

THE STATE PRESIDENT

ORDER No. 3-L/CTN OF APRIL 7, 1998 TO PROMULGATE THE ORDINANCE ON THE VIETNAM COAST GUARD

THE PRESIDENT OF THE STATE OF THE SOCIALIST REPUBLIC OF VIETNAM

Pursuant to Article 103 and Article 106 of the 1992 Constitution of the Socialist Republic of Vietnam;

Pursuant to Article 78 of the Law on Organization of the National Assembly;

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

PROMULGATES:

1. The Ordinance on the Vietnam Coast Guard

which was adopted by the Standing Committee of the Xth National Assembly of the State of the Socialist Republic of Vietnam on March 28, 1998.

*The President of the State of the
Socialist Republic of Vietnam*
TRAN DUC LUONG

ORDINANCE ON THE VIETNAM COAST GUARD

In order to increase the efficiency of State management in the defense of national sovereignty, the sovereign rights, the national jurisdiction rights and security and order in the sea areas and on the continental shelf of Vietnam;

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam;

Pursuant to the Resolution of the 5th Session of the XIth National Assembly on the Ratification of the 1982 United Nations Law of the Sea Convention;

Pursuant to the Resolution of the 2nd Session of the Xth National Assembly on the Legislative

Program in 1998;

This Ordinance provides for the Vietnam Coast Guard,

Chapter I

GENERAL PROVISIONS

Article 1.- The Vietnam Coast Guard is a specialized force of the State to perform the function of managing security, order and safety and ensuring the enforcement of Vietnam law and related international conventions which the Socialist Republic of Vietnam has signed or adhered to in the sea areas and on the continental shelf of the Socialist Republic of Vietnam.

The Vietnam Coast Guard operates according to the regulations of this Ordinance and other regulations of Vietnam law.

Article 2.- The Vietnam Coast Guard is one of the armed forces of the Socialist Republic of Vietnam placed under the leadership of the Communist Party of Vietnam, the command of the President of the State, and the unified State management of the Government.

The Ministry of Defense directly organizes, manages and directs all activities of the Vietnam Coast Guard.

Article 3.- The Vietnam Coast Guard operates from the base line to the outer boundary of the exclusive economic zone and of the continental shelf of Vietnam; it assumes the main responsibility and coordinates with the concerned forces to carry out its tasks.

Within the internal waters and the sea ports, the Vietnam Coast Guard shall, when so requested, have to coordinate with the local administration, the Border Guard, the People's Police, the Customs Service, the Communication and Transport service, the Marine Resources Service the Oil and Gas Service and other forces to perform its duties.

The modalities for the coordination of activities and the delineation of concrete areas and responsibilities among the different forces shall be decided by the Government.

Article 4.- The State agencies, the Vietnam Fatherland Front and its member organizations, the armed forces units, economic organizations, social organizations and all citizens have the duty to cooperate with the Coast Guard and assist it in carrying out its duties.

Chapter II

RESPONSIBILITY, TASKS AND POWERS OF THE VIETNAM COAST GUARD

Article 5.- Officers and members of the Coast Guard must be absolutely loyal to the Socialist Motherland of Vietnam, be possessed of good moral qualities and the necessary professional standard, have a firm grasp of the prescriptions of Vietnam law and the related international conventions which the Socialist Republic of Vietnam has signed or adhered to, and accomplish all tasks assigned to them.

Officers and members of the Coast Guard must not misuse their positions, powers and working posts to damage the interests of the State or the legal rights and legitimate interests of the organizations and individuals.

Article 6.- Within the territorial waters and the contiguous water areas of the Socialist Republic of Vietnam, the Vietnam Coast Guard has the duty to conduct checks and control according to the prescriptions of Vietnam law and related international conventions which the Socialist Republic of Vietnam has signed or adhered to in order to protect its sovereignty, protect the resources, prevent and combat environmental pollution; preserve security, order and safety; detect, prevent and combat acts of illegal transport of persons, and illegal transport and trading of goods, weapons, explosives, narcotics and stimulants; and combat acts of smuggling, sea piracy and other law-breaking acts.

Article 7.- In the exclusive economic zone and on the continental shelf of the Socialist Republic of Vietnam, the Vietnam Coast Guard has the duty to patrol and control according to the provisions of Vietnam law and related international conventions which the Socialist Republic of Vietnam has signed or adhered to in order to defend its sovereign rights and jurisdiction rights; prevent and combat environmental pollution; detect, prevent and combat acts of sea piracy, transportation of slaves, illegal transportation and trading of narcotics and stimulants.

Article 8.- The Vietnam Coast Guard has the duty of performing international cooperation within the scope of its functions and tasks as provided for by Vietnam law and the related international conventions which the Socialist Republic of Vietnam has signed or adhered to in order to contribute to the safeguarding of security, order and peace and stability

on the sea areas in the region and in the world.

Article 9.- The Vietnam Coast Guard has the duty of collecting and handling in time the information and supplying to the specialized agencies the necessary information; coordinating with the other forces in protecting the property of the State, the lives and property of the persons and means operating lawfully in the sea areas and on the continental shelf of Vietnam; taking part in the search for and rescue operations and overcoming the accidents on sea; coordinating with other units of the armed forces in defending the national sovereignty and security on the islands and in the sea areas within the territory of the Socialist Republic of Vietnam and the sovereign rights in the exclusive economic zone and on the continental shelf of the Socialist Republic of Vietnam.

Article 10.- When detecting persons or means with signs of violating the laws of Vietnam and related international conventions which the Socialist Republic of Vietnam has signed or acceded to, the Vietnam Coast Guard has the right to check and inspect; if it detects acts of violation it shall decide to impose administrative sanctions as prescribed by law, force the persons and means concerned to end their acts of violation, leave the water area where they are operating or leave the sea area of Vietnam; arrest and detain persons and means when they are caught red handed, record in writing their violations and send the report to the competent agency for handling according to law.

Article 11.- In case the law-breaking persons and means refuse to heed the flash order, resist or attempt to flee, the Vietnam Coast Guard has the right to use coercive measures, perform its right of pursuit or other rights under the law of Vietnam and the related international conventions which the Socialist Republic of Vietnam has signed or acceded to.

Article 12.- In emergency circumstances when it is necessary to pursue law-breaking persons or means, to rescue victims of accidents or cope with a serious environmental accident, the Vietnam Coast Guard is entitled to mobilize manpower and means of any Vietnamese organization and individual, but it has to return them to their owners immediately when the emergency situation has ended. In case the mobilized means are damaged or lost, the Coast Guard unit shall have to make compensations, and if the mobilized persons are injured or dead, their cases shall be handled according to the policies of the State.

In case of emergency, if the persons and means of Vietnamese organizations and individuals cannot be mobilized, or if such mobilization still fails to cope

with the emergency, the Vietnam Coast Guard may ask foreign persons and means operating in the sea areas and on the continental shelf of Vietnam to assist as provided for by Vietnam law and related international conventions which the Socialist Republic of Vietnam has signed or acceded to.

Article 13.- The Coast Guard is allowed to open fire in the following cases:

1. When the law breaking person (or persons) use weapons to resist or other means to directly threaten the life of members of the Coast Guard and the security of their means;

2. When the persons or means under pursuit take serious acts of violation which, unless weapons are used, may enable such persons and means to escape;

3. To protect citizens whose life is directly threatened by others.

In cases where opening fire is warranted under this Article, officers and members of the Coast Guard shall be allowed to open fire on the subject but only after ordering them to stop or after firing warning shots without success, save in emergency cases; in complicated circumstances of serious consequence for the national sovereignty and security, but in this case it must report to the competent authority for decision.

Article 14.- While on duty, the Coast Guard has the right to order sanctions for administrative violations and apply measures to prevent acts of administrative violation.

The sanctioning of the administrative violations and the application of preventive measures against such acts shall follow the prescriptions of the Ordinance on Handling Administrative Violations and other prescriptions of Vietnam law and the related international conventions which the Socialist Republic of Vietnam has signed or acceded to.

The competence of the Coast Guard in the sanctioning of administrative violations and in the application of preventive measures against them, and the forms and level of sanction for each type of administrative violations shall be prescribed by the Government.

Chapter III

ORGANIZATION OF THE VIETNAM COAST GUARD

Article 15.- The organization and activities of the Vietnam Coast Guard shall be prescribed by the

Government.

The organization of the staff and the specific equipment of the Vietnam Coast Guard shall be provided by the Minister of Defense.

Article 16.- The Vietnam Coast Guard is composed of officers, professional armymen, non-commissioned officers, rank- and-file and defense workers (commonly referred to as officers and members of the Coast Guard).

Article 17.- The appointment, dismissal, demotion; advancement, promotion, demotion or removal of the military grade of officers and members of the Coast Guard shall be conducted as follows:

1. For officers, it shall be carried out according to the Law on Officers of the Vietnam People's Army;

2. For professional armymen, non commissioned officers and rank- and- file, it shall comply with the Law on Military Service Duty;

3. For defense workers, it shall comply with the prescriptions of law.

Article 18.- The regime of service of officers and members of the Coast Guard shall comply with the legal documents for the Vietnam People's Army and other prescriptions of law.

Article 19.- The Vietnam Coast Guard has its own flag, insignia and uniform prescribed by the Government.

While on duty, the ships and boats and other means of the Coast Guard shall fly the national flag and the flag of the Coast Guard; the officers and members of the Coast Guard shall wear its own uniform and insignia.

Chapter IV

STATE MANAGEMENT OF THE VIETNAM COAST GUARD

Article 20.- The State management of the Vietnam Coast Guard consists of the following:

1. To issue and guide the implementation of the regulatory documents on the Coast Guard;

2. To define the system of organization, leadership and command of the Coast Guard;

3. To provide for and organize the training and

fostering of the contingent of officers and members of the Coast Guard;

4. To provide for and carry out the regimes and policies toward the Coast Guard;

5. To check and inspect the activities of the Coast Guard, to settle the complaints and denunciations and handle the violations of law in the activities of the Coast Guard.

Article 21.-

1. The Government carries out unified State management over the Vietnam Coast Guard.

2. The Ministry of Defense is responsible to the Government for the conduct of State management in the organization and operations of the Vietnam Coast Guard; the guidance, promotion, inspection, organization and coordination with the Ministries, the ministerial level Agencies, the Agencies attached to the Government, the People's Committees of the provinces and cities directly under the Central Government in the building, organization and operations of the Vietnam Coast Guard.

3. The Ministries, the ministerial-level Agencies, the agencies attached to the Government, within the scope of their tasks and powers, have the responsibility to coordinate with the Ministry of Defense in performing State management over the activities of the Vietnam Coast Guard.

4. The People's Committees of the provinces and cities directly under the Central Government, within the scope of their tasks and powers, have the responsibility to coordinate with, support and create conditions for the Vietnam Coast Guard to perform its duties.

5. The Government shall issue a regulation on the coordination between the Ministry of Defense and the other Ministries, the ministerial-level Agencies, the Agencies attached to the Government, the People's Committees of the provinces and cities directly under the Central Government in performing State management over the activities of the Vietnam Coast Guard.

Chapter V

REGIMES AND POLICIES TOWARD OFFICERS AND MEMBERS OF THE COAST GUARD

Article 22.- Officers and members of the Coast Guard shall enjoy the same regimes and policies as officers and members of the Vietnam People's Army.

Article 23.- The expenditures in the organization, building and activities of the Vietnam Coast Guard shall be assured by the State budget.

Chapter VI

COMMENDATIONS AND HANDLING OF VIOLATIONS

Article 24.- Officers and members of the Coast Guard who make meritorious records in their work and combat shall be commended and rewarded according to prescriptions of law.

Officers and members of the Coast Guard who violate discipline shall be dealt with according to the Discipline Rules of the Vietnam People's Army. If they commit violations against law they shall, depending on the character and extent of the violations, be subjected to discipline or examined for penal liability.

Article 25.- Organizations and individuals with meritorious records in the defense of sovereignty, the sovereign rights, security, order and safety in the sea areas and on the continental shelf of Vietnam, who help the Coast Guard to carry out its duties shall be commended and rewarded according to prescriptions of law.

The persons who take law-breaking acts in the defense of sovereignty, sovereign rights and security, order and safety in the sea areas and on the continental shelf of Vietnam, who obstruct the implementation of the duty of the Vietnam Coast Guard shall, depending on the character and extent of the violations, subjected to administrative sanctions or shall be examined for penal liability,

Chapter VII

IMPLEMENTATION PROVISIONS

Article 26.- This Ordinance takes effect from September 1st, 1998.

Article 27.- The Government shall stipulate details and guide the implementation of this Ordinance.
Hanoi, March 28, 1998

*On behalf of the Standing Committee
of the National Assembly
Chairman
NONG DUC MANH*