

THE MINISTRY OF COMMUNICATIONS
AND TRANSPORT

**CIRCULAR No. 239/2000/TT-BGTVT OF
JUNE 14, 2000 GUIDING THE IMPLE-
MENTATION OF THE GOVERNMENT'S
DECREE No.92/1999/ND-CP OF**

SEPTEMBER 4, 1999 ON SANCTIONS AGAINST ADMINISTRATIVE VIOLATIONS IN THE MARITIME FIELD

Pursuant to Article 40 of the Government's Decree No. 92/1999/ND-CP of September 4, 1999 on sanctions against administrative violations in the maritime field (hereafter referred to as Decree for short), the Ministry of Communications and Transport hereby provides detailed guidance for the uniform implementation of a number of Articles of the Decree as follows:

1. Ships mentioned in the Decree shall be construed as sea-going vessels, river vessels and all other waterway means of Vietnam as well as foreign vessels operating in the sea-port waters or other maritime areas of Vietnam.

2. The time-limit prescribed at Point e, Clause 2, Article 7 of the Decree is the time-limit stipulated in Article 13 of the Regulation on loading, unloading, delivery, receipt and preservation of cargo at Vietnam's sea-ports, issued together with Decision No. 2106/QĐ-GTVT of August 23, 1997 of the Minister of Communications and Transport.

3. Ports or water areas not yet announced for ship's calling or mooring mentioned in Clause 3, Article 7 of the Decree shall be construed as ports or water areas, which have not yet been announced in writing by the competent authorities for receipt of ships.

4. The permit for final port departure prescribed at Point a, Clause 5, Article 13 of the Decree shall be construed as the final port departure permit granted by competent authorities. For Vietnam's commercial ports, such competent authorities shall be the maritime port authority and the inland waterway port authority.

5. Necessary warning signals or instructions at fire- or explosion-prone places mentioned at Point b, Clause 2, Article 15 of the Decree shall be construed as in compliance with relevant provisions of Vietnam's current standards, the 1974 international Convention on human life safety in the sea as well as the amendments and supplements to the Convention, which are effective in Vietnam.

6. The diagram of fire-fighting system, the fire-fighting duty assignment tables and instructions on operation onboard ships, mentioned at Point c, Clause 2, Article 15 of the Decree shall be construed as in compliance with the relevant provisions of Vietnam's current standards, the 1974 international Convention on human life safety in the sea and the amendments and supplements to the Convention, which are effective in Vietnam.

7. The fire-fighting equipment and devices as prescribed by Vietnamese laws mentioned at Point a, Clause 3, Article 15 of the Decree shall be construed as the regulations on the quantity and quality of fire prevention and fighting equipment and devices in conformity with the certificate on safety of equipment and devices as well as the list of equipment and devices aboard ships, granted by competent registration agency, according to Vietnam's standards, the 1974 international Convention on human life safety in the sea and the amendments and supplements to the Convention, which are effective in Vietnam.

8. The regulations on oil- and bulge water-filtering equipment as prescribed by Vietnamese laws and relevant international treaties which Vietnam has signed or acceded to, mentioned at Point a, Clause 2, Article 16 of the Decree shall be construed as according to Vietnam's standards, the 1973 international Convention on sea pollution caused by vessels as well as the amendments and supplements to the Convention, which are effective in Vietnam.

9. The regulations on the number of passengers mentioned at Point e, Clause 1, Article 17 of the Decree shall be construed as the number stated in the passenger transport certificate or the passenger ship safety certificate and the list of vessel's devices and equipment.

10. The regulations on the number of crew members mentioned at Point c, Clause 2, Article 17 of the Decree shall be construed as the number of crew members assigned to hold posts in the vessels, which must neither be smaller than the number stated in the certificate of minimum safe staff nor exceed the number prescribed in the certificate of vessel's safety devices and equipment. The personnel assigned to posts must be stated in the crew member register of the vessel.

11. The regulations on transporting cargo in excess of the prescribed tonnage mentioned at Point c, Clause 3, Article 17 of the Decree shall be construed as the vessel's actual transport water line is beyond the prescribed transport water line.

12. The violations of the regulations on search and rescue activities mentioned in Clause 1, Article 23 of the Decree shall be construed as the administrative violations of the provisions in Article 48 of Vietnam's Maritime Code; Articles 37, 38 and 39 of the Regulation on the management of maritime activities at Vietnam's sea-ports and maritime areas, issued together with Decree No. 13/CP of February 25, 1994 and its amendments and supplements; the relevant provisions in Article 15 of the Regulation on the functions and responsibilities of personnel

working on Vietnamese sea-going vessels, issued together with Decision No. 174/QD-PCVT of February 5, 1994 of the Ministry of Communications and Transport.

13. The violations of the regulations on salvage of property sunk in the sea mentioned in Article 24 of the Decree shall be construed as the administrative violations of the regulations in Chapter XII "Salvage of sunk property" of the Vietnam's Maritime Code, the provisions of Decree No. 39/1998/ND-CP of June 10, 1998 of the Government on handling of property sunk in the sea and the relevant prescriptions in the Regulation on the management of maritime activities at Vietnam's sea-ports and maritime areas, issued together with Decree No. 13/CP of February 25, 1994.

14. The untruthful publication of maritime notices and the improper installation of maritime signals prescribed at Points a and b, Clause 1, Article 25 of the Decree shall be construed as the violations of the provisions of Vietnam's Rules on Maritime Signals, issued together with Decision No. 49/QD-VT of January 9, 1993 of the Ministry of Communications and Transport.

15. In cases where the administrative violations in the maritime field are handled with a fine falling beyond the jurisdiction prescribed in Article 27 of the Decree, the handling agency must compile and send the dossiers thereon to the authorities competent to sanction as follows:

a) For administrative violations subject to a fine of over 200,000 VND, the maritime safety inspectors shall compile and send the dossiers to the regional chief maritime safety inspectors as provided for in Clause 2, Article 27 of the Decree.

b) For administrative violations subject to a fine of over 10,000,000 VND, the maritime port authority directors and the regional chief maritime safety inspectors shall compile and send the dossiers to the central-level chief maritime safety inspector as provided for in Clause 4, Article 27 of the Decree.

c) For administrative violations subject to a fine of over 20,000,000 VND, the maritime port authority directors and the regional chief maritime safety inspectors shall compile and send the dossiers to the presidents of the People's Committees of the provinces and centrally-run cities where the violations were committed for handling according to the provisions in Article 30 of the Decree; at the same time, report them to the central-level chief maritime safety inspector.

16. In cases where the chiefs of the posts stipulated in Articles 27, 28, 29 and 30 of the Decree are absent, their deputies, authorized by the former, are competent to sanction like the chiefs.

17. Lodging complaints to the immediate superiors of the persons who have issued decisions on sanctioning administrative violations in the maritime field mentioned in Clause 1, Article 37 of the Decree is stipulated as follows:

a) For the complaints related to the decisions of maritime port authority directors, the complainants may lodge their complaints to the immediate superiors of maritime port authority directors, who is the Director of the Vietnam Maritime Department.

b) For the complaints related to the decisions of maritime safety inspectors, the complainants shall comply with the provisions in Articles 17, 18 and 19 of the Regulation on Organization and Operation of Vietnam's maritime safety inspectorate, issued together with Decision No. 204/TTg of December 28, 1992 of the Prime Minister.

c) In cases where the complainants still disagree with the complaint-settling opinions of the director of Vietnam Maritime Department, they may further lodge their complaints to the superior agency of the Vietnam Maritime Department, which is the Ministry of Communications and Transport. The decisions of the Ministry of Communications and Transport shall be the final.

18. Minutes and decisions on sanctioning administrative violations in the maritime field shall be made in accordance with forms from No. 1 to No. 9 of the Appendix issued together with this Circular.^(*)

19. The Director of the Vietnam Maritime Department shall have to:

a) Implement the Decree and its guiding circulars;

b) Direct the maritime port authority directors, the chief maritime safety inspectors, the heads of the central and local agencies and units as well as individuals involving in the sanctioning of administrative violations in the maritime field to strictly comply with the provisions of the Decree and its guiding Circular.

This Circular takes effect 15 days after its signing; all previous guidances contrary to this Circular are now annulled.

In the course of implementation, if any problems arise, the Vietnam Maritime Department as well as concerned organizations and individuals should promptly report them to the Ministry of Communications and Transport for consideration, supplement and settlement.

*For the Minister of Communications
and Transport
Vice-Minister
LA NGOC KHUE*

** The forms are not printed here.*