

DECREE No. 72/1998/ND-CP OF SEPTEMBER 15, 1998 ON ENSURING SAFETY FOR FISHERMEN AND FISHERY MEANS ON THE SEA

THE GOVERNMENT

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

Pursuant to the Labor Code of June 23, 1994;

Pursuant to the Ordinance on the Flood and Storm Prevention and Combat of March 20, 1993;

At the proposal of the Minister of Aquatic Resources,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- This Decree shall apply to Vietnamese fishermen and fishery means operating in the Vietnamese sea areas. All those fishermen and fishery means shall have to observe the provisions of this Decree and other relevant current provisions of law.

Article 2.- The terms used in this Decree are construed as follows:

1. "Fishery means" include: ships, boats and mobile and non-mobile means on the sea used for fishery activities.

2. "Fishery activities" mean such activities as exploiting, processing and rearing aquatic products; logistic services; gathering aquatic products; surveying, prospecting and inspecting, controlling the protection of aquatic resources.

3. The "means owner" is the owner, ship-master or manager of the means.

Chapter II

CONDITIONS FOR FISHERMEN AND FISHERY MEANS TO OPERATE ON THE SEA AND FISHERMEN'S RESPONSIBILITIES

Article 3.- When operating on the sea, fishery

means shall have to carry the following papers and fully meet the following conditions:

1. The certificate of the fishing means registration.
2. The certificate of technical safety of the means.
3. The fishery activity permit.
4. The register of the crew members (for means that require a register of crew members)

Article 4.- An owner of fishery means shall have to:

1. Fully equip fishermen and fishery means with safety and rescue facilities according to the prescribed criteria.

2. Purchase insurance for the crew.

3. Purchase insurance for ship hulls, regarding the offshore fishing means.

4. Elaborate and promulgate rules and processes for the safe use of equipment and facilities on the means.

5. Urge the ship-master to strictly abide by the reporting regime when sailing out to sea and when returning to ports or berths in accordance with the provisions of Clause 4, Article 6 of this Decree.

6. Organize the fostering and dissemination of professional knowledge on ensuring sailing safety for the crew members.

7. Regularly grasp the number of the crew members and means as well as the sea area of operation of the means and report them to the branch-managing ministry or the local authority of the place of residence at the latter's request; get ready to send his/her means to undertake the task of flood and storm prevention and combat as well as the task of search and rescue on the mobilization order of the competent level.

Article 5.- A ship-master of fishery means must obtain operating license corresponding to the size and type of the means (for means which require license from the ship-master).

Article 6.- A ship-master of fishery means shall be the supreme commander aboard the means, having the responsibility to regularly:

1. Disseminate, guide and urge the crew members to implement the regulations on safety while working on the sea; assign tasks to each crew member and organize their practice of plans for ensuring safety.

2. Check the crew members and means in term of

safety equipment and facilities, as well as insurance cards for crew members and the ship hull before sailing.

3. Abide by and urge the crew members to strictly abide by the rules on the prevention of ship and/or boat collision during their operation on sea.

4. Declare the sea area of operation, the actual number of crew members aboard the means and produce papers prescribed in Article 3 of this Decree to the authorities of the ports of their departure and arrival when sailing out to sea and returning to ports. Where a port authority is not available, declaration shall be made with the People's Committee of the commune or ward where the means are anchored.

Article 7.- In case of a storm, the ship-master shall have the responsibility:

1. When the storm is far away: To notify the crew members of the storm, at the same time check all safety equipment and constantly follow the weather development forecast on the Radio Voice of Vietnam and the Vietnam Television; to keep close contact with the commanding station ashore and seek ways and means to notify other means operating in the same area of the storm.

2. When the storm is near: To inform the crew members of the near storm, quickly order the gathering of fishing-nets and leave the fishing place for the nearest storm-shelter; to promptly notify other means operating in the same area of the storm.

3. Upon hearing the urgent news on storm: To order the crew members to wear personal life buoys, to ready all rescue equipment into their proper places and promptly take the means to the nearest storm-shelter. In case of emergency, the ship-master may also decide to abandon fishing-nets so as to quickly take the means to the storm-shelter; to mobilize his/her means and crew members for the rescue of men and/or other means in distress.

4. When the means are in a storm area: To directly personally operate and command the means; to resort to every measures and experiences in order to ensure safety for men and means. To promptly inform radio stations ashore as well as the nearest means of the present location of his/her means and give out signals of emergency when the means are in distress; to take part in the rescue of men and other means in distress.

5. When the storm ends: To promptly report to the managing agency or the administration of the commune or ward where they are residing or where the means have moved to on his/her crew and means status, and at the same time personally re-examine

the safety conditions of the means before sailing out to sea.

Article 8.- Conditions and rights of the crew members working on fishery means:

1. Aged full 18 years or more.

2. To have good health and be able to swim as prescribed by the Ministry of Aquatic Resources.

3. To abide by the crew registration regime as prescribed and have a "crew members' register" (for crew members working on means where the "crew members' register" is required), identity cards (for crew members working on means where the "crew members' register" is not required).

4. To be professionally fostered and provided with knowledge about ensuring sea-faring safety.

5. To be entitled to refuse to take part in activities on the sea, if the fishery means are not safe.

Article 9.- The crew members working aboard fishery means shall have the responsibility to:

1. Abide by the regulations on ensuring safety for men and means.

2. Immediately report all accidents detected aboard their means and other means to the ship-master and get ready to support or rescue men and means in distress.

Chapter III

STATE MANAGEMENT OVER FISHERY ACTIVITIES

Article 10.- The Ministry of Aquatic Resources shall have the responsibility to:

1. Set criteria on crew members' posts and titles; organize the training of fishery ship-master and chief mechanist and granting licenses thereto; grant fishery crew registers.

2. Issue fishing permits and registration papers of fishery means and fishermen in accordance with the regulations of the State; conduct examination and issue certificates of technical safety for fishery means operating in the country, which has a designed length of waterline of 20m or less.

3. Coordinate with the Central Steering Committee for Flood and Storm Prevention and Combat in directing the flood and storm prevention and combat and overcoming their consequences within the aquatic

resources branch.

4. Coordinate with the National Committee for Air and Sea Search and Rescue in directing the People's Committees of the provinces and cities directly under the Central Government as well as the attached units to promptly organize search and rescue of fishermen and fishery means in distress.

5. Coordinate with the Ministry of Science, Technology and Environment, the Ministry of Communications and Transport and the relevant ministries and branches in revising, amending and supplementing the current regulations on technical safety and rescue of fishermen and fishery means suited to each water area and each type of means.

6. Direct the aquatic resource protection inspectorate and the provincial/municipal Departments of Aquatic Resources to coordinate with such forces as border guards, coast guards and naval forces in regularly inspecting and supervising activities of fishermen and fishing means on the sea; to handle, according to its competence, cases where people and means are not fully equipped with safety equipment, or insurance is not purchased for the crew members and the ship(s) as prescribed.

Article 11.-

1. The Ministry of Communications and Transport shall perform the function of State management over the technical safety of water means; coordinate with the Ministry of Aquatic Resources in guiding the management, inspection and issue of certificates of technical safety for fishery means. It shall conduct examination and issue certificates of technical safety for fishery means with the designed length of waterline of over 20m, the means made of new materials, the foreign fishery means operating in Vietnam and the Vietnamese fishery means operating abroad. It shall also regularly inspect and consolidate the system of canals, marking buoys and lighthouses to ensure maritime safety; direct the Vietnam Maritime Guaranty Organization to post up storm signal on lighthouses when there is a storm forecast; and inspect the ensuring of maritime safety for fishery means.

2. The Ministry of Defense shall assume the prime responsibility and coordinate with the National Committee for Air and Sea Search and Rescue, the Central Committee for Flood and Storm Prevention and Combat and the Ministry of Aquatic Resources in firing storm warning signals at key canals, ports, berths and fishing grounds in case of a storm; direct such forces as border guards, coast guards, aquatic resource protection inspectorate and the local

administrations to closely manage sea lines, not allowing fishermen and fishery means to sail out to sea when they are not fully equipped with safety facilities and when there's a storm notice; get ready together with the localities to rescue men and means when accidents occur.

3. The Ministry of Culture and Information shall direct the central and local mass media agencies to promptly announce meteorological weather forecasts; propagate among fishermen the necessity to observe the regulations on ensuring safety for fishery activities on the sea.

4. The Ministry of Planning and Investment and the Ministry of Finance shall, according to their respective competence, guide the elaboration of plans and application of the budget legislation for investment and technical equipment in the flood and storm prevention and combat activities, in the search and rescue work and in ensuring smooth communications (including signals firing) when there is a storm.

The Ministry of Finance shall coordinate with the Ministry of Aquatic Resources in providing detailed guidance on the purchase of insurance for the crew members and ship-hulls in accordance with the provisions of Clauses 2 and 3, Article 4 of this Decree; and promulgating the rules, charge brackets as well as concrete levels of insurance responsibility.

5. The General Department of Post and Telecommunications shall coordinate with the Ministry of Aquatic Resources in planning the communication network for the flood and storm prevention and combat, and for search and rescue activities; directing the transmission and broadcasting of weather forecasts in service of fishermen and fishery means on the sea.

6. The General Department of Meteorology and Hydrology shall have to receive, follow and promptly announce meteorological and hydrological information related to fishery activities. In case of any dangerous meteorological phenomena (storm, low pressure, flood), it shall have to fully comply with the storm and flood regulations.

7. The Radio Voice of Vietnam, the Vietnam Television and the local radio and television stations shall have to broadcast storm notices issued by the General Department of Meteorology and Hydrology in accordance with the regulations on storm notice; and orders issued by the flood and storm prevention and combat agencies of different levels, in order to serve the flood and storm prevention and combat command as well as the evacuation of men and means operating on the sea to safe sheltering and anchoring areas.

Article 12.- The People's Committees of the pro-

vinces and cities directly under the Central Government shall have to direct the lower-level People's Committees and branches in their respective localities to perform the following tasks:

1. To popularize and educate fishermen and owners of fishery means about the benefits and importance of ensuring safety for fishermen and fishery means operating on the sea; and about sea-faring safety knowledge and operations; to fully supply safety equipment and buy insurance for the crew members and ship(s) (regarding the means requiring the purchase of ship insurance).

2. To firmly grasp the number and operation area of fishermen and fishery means under their respective management; to promptly send storm notices to fishermen and fishery means operating on the sea areas managed by their respective localities so that the latter can promptly take preventive measures; in case of emergency, to strive to seek ways and means to take the fishermen and fishery means operating on the sea to the safe sheltering and anchoring areas.

3. To urge and inspect fishermen and fishery enterprises in their respective localities in the observance of the State's regulations on ensuring safety for activities on the sea.

4. To consolidate and build local fishing harbors, berths, storm-shelter as well as storm-warning communications network.

5. To promptly execute the orders of the Central Steering Committee for Flood and Storm Prevention and Combat and the National Committee for Air and Sea Search and Rescue in the flood and storm prevention and combat as well as search and rescue activities; to direct the investigation of accidents that occur on the locally-controlled sea areas and organize the search and rescue of men and means, helping fishermen quickly overcome the consequences and stabilize their life and production activities.

6. To promptly report on the activities of fishermen and fishery means in locally-controlled sea areas, especially in the rainy and stormy seasons.

Article 13.- The verification of the list of the crew members onboard fishery means is stipulated as follows:

1. The list of the crew members onboard fishery means owned by family households and managed by the commune/ward authorities shall be verified by the president of the commune/ward People's Committee.

2. The list of the crew members onboard fishery means owned by enterprises shall be verified by

directors of such enterprises.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 14.-

1. Organizations and/or individuals with meritorious achievements in ensuring safety for, search and rescue of fishermen and fishery means on the sea shall be commended and/or rewarded in accordance with the current regulations of the State.

2. Organizations and/or individuals that fail to comply with the provisions of this Decree shall, depending on the nature and seriousness of their violations, be dealt with in accordance with the current provisions of law.

Article 15.- This Decree takes effect 15 days after its signing. The Ministry of Aquatic Resources shall coordinate with the concerned ministries and branches in guiding the implementation of this Decree.

Article 16.- 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 Committee of the provinces and cities directly under the Central Government shall have to implement this Decree.

On behalf of the Government
Prime Minister
PHAN VAN KHAI