

## THE GOVERNMENT

### DECREE No. 123/2006/ND-CP OF OCTOBER 27, 2006, ON MANAGEMENT OF AQUATIC RESOURCE EXPLOITATION BY VIETNAMESE ORGANIZATIONS AND INDIVIDUALS IN SEA AREAS

#### THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the Government;*

*Pursuant to the November 26, 2003 Law on Fisheries;*

*At the proposal of the Minister of Fisheries,*

#### DECREES:

##### Chapter I

#### GENERAL PROVISIONS

##### Article 1.- Governing scope and subjects

This Decree provides for the management of aquatic resource exploitation by Vietnamese organizations and individuals within and outside Vietnam's sea areas; division of sea areas and demarcation of aquatic resource exploitation areas within Vietnam's sea areas.

When a relevant treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions different from those of this Decree, the provisions of that treaty shall apply.

##### Article 2.- Interpretation of terms

1. Vietnam's sea areas means sea areas under the sovereignty, sovereign right and jurisdiction of the Socialist Republic of Vietnam as specified in the June 17, 2003 Law on National Borders and treaties to which the Socialist Republic of Vietnam is a contracting party.

2. Sea areas outside Vietnam means international

sea areas (the high seas) or sea areas of other countries.

##### Article 3.- General principles

1. The Ministry of Fisheries shall assist the Government in performing the uniform management of the aquatic resource exploitation by Vietnamese organizations and individuals in and outside Vietnam's sea areas.

2. The management of aquatic resource exploitation is aimed at protecting and developing aquatic resources in a sustainable manner and ensuring safety for humans and fishing ships engaged in aquatic resource exploitation in sea areas.

#### Chapter II

#### MANAGEMENT OF AQUATIC RESOURCE EXPLOITATION IN VIETNAM'S SEA AREAS

**Article 4.-** Division of sea areas and demarcation of aquatic resource exploitation areas

1. Vietnam's sea areas are divided into:

a/ Coastal sea areas, which are measured from the coast (the lowest tide line) to the line connecting points of 24 nautical miles from the coast;

Provincial/municipal People's Committees (collectively referred to as provincial-level People's Committees) of adjoining coastal localities shall base themselves on the specific geographical characteristics of local sea areas to determine and publicize the boundaries between the coastal sea areas of their provinces;

b/ Offshore sea areas, which are measured from the line of 24 nautical miles from the coast to the outer limit of Vietnam's sea areas.

2. Coastal sea areas are divided into two routes as follows:

a/ The coastal route, which are the sea area from the coast to the line connecting points of six nautical miles from the coast;

b/ The inshore route, which are the sea area from the line of six nautical miles from the coast to the line connecting points of 24 nautical miles from the coast.

3. Offshore sea areas are considered the offshore route.

4. For islands and archipelagoes, provincial-level People's Committees shall base themselves on the necessity and particular characteristics of each island or archipelago to decide on the coastal route of that island or archipelago, which, however, must not extend beyond the limit of six nautical miles.

**Article 5.-** Management of aquatic resource exploitation in Vietnam's sea areas

Organizations and individuals exploiting aquatic resources in Vietnam's sea areas must abide by the provisions of relevant laws and the following regulations:

1. Regulations of the Fisheries Ministry or provincial-level People's Committees on the list of aquatic animals banned from exploitation; exploitation methods, exploitation trades or fishing gears banned or restricted from use in sea areas or each exploitation route; areas where exploitation is banned or areas where exploitation is banned during given periods of time; categories and minimum sizes of aquatic animals permitted for exploitation.

2. Regulations on fishing ships operating in coastal routes:

a/ Fishing ships with a designed waterline length of under 15 meters, without or with engines of a total capacity of under 20 horsepower may operate in coastal routes.

b/ Coastal fishing ships which make registration in one province may operate only in the coastal route of that province.

c/ Coastal fishing ships may not operate in inshore routes and offshore routes.

3. Regulations on fishing ships operating in inshore routes:

a/ Fishing ships with a designed load waterline length of 15 meters or more, without or with engines of a total capacity from 20 horsepower to under 90 horsepower may operate in inshore routes;

b/ Except for cases defined at Point a, Clause 4 of

this Article, inshore fishing ships may not operate in coastal and offshore routes,.

4. Regulations on fishing ships operating in offshore routes:

a/ Fishing ships with engines of a total capacity of 90 horsepower or more and those with engines of a total capacity of 50 horsepower or more which are specialized in cuttlefish catching may operate in offshore routes;

b/ Offshore fishing ships may not operate in coastal and inshore routes.

5. Fishing ships operating in inshore and offshore routes must be marked for identification. The Ministry of Fisheries shall specify the identification signs of fishing ships operating in inshore and offshore routes.

### Chapter III

## MANAGEMENT OF AQUATIC RESOURCE EXPLOITATION OUTSIDE VIETNAM'S SEA AREAS

**Article 6.-** Conditions for aquatic resource exploitation outside Vietnam's sea areas

Organizations and individuals exploiting aquatic resources in international sea areas or sea areas of other countries must satisfy the following conditions:

1. There is an agreement on cooperation in aquatic resource exploitation between the Socialist Republic of Vietnam and the host country or there is a contract on cooperation in aquatic resource exploitation signed with organizations or individuals of the host country, which is approved by a competent agency of the host country.

2. For fishing ships:

a/ Meeting criteria for operation in grade-I restricted or unrestricted areas. Fishing ships operating in sea areas of Southeast Asian countries must satisfy the criteria for operation in restricted areas of grade II or higher grade;

b/ Having gone through registration and registry and having their technical safety certificates still valid for at least three months.

c/ Being equipped with adequate safety equipment for humans and fishing ships and communications devices appropriate for the sea areas where they operate in accordance with law;

d/ Having enough crewmembers as required by law.

3. For crewmembers and persons working onboard fishing ships:

a/ Masters and chief engineers must have master's or chief engineer's diplomas, granted by competent agencies;

a/ Having crew insurance cards;

c/ Having passports in accordance with law;

d/ On a fishing ship or a fishing fleet, there must be at least one person who is fluent in English or the common language of the country where the ship comes to exploit aquatic resources.

**Article 7.-** Procedures for and order of the grant of relevant papers to fishing ships engaged in aquatic resource exploitation outside Vietnam's sea areas

1. To be allowed to exploit aquatic resources in international sea areas or sea areas of other countries, organizations and individuals shall submit dossiers to the Fisheries Ministry's Aquatic Resource Exploitation and Protection Department. Such a dossier comprises:

a/ An application for papers defined in Clause 2 of this Article to fishing ships engaged in aquatic resource exploitation in international sea areas or sea areas of other countries, certified by the provincial-level agency in charge of state management of fisheries in the locality where the fishing ship owner has made registration;

b/ A copy of the contract on cooperation in aquatic resource exploitation;

c/ A copy of the fishing ship registration certificate;

d/ A copy of the fishing ship's technical safety certificate;

e/ A crew list;

f/ Copies of diplomas of the master and chief engineer.

2. Within seven working days after receiving a valid and complete dossier, the Fisheries Ministry's Aquatic

Resource Exploitation and Protection Department shall consider the dossier and issue the following papers for the fishing ship to exploit aquatic resources outside Vietnam's sea areas:

a/ A permit for the fishing ship to exploit aquatic resources outside Vietnam's seas areas;

b/ A certificate of ship nationality (in Vietnamese and English);

c/ A certificate of the fishing ship's technical safety (in Vietnamese and English);

d/ A crew list (in Vietnamese and English).

In case of refusal to issue papers defined in Clause 2 of this Article, the Aquatic Resource Exploitation and Protection Department shall send written replies to fishing ship owners, stating the reasons therefor.

#### Chapter IV

### RESPONSIBILITIES OF ORGANIZATIONS AND INDIVIDUALS INVOLVED IN AQUATIC RESOURCE EXPLOITATION

**Article 8.-** Responsibilities of organizations and individuals exploiting aquatic resources in Vietnam's sea areas

1. To fulfill obligations defined in Article 21 of the Fisheries Law.

2. To comply with the provisions of the Government's Decree No. 66/2005/ND-CP of May 19, 2005, on ensuring safety for humans and fishing ships engaged in fisheries activities and relevant provisions of law.

3. While operating on the sea, fishing ships must have the following papers (originals):

a/ The permit for aquatic resource exploitation, except for fishing ships of a tonnage of under 0.5 tons;

b/ The certificate of fishing ship's technical safety, for fishing ships for which such certificate is required by law;

c/ The certificate of fishing ship registration, for fishing ships for which such certificate is required by law. When fishing ships have been mortgaged at bank, a copy of the fishing ship registration certificate, certified by that

bank, is required;

d/ The crewmember register and crewmember books in accordance with law.

Crewmembers and persons working onboard fishing ships for whom crewmember books are not required by law must have personal identification papers.

4. To make daily records and reports on aquatic resource exploitation according to regulations of the Fisheries Ministry.

**Article 9.-** Responsibilities of organizations and individuals exploiting aquatic resources outside Vietnam's sea areas

1. To carry out entry and exit procedures in accordance with laws of Vietnam and countries where their fishing ships come to exploit aquatic resources.

2. To abide by Vietnam's law, treaties to which the Socialist Republic of Vietnam is a contracting party and the laws of countries where their fishing ships come to exploit aquatic resources.

3. Owners of fishing ships shall buy insurance for crewmembers and workers working onboard their fishing ships.

4. While exploiting aquatic resources on the sea, masters of fishing ships shall carry along the following papers (originals):

a/ Papers specified in Clause 2, Article 7 of this Decree;

b/ Relevant papers issued by the host country when the fishing ships operate on that country's sea areas.

5. Upon occurrence of incidents or accidents or in dangerous circumstances, master shall make emergency signals, contact relevant authorities of the nearest sea country and notify such to Vietnamese diplomatic missions or consulates for help; and notify such to provincial-level state management agencies in charge of fisheries or to the Fisheries Ministry.

### **Chapter V**

### **RESPONSIBILITIES OF STATE MANAGEMENT AGENCIES**

**Article 10.-** Responsibilities of the Ministry of Fisheries

1. To assume the prime responsibility for, and coordinate with concerned ministries, branches and People's Committees of coastal provinces in, organizing surveys, exploration and assessment of aquatic resources in each sea area; to formulate plannings and plans on the development of fishing ships and a rational structure of aquatic resource exploitation in order to protect and develop aquatic resources in a sustainable manner.

2. To assume the prime responsibility for, and coordinate with People's Committees of coastal provinces in, managing aquatic resource exploitation in offshore routes.

3. To build an information system for management of fishing ships; to grant permits for fishing ships to operate in different sea areas according to its competence.

4. To coordinate with concerned ministries, branches and People's Committees of coastal provinces in managing fishing ships engaged in aquatic resource exploitation in different sea areas and exploitation routes, to examine, inspect and handle violations of law and carry out search and rescue activities for humans and fishing ships engaged in aquatic resource exploitation in Vietnam's sea areas.

5. To organize professional training and re-training for fishing ship masters, chief engineers, crewmembers and workers.

6. To guide provincial-level People's Committees in formulating regimes and policies to support fishermen to shift from coastal exploitation to other trades, in performing the community-based management in coastal sea areas, and to provide guidance on legal matters related to aquatic resource exploitation in service of law dissemination and education in localities.

**Article 11.-** Responsibilities of concerned ministries and branches

Within the scope of their responsibilities and competence, to coordinate with the Ministry of Fisheries

in inspecting, controlling and handling violations, ensuring security, order and safety for fishermen involved in aquatic resource exploitation on the sea; to prevent acts of violating the fisheries law; to coordinate with branches and authorities in carrying out search and rescue activities for humans and fishing ships on the sea, create favorable conditions for fishermen to exploit aquatic resources in different sea areas.

**Article 12.-** Responsibilities of People's Committees of coastal provinces

1. Based on the planning on development of the fisheries sector, to formulate plannings and plans on development of fishing ships, the structure of aquatic resources exploitation and aquatic resource protection in their localities; to coordinate with the Ministry of Fisheries in surveying, exploring and assessing aquatic resources.

2. To manage aquatic resource exploitation in coastal sea areas; to coordinate with the Ministry of Fisheries in managing aquatic resource exploitation in offshore sea areas.

3. To carry out the dissemination of the fisheries law among people.

4. To guide and widely apply models of aquatic resource exploitation by setting up production teams or groups in combination with logistic services so as to ensure safety on the sea; to guide and create conditions for fishermen to shift from coastal exploitation to offshore exploitation, aquaculture or provision of other services.

To decentralize the management of coastal routes to district- and commune-level People's Committees; to develop models of community-based management of aquatic resources in coastal routes.

5. To inspect and control aquatic resource exploitation within their assigned scope, apply measures to protect and develop aquatic resources in coastal sea areas; and to coordinate with the Ministry of Fisheries in controlling aquatic resource exploitation in offshore sea areas.

6. Monthly, to report to the Ministry of Fisheries on the registration and registry of fishing ships and the grant

of aquatic resource exploitation permits in their localities according to the Fisheries Ministry's regulations.

## **Chapter VI**

### **IMPLEMENTATION PROVISIONS**

#### **Article 13.-** Implementation effect

This Decree takes effect 15 days after its publication in "CONG BAO."

**Article 14.-** Provision of guidance on, and implementation of, the Decree

1. The Minister of Fisheries shall guide and inspect the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies and government-attached agencies, and presidents of provincial-level People's Committees shall implement this Decree.

**On behalf of the Government**  
**Prime Minister**  
**NGUYEN TAN DUNG**