties and taxes or subject to prohibitions or restrictions (if any) made using the Form No. 51 - Submitted to the border checkpoint customs authorities;

- Maritime declaration of health made using the Form No. 52, Health quarantine declaration of corpse, bones, body, body ash (if any) made using the Form No. 33, Health quarantine declaration of microorganism sample, biological products, tissues, human body organs (if any) made using the Form No. 14 - Submitted to the health quarantine authorities;

- Declaration for plant quarantine (if any) made using the Form No. 53 - Submitted to the plant quarantine authorities;

- Declaration for animal quarantine (if any) made using the Form No. 54 - Submitted to the animal quarantine authorities;

b) The documents to be presented (original), including:

- Ship Registration Certificate, Certificates of satisfaction of technical safety requirements, Certificate of Crew's Competency, Seaman's book, Certificate of insurance or other financial security in respect of civil liability for bunker oil pollution damage, Certificate of insurance for civil liability of shipowners for pollution caused by ships used to transport petroleum, petroleum products or other dangerous goods; Ship Security Certificate according to regulations, Written consent to foreign ships operating exclusively (if any) - Presented to the port authorities;

- Passport or international laissez-passer of crew and passengers - Submitted to border guards;

- Crew's International Certificate of Vaccination, Certificate of Health Quarantine, Ship's Sanitation Control Exemption/Control Certificate (if any) - Presented to health quarantine authorities;

- Certificate of plant quarantine (if any) - Presented to the plant quarantine authorities;

- The exporting country's Certificate of animal quarantine (if any) - Presented to the animal quarantine authorities;

- Passenger's passport and International Certificate of Vaccination (if any) - Presented at the request of the relevant regulatory authority;

4. Within 01 hour since the declarant submitted and presented all documents specified in Clause 3 of this Article, the regulatory authorities shall carry out procedures for ships under their management and immediately inform the port authorities of results and the port authorities shall complete procedures for ships' entry. In case the procedures for ships are yet to be completed, a written notice specifying reasons thereof shall be given.

#### **Article 90. Procedures for ships' exit**

1. The declarant shall issue notice of ship's departure from the seaport as prescribed in Clause 2, Article 87 of this Decree.

2. Within 02 hours before the ship departs from the seaport; for the passenger ship and liner, not later than the time such ship or liner is going to depart, the declarant shall submit and present the following documents:

a) The documents to be submitted (the original), 01 original per each, including (the Forms are provided in the Appendix enclosed herewith):

- General Declaration made using the Form No. 42, Crew list (in case of changes versus the date of arrival) made using the Form No. 47, Passenger list (in case of changes versus the date of arrival) made using the Form No. 48, Dangerous goods manifest (if any) made using the Form No. 49 - Submitted to the port authorities;

- General Declaration made using the Form No. 42, Crew list (in case of changes versus the date of arrival) made using the Form No. 47, Passenger list (in case of changes versus the date of arrival) made using the Form No. 48, Declaration of arms and explosive materials (if any) made using the Form No. 36 and Declaration of stowaway (if any) made using the Form No. 34 - Submitted to the border guards;

- General Declaration made using the Form No. 42, Crew list (in case of changes versus the date of arrival) made using the Form No. 47, Cargo declaration (if any) made using the Form No. 43, Dangerous goods manifest made (if any) using the Form No. 49, Ship's stores declaration made using the Form No. 50, Declaration of the passenger and crew's effects ineligible for relief from duties and taxes or subject to prohibitions or restrictions (if any) made using the Form No. 51- Submitted to the border checkpoint customs authorities;

Procedures for customs declaration shall not be applied to the effects of the passengers on board foreign passenger ships arriving at and departing from the port on the same voyage;

- Health quarantine declaration of corpse, bones, body, body ash (if any) made using the Form No. 33, Health quarantine declaration of microorganism sample, biological products, tissues, human body organs (if any) made using the Form No. 14 - Submitted to the health quarantine authorities;

- Other documents already issued by a regulatory authority to the ship, crew and passenger, for revocation.

b) The documents to be presented (the original), including:

- The ship's certificates (in case of changes versus the date of arrival), Certificate of Crew's Competency (in case of changes versus the date of arrival), Seaman's book (in case of change of a seaman), documents confirming the payment of fees, charges, fines or debts (if any) according to regulations of law - Presented to the port authorities;

- Passport or international laissez-passer of crew and passengers - Presented to border guards;

- Crew and passenger's International Certificate of Vaccination, Certificate of Health Quarantine (for people who depart from or transit through an area affected by an epidemic, are suspected of having an infection or carries a pathogen), Certificate of Health Quarantine (in case of changes) Ship's Sanitation Control Exemption/Control Certificate (if any) - Submitted to health quarantine authorities;

- Certificate of animal quarantine of the exporting country (at the request of the next country the declarant enters) - Submitted to the animal quarantine authorities.

3. Within 01 hour since the declarant submitted and presented all documents specified in Clause 2 of this Article, the regulatory authorities shall carry out procedures within their competence and immediately inform the port authorities of results and the port authorities shall issue the Port Clearance Certificate made using the Form No. 58 provided in the Appendix enclosed herewith. In case the Port Clearance Certificate is yet to be issued, a written notice specifying reasons thereof must be given.

4. In case a ship has been issued with a Port Clearance Certificate but it stays at the seaport for more than 24 hours since its departure is accepted, procedures for the ship's exit shall be carried out again as prescribed in this Article.

#### **Article 91. Procedures for ships' entry, exit, arrival at or departure from the offshore oil port and operation within Vietnamese territorial waters**

1. The notice and confirmation of arrival at and departure from ship at the seaport shall be made as prescribed in Articles 87 and 88 of this Decree.

2. Procedures shall be carried out as follows:



a) The declarant shall submit the documents, including: 01 copy of the General Declaration made using the Form No. 42 and 01 Crew list made using the Form No. 47 (the Forms are provided in the Appendix enclosed herewith), directly or via Fax or email to the port authority. The port authority shall copy and submit such documents to relevant regulatory authorities for completion of procedures;

b) The port authority shall dispatch the ship to the port or issue a Port Clearance Certificate to the declarant after receipt of all documents specified in Point a of this Clause;

c) Within 12 hours after returning to shores, the declarant shall submit all documents specified in Articles 89, 90, 94, 95, 96 and 97 of this Decree. For the documents to be presented, the copies that bear the master's signature and the seal of the ship shall be presented.

3. The time limit for completion of procedures for ships' entry, exit, arrival at or departure from the offshore oil port and operation within Vietnamese territorial waters shall be deemed expired, when the agent of the shipowner submits all prescribed documents to the regulatory authorities at the premises of the port authority.

4. Regulations of this Article shall also apply to ships under the procedures for entry, exit, arrival at or departure from the seaport to operate within Vietnamese territorial waters.

#### **Article 92. Procedures for ships in transit**

1. The declarant shall issue notice and confirmation of arrival of the ship in transit as prescribed in Articles 87 and 88 of this Decree.

2. According to the notice and confirmation of the ship in transit, within 02 hours before the ship arrives at the anchorage waiting for transit, the Director of the port authority shall, according to the actual condition, technical specifications of the ship, types of cargoes, dispatching plan of the port authority, ship pilotage plan of the pilotage service provider and comments of the regulatory authorities, consider deciding to give consent to ship in transit through the dispatching plan made using the Form No. 46 provided in the Appendix enclosed herewith. In case of rejection, a written notice specifying reasons thereof shall be given to the declarant.

3. Within 02 hours before the ship transits, the declarant shall submit and present the following documents:

a) The documents to be submitted (the original), 01 original per each, including (The Forms are specified in the Appendix enclosed herewith):

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48 - Submitted to the port authorities;

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Declaration of arms and explosive materials

(if any) made using the Form No. 36, Declaration of stowaway (if any) made using the Form No. 34 - Submitted to the border guards;

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Cargo declaration (if any) made using the Form No. 43, Ship's stores declaration made using the Form No. 50, House bill of lading declaration (if any) made using the Form No. 13 - Submitted to the border checkpoint customs authorities;

- Maritime declaration of health made using the Form No. 52, Health quarantine declaration of corpse, bones, body, body ash (if any) made using the Form No. 33, Health quarantine declaration of microorganism sample, biological products, tissues, human body organs (if any) made using the Form. No. 14 - Submitted to the Health quarantine authorities;

b) The documents to be presented (original), including:

- Port Clearance Certificate, Ship Registration Certificate, Certificates of satisfaction of technical safety requirements, Certificate of Crew's Competency according to regulations, Certificate of insurance or other financial security in respect of civil liability for bunker oil pollution damage, Certificate of insurance for civil liability of shipowners for pollution in respect of ships used to transport petroleum, petroleum products or other dangerous goods - Presented to the port authorities;

- Passport or international laissez-passer of crew and passengers - Presented to border guards;

- Passenger's passport (if any) - Presented at the request of the relevant regulatory authority

4. Within 01 hour since the declarant submitted and presented all documents specified in Clause 3 of this Article, the regulatory authorities shall carry out procedures and immediately inform the port authorities of results and the port authorities shall issue the Permission for Transit made using the Form No. 56 provided in the Appendix enclosed herewith. In case the Permission for Transit is yet to be issued, a written notice specifying the reasons thereof must be given.

**Article 93. Procedures for ship that has a tonnage of 200 tonnes or below, flies the national flag of the country sharing its border with Vietnam enter and exit the seaport in the border area between Vietnam and such country**

1. The declarant shall issue notice and confirmation of arrival and departure of ship at the seaport as prescribed in Articles 87 and 88 of this Decree.

2. According to the notice and confirmation of arrival and departure of ship at the seaport, within 02 hours before the ship arrives at the seaport, departs from the seaport or not later than the time the passenger ship and liner departs from the seaport, the declarant shall submit and present the following documents:

a) The documents to be submitted (the original), 01 original per each, including (the Forms are specified in the Appendix enclosed herewith):

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Dangerous goods manifest (if any) made using the Form No. 49 - Submitted to the port authorities;

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Cargo declaration (if any) made using the Form No. 43, House bill of lading declaration (if any) made using the Form No. 13, Declaration of the passenger, crew and persons on board's effects ineligible for relief from duties and taxes or subject to prohibitions or restrictions (if any) made using the Form No. 51, Dangerous goods manifest (if any) made using the Form No. 49 - Submitted to the border checkpoint customs authorities;

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Declaration of arms and explosive materials (if any) made using the Form No. 36, Declaration of stowaway (if any) made using the Form No. 34 - Submitted to the border guards;

b) The documents to be presented (the original), including:

- Ship Registration Certificate, certificates of satisfaction of technical safety requirements or ship's technical safety manual, Certificate of Master's Competency, Certificate of Chief Engineer Officer's Competency in case of ships with a tonnage of between 50 tonnes and 200 tonnes or with total main engine capacity of over 200 horsepowers - Presented to the port authorities. The presentation of Certificate of Master's Competency and Certificate of Chief Engineer Officer's Competency is not required if the tonnage of the ship is below 50 tonnes;

- Passport or international laissez-passer or personal papers of crew and passengers according to regulations - Presented to the border guards;

3. Within 01 hour since the declarant submitted and presented all documents specified in Clause 2 of this Article, the regulatory authorities shall carry out procedures and immediately inform the port authorities of results and the port authorities shall complete procedures. In case the procedures are yet to be completed or the Port Clearance Certificate is yet to be issued, a written notice specifying reasons thereof shall be given.

4. If the ships specified in this Article stay at the seaport within 24 hours, they shall undergo the procedures for entry and exit at the same time.

**Article 94. Procedures for inland waterway ship's arrival at a seaport; procedures applied to Vietnamese ship that enters another seaport in Vietnam after being granted entry**

1. The declarant shall issue the notice and confirmation of arrival of ship at the seaport as prescribed in Articles 87 and 88 of this Decree.

2. According to the notice and confirmation of arrival of ship at the seaport, within 02 hours before the ship arrives at the seaport, the Director of the port authority shall, according to the actual condition, technical specifications of the ship, types of cargoes, dispatching plan of the

port authority, ship pilotage plan of the pilotage service provider and comments of the regulatory authorities, consider deciding to give consent to ship's arrival at the seaport through the dispatching plan made using the Form No. 46 provided in the Appendix enclosed herewith. In case of rejection, a written notice specifying reasons thereof shall be given to the declarant.

3. Within 02 hours since the ship anchored at the wharf or within 04 hours since the ship anchored at different locations within seaport waters according to the dispatching plan, the declarant shall submit and present the following documents:

a) The documents to be submitted (the original), 01 original per each, including (the Forms are specified in the Appendix enclosed herewith):

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Port Clearance Certificate - Submitted to the port authorities;

- Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48 - Submitted to the border guards;

b) Documents to be presented to the port authorities (the original), including: Ship Registration Certificate, Certificates of satisfaction of technical safety requirements according to regulations, Seaman's book, Certificate of Crew's Competency according to regulations.

4. Within 01 hour since the declarant submitted and presented all documents specified in Clause 3 of this Article, the regulatory authorities shall carry out procedures for ships under their management and immediately inform the port authorities of results and the port authorities shall complete procedures. In case the procedures are yet to be completed, a written notice specifying reasons thereof shall be given.

5. For the Vietnamese ship that enters another seaport in Vietnam after being granted entry and does not transport imports, transit cargoes or passengers or crew holding foreign nationality, the procedures prescribed in this Article shall be followed.

**Article 95. Procedures for the arrival of the inland waterway ship that transports imports, transit cargoes or passengers or crew holding foreign nationality at a seaport; procedures applied to foreign ship that enters another seaport in Vietnam after being granted entry**

1. The declarant shall issue notice of and confirmation of arrival of ship at the seaport as prescribed in Articles 87 and 88 of this Decree.

2. According to the notice and confirmation of arrival of ship at the seaport, within 02 hours before the ship arrives at the seaport, the Director of the port authority shall, according to the actual condition, technical specifications of the ship, types of cargoes, dispatching plan of the port authority, ship pilotage plan of the pilotage service provider and comments of the regulatory authorities, consider deciding to give consent to ship's arrival at the seaport through the

dispatching plan made using the Form No. 46 provided in the Appendix enclosed herewith. In case of rejection, a written notice specifying reasons thereof shall be given to the declarant.

3. Within 02 hours since the ship anchored at the wharf or within 04 hours since the ship anchored at different locations within seaport waters according to the dispatching plan, the declarant shall present the following documents:

a) The documents to be submitted (the original), 01 original per each, including (the Forms are specified in the Appendix enclosed herewith):

- General Declaration made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Dangerous goods manifest (in case of transport of imports and transit cargoes) made using the Form No. 49, Port Clearance Certificate
- Submitted to the port authorities;

- General Declaration (for the ship flying a foreign flag) made using the Form No. 42, Crew list made using the Form No. 47, Passenger list (if any) made using the Form No. 48, Declaration of arms and explosive materials (if any) made using the Form No. 36, Declaration of stowaway (if any) made using the Form No. 34 - Submitted to the border guards;

- General Declaration (in case of transport of imports and transit cargoes) made using the Form No. 42, Crew list (if there are crew holding foreign nationality) made using the Form No. 47, Cargo declaration (in case of transport of imports and transit cargoes) made using the Form No. 43, Dangerous goods manifest (in case of transport of imports and transit cargoes) made using the Form No. 49, Ship's stores declaration (in case of transport of imports and transit cargoes) made using the Form No. 50, Declaration of the passenger, crew and persons on board's effects ineligible for relief from duties and taxes or subject to prohibitions or restrictions (if there are crew and passengers holding foreign nationality) made using the Form No. 51 - Submitted to the border checkpoint customs authorities.

b) The documents to be presented (the original), including:

- Ship Registration Certificate, Certificate of Crew's Competency according to regulations, Certificates of satisfaction of technical safety requirements according to regulations, Seaman's book - Presented to the port authorities;

- Passport of crew or international laissez-passer (if there are crew holding foreign nationality) - Presented to border guards;

- Passenger's passport and International Certificate of Vaccination (if there are passengers holding foreign nationality) - Presented at the request of the relevant regulatory authority.

4. Within 01 hour since the declarant submitted and presented all documents specified in Clause 3 of this Article, the regulatory authorities shall carry out procedures for ships under their management and immediately inform the port authorities of results and the port authorities shall

complete procedures. In case the procedures are yet to be completed, a written notice specifying reasons thereof shall be given.

**Article 96. Procedures for the inland waterway ship's departure from seaports; procedures applied to ship that enters another seaport in Vietnam after being granted entry**

1. The declarant shall issue the notice and confirmation of departure of ship from the seaport as prescribed in Articles 87 and 88 of this Decree.

2. According to the notice and confirmation of departure of ship from the seaport, within 02 hours before the ship departs from the seaport, the declarant shall submit and present the following documents:

a) The documents to be submitted (the original), 01 original per each, including (the Forms are specified in the Appendix enclosed herewith):

- General Declaration made using the Form No. 42, Crew list (in case of change of crew) made using the Form No. 47, Passenger list (in case of change of passengers) made using the Form No. 48 - Submitted to the port authorities;

- Crew list (in case of change of crew) made using the Form No. 47, Passenger list (in case of change of passengers) made using the Form No. 48 - Submitted to the border guards;

b) The documents to be presented to the port authorities (the original), including: the ship's certificates, Certificate of Crew's Competency (in case of changes versus the date of arrival), documents confirming the payment of fees, charges, fines or debts (if any) according to regulations of law.

3. Within 01 hour since the declarant submitted and presented all documents specified in Clause 2 of this Article, the regulatory authorities shall carry out procedures and immediately inform the port authorities of results and the port authorities shall issue the Port Clearance Certificate made using the Form No. 58 provided in the Appendix enclosed herewith. In case the procedures are yet to be completed, a written notice specifying the reasons and remedial measures thereof shall be given.

4. In case a ship has been issued with a Port Clearance Certificate but it stays at the seaport for more than 24 hours since its departure is accepted, procedures for the ship's departure shall be carried out again as prescribed in this Article.

**Article 97. Procedures for departure of the inland waterway ship that transports imports, transit cargoes or passengers or crew holding foreign nationality at seaports; procedures applied to ship that enters another seaport in Vietnam after being granted entry and transports imports, transit cargoes or passengers or crew holding foreign nationality**

1. The declarant shall issue the notice and confirmation of departure of ship from the seaport as prescribed in Articles 87 and 88 of this Decree.

2. According to the notice and confirmation of departure of ship from the seaport, within 02 hours before the ship departs from the seaport, the declarant shall submit and present the following documents:

a) The documents to be submitted (the original), 01 original per each, including (the Forms are specified in the Appendix enclosed herewith):

- General Declaration made using the Form No. 42, Crew list (in case of change of crew) made using the Form No. 47, Passenger list (in case of change of passengers) made using the Form No. 48, Dangerous goods manifest (in case of transport of imports and transit cargoes) made using the Form No. 49 - Submitted to the port authorities;

- General Declaration (if there are crew and passengers holding foreign nationality) made using the Form No. 42, Crew list (if there are crew holding foreign nationality) made using the Form No. 47, Passenger list (if there are passengers holding foreign nationality) made using the Form No. 48 - Submitted to the border guards;

- General Declaration (in case of transport of imports and transit cargoes) made using the Form No. 42, Crew list (if there are crew holding foreign nationality) made using the Form No. 47, Cargo declaration (in case of transport of imports and transit cargoes) made using the Form No. 43, Dangerous goods manifest made (in case of transport of imports and transit cargoes) using the Form No. 49, Ship's stores declaration (in case of transport of imports and transit cargoes) made using the Form No. 50, Declaration of the passenger and crew's effects ineligible for relief from duties and taxes or subject to prohibitions or restrictions (if there are crew and passengers holding foreign nationality) made using the Form No. 51 - Submitted to the border checkpoint customs authorities.

b) The documents to be presented (the original), including:

- The ship's certificates, Certificate of Crew's Competency (in case of changes versus the date of arrival); documents confirming the payment of fees, charges, fines or debts (if any) according to regulations of law - Presented to the port authorities;

- Crew and passenger's passport or international laissez-passer (if there are crew and passengers holding foreign nationality) - Presented to border guards;

- Crew and passenger's International Certificate of Vaccination (for people who depart from or transit through an area affected by an epidemic, are suspected of having an infection or carries a pathogen) - Submitted to health quarantine authorities.

3. Within 01 hour since the declarant submitted and presented all documents specified in Clause 2 of this Article, the regulatory authorities shall carry out procedures and immediately inform the port authorities of results and the port authorities shall issue the Port Clearance Certificate made using the Form No. 58 provided in the Appendix enclosed herewith. In case the procedures are yet to be completed, a written notice specifying the reasons and remedial measures thereof shall be given.

4. In case a ship has been issued with a Port Clearance Certificate but it stays at the seaport for more than 24 hours since its departure is accepted, procedures for the ship's departure shall be carried out again as prescribed in this Article.

#### **Article 98. Procedures for shakedown testing of ships that are under construction or repair or have undergone modification**

1. Within 02 hours before the ship is constructed, repaired, undergoes shakedown testing or modification, the declarant shall submit and present the following documents to the port authority:

a) The documents to be submitted (the original), 01 original per each, including: An application form for permission for shakedown testing specifying reasons for movement, place of arrival and testing time; Crew list; Passenger list (if any);

b) The documents to be presented: Certificate of Crew's Competence; towage plan in case the ship that undergoes the shakedown testing does not use its own engine.

2. Within 01 hour since the declarant submitted and presented all documents specified in Clause 1 of this Article, the port authority shall issue the Permission for Shakedown Testing made using the Form No. 55 provided in the Appendix enclosed herewith. In case the procedures are yet to be completed, a written notice specifying the reasons and remedial measures thereof shall be given.

3. In case a ship has been issued with a Permission for Shakedown Testing but it fails to undergo a shakedown testing within 24 hours, procedures for the ship's shakedown testing shall be carried out again as prescribed in this Article.

4. In case the ship undergo a shakedown testing by going from one seaport to another, the Permission for Shakedown Testing shall be replaced by the Port Clearance Certificate.

#### **Section 5. Procedures for domestic watercraft's arrival at and departure from seaports**

##### **Article 99. Procedures for domestic watercraft's arrival at seaports**

Procedures for domestic watercraft's arrival at the seaport, except for the VR-SB domestic watercraft shall be completed as follows:

1. Places where procedures are followed: Headquarters or representative offices or stations of the port authority, except for the case specified in Clause 2 of this Article.

2. Before the ship arrives at the seaport or after it is safely anchored, the declarant shall submit and present the following documents to the port authority:

a) The documents to be submitted (the original), 01 original for each, including (the Forms are specified in the Appendix enclosed herewith): General Declaration (for the domestic watercraft)



made using the Form No. 59, Passenger List (for the passenger watercraft) made using the Form No. 61, Port Clearance Certificate;

b) Documents to be presented (the original), including: Domestic Watercraft Registration Certificate; Certificates of satisfaction of technical safety and environmental safety requirements, Seaman's book; Certificate of Crew and Vehicle Operator's Competency; the delivery contract or delivery note (if any).

3. Within 30 minutes since the declarant submitted and presented all documents specified in Clause 2 of this Article, the port authority shall complete the procedures. In case of failure to complete the procedures, a written notice specifying the reasons thereof shall be given.

### **Article 100. Procedures for domestic watercraft's departure from seaports**

Procedures for domestic watercraft's departure from the seaport, except for the VR-SB domestic watercraft shall be completed as follows:

1. Places where procedures are completed: Headquarters or representative offices or stations of the port authority, except for the case specified in Clause 2 of this Article.

2. Before the ship departs from the seaport, the declarant shall submit and present the following documents to the port authority: (the Forms are specified in the Appendix enclosed herewith):

a) General Declaration (for the domestic watercraft) made using the Form No. 59;

b) Passenger list (in case of change of passengers) made using the Form No. 61;

c) Documents relating to the changes to the documents specified in Point b, Clause 2, Article 99 of this Decree (if any);

d) Documents confirming the payment of fees, charges, fines or debts (if any) according to regulations of law.

3. Within 30 minutes since the declarant submitted and presented all documents specified in Clause 2 of this Article, the port authority shall issue the Port Clearance Certificate made using the Form No. 62 provided in the Appendix enclosed herewith.

4. In case a domestic watercraft arrives at a seaport, stays there for not more than 72 hours and does not handle or embark or disembark passengers and there are no changes to documents are made since the watercraft arrives, arrival and departure procedures may be carried out when it departs.

5. In case a domestic watercraft has been issued with a Port Clearance Certificate but it stays within seaport waters for more than 24 hours since its departure is accepted, procedures for the domestic watercraft's departure shall be carried out again as prescribed in this Article.

## **Section 6. MARITIME PILOTAGE**

### **Article 101. Rules for announcement of ship navigation routes and organizational structure and operation of pilotage service providers**

The navigation routes in the compulsory pilotage areas shall be announced by a competent authority in the areas posing risk to maritime security and safety and environmental safety. The ships operating on the navigation routes shall employ maritime pilots unless maritime pilotage is exempted as prescribed.

### **Article 102. Suspension or change of maritime pilots**

In case of suspension or change of a maritime pilot, the master of the piloted ship shall promptly inform relevant pilotage service provider and port authorities thereof.

### **Article 103. Provision of maritime pilotage services**

1. The declarant shall submit a written request for provision of maritime pilotage services within 06 hours before the expected time of pilot boarding. The written request may be submitted earlier if it is necessary for prevention of maritime accidents.
2. In case of change of time for pilot boarding or cancellation of provision of pilotage services, the declarant shall inform the pilotage service provider thereof within 03 hours before the expected time of pilot boarding.
3. The pilotage service provider shall prepare daily pilotage plans according to the written request specified in Clauses 1 and 2 of this Article. The daily pilotage plan includes from the following contents: name, nationality, basic technical characteristics, anchorage, time of pilot boarding, the wharf or place where the ship is expected to be anchored, name of the pilot and other necessary contents.
4. Before 16:00 every day, the pilotage service provider shall submit the pilotage plan of the next day in order for the port authority to prepare the plan for dispatching ships that arrive, depart, transit through the seaport or move within seaport waters. Changes or other requests that arise shall be immediately reported to the port authority for prompt adjustments to the daily dispatching plan. The port authority shall prepare and submit the daily dispatching plan to the pilotage service providers, port enterprises and relevant organizations and individuals before 17:00.
5. The pilotage service providers, port enterprises, masters, pilots and relevant organizations and individuals shall implement the dispatching plan submitted by the port authority.
6. The pilot shall wait at the pilot boarding area within 04 hours since the expected time of pilot boarding unless the declarant requests the change of the time of pilotage, which is approved by the port authority. Past this time limit, the request for provision of pilotage services shall be invalidated and the declarant shall pay for the waiting time as prescribed.

7. Within 01 hour since the dispatching plan submitted by the port authority is received, the pilotage service provider shall confirm the expected place and time of pilot boarding. If a pilot is on board the ship late or a place other than the confirmed one, thereby keeping the ship waiting or causing it to move to another place, the pilotage service provider shall pay for the waiting time as prescribed. The declarant shall immediately inform such to the port authority and the pilotage service provider for prompt remedial measures according to regulations.

8. The master of the piloted ship may select or suspend a pilot and request the change of pilot in case the pilot fails to satisfy professional requirements or conditions prescribed by law. In case of suspension or change of a maritime pilot, the master of the piloted ship shall promptly inform relevant maritime pilotage service provider and port authorities.

9. The pilotage service provider shall designate the pilots that are qualified for piloting the ship.

#### **Article 104. Responsibilities of a pilot**

1. A pilot has the following responsibilities:

a) Exercise his/her rights and fulfill his/her obligations prescribed in the Vietnam Maritime Code and other relevant regulations of law.

b) Strictly stick to the dispatching plan of the port authority. In case of refusal to pilot a ship, a notice specifying reasons thereof shall be immediately issued to the port authority and pilotage service provider for remedial measures;

c) Immediately inform the port authority of maritime accidents or emergencies, provision of tugboats and safety conditions for landing and departure from the wharf, change of the condition of aids to navigation, safety conditions for navigational channels and other events that fail to satisfy safety conditions that occurred or are discovered during pilotage;

d) Request the master to comply with regulations of law on maritime safety and security assurance and environmental safety. In case the master fails to comply with the request, promptly inform the port authority and pilotage service provider;

dd) Strictly comply with the designation of pilot by the head of the pilotage service provider at the request of the master. In case of refusal to pilot the ship for legitimate reasons, the master shall report such to the head of the pilotage service provider and port authority for remedial measures;

e) Discuss with the master about the information about actual condition of the navigation routes, characteristics of ship dispatching and other information relating to maritime operations carried out on navigation routes before dispatching ships.

g) Embark and disembark the ship at the prescribed place and time.

2. When piloting the ship himself, the master shall comply with the regulations prescribed in Points a, b and c, Clause 1 of this Article.

### **Article 105. Obligations of a pilot upon navigation of a ship**

A pilot has the following obligations upon navigation of a ship:

1. Fulfill the obligations prescribed in Article 251 of the Vietnam Maritime Code.
2. Provide accurate information about the information about actual condition of the navigation routes, characteristics of ship dispatching and other information relating to maritime operations carried out on navigation routes.
3. Strictly and accurately execute the dispatch order of the Director of the port authority.
4. Do not harass or cause difficulty or commit other acts of misconduct towards enterprises or ships requiring pilots.
5. Do not use alcoholic drinks or stimulants that are prohibited during navigation of a ship.

## **Chapter V**

### **MARITIME SAFETY AND SECURITY, AND ENVIRONMENTAL SAFETY**

#### **Section 1. MARITIME SAFETY AND SECURITY**

#### **Article 106. Requirements for assurance of maritime safety and security of operations of ships**

1. All ships must have their names or numbers, IMO numbers (if any) and name of the port of registry displayed as prescribed.
2. The master shall ensure safety, order and sanitation on board his/her ship in accordance with Vietnamese law.
3. Apart from the seafarers and passengers, only persons on duty designated by a competent authority may board the ship that is being anchored within seaport waters; when boarding a foreign ship, a boarding pass issued by the port's border guard or border checkpoint security public is required, except for on-duty officials of the regulatory authority. The master shall take total responsibility for letting unauthorized persons board the ship.
4. The following acts shall be prohibited during the anchoring of a ship within seaport waters:
  - a) Sounding the horn or using electric loudspeakers for communication, except for the cases where the distress signal is sent or horn is sounded under the order from the Director of the port authority;

- b) Repairing or running engine or horn test without the consent of the port authority;
  - c) Using life-saving and fire-fighting equipment for improper purposes;
  - d) Swimming or creating disorder within the port;
  - dd) Fireworks shown on national holidays of the country whose flag is flown by the ships shall be organized in accordance with regulations of the Minister of the Ministry of Culture, Sports and Tourism.
5. The gangway shall be lighted and properly adjusted to ensure the safety of users; watchstanders and life buoys must be available at the gangway as prescribed; the gangway must have handrails and a safety net must be secured under the gangway.

### **Article 107. Obligations to search and rescue**

1. In case a ship, military ship, public service ship, fishing ship, domestic watercraft or seaplane is in distress, a distress signal shall be given as prescribed. In case an accident or a threat thereof is found, the person who found such shall immediately give a distress signal and take appropriate measures for rescuing persons and property and preventing and reducing the loss to an absolute minimum.
2. The rescue of persons in distress is an obligation of all organizations, individuals, ships and other crafts while operating within seaport waters and Vietnamese territorial waters. Any ship that discovers or receives a distress signal from people or other ships in distress at sea or within seaport waters must make every effort to help and rescue people in distress, even though such effort entails the ship's going off the predetermined course, and must promptly inform relevant organizations and individuals thereof, provided it is capable of rescuing and if the rescue does not pose any serious danger to the ship and people onboard. The less damaged ship shall assist more damaged ships even though the accident or emergency is not caused by the former.
3. The Director of the port authority may mobilize all forces and equipment of the port, ships and other vehicles available within seaport waters to search and rescue persons and salvage ships in distress. Such forces shall obey orders of the Director of the port authority. For the maritime accidents occurring within seaport waters and affecting maritime operations carried out on navigational channels, the Director of the port authority shall take charge and cooperate with a maritime safety enterprise in the area in promptly giving warnings, installing marine aids to navigation and issuing a notice to mariners in order to ensure maritime safety and security and prevent environmental pollution.
4. The maritime search and rescue cooperating authority shall stay ready to organize and cooperate in search and rescue operations in a timely manner to search and rescue people and vehicles in distress within the search and rescue area under its management and may mobilize people and vehicles for the purpose of participation in search and rescue efforts.

5. The Ministry of Transport shall take charge and cooperate with relevant ministries in making and submitting regulations on cooperation in maritime search and rescue within seaport waters and territorial waters to the Prime Minister.

**Article 108. Responsibility for provision of information for maritime safety and security assurance**

Organizations and individuals shall inform the port authority of the newly-found obstacles; deviations from locations of the aids to navigation system and damages to the system or other information relating to maritime safety and security within seaport waters and Vietnamese territorial waters.

**Article 109. Sports activities, maritime security and search and rescue drill**

1. The organization of sports competitions within seaport waters must comply with regulations of law and instructions of the port authority, and must be informed in advance.

2. The Ministry of Transport shall direct the Vietnam Maritime Administration shall take charge and cooperate with relevant authorities and units in organizing in coordinated maritime search and rescue and maritime security drill within seaport waters and Vietnamese territorial waters as prescribed by law.

**Article 110. Transport of passengers and cargoes, mineral extraction, bottom-set gillnetting, fishing and aquaculture within seaport waters**

1. The transport of passengers and cargoes, and mineral extraction shall comply with relevant regulations of law and instructions of the port authority, and must be informed to the port authority in advance.

2. The transport of passengers and cargoes, mineral extraction, bottom-set gillnetting, fishing and aquaculture within seaport waters may only be carried out if such activities do not affect maritime operations, maritime safety and security and environmental safety in the area.

3. The bottom-set gillnetting, fishing and aquaculture within seaport waters are required to obtain the consent of the port authority under the following procedures:

a) The applicant shall submit a written request made using the Form No. 35 provided in the Appendix enclosed herewith, directly or by post, to the port authority;

b) Within 01 working day since receipt of the request, the port authority shall submit a written consent if the bottom-set gillnetting, fishing and aquaculture satisfy the regulations specified in Clause 2 of this Article. In case of rejection, a written response specifying reasons thereof shall be given;

c) The duration of such activities is not later than 02 years.

4. The authority that has the power to issue the permit for mineral extraction within seaport waters shall send an enquiry from the local port authority before issuing the permit. The mineral extraction must not affect maritime operations, maritime safety and security and environmental safety in the area.

**Article 111. Responsibility of the master for handling of cargoes, repair and sanitation control of ships within seaport waters**

1. Before the handling of cargoes, repair and sanitation control of the ship, the master shall satisfy the necessary conditions for maritime safety and occupational safety, and strictly comply with relevant regulations of law. The mooring lines must be secured with rat guards as prescribed.

2. The master shall only allow the closure of cargo holds or allow persons to enter the cargo holds after checking and making sure that no emergency will occur.

3. In case there is a threat to safety during cargo handling, the master or person in charge of cargo handling shall immediately suspend the handling.

4. When an occupational accident occurs on board a ship, the master shall quickly administer emergency treatment to the victim(s), take necessary measures to mitigate its consequences, immediately inform such to the port authority; and at the same time declare, investigate, make records and prepare statistics and report on such occupational accident in accordance with the labor law.

**Article 112. Assurance of order and safety within the port premises**

1. The Director of the port enterprise shall organize and manage activities of port guards in accordance with relevant regulations of law and actual conditions of the port.

2. The regulatory authorities at the port may use the port gate to perform their duties after reaching an agreement with a port enterprise.

3. While operating within the port premises, organizations, individuals and vehicles must comply with all relevant regulations of law.

**Article 113. Responsibilities of port enterprises and masters for fire and explosion prevention and fighting**

1. The master of the ship operating at a port shall comply with, and inspect and supervise the implementation of regulations on fire and explosion prevention and fighting.

2. Fire and explosion prevention and fighting equipment of the port and ship must be placed at the prescribed place and always ready for use.

3. At all places prone to fire and explosion or in other areas and places in the port and on board the ship, warning signs or instructions must be given as prescribed by law.

4. The persons on duty at the places prone to fire or explosion on board the ship and in the port must be provided with professional training in fire and explosion fighting and prevention.

5. The following tasks must be performed upon receipt of fuel:

a) Have fire and explosion prevention and fighting equipment ready;

b) Securely close all doors at the side along which fuel is supplied;

c) Comply with all technical safety procedures and rules upon receipt of fuel;

d) Arrange person on duty on the deck and at the place of fuel receipt.

6. Fire and explosion prevention and fighting equipment of the port and ship shall be used for the right purposes.

7. Spark- emitting work shall only be carried out on the deck, in cargo holds or engine cabins with the consent of the port authority.

8. Upon receipt of fuel, the following tasks shall not be performed:

a) Let other ships perform side-by-side mooring;

b) Pump fuel through the pipes, hoses or joints that fail to meet technical standards.

9. Before deciding to permit the repair and sanitation control of a ship or other maritime operations within seaport waters, which can affect the plan for fire and explosion fighting and prevention, the Director of the port authority shall send an enquiry form to a fire safety authority in the area. The procedures shall be carried out as follows:

a) The declarant shall submit an application, directly or by post, to the Vietnam Maritime Administration, including:

- A written request made using the Form No. 35 provided in the Appendix enclosed herewith;

- A copy of the plan for fire and explosion fighting and prevention.

b) Within 02 working days since receipt of the written request, the port authority shall send an enquiry form and submit a written response. In case of rejection, explanation shall be provided.

#### **Article 114. Cooperation in fire and explosion fighting and prevention at seaports**



1. The Director of the port authority shall cooperate with the fire safety authority in the area under his/her management in preparing the fire and explosion prevention and fighting plans that are necessary for ships operating in such area in accordance with relevant regulations of law.
2. The Director of the port authority shall command the salvage of ships involved in a fire or explosion within seaport waters until a competent commander of a fire safety authority is present at the scene.
3. The Director of the port enterprise shall also command the salvage of ships involved in a fire or explosion within the port premises until a competent commander of a fire safety authority is present at the scene.

### **Article 115. Requirements applied to oil tankers and dangerous cargo ships**

Apart from relevant regulations of the law on environmental safety, all oil tankers and other dangerous cargo ships must strictly comply with the following requirements when operating at a seaport:

1. The oil tanker and dangerous cargo ship must not be moored side-by-side while flammable or explosive cargoes are handled, except for the case where fuel is supplied or received, or transshipment of oil between them.
2. All oil tankers or other types of dangerous cargoes at the seaport shall only be handled in the designated area.
3. The areas specified in Clause 2 of this Article must include equipment for fire and explosion prevention and fighting and environmental pollution emergency response as prescribed. During the handling of cargoes, such equipment must be kept ready for use.
4. The handling and storage of flammable or explosive cargoes or other dangerous cargoes must comply with technical safety procedures and rules as prescribed.
5. Upon the assembly of equipment for pumping petroleum, petrol, oil, liquefied gas, oil sludge or other hazardous substances, the master and relevant parties shall appoint their representatives for inspection and supervision.
6. Upon the occurrence of an emergency or accident related to oil pumping or handling of other dangerous cargoes, the master shall immediately stop the oil pumping, handling of such cargoes and promptly take preventive measures, and shall promptly report such emergency or accident to the port authority and relevant authorities for cooperation in the salvage.

## **Section 2. ENVIRONMENTAL SAFETY**

### **Article 116. Sanitation control of ships**

The following acts shall be prohibited during the anchoring of a ship within seaport waters:

1. Scrapping the funnel or discharge black smoke.
2. Cleaning cargo holds or deck, causing environmental pollution.
3. Pumping or discharge dirty water, dirty residues, waste, oil or oily compounds and other harmful substances.
4. Throwing or dumping rubbish or other articles from the ship into the water or onto the wharf.
5. Removing rust and pain the ship, causing environmental pollution.
6. Carrying out fumigation or rat extermination without an advance notice and disobey the instructions of the port authority.

**Article 117. Dumping rubbish and discharging wastewater and ballast water**

1. The ship, while operating within a seaport, shall dump rubbish, discharge dirty water and ballast water in accordance with regulations and instructions of the port authority.
2. The port enterprise shall provide vehicles for receipt of rubbish, dirty water, water containing oil residues and other hazardous liquids discharged from the ship for treatment or provide a list of the enterprises charged with treating rubbish, dirty water, water containing oil residues and other hazardous liquids in accordance with regulations of law.
3. The Ministry of Transport shall elaborate the collection and treatment of wastes discharged from ships within seaport waters.

**Article 118. Requirements for environmental emergency response and prevention**

1. All organizations, individuals and ships shall comply with regulations of the law on environmental safety while operating at seaports.
2. Apart from the regulation specified in Clause 1 of this Article, the following requirements shall be complied with:
  - a) All ship's valves and equipment through which hazardous substances may leak must be securely closed, shut down, sealed with lead and a notice shall be shown at their places. The seals shall only be removed from or the wastes and dirty water shall only be pumped through valves or equipment specified in this Clause with the consent of the Director of the port authority and under supervision of staff members of such port authority. The procedures shall be carried out as follows:
    - The declarant shall submit a written request for granting of consent to the removal of seals from or pumping of wastes and dirty waters through valves or equipment, made using the Form No. 35 provided in the Appendix enclosed herewith, directly or in other appropriate forms, to the port authority;

- Within 04 working hours since receipt of the request, the port authority shall submit a written response, directly or by post, to the declarant. In case of rejection, explanation shall be provided;

b) Before pumping dirty water, oily wastewater or other hazardous substances through pipelines laid on deck, all deck scuppers must be securely covered and trays must be placed under pipeline joints;

c) All activities relating to the pumping or discharge of oil or other hazardous substances shall be made into a record book ready for presentation to a Vietnamese competent authority for inspection when necessary.

### **Article 119. Reporting environmental pollution emergencies at seaports**

1. The reporting of environmental pollution emergencies at seaports shall comply with regulations of law.

2. Apart from the regulation specified in Clause 1 of this Article, the master of the ship operating at a seaport shall satisfy the following requirements:

a) If a threat to or an act causing environmental pollution is found, the master shall immediately report it to the port authority; clearly record the time, location and characteristics of such environmental pollution emergencies in the logbook;

b) If the environmental pollution emergency is caused by operations of the ship activities, the master shall immediately take preventive measures and report such measures to the port authority.

3. The organization, individual or ship causing damage or environmental pollution shall provide compensation and penalties shall be imposed as prescribed.

## **Chapter VI**

### **COOPERATION IN MANAGEMENT OF MARITIME OPERATIONS**

#### **Article 120. Rules for cooperation in management**

1. The regulatory authorities at seaports, when performing their tasks, shall comply with regulations of law; cause no troubles affecting normal the activities of port enterprises, shipowners, cargo owners, ships and other organizations and individuals in the seaport area. The port authority shall take charge and cooperate in activities between regulatory authorities at seaports.

2. The regulatory authorities at seaports shall closely cooperate with each other when performing their tasks to facilitate activities of the port enterprises, shipowners, cargo owners, ships and other relevant organizations and individuals to ensure safety and effectiveness.

3. Any difficulties related to the functions and tasks of other regulatory authorities shall be promptly resolved through discussion and agreement. In case an agreement is not reached, the port authority shall be informed as prescribed by law.

4. In case the Director of the port authority decides and takes responsibility for the procedures that are completed on board a ship as specified in Clause 3, Article 77 of this Decree or in other special circumstances, the regulatory authorities may form a procedure-completing team, comprising a head who is the representative of the port authority, and members appointed by regulatory authorities (one member per authority). For the passenger ship, in order to quickly complete procedures, regulatory authorities in charge of border guard and customs may appoint more staff members to join the team, provided that the number of these staff members is approved by the Director of the port authority. In case it is unnecessary to board the ship, regulatory authorities may refuse to appoint their staff members to join the procedure-completing team mentioned in this Clause but shall immediately inform the port authority of results of completion of procedures.

5. The regulatory authority shall report the difficulties beyond its power to its supervisory authority. When necessary, relevant ministries shall cooperate with the Ministry of Transport in resolution of difficulties and shall inform their decision on the resolution to relevant organizations and individuals within 04 hours since receipt of the report.

6. During performance of their tasks, regulatory authorities shall cooperate with other organizations in the area in strictly complying with regulations of the law on maritime operations carried out at seaports.

#### **Article 121. Responsibilities for cooperation in management**

1. The port authority shall coordinate activities between regulatory authorities at seaports. To be specific:

a) Take charge and preside over the cooperation in management between regulatory authorities at seaports;

b) Organize and preside over the conferences and meetings with regulatory authorities or other relevant organizations and enterprises at the seaport to discuss and reach an agreement on resolution of difficulties that arise during maritime operations carried out at the seaport waters under its management;

c) Request other relevant regulatory authorities at the seaport to promptly report the results of completion of procedures and measures for resolving difficulties that arise; request the port enterprises, shipowners, masters and other relevant organizations and individuals to provide data and information about maritime operations carried out at seaports;

d) Request the President of the People's Committee of the province to promptly resolve seaport management-related difficulties within its jurisdiction.

2. Other regulatory authorities at the seaport have the following responsibilities:

- a) Closely cooperate to promptly and lawfully completing procedures related to ships, cargoes, passengers and crew operating at seaports as prescribed by this Decree;
- b) Promptly inform port authorities of results of completion of procedures related to ships, cargoes, passengers and crew operating at seaports as prescribed by this Decree;
- c) Immediately inform port authorities for cooperation in resolution of difficulties that arise after receipt and processing of information provided by port authorities or shipowners.

#### **Article 122. Specialized inspection and supervision at seaports**

1. The inspection and supervision of ships, cargoes, passengers, crew, port and wharf infrastructures and other entities operating at seaports by regulatory authorities shall comply with regulations of this Decree and other relevant regulations of law.

2. The direct supervision on the ships by regulatory authorities shall only be carried out in the following cases:

- a) Violations of law are suspected;
- b) It is necessary to ensure national defense and security, social order and security and epidemic prevention.

#### **Article 123. Responsibilities of ministries and local governments for activities of regulatory authorities at seaports**

1. Ministries and relevant People's Committees of provinces and central-affiliated cities shall direct and instruct their subordinate authorities to well cooperate in state management at seaports.

2. Inspection of and actions against violations shall be carried out as prescribed by law.

3. Information technology shall be applied to the management to facilitate maritime operations.

### **Chapter VII**

#### **IMPLEMENTATION CLAUSE**

##### **Article 124. Effect**

1. This Decree comes into force from July 01, 2017.

2. The following documents shall be annulled:

a) The Government's Decree No. 21/2012/ND-CP dated March 21, 2012 on management of seaports and navigational channels;

b) Regulations on procedures for ships' entry, exit, arrival at and departure from seaports and operation within Vietnamese territorial waters which are specified in Articles 4, 5, 6, 7, 8, 9, 10, 12, 13, 14 and 16 of the Decision No. 34/2016/QĐ-TTg of the Prime Minister on e-procedures for ships' arrival at and departure from seaports, inland waterway ports and offshore oil ports via the National single-window system.

#### **Article 125. Transition clause**

Regarding projects on investment in and construction of seaports, ports, wharfs, navigational channel, dedicated waters whose conformity with the master plan for seaport development has been assessed before the effective date of this Decree but are yet to be executed as prescribed in the Government's Decree No. 21/2012/ND-CP dated March 21, 2012 on management of seaports and navigational channels; if they are executed after July 01, 2018, regulations of this Decree shall be complied with.

#### **Article 126. Implementation**

1. The Minister of Transport shall take charge and cooperate with ministries and relevant People's Committees of provinces and central-affiliated cities in organizing the implementation of this Decree.

2. The Ministers, heads of ministerial agencies, heads of Governmental agencies, Presidents of the People's Committees of provinces and central-affiliated cities and relevant organizations and individuals are responsible for the implementation of this Decree./.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**