

**DECREE No. 92/1999/ND-CP OF SEPTEMBER 4,  
1999 ON SANCTIONS AGAINST ADMINISTRA-  
TIVE VIOLATIONS IN THE MARITIME FIELD**

**THE GOVERNMENT**

*Pursuant to the Law on Organization of the  
Government of September 30, 1992;*

*Pursuant to Vietnam's Maritime Code of July 12,*

1990;

*Pursuant to the Ordinance on Handling of Administrative Violations of July 6, 1995;*

*At the proposal of the Minister of Communications and Transport,*

## DECREES:

### *Chapter I*

## GENERAL PROVISIONS

### *Article 1.- Scope of regulation*

1. Administrative violations in the maritime field are acts of breaching the rules of the State management over the maritime field, intentionally or unintentionally by organizations and/or individuals, which are not serious enough for penal liability examination, but must be administratively sanctioned as prescribed by law.

2. Administrative violations in the maritime field prescribed in this Decree include:

- a/ Violations in seaport exploitation activities;
- b/ Violations in maritime activities of vessels within seaport areas and maritime zones;
- c/ Violations in sea shipping business and maritime service activities;
- d/ Violations in maritime search and rescue activities;
- e/ Violations in sunken property salvage and recovery activities;
- f/ Violations in maritime safety guaranty activities.

### *Article 2.- Objects of application*

1. All organizations and individuals that commit acts of administrative violation in the maritime field shall be dealt with according to the provisions of this Decree and other relevant provisions of the legislation on handling of administrative violations.

Foreign organizations and individuals that commit acts of administrative violations in the maritime field at seaports and maritime zones of Vietnam (except for port land and water areas used for military purposes) shall also be sanctioned according to the provisions of this Decree, except otherwise provided for by international agreements which Vietnam has signed or acceded to.

2. The sanctioning of administrative violations committed by minors in the maritime field shall comply with the provisions in Point a, Clause 1 of Article 5, and Article 6 of the Ordinance on Handling of Administrative Violations (hereafter referred to as

the Ordinance).

### *Article 3.- Sanctioning principles*

1. The principles for sanctioning administrative violations in the maritime field shall comply with the provisions in Article 3 of the Ordinance.

2. The sanctions against administrative violations in the maritime field shall be imposed by competent persons defined in Articles 27, 28, 29 and 30 of this Decree.

3. No sanction shall be imposed on administrative violations committed under force majeure circumstances or in emergency cases to protect human life or ensure the safety of vessels, cargo and navigation projects.

### *Article 4.- Extenuating and aggravating circumstances*

1. Extenuating circumstances in the maritime field are those specified in Article 7 of the Ordinance.

2. Aggravating circumstances in the maritime field are those specified in Article 8 of the Ordinance.

### *Article 5.- The statute of limitations for sanctioning*

1. The statute of limitations for sanctioning an administrative violation in the maritime field shall be one year after such administrative violation is committed.

For administrative violations committed in the exploitation of seaports and maritime projects: export and import of vessels and maritime special-use equipment; exit and/or entry of vessels, crew members and passengers, the statute of limitations for sanctioning shall be two years after such administrative violation acts are committed.

Past that statute of limitations, no sanctions shall be imposed on administrative violations, but other measures specified in Points a, b and d, Clause 3, Article 6 of this Decree may be applied.

2. An individual, who is sued, prosecuted or brought to trial under the criminal procedures, but later there is a decision to suspend the investigation or to suspend the case, shall be sanctioned for administrative violation(s) if his/her acts show signs of administrative violation(s); the statute of limitations for sanctioning the administrative violation(s) in this case shall be 3 months after the suspension decision is issued.

3. If within the time limits prescribed in Clauses 1 and 2 of this Article, an organization or individual commits new acts of administrative violation in the maritime field or intentionally avert or hinder the

sanction, the statute of limitations stated in Clauses 1 and 2 of this Article shall no longer apply.

**Article 6.- Sanctioning forms**

1. For each act of administrative violation, a violating organization or individual shall be subject to one of the following main sanctioning forms:

- a/ Warning;
- b/ Pecuniary penalty.

2. Depending on the nature and seriousness of their violations, the administratively violating organizations and individuals shall also be imposed with such additional sanctioning forms as stripping off the right to use licenses, certificates, crew member's passports, and confiscation of material evidences and/or means used for the administrative violations.

3. In addition to the main and additional sanctioning forms prescribed in Clauses 1 and 2 of this Article, the administratively violating organizations and individuals may also be subject to one or several of the following measures:

a/ Compelled restoration of the original state which has altered due to the administrative violations or compelled dismantlement of illegally constructed projects;

b/ Compelled application of measures to overcome the environmental pollution caused by the administrative violations;

c/ Compelled payment of compensations for damage of up to 1,000,000 dong caused by the administrative violations;

d. Compelled destruction of articles hazardous to human health and environment.

4. The main sanctioning forms, the additional sanctioning forms and the measures applicable to each administrative violation act in the maritime field are specified in Chapter II of this Decree.

Each main sanctioning form shall be independently imposed on each administrative violation.

5. Where the sanctioning form of pecuniary penalty is imposed on a violation act in the maritime field, the sanctioning level shall be based on the nature of or the damage caused by such violation act. If such violation involves extenuating circumstances, the pecuniary penalty level may be reduced but must not be lower than the minimum level of the fine bracket; if the violation involves aggravating circumstances, the fine level may be increased but must not exceed the maximum level of the fine bracket.

6. The application of administrative sanctioning forms and other administrative measures shall not

relieve the individual liability of the concerned individuals or the liability of the concerned organizations to pay compensations for material damage caused by violation acts of such individuals or organizations.

7. An administratively sanctioned organization shall have to abide by the sanctioning decision, and at the same time verify the fault of its own personnel who has personally committed the administrative violation, so as to individualize the liability and compel the compensation for damage according to the provisions of law.

**Chapter II**

**ADMINISTRATIVE VIOLATIONS IN THE MARITIME FIELD; SANCTIONING FORMS AND LEVELS**

**Section I. VIOLATIONS OF THE REGULATIONS ON SEAPORT EXPLOITATION ACTIVITIES**

**Article 7.-** Violations of the regulations on ensuring safety, order and hygiene in seaport exploitation activities

1. A warning or a fine of from 50,000 to 200,000 dong shall be imposed on one of the following violation acts:

a/ Entering or leaving the port's land area or getting on board a ship without permit or not in compliance with instructions of competent persons;

b/ Failing to apply measures to ensure the hygiene of the port's land area;

c/ Failing to promptly report to the port authority on incidents and/or accidents related to the port's order and hygiene.

2. A fine of from 500,000 to 2,000,000 dong shall be imposed on one of the following violation acts:

a/ Employing laborers without appropriate professional qualification certificates;

b/ Violating the regulations on day-time marks, and night-time signaling and lighting lamps that delimit a wharf to ensure the safety of docking ships;

c/ The system of anti-collision cushions and mooring flanges are insufficient or incapable of ensuring the safety of ships mooring at the wharf;

d/ Laying objects on the wharf that hinder ships from docking at or leaving the wharf or other maritime activities at the port;

e/ The shipowners or their agents fail to produce the cargo packing lists and cargo loading-unloading schemes within the prescribed time limit to the port

authority;

f/ Failing to promptly report to the port authority on the incidents and/or accidents related to the safety of the seaport exploitation activities.

3. A fine of from 5,000,000 to 20,000,000 dong shall be imposed on each act of docking at a wharf or anchoring at a water zone not yet publicly declared for use as prescribed, or using or exploiting a port not in conformity with its functions already declared.

4. Application of other administrative measures:

Compelled application of measures to overcome consequences and payment of compensations for damage caused by violation acts prescribed in Clauses 1, 2 and 3 of this Article.

**Article 8.-** Violations of the regulations on cargo signs and marks, unloading and warehousing

1. A fine of from 500,000 to 1,000,000 dong shall be imposed on acts of violating regulations on inscribing signs and marks, or unloading and warehousing goods of various kinds not in compliance with regulations.

2. A fine of from 2,000,000 to 10,000,000 shall be imposed on violation acts prescribed in Clause 1 of this Article in cases of hazardous goods.

3. Application of other administrative measures:

Compelled application of measures to overcome consequences and payment of compensations for damage caused by violation acts prescribed in Clauses 1 and 2 of this Article.

**Article 9.-** Violations of the regulations on fire and explosion prevention and combat at seaports

1. A warning or a fine of from 200,000 to 1,000,000 dong shall be imposed on one of the following violation acts:

a/ Failing to put up boards of internal rules, or signboards indicating or giving necessary cautions at fire or explosion-prone places;

b/ Using fire fighting equipment and devices for other purposes;

c/ Failing to adequately install a fire and explosion prevention and combat system as prescribed;

d/ Failing to provide appropriate fire fighting equipment and devices or make them ready for use or install them at the prescribed places, or failing to dispose auxiliary fire and explosion prevention and combat equipment compatible to goods being transported or unloaded;

e/ Failing to promptly report to the concerned State management agencies on incidents or accidents related to the fire and explosion prevention activities;

f/ Using employees who are not fully equipped with protection devices or without certificates of professional qualifications for fire and explosion prevention and combat as required.

2. A fine of from 10,000,000 to 20,000,000 dong shall be imposed on each violation act prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

3. Other administrative violations in fire and explosion prevention shall be handled according to Article 15 of the Government's Decree No. 49/CP of August 15, 1996 on sanctions against administrative violations in the security and order field.

4. Additional sanctioning forms and other administrative measures:

a/ Stripping off the right to use business licenses for up to 3 months, for violation acts prescribed in Clause 1 of this Article;

b/ Compelling the application of measures to overcome consequences and the payment of compensations for damage caused by violation acts prescribed in Clause 1 of this Article.

**Article 10.-** Violations of the regulations on ensuring the maritime safety in the construction, renovation or upgrading of seaports

1. A fine of from 500,000 to 2,000,000 dong shall be imposed on one of the following violation acts:

a/ Failing to install signals or giving false signals at the area where a wharf is being under construction;

b/ Failing to provide appropriate fire fighting system and life rescue equipment;

c/ Failing to install night-time lighting lamps or installing lamps which are unsafe or incapable of producing enough light at the construction site.

2. A fine of from over 2,000,000 to 10,000,000 dong shall be imposed on each violation act prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

3. A fine of from over 2,000,000 to 5,000,000 dong shall be imposed on one of the following violation acts:

a/ Ships servicing construction projects or services ships which dock or anchor, thus obstructing the port entrance or exit fairways;

b/ Dumping or dropping construction equipment and materials into the port waters.

4. A fine of from over 5,000,000 dong to 20,000,000 shall be imposed on each violation act prescribed in Clause 3 of this Article in cases where such violation involves many aggravating circumstances.

5. A fine of from 10,000,000 to 20,000,000 dong shall be imposed on one of the following violation acts:

a/ Constructing a project without the competent agency's permit;

b/ Carrying out construction activities not at the prescribed places, thus affecting the safety in ship navigation fairways.

6. A fine of from over 20,000,000 to 100,000,000 dong shall be imposed on each violation act prescribed in Clause 5 of this Article in cases where such violation involves many aggravating circumstances.

7. Additional sanctioning form and other administrative measures:

a/ Stripping off the right to use the license for port construction or exploitation for up to 3 months;

b/ Compelling the application of measures to overcome consequences and payment of compensations for damage caused by violation acts prescribed in Clauses 1, 3 and 5 of this Article.

**Article 11.-** Violations of the regulations on environmental protection in port exploitation activities

1. A warning or a fine of from 100,000 to 500,000 dong shall be imposed on act of discharging or spilling waste water onto the wharf area or port water, thus affecting the hygiene therein.

2. A fine of from over 500,000 to 2,000,000 dong shall be imposed on each violation act prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

3. A fine of from over 2,000,000 to 10,000,000 dong shall be imposed on each act of pumping or discharging engine oil or lubricant or garbage, waste water, dirty sludge and other waste matters contaminated with engine oil and other hazardous chemicals into the port water.

4. A fine of from over 10,000,000 to 50,000,000 dong shall be imposed on each violation act prescribed in Clause 3 of this Article in cases where such violation involves many aggravating circumstances.

5. Application of other administrative measures:

Compelled application of measures to overcome consequences and compensation for damage caused by violation acts prescribed in Clause 3 of this Article.

## **Section II. VIOLATIONS OF THE REGULATIONS ON MARITIME ACTIVITIES OF VESSELS WITHIN SEAPORTS AND MARITIME ZONES**

**Article 12.-** Violations of the regulations on the

procedures applying for port calls

1. A fine of 5,000,000 dong to 10,000,000 dong shall be imposed on one of the following violation acts:

a/ Vessels calling at ports without asking for permits as prescribed;

b/ Vessels calling at ports without observing the regime of making declarations or making false declarations of vessels' arrival at pilot-embarking and/or disembarking places as prescribed.

2. A fine of from over 10,000,000 to 50,000,000 dong shall be imposed on each violation act prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

**Article 13.-** Violations of the regulations on the procedures for port entrance and exit

1. A warning or a fine of from 100,000 to 500,000 dong shall be imposed on act of inadequately or wrongly inscribing one of the ship's technical specifications in its entrance or exit declaration.

2. A fine of from 1,000,000 to 5,000,000 dong shall be imposed on each violation act prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

3. A fine of from 500,000 to 1,000,000 dong shall be imposed on act of failing to produce all required papers or filling the procedures for port entrance or exit with one of the produced papers having expired.

4. A fine of from 5,000,000 to 10,000,000 dong shall be imposed on each violation act prescribed in Clause 3 of this Article involves many aggravating circumstances.

5. A fine of from over 10,000,000 to 50,000,000 dong shall be imposed on one of the following violation acts:

a/ Failing to obtain the permit for final;

b/ Vessels deliberately leaving the port without permit.

6. A fine of from 10,000,000 to 20,000,000 dong shall be imposed on one of the following violation acts:

a/ Failing to inform or informing not in compliance with the regulations to the port authority substantial characteristics of hazardous goods being transported;

b/ Oil tankers have no marks or certificates of shipowners' civil liability insurance as required.

7. A fine of from over 20,000,000 to 50,000,000 dong shall be imposed on each violation act prescribed in Clause 6 of this Article in cases where such violation involves many aggravating circumstances.

8. A fine of from 10,000,000 to 30,000,000 dong shall be imposed on acts of letting crew members or passengers to embark or disembark the ships before the entry and exit procedures are completed.

9. Additional sanctioning forms:

Stripping off the right to use the sea shipping business licenses or maritime operation licenses of the ships or the shipmasters' licenses for 3 to 6 months, for violation acts prescribed in Clause 6 of this Article.

**Article 14.-** Violations of the regulations on the safety, order and hygiene of vessels

1. A warning or a fine of from 50,000 to 100,000 dong shall be imposed on an officer or a crew member who fails to wear uniform or service badges as required, while on duty.

2. A warning or a fine of from over 100,000 to 500,000 dong shall be imposed on one of the following violation acts:

a/ Failing to fly the national flag of Vietnam as prescribed;

b/ Arbitrarily putting up anniversary flags or flags at half mast without the port authority's permit;

c/ Arbitrarily blowing whistles without the port authority's permit while anchoring or calling at the port.

3. A fine of from over 500,000 to 2,000,000 dong shall be imposed on one of the following violation acts:

a/ Scraping funnels or emitting black smoke while anchoring or calling at the port waters;

b/ Laying facilities, equipment and appurtenance of the ship or the crew members on the wharf outside the prescribed places;

c/ Scraping rust and painting ships without the port authority's consent;

d/ Repairing or testing engines or whistles without the port authority's consent;

e/ Swimming or causing tumult in the port;

f/ Using VHF channels in contravention of the regulations;

g/ Collecting wastes and oil sludge not in compliance with regulations on environmental hygiene and protection, or without the State management agency's permit;

h/ Smoking rats or spreading disinfectants not at prescribed places.

4. A fine of from over 2,000,000 to 5,000,000 dong shall be imposed on one of the following violation acts:

a/ Setting hecks, fish traps or laying aquatic resources exploiting means in the port waters without the port authority's permit or setting them not at places or at the time prescribed in fishing licenses;

b/ Setting hecks, fish traps or laying aquatic resources exploiting means in zigzag or brush-toothed disposition on navigation lanes and fairways, or using mobile fish traps brushwoods and hecks, trawl nets, drag nets or other means to tap aquatic and marine resources, thus hindering the movement of vessels;

c/ Carrying out other activities such as: underwater groping, diving or other underwater activities in the port waters without the port authority's permits or carrying out such activities without giving warning signals as prescribed;

d/ Staging sport competitions or entertainments in the port waters without the port authority's permit;

e/ Sport or tourist vessels operate in the port waters without the port authority's permit;

f/ Ships used exclusively for surveying and dredging navigation fairways and placing signal buoys, and other project facilities and equipment operate in the port waters without the port authority's permit;

g/ Ships used exclusively for surveying and dredging navigation fairways and placing signal buoys, and other project facilities and equipment operate in the port waters without enough warning signals as prescribed;

h/ Non-self-propelled means draw up alongside other vessels or dock at a wharf for unloading cargo without adequate and appropriate towing facilities, or delay implementing movement orders issued by the port authority;

i/ Refusing to use or improperly using signals as prescribed;

j/ Failing to strictly observe the rules for collision avoidance on the sea.

5. A fine of from over 5,000,000 to 20,000,000 dong shall be imposed on each violation act prescribed in Clause 1 and Points f and g, Clause 4 of this Article in cases where such a violation involves many aggravating circumstances.

6. Other administrative violations regarding border medical quarantine shall be handled according to Article 7 of the Government's Decree No.46/CP of August 6, 1996 stipulating the sanctions against administrative violations in the field of State management over medical activities.

7. The additional sanctioning forms and other administrative measures:

a/ Confiscation of material evidences and means used to commit administrative violations, for acts

prescribed at Points a, b and c, Clause 4 of this Article;

b/ Compelled restoration of the original state, for acts prescribed at Points a and b, Clause 4 of this Article.

**Article 15.-** Violations of the regulations on safety of fire and explosion prevention and combat applicable to vessels

1. A fine of from 100,000 to 500,000 dong shall be imposed on each act of smoking at no-smoking places.

2. A fine of from 2,000,000 to 5,000,000 dong shall be imposed on one of the following violation acts:

a/ Equipping fire extinguishers not ready for use;

b/ Failing to install warning signals or necessary instructions at fire or explosion-prone places;

c/ Having no diagram of fire fighting system, and boards of fire-fighting duty assignment and instructions on operation aboard;

3. A fine of from over 5,000,000 to 10,000,000 shall be imposed on one of the following violation acts:

a/ Failing to sufficiently provide fire-fighting equipment and devices as prescribed by Vietnamese laws and relevant international agreements which Vietnam has signed or acceded to;

b/ Using fire-fighting equipment and devices which have been out of order;

c/ Placing fire-fighting equipment and devices not at prescribed places on ships and boats;

d/ Crew members on board fail to expertly handle the fire-preventing and fighting equipment and devices;

e/ Failing to execute or delaying the execution of the port authority's orders to take part in fighting fire on ships in distress in the port, port waters or maritime zone;

f/ Arbitrarily conducting activities that send out sparks on the deck, cargo hold or engine room, when such activities are not yet inspected and permitted by the port authority;

g/ Using the fire-fighting devices for other purposes;

h/ Failing to strictly observe the procedures for preserving and maintaining fire-fighting devices;

i/ Having no plans for rescue or salvage in emergency cases.

4. A fine of from 20,000,000 to 50,000,000 dong shall be imposed on each violation act prescribed in Clauses 1, 2 and 3 of this Article in cases where such violation involves many aggravating circumstances.

5. Application of other administrative measures:

Compelled application of measures to overcome consequences and payment of compensations for damage caused by violations prescribed in Clauses 1, 2 and 3 of this Article.

**Article 16.-** Violations of the regulations on prevention of environmental pollution caused by vessels

1. A fine of from 200,000 to 1,000,000 dong shall be imposed on one of the following violation acts:

a/ Having no diary recording the pumping of bilge water from the engine room;

b/ Throwing or discharging garbage or other objects from ships into water or wharf.

2. A fine of from 2,000,000 to 5,000,000 dong shall be imposed on one of the following violation acts:

a/ Failing to equip adequate oil- and bilge water-filtering equipment as prescribed by Vietnamese laws and relevant international agreements which Vietnam has signed or acceded to;

b/ The oil-filtering equipment have been out of order;

c/ Using technically unsafe pipes, hoses and pipe fittings for receiving fuels;

d/ Failing to assign personnel on duty at the fuel receiving place aboard the ship;

e/ Failing to keep the oil diary or keeping it not in compliance with regulations.

3. A fine of from 2,000,000 to 10,000,000 dong shall be imposed on act of failing to devise oil spill-handling plans as required.

4. A fine of from 5,000,000 to 20,000,000 shall be imposed on each act of arbitrarily pumping or discharging garbage or dirty sludge or waste water contaminated with oil and other hazardous chemicals from a ship into the port water or wharf.

5. A fine of from 50,000,000 to 100,000,000 dong shall be imposed on each violation act prescribed in Clause 4 of this Article in cases where such violation involves many aggravating circumstances.

6. Application of other administrative measures:

Compelled application of measures to overcome consequences and payment of compensations for damage caused by violations prescribed at Point b, Clause 1 and Clause 4 of this Article.

**Article 17.-** Violations of the regulations on human life and ship safety protection

1. A warning or a fine of from 100,000 to 500,000 dong shall be imposed on one of the following

violation acts:

a/ Failing to put up boards stipulating the life rescue and shipwreck salvage duties at the prescribed places or such boards have already been damaged;

b/ Failing to put up boards of instructions on operating the life rescue and shipwreck salvage equipment and devices or such boards have already been damaged;

c/ Failing to put up boards of assignment of life rescue and shipwreck salvage duties at the prescribed places aboard the ship;

d/ Employing crew members who fail to expertly handle the life rescue and shipwreck salvage equipment and devices;

e/ Carrying passengers in excess of the prescribed number; in this case the fine shall be calculated on each excess passenger;

f/ Failing to equip vessels with sufficient life rescue and shipwreck salvage equipment and devices as prescribed;

g/ The life rescue and shipwreck salvage equipment and devices are neither up to the prescribed quality nor ready for immediate use.

2. A fine of from 1,000,000 to 5,000,000 dong shall be imposed on one of the following violation acts:

a/ Having no ship log-book or using it not according to the regulations;

b/ Employing crew members who do not possess enough professional diplomas and certificates as prescribed;

c/ Failing to sufficiently employ the minimum safe staff or employ a staff in excess of the prescribed number;

d/ Assigning personnel to posts not in consistency with the names of persons already registered in the "crew member register";

e/ Having no or unclearly inscribing or putting at wrong place aboard the vessel's name and registration number as prescribed.

3. A fine of from over 5,000,000 to 10,000,000 dong shall be imposed on one of the following violation acts:

a/ Having no life rescue and shipwreck salvage equipment and devices;

b/ The life rescue and shipwreck salvage equipment and devices are on the expiry date;

c/ Carrying cargo in excess of the prescribed tonnage.

4. A fine of from 20,000,000 to 50,000,000 shall be imposed on each violation act prescribed in Clauses 1, 2 and 3 of this Article in cases where such violation

involves many aggravating circumstances.

5. The additional sanctioning forms:

Stripping off the right to use the certificate of basic safety training, for 3 to 6 months or indefinitely, for violations prescribed at Point d, Clause 1 of this Article.

Stripping off the right to use the sea shipping business license or the maritime operation license of the ship or the shipmaster's license for 3 to 6 months or indefinitely, for violations prescribed at Point e, Clause 1 and Point c, Clause 3 of this Article.

**Article 18.-** Violations of the regulations on anchoring, docking, lightering and towing of vessels in the port waters

1. A fine of 1,000,000 to 5,000,000 dong shall be imposed on one of the following violation acts:

a/ Arbitrarily anchoring, docking, lightering, moving from place to place or conducting other activities in the port entrance and exit fairways without the port authority's operation orders;

b/ Failing to abide by or wrongly executing or deliberately delaying the execution of the port authority's operation order;

c/ Failing to effect the regime of watching VHF on channel 16 round the clock;

d/ Using VHF without permits or using VHF channels for purposes other than registered ones;

e/ Having no lighting lamps or using lamps incapable of producing enough light for the ships' night-time cargo handling or anchoring;

f/ Failing to use sufficient signal lamps for the ships' night-time anchoring, docking, lightering or towing in the port waters;

g/ Having no or having insufficient anti-collision cushions as prescribed;

h/ Failing to promptly report to the port authority on the maritime signals' improper operation or damage while traveling on navigation fairways;

i/ Failing to observe the rules for preventing collisions while traveling in the port waters;

j/ Failing to report to the port authority on the ship's itinerary in the port waters;

k/ Failing to adequately maintain the duty regime on board while the ship calls at the port or the port waters;

l/ Failing to execute or delaying the execution of the port authority's orders for storm and flood prevention and combat;

m/ Arbitrarily mooring the ship to sea markers on navigation fairways;

n/ Refusing to use tug boats as prescribed.



2. A fine of from 5,000,000 to 20,000,000 dong shall be imposed on each of violation acts prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

3. Additional sanctioning forms:

Stripping off the right to use the shipmaster's licenses for 3 to 6 months or indefinitely, for violations prescribed in Clause 1 of this Article.

**Article 19.-** Violations of the regulations on registration of sea-going ships and crew members

1. A warning or a fine of from 500,000 to 1,000,000 dong shall be imposed on one of the following violation acts:

a/ Failing to register a ship within the prescribed time limit;

b/ Damaging or losing the sea-going ship registration certificate;

c/ Losing or damaging the crew member's passport or the crew member's maritime professional certificates;

d/ Losing or damaging the crew members' register book.

2. A fine of from 2,000,000 to 5,000,000 dong shall be imposed on each violation act prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

3. A fine of from 2,000,000 to 5,000,000 dong shall be imposed on one of the following violation acts:

a/ Falsely declaring the ship's technical specifications and ownership state upon making the registration;

b/ Erasing, crossing out, falsifying, trading, hiring out or lending the sea-going ship registration certificate, crew member's passport, licenses and maritime professional certificate, or committing fraudulent acts in the ship or crew member registration or the examination for and granting of professional certificate(s);

4. A fine of from over 5,000,000 to 10,000,000 dong shall be imposed on one of the following violation acts:

a/ Operating a ship when the sea-going ship registration certificate is yet granted;

b/ Failing to make the registration of the shipowner change strictly according to the provisions of law after the ship's purchase, sale or ownership transfer.

5. A fine of from over 10,000,000 to 20,000,000 dong shall be imposed on each violation act prescribed in Clauses 3 and 4 of this Article in cases where such

violation involves many aggravating circumstances.

6. Additional sanctioning forms:

Stripping off the right to use the sea-going ship registration certificate, crew member passport or other professional licenses or certificates for 3 to 6 months or indefinitely, for violations prescribed at Point b, Clause 3 of this Article.

**Article 20.-** Violations of the regulations on maritime pilotage

1. A warning or a fine of from 100,000 to 500,000 dong shall be imposed on each act of failing to put up signal banner with letter "G", when asking for a pilot, or signal banner with letter "H" when the pilot is on board the ship.

2. A fine of from over 500,000 to 2,000,000 dong shall be imposed on one of the following violation acts:

a/ Deliberately using a pilot to conduct the ship when not yet so permitted by the port authority;

b/ The pilot, upon detecting an accident, incident or changes of navigation fairways or maritime signals, fails to promptly report it (them) to the port authority;

c/ Employing a pilot to conduct the ship in the pilotage operation zone not in accordance with the regulations.

d/ Employing a pilot to conduct the ship without the prescribed professional certificates.

3. A fine of from 5,000,000 to 10,000,000 dong shall be imposed on each violation act prescribed in Clause 2 of this Article in cases where such violation involves many aggravating circumstances.

4. A fine of from 1,000,000 to 5,000,000 dong shall be imposed on one of the following violation acts:

a/ Navigating vessels into or out of ports without any pilot as prescribed;

b/ Failing to devise measures to ensure safety or failing to place appropriate ladders for the pilot to safely climbing up and down as prescribed;

c/ Failing to inform or inaccurately inform the pilot of the ship's specifications and particular characteristics;

d/ Failing to ensure the working and living conditions for the pilot during his/her stay on board.

5. A fine of from over 5,000,000 to 10,000,000 dong shall be imposed on each violation act prescribed in Clause 4 of this Article in cases where such violation involves many aggravating circumstances.

6. Additional sanctioning forms:

Stripping off the right to use the pilot operation license for 3 to 6 months, for violations prescribed in Clause 2 of this Article.

### **Section III. VIOLATIONS OF THE REGULATIONS ON SEA SHIPPING BUSINESS AND MARITIME SERVICE ACTIVITIES**

*Article 21.-* Violations of the regulations on the use of the sea-shipping business license, the ship's operation license, the license for exploitation of sea-going ship on fixed routes, the sea-shipping agency license and other maritime operation licenses (hereafter referred collectively to as the licenses).

1. A warning or a fine of from 100,000 to 500,000 dong shall be imposed on one of the following violation acts:

a/ Failing to report to the licensing agency on the changes already registered in the license;

b/ Failing to comply with the regulations on specialized statistical reports or failing to provide other necessary information at the requests of the competent State agency(ies);

c/ Making advertisements contrary to the permitted business contents or advertising business contents not yet licensed.

2. A fine of from 1,000,000 to 5,000,000 dong shall be imposed on each violation act prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

3. A fine of from over 5,000,000 to 10,000,000 dong shall be imposed on one of the following violation acts:

a/ Conducting business activities not in line with the contents and scopes prescribed in the business license;

b/ Failing to comply with the provisions on the ceiling and flooring freight rates, navigation fairways and routes and ship names which enterprises have registered;

c/ Failing to adequately equip vessels with means to ensure the human life and transport means safety while conducting sea shipping business and maritime service activities;

d/ Conducting sea shipping business and maritime service activities without licenses or with expired licenses;

e/ Modifying or erasing licenses.

4. A fine of from 20,000,000 to 50,000,000 dong shall be imposed on each of violation acts prescribed in Clause 3 of this Article in cases where such violation involves many aggravating circumstances.

5. Additional sanctioning forms:

Stripping off the right to use the licenses for 3 to 6 months, for each of violation acts prescribed in Clauses 1 and 3 (except for Point d) of this Article.

*Article 22.-* Violations of the regulations on the sea-going ship purchase and sale

1. A fine of from 500,000 to 2,000,000 dong shall be imposed on each act of deliberately making a false declaration of technical specifications of a ship intended for purchase or sale.

2. A fine of from over 2,000,000 to 5,000,000 dong shall be imposed on each act of purchasing or selling a ship without permit as prescribed.

3. A fine of from over 10,000,000 to 20,000,000 dong shall be imposed on each violation act prescribed in Clauses 1 and 2 of this Article in cases where such violation involves many aggravating circumstances.

### **Section IV. VIOLATIONS OF THE REGULATIONS ON SEARCH AND RESCUE**

*Article 23.-* Violations of the regulations on search and rescue activities

1. A fine of from 2,000,000 to 5,000,000 shall be imposed on act of failing to perform the prescribed duty for maritime search and rescue.

2. A fine of from over 5,000,000 to 10,000,000 dong shall be imposed on act of failing to obey the operation order without plausible reason(s) or showing irresponsibility while executing the operation order of the competent agency.

### **Section V. VIOLATIONS OF THE REGULATIONS ON SALVAGE OF PROPERTY SUNK IN THE SEA**

*Article 24.-* Violations of the regulations on salvage of property sunk in the sea

1. A warning or a fine of from 200,000 to 1,000,000 dong shall be imposed on act of failing to report or failing to promptly report as required on property sunk in the sea;

2. A fine of from 10,000,000 to 20,000,000 dong shall be imposed on one of the following violation acts:

a/ Failing to place or failing to promptly place a marker at the place where the property has sunk;

b/ Failing to carry out the salvage or complete the salvage of sunken property within the prescribed time limit;

c/ Carrying out the salvage of sunken property without any permit;

d/ Failing to hand over the sunken property which has been incidentally recovered to the competent agency;

e/ Failing to pay expenses related to the salvage of sunken property as prescribed.

3. A fine of from over 20,000,000 to 50,000,000 dong shall be imposed on each violation act prescribed in Clause 2 of this Article in cases such violation involves many aggravating circumstances.

4. Additional sanctioning forms:

Confiscation of material evidences and means used in administrative violations, for violation acts prescribed in Clause 2 of this Article.

### **Section VI. VIOLATIONS OF THE REGULATIONS ON ENSURING THE MARITIME SAFETY**

*Article 25.-* Violation of the regulations on ensuring the maritime safety

1. A fine of from 500,000 to 2,000,000 dong shall be imposed on one of the following violation acts:

a/ Failing to publicize promptly or publicizing untruthfully the "maritime notices";

b/ Installing maritime signals not at the prescribed places and not according to the provisions of law;

c/ Hiding maritime signals.

2. A fine of from over 2,000,000 to 5,000,000 dong shall be imposed on each violation act prescribed in Clause 1 of this Article in cases where such violation involves many aggravating circumstances.

3. A fine of from over 5,000,000 to 10,000,000 shall be imposed on one of the following violation acts:

a/ Failing to place markers or placing markers not in time to warn against obstacles on navigation fairways;

b/ Dredging navigation fairways or dumping mud and soil not at the prescribed places;

c/ Moving or damaging the maritime markers.

4. A fine of from 20,000,000 to 100,000,000 dong shall be imposed on each violation act prescribed in this Article in cases where such violation involves aggravating circumstances.

5. Application of other administrative measures:

Compelled application of measures to overcome consequences and pay compensations for damage caused by violations prescribed in Clauses 1 and 3 of this Article.

*Article 26.-* Violations of the regulations on the

maritime safety inspection activities

1. A warning or a fine of from 200,000 to 1,000,000 shall be imposed on each act of hindering or deliberately troubling a maritime safety inspector on duty or failing to satisfy his/her requests.

2. A fine of from over 1,000,000 to 2,000,000 dong shall be imposed on each act of insulting or offending a maritime safety inspector on duty.

3. A fine of from 5,000,000 to 10,000,000 dong shall be imposed on each violation act prescribed in Clauses 1 and 2 of this Article in cases where such violation involves many aggravating circumstances.

4. Additional sanctions:

Stripping off the right to use the shipmaster's license or the professional certificate for 3 to 6 months, for violation acts prescribed in Clauses 1 and 2 of this Article.

### **Chapter III**

### **THE COMPETENCE AND PROCEDURES FOR SANCTIONING ADMINISTRATIVE VIOLATIONS**

#### **Section I. THE SANCTIONING COMPETENCE**

*Article 27.-* The competence for sanctioning administrative violations of the maritime safety inspectors and port authority directors:

1. A maritime safety inspector on official duty can:

a/ Serve a warning;

b/ Impose a fine of up to 200,000 dong;

c/ Confiscate material evidences and means used for administrative violations, valued at up to 500,000 dong;

d/ Compel the restoration of the original state which has altered due to administrative violations;

e/ Compel the application of measures to overcome environmental pollution caused by administrative violations;

f/ Compel the destruction of articles hazardous to human health and environment.

2. A regional chief maritime safety inspector can:

a/ Serve a warning;

b/ Impose a fine of up to 10,000,000 dong;

c/ Confiscate material evidences and means used for administrative violations;

d/ Strip off the right to use various kinds of licenses, certificates, professional certificates, crew

member's passports and other diplomas according to his/her competence for up to 3 months. In cases where such an operation license, certificate, professional certificate, crew member's passport or diploma has been granted by a superior State agency, he/she shall issue a decision to suspend the violation act and request the competent State agency to withdraw such papers.

e/ Compel the restoration of the original state which has altered due to administrative violations;

f/ Compel the application of measures to overcome the environmental pollution caused by administrative violations;

g/ Compel the destruction of articles harmful to human health;

h/ Compel the payment of compensation of up to 1,000,000 dong for damage caused by administrative violations.

3. A maritime port authority director may:

a/ Serve a warning;

b/ Impose a fine of up to 10,000,000 dong;

c/ Confiscate material evidences and means used for administrative violations;

d/ Strip off according to his/her competence, the right to use various kinds of licenses, certificates, professional certificates, crew member's passports and other diplomas for up to 6 months. In cases where such an operation license, certificate, professional certificate, crew member's passport or diploma has been granted by a superior State agency, he/she shall issue a decision to suspend the violation act and request the competent State agency to withdraw such papers.

e/ Compel the restoration of the original state which has altered due to the administrative violations;

f/ Compel the application of measures to overcome the environmental pollution caused by administrative violations;

g/ Compel the destruction of articles harmful to human health;

h/ Compel the payment of compensation of up to 1,000,000 dong for damage caused by administrative violations.

4. The central-level chief maritime safety inspector may:

a/ Serve a warning;

b/ Impose a fine of up to 20,000,000 dong;

c/ Strip off according to his/her competence, the right to use various kinds of licenses, certificates, professional certificates, crew member's passports and other diplomas for up to 6 months. In cases where such an operation license, certificate, professional

certificate, crew member's passport or diploma has been granted by a superior State agency, he/she shall issue a decision to suspend the violation act and request the competent State agency to withdraw such papers.

d/ Confiscate material evidences and means used for administrative violations;

e/ Compel the restoration of the original state which has altered due to the administrative violations;

f/ Compel the application of measures to overcome the environmental pollution caused by administrative violations;

g/ Compel the destruction of articles harmful to human health;

h/ Compel the payment of compensations of up to 1,000,000 dong for damage caused by administrative violations.

**Article 28.-** Presidents of commune-level People's Committees shall have the competence to sanction administrative violations as defined in Article 26 of the Ordinance.

**Article 29.-** Presidents of district-level People's Committees shall have the competence to sanction administrative violations as defined in Article 27 of the Ordinance.

**Article 30.-** Presidents of the People's Committees of the provinces and centrally-run cities may:

a/ Serve a warning;

b/ Impose a fine of up to 100,000,000 dong;

c/ Apply the additional sanctioning forms.

In cases where the additional sanctioning form of stripping off the right to use licenses, permits, certificates, professional certificates and crew member's passports granted by the specialized State management agencies is applied, the presidents of the provincial-level People's Committees shall request the State management agencies that have granted such licenses, permits, certificates, professional certificates and/or crew member's passports to issue decisions to withdraw such papers.

**Article 31.-** The principles for assigning the competence to sanction administrative violations:

1. The specialized inspection agencies shall be competent to sanction administrative violations in maritime activities related to the branches under their respective management.

2. In cases where an administrative violation in the maritime field falls under the sanctioning competence of several agencies, the sanctioning shall be effected by the first agency that accept the case's dossier.

## Section II. THE SANCTIONING PROCEDURES

**Article 32.-** The procedures for applying administrative sanctioning forms:

1. Upon detecting an administrative violation in the maritime field, the person with sanctioning competence shall have to issue an order to immediately suspend such violation act.

2. In cases where an administrative violation must be sanctioned with a warning or a fine of up to 20,000 dong, the person with sanctioning competence shall have to issue an on-the-spot sanctioning decision according to the simple procedures prescribed in Article 46 of the Ordinance.

3. In cases where an administrative violation must be sanctioned with a fine of over 20,000 dong, the person with the sanctioning competence shall have to promptly record such administrative violation in a minutes according to the provisions in Article 47 of the Ordinance. If the minutes maker is incompetent to sanction such administrative violation, he/she shall have to promptly forward the minutes and the relevant dossier to the competent level, for issuance of the sanctioning decision.

Within 15 days after the minutes on the administrative violation is made, the competent person shall have to issue a decision to sanction such administrative violation according to Article 48 of the Ordinance. The above-said time limit may be extended but shall not exceed 30 days.

4. A sanctioning decision shall take effect after its signing, except for cases where the effective date is clearly inscribed therein.

The effective decisions shall be sent to the sanctioned organizations and individuals as well as the fine collecting agencies within 3 days after such sanctioning decisions are issued. Decisions on fines of from 2,000,000 dong or more shall be sent to the People's Procuracy of the same level.

5. The fined organizations and individuals shall have to pay their fines at the places inscribed in the sanctioning decisions and shall get fine receipts. The Ministry of Finance shall assume the prime responsibility and coordinate with the Ministry of Communications and Transport in guiding in detail the procedures for collecting and paying fines, managing and using proceeds from sanctions against administrative violations in the maritime field.

6. It is strictly prohibited to collect fines on the spot.

7. The forms of administrative violation sanctioning minutes and decisions shall be set by the Minister of Communications and Transport.

**Article 33.-** The procedures for stripping off the right to use diplomas, licenses, professional certificates, certificates and crew member's passports

1. The procedures for stripping off the right to use licenses, professional certificates, certificates and crew member's passports shall strictly comply with the provisions of Article 50 of the Ordinance.

2. Upon detecting that a license, professional certificate, written certification or crew member's passport has been granted ultra vires or has unlawful contents, the person competent to sanction administrative violations in the maritime field shall have to immediately withdraw it, and at the same time notify the competent State agency thereof for handling.

**Article 34.-** The procedures for confiscating and handling material evidences and means used for administrative violations

1. When applying the sanctioning form of confiscating material evidences and means used for administrative violations, the person with sanctioning competence shall have to make a minutes according to the provisions of Article 51 of the Ordinance.

2. A decision to confiscate material evidences and means used for an administrative violation, valued at 5,000,000 dong or more, shall be promptly sent to the People's Procuracy of the same level.

3. The handling of material evidences and means used for administrative violations shall comply with the provisions of Article 52 of the Ordinance.

**Article 35.-** Execution of sanctioning decisions

1. Organizations and individuals sanctioned for their administrative violations shall have to execute sanctioning decisions within 5 days after they are handled such sanctioning decisions, except for cases where such time limit is clearly stated therein. If past that time limit, the sanctioned organizations and individuals fail to voluntarily execute the sanctioning decisions, the persons with sanctioning competence may apply appropriate coercive measures against them.

2. The application of measures to coerce the execution of administrative violation sanctioning decisions shall comply with the provisions of Article 36 of this Decree and other relevant provisions of law.

3. An administrative violation sanctioning decision shall cease to be effective one year after it is issued. In cases where the sanctioned organization or individual deliberately shirk or delay the execution, such statute of limitations shall not apply.

**Article 36.-** Application of measures to coerce the

execution of administrative violation sanctioning decisions

1. The application of measures to coerce the execution of administrative violation sanctioning decisions shall be effected according to the following specific regulations:

a/ Deduction of a part of wage or income; deduction of money from bank accounts;

b/ Dstraint of property or a part of property with a value corresponding to the fine amount, for auction sale;

c/ Temporarily not allowing the fined vessels to leave the port until they fully pay the fines.

2. Persons competent to sanction administrative violations can issue coercive decisions and shall have to organize the coercion.

3. The coerced organizations and individuals shall have to bear all expenses for organizing the enforcement of coercive measures.

4. The people's police force shall have to enforce the coercive decisions of the People's Committees of the same level and coordinate with other State agencies in organizing the enforcement of coercive decisions of such agencies when so requested.

5. The transfer of dossiers on administrative violations for penal liability examination shall comply with the provisions of Article 53 of the Ordinance.

#### *Chapter IV*

### **COMPLAINTS, DENUNCIATIONS AND HANDLING OF VIOLATIONS**

**Article 37.-** Complaints, denunciations and settlement thereof

1. Organizations and individuals that are sanctioned for their administrative violations in the maritime domain or their lawful representatives may lodge complaints against sanctioning decisions of competent persons according to the provisions of the Law on Complaints and Denunciations. Pending the complaint settlement by the competent agency(ies), the sanctioned organizations and individuals shall still have to execute the sanctioning decisions, except for cases of compelled dismantlement of construction projects.

In cases where the complainants disagree with the complaint settling decisions, they may further lodge their complaints to the immediate superiors of the persons who have issued such decisions or initiate administrative lawsuits at the competent courts.

2. The procedures for lodging and settling

complaints and initiating administrative lawsuits shall comply with the provisions of Articles 87 and 88 of the Ordinance on Handling of Administrative Violations and the Ordinance on the Procedures for Settling Administrative Cases.

3. Vietnamese and foreign individuals may denounce to the competent State agencies acts administrative violation in the maritime field committed by organizations and other individuals according to the provisions of the legislation on complaints and denunciations.

4. Vietnamese and foreign individuals may denounce to the competent State agencies unlawful acts committed by persons competent to sanction administrative violations in the maritime field.

The settlement of denunciations shall comply with the current law provisions.

#### **Article 38.-** Handling of violations

1. Persons competent to sanction administrative violations in the maritime field who harass, tolerate or cover up violators, fail to impose sanctions or sanction not in time, improperly or ultra vires shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability. If damage is caused, compensations therefor must be made according to provisions of law.

2. Persons sanctioned for their administrative violations in the maritime field who hinder or act against officials on inspection and control duties, or deliberately delay or shirk the execution of administrative violation sanctioning decisions shall, depending on the nature and seriousness of their violations, be administratively handled or examined for penal liability according to the provisions of law.

#### *Chapter V*

### **IMPLEMENTATION PROVISIONS**

#### **Article 39.-** Effect

This Decree takes effect 15 days after its signing.

To annul the following previously promulgated regulations on sanctions against administrative violations in the maritime field:

To annul Article 16, Chapter III of the Regulation on organization and operation of the Vietnam maritime safety inspectorate, promulgated together with the Prime Minister's Decision No. 204/TTg of December 28, 1992.

To annul Articles 57, 58, 59 and 60, Chapter IV of the Regulation on management of maritime activities at seaports and maritime zones in Vietnam promulgated together with the Government's Decree

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No. 13/CP of February 25, 1994.

*Article 40.-* The implementation organization responsibilities

The Minister of Communications and Transport shall have to guide the implementation of this Decree.

The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

*On behalf of the Government*

*Prime Minister*

**PHAN VAN KHAI**