

**THE PRESIDENT**

**THE SOCIALIST REPUBLIC OF VIETNAM**  
**Independence - Freedom - Happiness**

**No. 26/2015/L-CTN**

*Hanoi, December 8, 2015*

**ORDER**  
**On the promulgation of code<sup>1</sup>**

**THE PRESIDENT OF THE SOCIALIST REPUBLIC OF  
VIETNAM**

*Pursuant to Articles 88 and 91 of the Constitution of the Socialist  
Republic of Vietnam;*

*Pursuant to Article 91 of the Law on Organization of the National  
Assembly;*

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

**PROMULGATES:**

**The Vietnam Maritime Code,**

which was passed on November 25, 2015, by the XIII<sup>th</sup> National  
Assembly of the Socialist Republic of Vietnam at its 10th session.

*President of the Socialist Republic of Vietnam*  
**TRUONG TAN SANG**

---

<sup>1</sup> Công Báo Nos 1257-1258 (30/12/2015)

**No. 95/2015/QH13**

# **The Vietnam Maritime Code<sup>2</sup>**

*Pursuant to the Constitution of the Socialist Republic of Vietnam;  
The National Assembly promulgates the Vietnam Maritime Code.*

## **Chapter I**

### **GENERAL PROVISIONS**

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

1. This Code prescribes maritime activities, covering seagoing ships, crews, seaports, marine navigable channels, inland clearance depots, carriage by sea, maritime safety, maritime security, environmental protection, state management of maritime activities and other activities related to the use of seagoing ships for economic, cultural, social, sport, official-duty and scientific research purposes.

Military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, seaplanes, floating storage and offloading units, mobile offshore units, floating docks, military ports, fishing ports and inland waterway ports and berths shall be governed by this Code only in cases specified in this Code.

2. The provisions of this Code shall prevail in case they are different from those of other laws on the same issue related to maritime activities.

#### **Article 2. Subjects of application**

---

<sup>2</sup> Công Báo Nos 1257-1258 (30/12/2015)

This Code applies to Vietnamese organizations and individuals and foreign organizations and individuals involved in maritime activities in Vietnam.

**Article 3.** Principles of application of laws in case of conflict of laws

1. Legal relations relating to ownership of property on board seagoing ships, charterparties, crew employment contracts, contracts of carriage of passengers and luggage, the division of salvage remuneration between the owner and complement of the salvage ship, the recovery of property sunk in the high seas or incidents occurring on board seagoing ships on the high seas, shall be governed by the law of the flag state of the ship.

2. Legal relations relating to general average shall be governed by the law in force in the country of the place where the seagoing ship calls at immediately after such general average occurs.

3. Legal relations relating to collision, salvage remuneration, or the recovery of property sunk in the internal waters or territorial sea of a country shall be governed by the law of such country.

Legal relations relating to collisions or salvage operations performed on the high seas shall be governed by the law of the country whose arbitration or court is the first to deal with the dispute.

Collisions occurring on the high seas between seagoing ships of the same nationality shall be governed by the law of the flag state of the ships.

4. Legal relations relating to contracts of carriage of cargo shall be governed by the law of the country where the cargo is delivered as contracted.

**Article 4.** Interpretation of terms

In this Code, the following terms and phrases shall be construed as follows:

1. *Ship* is a craft operating on the water surface or under the water, including ship, boat and other craft with or without motor.

2. *Official-duty ship* is a ship exclusively used for performing official duties of the State for non-commercial purposes.

3. *Submarine* is a craft capable of operating independently on and under the water surface.

4. *Submersible* is a craft capable of operating under the water surface depending on the support of craft and equipment on the water surface or the shore.

5. *Floating storage and offloading unit* is a floating structure exclusively used for storing and preliminarily processing oil to serve oil and gas exploration, exploitation and processing.

6. *Mobile offshore unit* is a floating structure exclusively used for exploration, exploitation and operation at sea.

7. *Floating dock* is a non-self-propelled floating structure used for lifting and lowering ships to serve ship building, repair and inspection.

8. *Port land* is a delimited land area for the construction of piers, warehouses, storage yards, workshops, office buildings, service facilities, roads, information and communication, electricity and water systems and other aids and for the installation of equipment.

9. *Port water* is a delimited water area for the establishment of waters in front of piers, ship turnaround area, anchorage zone, transshipment zone, storm shelter zone, pilot embarkation and disembarkation area, quarantine area, marine navigable channels, and other aids.

10. *Wharf* is an area covering land and water areas within a seaport, where are built piers, warehouses, storage yards, workshops, office buildings, service facilities, roads, information and communication, electricity and water systems, water areas in front of piers, marine navigable channels, and other aids. A wharf may consist of one or more piers.

11. *Pier* is a fixed or floating structure in a wharf, used for ship anchorage, loading and unloading of cargo, embarkation and disembarkation of passengers, and provision of other services.

12. *Inland clearance depot* is part of transport infrastructure, a focal point of organization of transport closely connected with operations of seaports, airports, inland waterway ports, railway stations and land border gates. It also functions as a border gate for goods imported and exported by sea.

13. *Anchorage zone* is a water area established and announced for ships to anchor and call before landing at a pier, drawing alongside a floating storage and offloading unit, entering a transshipment zone, navigating through a channel, or providing other services.

14. *Transshipment zone* is a water area established and announced for ships to anchor or call to transship cargoes or passengers or provide other services.

15. *Storm shelter zone* is a water area established and announced for ships to anchor and call for sheltering from storms and other disasters.

16. *Pilot embarkation and disembarkation area* is a water area established and announced for ships to embark and disembark pilots.

17. *Quarantine area* is a water area established and announced for ships to anchor and call for quarantine in accordance with law.

18. *Ship turnaround area* is a water area established and announced for ships to turn around.

19. *Marine navigable channel* is a delimited water area marked by a system of maritime signs and other aids to ensure safe navigation of seagoing ships and other water craft. Marine navigable channels include public and special-use ones.

20. *Public navigable channel* is the one constructed, managed and operated to commonly serve maritime activities.

21. *Special-use navigable channel* is the one constructed, managed and operated to serve the operation of a special-use port.

22. *Maritime sign* means a facility or an equipment used to guide navigation, including signs noticeable by means of image, light, sound and radio signals, which are established and operated to give instructions for safe navigation of ships.

23. *Domestic shipping* means the transport of cargoes, passengers and luggage by seagoing ship from and to places within Vietnam's seas.

24. *Maritime infrastructure facilities* include seaport infrastructure facilities, offshore oil and gas ports, navigable channels, system of maritime aids, maritime signs, maritime electronic communication system, breakwaters, sand protection dikes, flow diversion embankments, coastal protection embankments and other maritime facilities which are constructed or established within Vietnam's seaport waters and seas to serve maritime activities.

25. *GT* stands for gross tonnage of seagoing ships determined in accordance with the 1969 International Convention on Tonnage Measurement of Ships.

**Article 5.** The right to reach agreement in contracts

1. Parties to contracts relating to maritime activities have the right to reach any agreement, unless it is restricted by this Code.

2. Parties to contracts relating to maritime activities at least one of which is a foreign organization or individual have the right to agree to apply foreign laws or international maritime customs to their contractual relations and choose an arbitration or a court in either of their countries or in a third country for settlement of their disputes.

3. If it is prescribed in this Code or agreed upon by the parties in their contracts, foreign laws may be applied in Vietnam to contractual relations relating to maritime activities, provided that such laws do not contravene the fundamental principles of Vietnamese law.

**Article 6.** Principles of maritime activities

1. Maritime activities must comply with the provisions of this Code, other provisions of Vietnamese law, and treaties to which the Socialist Republic of Vietnam is a contracting party.

2. Maritime activities must ensure maritime safety, maritime security, national defense and security; and protect the interests, sovereignty, sovereign rights and jurisdiction of the Socialist Republic of Vietnam.

3. Maritime activities must conform with the national socio-economic development strategy as well as transport development strategies, master plans and plans.

4. Maritime activities must ensure economic efficiency associated with protection, regeneration and sustainable development of the environment and natural landscapes.

**Article 7.** State policies on maritime development

1. The State shall adopt maritime development policies to serve national socio-economic development and national defense.

2. To prioritize development of maritime infrastructure facilities through priority policies in seaport planning and attraction of investment capital for the construction and commercial operation of such facilities.

3. To prioritize development of shipping fleets through preferential policies on taxes and lending interest rates for investment in the development of the fleets and in shipping activities.

4. To prioritize development of human resources for maritime activities; to develop crews to meet domestic and international demands through policies on crew training; and standards and working regimes of crew.

5. To promote international cooperation and step up accession to international maritime organizations, and conclusion, accession to, and implementation of, maritime treaties.

6. To encourage research and transfer of advanced and modern maritime scientific and technological applications.

7. To encourage all organizations and individuals to develop shipping fleets, seaports and shipping industry; and participate in providing public services in the maritime sector and carry out other maritime activities in accordance with regulations in Vietnam.

**Article 8.** The right to domestic carriage by sea

1. Domestic carriage of cargo, passengers and luggage by sea shall be conducted by Vietnamese seagoing ships.

In order to conduct domestic carriage by sea, organizations and individuals must meet the conditions prescribed by the Government.

2. The domestic carriage by sea not governed by Clause 1 of this Article shall be conducted in the following cases:

a/ Carrying extra-long and extra-heavy cargoes or cargoes of other kinds by seagoing ships exclusively used for this purpose; releasing cargoes, passengers and luggage congested at ports when Vietnamese seagoing ships mentioned in Clause 1 of this Article are unable to carry;

b/ Transporting passengers and luggage from tourist passenger ships to the land and vice versa by transshipment crafts of these ships;

c/ Preventing, controlling and overcoming natural disasters and epidemics, or rendering emergency humanitarian relief.

3. The Minister of Transport shall prescribe the competence and procedures for granting licenses for seagoing ships prescribed in Clause 2 of this Article.

**Article 9.** Contents of state management of maritime activities

1. Formulating, approving, promulgating, and directing the implementation of, the master plan, plans, strategies and policies on development of the maritime sector in accordance with law.

2. Promulgating, and organizing the implementation of, legal documents, national standards and technical regulations and economic-technical norms of the maritime sector.

3. Managing the investment in the construction and organizing the operation of seaports and marine navigable channels and maritime routes in accordance with law. Announcing the opening and closure of seaports, seaport waters and management areas of port authorities; announcing the commissioning of wharves, piers, pontoon quays, water zones, water areas and other marine facilities.

4. Managing maritime activities; inspecting and supervising activities of shipping enterprises, seaports and maritime service providers.

5. Organizing registration and classification of seagoing ships and registration of rights over seagoing ships; managing the designing, building, repair, dismantlement, operation, export and import of seagoing ships and equipment and supplies serving maritime activities.

6. Granting, recognizing and revoking professional certificates of crew, certificates of technical safety, maritime security, maritime labor and environmental pollution prevention of seagoing ships, seaports and other papers and documents related to maritime activities.

7. Managing training activities to develop human resources for the maritime sector.

8. Managing scientific and technological activities in the maritime field; environmental protection, natural disaster prevention and control and climate change response in maritime activities.

9. Managing prices, dues and fees in the maritime field.

10. Organizing maritime salvage and rescue at sea; salvage of sunken property; investigation and handling of maritime accidents and incidents, assurance of maritime safety and security and prevention of marine environmental pollution.

11. Entering into international cooperation on maritime activities.

12. Inspecting, examining and settling complaints and denunciations, and handling violations in maritime activities in accordance with law.

**Article 10.** Responsibilities of state management of maritime activities

1. The Government shall perform the uniform state management of maritime activities.

2. The Ministry of Transport shall take responsibility to the Government for performing the state management of maritime activities.

3. The specialized maritime state management agency attached to the Ministry of Transport shall assist the Minister of Transport in performing the state management of maritime activities in accordance with law.

4. Ministries and ministerial-level agencies shall, within the scope of their respective tasks and powers, coordinate with the Ministry of Transport in performing the state management of maritime activities.

5. People's Committees at all levels shall, within the scope of their tasks and powers, perform the state management of maritime activities in their localities.

**Article 11.** Maritime inspectorate

1. The maritime inspectorate is attached to the specialized maritime state management agency and shall perform the function of specialized maritime inspection.

2. The maritime inspectorate has the following tasks and powers:

a/ To inspect the observance of the maritime law and relevant treaties to which the Socialist Republic of Vietnam is a contracting party;

b/ To prevent, detect, stop and handle violations in maritime activities;

c/ To temporarily detain seagoing ships;

d/ To perform other tasks and exercise other powers as prescribed by law.

3. Maritime inspectors shall be granted inspector cards and provided with uniforms, badges, equipment and supporting tools in accordance with law.

4. The maritime inspectorate shall operate in accordance with this Code, the inspection law and relevant treaties to which the Socialist Republic of Vietnam is a contracting party.

**Article 12.** Prohibited acts in maritime activities

1. Causing harm or threatening to cause harm to the national sovereignty and security.

2. Carrying persons, cargoes, luggage, weapons, radioactive matters, hazardous wastes and narcotic drugs in contravention of law.

3. Intentionally creating obstructions causing danger to or obstructing maritime navigation.

4. Using or operating seagoing ships without registration or classification or with expired or forged registration or classification documents.

5. Refusing to participate in search and rescue at sea although practical conditions permit.

6. Causing environmental pollution.

7. Infringing upon the lives, health, honor and dignity of persons on board seagoing ships; appropriating, intentionally damaging or

destroying property on board seagoing ships; fleeing after causing maritime accidents.

8. Disturbing public order, obstructing or resisting persons on official duty on board seagoing ships and at seaports.

9. Destroying, damaging, removing or stealing structures, accessories, supplies, construction materials and equipment of maritime facilities.

10. Damaging, destroying, relocating without permission, or reducing the effect of, maritime signs.

11. Blasting mines or other explosives within the premises of seaports, seaport waters or marine navigable channels without permission of competent state agencies.

12. Illegally building and operating seaport facilities and other facilities within the planned areas of seaports already approved, in marine navigable channels and within the protection scope of maritime facilities.

13. Building works that reduce the effect of, or invalidate, maritime facilities.

14. Abusing positions and powers to act against regulations on maritime management; tolerating or covering up persons committing violations of the maritime law.

## **Chapter II**

### **SEAGOING SHIPS**

#### **Section 1**

#### **GENERAL PROVISIONS**

##### **Article 13.** Seagoing ships

Seagoing ships are moving floating crafts exclusively used in navigation on the sea.

Seagoing ships governed by this Code do not include military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, seaplanes, floating storage and offloading units, mobile offshore units and floating docks.

##### **Article 14.** Vietnamese seagoing ships

1. Vietnamese seagoing ships are ships which have been entered into the Vietnam National Register of Ships or have been granted provisional permits for flying the Vietnamese flag by overseas Vietnamese diplomatic missions.

2. Vietnamese seagoing ships are entitled and obliged to fly the Vietnamese flag.

3. Only Vietnamese seagoing ships may fly the Vietnamese flag.

**Article 15. Shipowners**

1. Shipowner is the owner of a seagoing ship.

2. Managers, operators and bareboat charters may exercise the rights and shall perform the obligations of the shipowners prescribed in this Code according to the contracts signed with the shipowners.

3. Organizations that are assigned by the State to manage and operate seagoing ships are also governed by this Code and other relevant laws like shipowners.

**Article 16. Flying of flag for ships**

1. Vietnamese seagoing ships shall fly the national flag of the Socialist Republic of Vietnam.

Other ships, when operating at Vietnamese seaports, shall fly the national flag of the Socialist Republic of Vietnam.

2. Ships that fly a foreign flag and operate at Vietnam's seaports may fly the foreign flag or blow a whistle on festive days of the flag state according to regulations.

3. The Government shall detail this Article.

**Section 2**

**REGISTRATION OF SEAGOING SHIPS**

**Article 17. Registration of Vietnamese seagoing ships and forms of registration**

1. Registration of seagoing ships means the entry and storage of information on seagoing ships in the Vietnam National Register of Ships and grant of Vietnamese seagoing ship registration certificates in accordance with this Code and other relevant laws.

2. Registration of Vietnamese seagoing ships may be made in the following forms:

- a/ Indefinite registration;
- b/ Time registration;
- c/ Change registration;
- d/ Provisional registration;
- dd/ Registration of seagoing ship under construction;
- e/ Registration of small seagoing ship.

**Article 18.** Principles of registration of seagoing ships

1. Registration of Vietnamese seagoing ships must adhere to the following principles:

a/ Seagoing ships owned by Vietnamese organizations or individuals are entitled to registration in the Vietnam National Register of Ships, including registration of flying the Vietnamese flag and registration of ownership of such ships. For a seagoing ship owned by two or more organizations or individuals, its registration must specify the owners and their ownership ratios.

Seagoing ships owned by foreign organizations or individuals, if satisfying all conditions prescribed in Article 20 of this Code, are entitled to registration in the Vietnam National Register of Ships. Registration of a seagoing ship owned by a foreign organization or individual includes registration of flying the Vietnamese flag and registration of ownership of such ship or only registration of flying the Vietnamese flag.

Foreign seagoing ships chartered by Vietnamese organizations or individuals in the form of bareboat charter or hire-purchase may be registered to fly the Vietnamese flag.

b/ Seagoing ships which have been registered abroad shall not be registered to fly the Vietnamese flag, unless their previous registration has been suspended or they have been deregistered;

c/ Registration of Vietnamese seagoing ships shall be performed by the Vietnam Registrar of Ships in a public manner and is subject to a fee; organizations and individuals may request the grant of certified extracts from or copies of entries in the Vietnam National Register of Ships, for which they shall pay a fee.

2. Seagoing ships owned by Vietnamese organizations or individuals may be registered to fly a foreign flag.

**Article 19.** Types of seagoing ships subject to registration

1. The following types of seagoing ships shall be entered in the Vietnam National Register of Ships:

a/ Self-propelled seagoing ships with a total main engine capacity of 75 kilowatts (kW) or more;

b/ Non-self-propelled seagoing ships with a total capacity of 50 GT or more, or a tonnage of 100 tons or more, or a designed load waterline length of 20 meters or more;

c/ Seagoing ships smaller than those prescribed at Points a and b of this Clause operating on foreign routes.

2. The registration of seagoing ships other than those prescribed in Clause 1 of this Article shall be prescribed by the Government.

**Article 20.** Conditions for registration of Vietnamese seagoing ships

1. Upon registration, a seagoing ship must fully satisfy the following conditions:

a/ It has lawful papers proving its ownership;

b/ It has a tonnage certificate and a classification certificate;

c/ It has a name;

d/ It has a registration suspension or deregistration certificate, if it was registered abroad, except the case of temporary registration;

dd/ The shipowner's head office, branch or representative office is located in Vietnam;

e/ Its age is suitable to its type as prescribed by the Government, if it is a used foreign seagoing ship seeking first-time registration or re-registration in Vietnam;

g/ It has paid dues and fees in accordance with law.

2. Upon registration to fly the Vietnamese flag, foreign seagoing ships chartered by Vietnamese organizations or individuals in the form of bareboat charter or hire-purchase must have bareboat charters or hire-purchase contracts in addition to satisfying the conditions prescribed at Points a, b, c, d, e and g, Clause 1 of this Article.

**Article 21.** Naming of Vietnamese seagoing ships

The naming of Vietnamese seagoing ships must adhere to the following principles:

1. Ship names shall be given by shipowners, which, however, must not be identical with those already registered in the Vietnam National Register of Ships.

2. Names of state agencies, armed forces units, political organizations or socio-political organizations may not be used as names

or part of names of seagoing ships, unless it is consented by such agencies, units or organizations.

3. Words or signs that are against the country's historical, cultural and ethical traditions and fine customs and practices may not be used.

**Article 22.** Responsibilities of shipowners for registering seagoing ships in Vietnam

1. Shipowners shall fully provide the papers and fully and accurately declare the contents related to their seagoing ships for registration as prescribed in Articles 20 and 24 of this Code to the Vietnam Registrar of Ships.

2. Seagoing ships newly built, purchased by, donated to, or inherited by Vietnamese organizations or individuals shall be registered according to regulations.

3. Shipowners shall pay a fee for seagoing ship registration in accordance with law.

4. After completing the registration, shipowners shall be granted a Vietnamese seagoing ship registration certificate, which constitutes proof of their seagoing ships' flying the Vietnamese flag and ownership status.

5. Any changes of a ship related to the contents entered in the Vietnam National Register of Ships shall be accurately, fully and timely notified by its owner to the Vietnam Registrar of Ships.

6. The provisions of this Article also apply to Vietnamese organizations and individuals that bareboat charter or hire-purchase a ship.

**Article 23.** Registration of seagoing ships under construction

1. Owners of seagoing ships under construction may have such ships registered in the Vietnam National Register of Ships and receive certificates of registration of seagoing ships under construction. These certificates are not valid for substituting Vietnamese seagoing ship registration certificates.

2. To be registered, a seagoing ship under construction must fully satisfy the following conditions:

a/ Having a shipbuilding contract or contract of purchase and sale of a seagoing ship under construction;

b/ Having a name;

c/ Having keel-setting.

**Article 24.** Basic contents of the Vietnam National Register of Ships

1. The Vietnam National Register of Ships has the following basic contents:

a/ Old name and new name of seagoing ship; name and address of head office of shipowner; name and address of foreign shipowner's branch or representative office in Vietnam; name and address of head office of bareboat charterer or hire-purchaser applying for registration; name of ship operator, if any; type and use purpose of seagoing ship;

b/ Port of registration;

c/ Registration serial number;

d/ Time of registration;

dd/ Name and address of shipyard and year of building;

e/ Main technical specifications of seagoing ship;

g/ Ownership status of seagoing ship and any related changes;

h/ Time of, and reason for, deregistration;

i/ Information on registration of mortgage of seagoing ship.

2. Any change in the registration contents prescribed in Clause 1 of this Article shall be recorded in the Vietnam National Register of Ships.

**Article 25.** Deregistration of Vietnamese seagoing ships

1. A Vietnamese seagoing ship shall be deregistered from the Vietnam National Register of Ships in the following cases:

a/ Having been destroyed or sunk irrecoverably;

b/ Being missing;

c/ Having no longer met all conditions for flying the Vietnamese flag;

d/ Having lost the characteristics of a seagoing ship;

dd/ At the request of its owner or registrant.

2. In the cases prescribed at Points d and dd, Clause 1 of this Article, a mortgaged seagoing ship may only be deregistered as Vietnamese seagoing ship with the consent of its mortgagee.

3. Upon deregistration of a seagoing ship or a seagoing ship under construction from the Vietnam National Register of Ships, the Vietnam Registrar of Ships shall revoke the certificate of registration of Vietnamese seagoing ship or seagoing ship under construction and grant a certificate of deregistration.

**Article 26.** Detailed provisions on registration and deregistration of Vietnamese seagoing ships

The Government shall prescribe in detail the procedures for registration and deregistration of Vietnamese seagoing ships; cases of seagoing ships owned by Vietnamese organizations or individuals entitled to registration to fly a foreign flag; and cases of seagoing ships owned by foreign organizations or individuals entitled to registration to fly the Vietnamese flag.

**Article 27.** Registration of official-duty seagoing ships, submarines, submersibles, floating storage and offloading units and mobile offshore units

Official-duty seagoing ships, submarines, submersibles, floating storage and offloading units and mobile offshore units shall be registered in accordance with the provisions of this Section.

The Government shall prescribe in detail the registration in this Article.

### **Section 3**

## **CLASSIFICATION OF VIETNAMESE SEAGOING SHIPS**

**Article 28.** Classification of Vietnamese seagoing ships

1. Vietnamese seagoing ships shall be surveyed, classified and granted technical certificates of maritime safety, maritime security, conditions for maritime labor assurance and environmental pollution prevention by Vietnamese classification organizations or foreign classification organizations authorized by the Minister of Transport in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party.

2. The Minister of Transport shall promulgate technical regulations on maritime safety and maritime security and conditions for maritime labor assurance and environmental pollution prevention applicable to seagoing ships, and prescribe and organize the classification of seagoing ships in Vietnam.

**Article 29.** Principles of classification of Vietnamese seagoing ships

1. Vietnamese seagoing ships, when newly built, imported, transformed, repaired and reconstructed or in the course of operation, shall be surveyed, classified, assessed and granted technical certificates of maritime safety, maritime security, conditions for maritime labor assurance and environmental pollution prevention in order to ensure their

technical status in accordance with law and treaties to which the Socialist Republic of Vietnam is a contracting party.

2. The classification and assessment of Vietnamese seagoing ships shall be conducted at the places where they are built, transformed, repaired and reconstructed, anchored or in the course of operation.

3. Vietnamese seagoing ships that do not operate along international routes shall be surveyed, classified and granted certificates in accordance with Vietnamese law and technical regulations and standards.

4. Vietnamese seagoing ships that operate along international routes shall be surveyed, classified, assessed and granted certificates in accordance with law and treaties to which the Socialist Republic of Vietnam is a contracting party.

**Article 30.** Types of seagoing ships to be classified

1. All types of seagoing ships prescribed in Clause 1, Article 19 of this Code shall be classified.

2. The classification of seagoing ships other than those prescribed in Clause 1 of this Article shall be prescribed by the Minister of Transport.

**Article 31.** Responsibilities for classification of seagoing ships

1. Shipowners shall comply with regulations on classification of seagoing ships that are newly built, imported, transformed, repaired and reconstructed or in the course of operation; ensure the technical safety, maritime security and conditions for maritime labor assurance and environmental pollution prevention of their seagoing ships between two classification and assessment times in accordance with law and relevant treaties to which the Socialist Republic of Vietnam is a contracting party.

2. When conducting classification, classification organizations shall comply with Vietnamese law and relevant treaties to which the Socialist Republic of Vietnam is a contracting party. Heads of classification units and persons directly conducting classification and assessment shall take responsibility for classification and assessment results.

**Article 32.** Technical supervision of Vietnamese seagoing ships

Seagoing ships that are newly built, transformed, repaired and reconstructed must be subject to technical supervision by classification organizations in terms of quality and technical safety according to approved design dossiers and relevant granted certificates.

Seagoing ships shall be newly built, transformed, repaired and reconstructed at establishments that fully meet the conditions prescribed by law.

**Article 33.** Classification of official-duty seagoing ships, submarines, submersibles, floating storage and offloading units and mobile offshore units

1. Official-duty seagoing ships, submarines and submersibles shall be classified in accordance with this Section.

2. The Minister of Transport shall prescribe the classification and grant of technical certificates of maritime safety, maritime security and environmental pollution prevention in accordance with Vietnamese law and relevant treaties to which the Socialist Republic of Vietnam is a contracting party for floating docks, floating storage and offloading units and mobile offshore units.

#### **Section 4**

### **CERTIFICATES AND DOCUMENTS OF SEAGOING SHIPS**

**Article 34.** Certificates and documents of seagoing ships

1. Seagoing ships must have seagoing ship registration certificates, certificates of maritime safety, maritime security, conditions for maritime labor assurance and environmental pollution prevention in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party. The original certificates shall be carried on board seagoing ships in the course of operation. For electronic certificates, the law on electronic transactions shall be complied with.

The Minister of Transport shall prescribe in detail certificates and documents of Vietnamese seagoing ships.

2. Certificates of maritime safety, maritime security, conditions for maritime labor assurance and environmental pollution prevention must show their validity durations. Such a duration may be extended for 90 days at most if the seagoing ship is actually unable to call for classification at the designated place and its practical technical conditions still ensure maritime safety, maritime security, conditions for maritime labor assurance and environmental pollution prevention. This extended duration will expire immediately upon the seagoing ship's arrival at the designated port for classification.

3. Certificates of maritime safety, maritime security, conditions for maritime labor assurance and environmental pollution prevention will become invalid if the seagoing ships see modifications that seriously affect their capability of ensuring maritime safety, maritime security,

conditions for maritime labor assurance and environmental pollution prevention.

4. In case they have grounds to believe that a seagoing ship fails to ensure maritime safety, maritime security, conditions for maritime labor assurance and environmental pollution prevention, the maritime inspectorate and port authority may suspend the operation of the ship concerned, and conduct by themselves or request a Vietnamese classification organization to conduct technical inspection of such ship.

**Article 35. Seagoing ship tonnage certificates**

1. Vietnamese and foreign seagoing ships, when operating in Vietnamese seaport waters or seas, must have seagoing ship tonnage certificates granted by Vietnamese classification organizations or competent foreign seagoing ship tonnage measurement organizations. Seagoing ship tonnage certificates must comply with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party.

2. If doubting the authenticity of seagoing ship tonnage certificates referred to in Clause 1 of this Article, competent Vietnamese agencies may decide on their own initiative or at the request of related organizations or individuals to re-inspect the capacity of the seagoing ships. In case the inspection result does not match the seagoing ship tonnage certificate, the shipowner shall incur expenses related to the inspection. In case the re-inspection result matches the seagoing ship tonnage certificate, the competent state agency that has decided on its own initiative on the re-inspection or the organization or individual that has requested the re-inspection shall incur expenses related to the re-inspection.

**Section 5**

**TRANSFER OF OWNERSHIP AND MORTGAGE OF SEAGOING SHIPS**

**Article 36. Transfer of ownership of seagoing ships**

1. The transfer of ownership of seagoing ships shall be established in writing in accordance with Vietnamese law or the law of the country where the transfer is made.

2. The transfer of ownership of Vietnamese seagoing ships will become effective after it is recorded in the Vietnam National Register of Ships.

3. After the completion of ownership transfer procedures, the whole seagoing ship and its appurtenances will belong to the transferee, unless otherwise agreed upon by the involved parties.

Appurtenances of a seagoing ship include objects and equipment on board the ship which do not constitute component parts of the ship.

4. Regulations on transfer of ownership of seagoing ships also apply to the transfer of ownership of shares of seagoing ships.

5. The Government shall prescribe the conditions and procedures for transfer of ownership of seagoing ships in the form of purchase and sale.

### **Article 37. Mortgage of Vietnamese seagoing ships**

1. Mortgage of a seagoing ship means an act whereby the shipowner secures with his/her seagoing ship the performance of his/her civil obligation to the mortgagee but is not required to deliver the ship to the mortgagee.

2. Shipowners have the right to mortgage Vietnamese seagoing ships under their ownership to mortgagees in accordance with this Code and other relevant laws.

3. Contracts for mortgage of Vietnamese seagoing ships shall be made in writing. The mortgage of Vietnamese seagoing ships must comply with Vietnamese law.

4. The provisions on mortgage of seagoing ships also apply to the mortgage of seagoing ships under construction.

### **Article 38. Principles of mortgage of Vietnamese seagoing ships**

1. Mortgaged seagoing ships may not change hands, unless it is consented by the mortgagees.

2. Mortgaged seagoing ships shall be covered with insurance by their owners, unless otherwise agreed upon in the mortgage contracts.

3. In case the mortgagee has transferred the whole or part of his/her right to the debt secured with the mortgaged seagoing ship to another person, the mortgage of such seagoing ship shall be also transferred in the same way.

4. A seagoing ship may be used to secure several obligations, provided that its value is bigger than the aggregate value of the secured obligations, unless otherwise agreed upon.

The priority order of mortgages shall be determined on the basis of the corresponding order of registered mortgages in the Vietnam National Register of Ships.

5. The mortgage of a seagoing ship owned by two or more owners shall be consented by all the owners, unless otherwise agreed upon.

6. The mortgage of a seagoing ship shall terminate in the following cases:

a/ The secured obligation terminates;

b/ The mortgage is terminated or replaced with another security measure;

c/ The mortgaged ship has been disposed of in accordance with law;

d/ The mortgaged ship is completely lost;

dd/ Upon agreement between the involved parties.

7. Mortgagees may only keep copies of registration certificates of mortgaged seagoing ships.

**Article 39.** Registration of mortgages of Vietnamese seagoing ships

1. The registration of mortgage of a Vietnamese seagoing ship has the following principal contents:

a/ Names and addresses of head offices of the mortgagee and the shipowner;

b/ Name and nationality of the mortgaged seagoing ship;

c/ The sum of money secured by the mortgage, interest rate and maturity.

2. The mortgage of a seagoing ship will become effective from the time it is recorded in the Vietnam National Register of Ships.

3. Information on registration of mortgages of Vietnamese seagoing ships shall be provided upon request.

4. Registrants of mortgages of seagoing ships and users of information on mortgages of seagoing ships shall pay fees.

5. The Government shall prescribe in detail the mortgage of Vietnamese seagoing ships.

## **Section 6**

### **MARITIME LIENS**

**Article 40.** Maritime liens

1. Maritime lien is the right of a person who lodges a maritime claim specified in Article 41 of this Code to take priority in claiming

compensation from the owner, charterer or operator of a seagoing ship which has given rise to the maritime claim.

Maritime claim is an act whereby a party requests the other party to perform the obligation arising in relation to maritime activities.

2. Maritime claims that give rise to maritime liens specified in Article 41 of this Code take priority over maritime claims secured by the mortgage of seagoing ships and other secured transactions.

3. Maritime liens shall be enforced by competent courts in the form of decisions to arrest seagoing ships which are related to maritime claims that have given rise to maritime liens.

4. Persons who lodge maritime claims will have maritime liens over seagoing ships to secure the maritime claims specified in Article 41 of this Code, even though these seagoing ships have been mortgaged or their owners have conducted other secured transactions to secure other obligations under contracts.

5. Maritime liens on seagoing ships shall not be affected by the change of ship owners, charterers or operators, whether or not the purchasers of the seagoing ships know that the ships have been related to maritime claims that give rise to maritime liens.

**Article 41.** Maritime claims giving rise to maritime liens

1. Maritime claims for wages, repatriation costs, social insurance contributions and other amounts due to masters, officers and other members in a seagoing ship's complement.

2. Maritime claims for indemnity for loss of life, personal injuries, other health damage directly related to seagoing ships' operation.

3. Maritime claims for tonnage dues, maritime safety assurance dues and other port dues and charges.

4. Maritime claims for salvage remuneration.

5. Maritime claims based on tort arising out of property loss and damage directly caused by the operation of seagoing ships.

**Article 42.** Priority order of settlement of maritime claims giving rise to maritime liens

1. Maritime claims giving rise to maritime liens shall be prioritized for settlement in the order of claims listed in Article 41 of this Code; in case a maritime claim for remuneration for the salvage of a seagoing ship arises after maritime claims giving rise to other maritime liens, such claim will take priority over other maritime claims.

2. Maritime claims that give rise to maritime liens in the same Clause of Article 41 of this Code shall rank *pari passu* as between themselves; in case the sum of money is insufficient to cover the value of each maritime claim, it shall be divided in proportion to the value of each maritime claim.

3. Maritime claims arising from one event shall be deemed to have arisen at the same time.

4. Maritime claims that give rise to maritime liens on a seagoing ship on the last voyage shall take priority over those on previous voyages.

5. Maritime claims arising from one labor contract related to many voyages shall be settled at the same time with those related to the last voyage.

6. In case of maritime claims for salvage remuneration specified in Clause 4, Article 41 of this Code, the maritime claim arising later shall be settled before other maritime claims.

**Article 43.** Statute of limitations of maritime liens

1. The statute of limitations of a maritime lien is 1 year, counting from the date the maritime lien arises.

2. The date a maritime lien arises mentioned in Clause 1 of this Article shall be:

a/ The date of termination of the salvage operation, in case of settlement of salvage remuneration;

b/ The date a loss arises, in case of settlement of loss and damage caused by the operation of a seagoing ship;

c/ The date payment is due, in case of settlement of other maritime claims.

3. A maritime lien will terminate from the time the owner, charterer or operator of the ship has fully paid debts arising from the related maritime claims; the maritime lien will remain effective if the payment money is still kept by the master or the person authorized to pay on behalf of the owner, charterer or operator of the ship the debts related to the maritime claim concerned.

4. In case a court cannot exercise the right to arrest the seagoing ship within Vietnam's internal waters or territorial sea in order to protect the interests of the maritime claimant who permanently resides or has his/her head office in Vietnam, the statute of limitations specified in Clause 1 of this Article will terminate 30 days after the ship arrives at the

first Vietnamese seaport but must not exceed 2 years, counting from the date the maritime lien arises.

## **Section 7**

### **BUILDING AND REPAIR OF SEAGOING SHIPS**

**Article 44.** Planning for development of the seagoing ship building and repair industry

1. The master plan on development of the seagoing ship building and repair industry shall be based on the socio-economic development strategy; national defense and security tasks; the master plan on development of supporting industries and the maritime development trend in the world.

2. The Prime Minister shall approve the master plan on development of the seagoing ship building and repair industry.

3. The Minister of Transport shall:

a/ Prepare and submit to the Prime Minister for approval and decision adjustments to the master plan on development of the seagoing ship building and repair industry; and policies prioritizing the use of domestic seagoing ship building and repair products and services;

b/ Draw up and approve detailed plans on seagoing ship building and repair establishments;

c/ Develop programs and make plans on development of high-quality human resources; and contents of training and vocational teaching to serve the seagoing ship building and repair industry;

d/ Promulgate national technical regulations on seagoing ship building and repair.

4. The investment in the construction of seagoing ship building and repair establishments must conform with the master plan on development of the seagoing ship building and repair industry and investment, construction and relevant laws.

5. Provincial-level People's Committees shall reserve appropriate land areas in their localities to serve the development of the seagoing ship building and repair industry.

**Article 45.** Seagoing ship building and repair establishments

1. A seagoing ship building and repair establishment is an enterprise established and operating in accordance with law. It must ensure the following conditions:

a/ Having appropriate physical foundations and equipment; having a plan on organization of production and business suitable to the types and sizes of newly built and repaired seagoing ships;

b/ Having a quality supervision and management division to ensure products fully meet the prescribed standards and conditions on quality, technical safety and environmental protection;

c/ Having sufficient employees to meet production and business requirements;

d/ Having plans for assurance of fire and explosion prevention and fighting, occupational safety and health and environmental pollution prevention and control approved by competent agencies according to regulations.

2. The Minister of Transport shall promulgate national technical regulations on seagoing ship building and repair establishments.

3. Provincial-level People's Committees shall base themselves on their prescribed functions, tasks and powers to perform the state management of operations of seagoing ship building and repair establishments.

4. The Ministry of Public Security and the Ministry of Natural Resources and Environment shall coordinate with the Ministry of Transport in guiding in detail plans on fire and explosion prevention and fighting and environmental pollution prevention and control for seagoing ship building and repair establishments.

5. The Government shall detail Clause 1 of this Article.

## **Section 8**

### **DISMANTLEMENT OF SEAGOING SHIPS**

**Article 46.** Planning on seagoing ship dismantlement establishments

1. The master plan on seagoing ship dismantlement establishments shall be based on natural and socio-economic conditions; and make use of existing infrastructure and protect the environment.

2. The Prime Minister shall approve the master plan on seagoing ship dismantlement establishments.

3. The Minister of Transport shall:

a/ Assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment and related localities in, submitting to the Prime Minister for approval and decision adjustments to the master plan on seagoing ship dismantlement establishments;

b/ Promulgate national technical regulations on seagoing ship dismantlement establishments.

4. The investment in the construction of seagoing ship dismantlement establishments must comply with the master plan and ensure safety, fire and explosion prevention and fighting and environmental protection.

**Article 47. Principles of dismantlement of seagoing ships**

1. The dismantlement of seagoing ships must ensure national defense and security, maritime safety, maritime security, labor safety, fire and explosion prevention and fighting and protection of human health and the environment.

2. The dismantlement of seagoing ships may only be conducted at seagoing ship dismantlement establishments licensed to operate under regulations.

3. Dismantled seagoing ships must not be in the mortgage status or involved in any maritime claims.

**Article 48. Seagoing ship dismantlement establishments**

A seagoing ship dismantlement establishment is an enterprise established in accordance with law and must meet the following conditions:

1. Being built and operating under the approved master plan;

2. Having physical foundations and technical equipment ensuring the dismantlement of seagoing ships;

3. Having satisfied the requirements on environmental impact assessment in ship dismantlement activities in accordance with the environmental protection law.

**Article 49. Detailed provisions on seagoing ship dismantlement**

The Government shall prescribe in detail the dismantlement of seagoing ships.

**Chapter III**  
**SHIPCREW AND CREWMEN**  
**Section 1**  
**SHIPCREW**

**Article 50.** Shipcrew

Shipcrew includes all crewmen in the complement of a seagoing ship, including the master, officers and holders of other titles arranged to work on board a seagoing ship.

**Article 51.** Responsibilities of the shipowner for shipcrew

1. To arrange sufficient crewmen according to the seagoing ship's complement and ensure adequate working conditions on board the seagoing ship for crewmen as prescribed in Clause 2, Article 59 of this Code.

2. To define job titles of crewmen and their tasks, except for job titles prescribed by the Minister of Transport.

3. To ensure working and living conditions for crewmen on board the seagoing ship in accordance with law.

4. To purchase accident and other compulsory insurances for crewmen working on board the seagoing ship in accordance with law.

**Article 52.** Legal status of the master

1. The master exercises the highest command on board a seagoing ship and commands the ship on the single-leader regime. All persons on board the seagoing ship shall obey the orders of the master.

2. The master shall submit to the direction by the owner or charterer or operator of the ship; in case of necessity to ensure maritime safety, maritime security and environmental protection when operating the ship, the master may make decisions on his/her own but then report thereon to the owner, charterer or operator of the ship.

**Article 53.** Obligations of the master

1. To organize management and operation of the seagoing ship in accordance with law.

2. To discharge the responsibility for ensuring that the seagoing ship fully meet all necessary conditions on maritime safety, maritime security, maritime labor assurance and environmental pollution prevention, comply with professional standards and regulations on equipment, ship hull, adequate provisions, proper manning and other matters related to

maritime safety, maritime security, conditions for maritime labor assurance and environmental pollution prevention for the ship and persons on board before the commencement of and during a voyage.

3. To constantly supervise that the cargo is loaded, arranged and preserved on board and unloaded from the seagoing ship in a reasonable way, despite that these jobs are assigned to responsible persons for performance.

4. To take measures that the cargo on board the seagoing ship be neither damaged nor lost; take necessary measures to protect the interests of persons with interests related to the cargo; make use of all means possible to notify such persons of special events related to the cargo.

5. To take all necessary measures to protect the seagoing ship, persons and other property on board the ship; to prevent the illegal carriage of persons and cargo on board the ship.

6. In case the port of delivery of cargo or disembarkation of passengers is blockaded, in danger of war or in another state of emergency, to direct the seagoing ship to the nearest safe port and take all necessary measures to protect the ship, persons and property on board and documents of the ship.

7. In case the seagoing ship is threatened with sinking or destruction, to make use of all available means to save first passengers then crewmen.

To be the last to leave the seagoing ship after having made use of all means possible to save the logbooks, charts and other important documents of the ship.

8. Not to leave the seagoing ship when it is in peril, except for cases in which it is extremely necessary to leave the ship.

9. To personally operate the seagoing ship to enter and leave a port, a canal or a marine navigable channel and when it is in seaport waters or upon the occurrence of extremely difficult and dangerous circumstances.

10. To use maritime pilots and tugboats in cases prescribed by law or to ensure safety for his/her seagoing ship.

The employment of a maritime pilot shall not relieve the master of the obligation prescribed in Clause 9 of this Article.

11. To perform with due diligence the duties of a conscientious master.

12. To organize search and rescue of persons in peril at sea if the performance of this obligation does not cause any serious danger to his/her seagoing ship and persons on board. The shipowner shall not be

held responsible for the master's failure to perform the obligation prescribed in this Clause.

13. To perform other obligations as prescribed by law.

**Article 54. Rights of the master**

1. To represent the shipowner and persons with interests related to the cargo in handling matters related to the navigation of the seagoing ship and the management of the ship and cargo on board.

2. To perform in the name of the shipowner and persons with interests related to the cargo legal acts within the scope of work defined in Clause 1 of this Article, while away from the port of registration, possibly initiate lawsuits and participate in legal proceedings before court or arbitration, unless the shipowner or persons with interests related to the cargo declare limitation of part of the whole of this power.

3. To refuse to let the ship commence the voyage if he/she sees that the ship fails to meet all conditions for maritime safety, maritime security, maritime labor assurance and environmental pollution prevention.

4. To apply various commendatory forms or disciplinary measures to crewmen under his/her command; to refuse to recruit or force to leave his/her ship crewmen who are not qualified in their job titles or commit illegal acts.

5. To borrow on behalf of the shipowner in necessary cases credit loans or cash amounts within the limit sufficient for repair of the seagoing ship, supplementation of crew, provisions for the ship or for satisfying other needs so that the voyage can be continued.

6. To sell superfluous appurtenances or surplus reserves of the seagoing ship within the limit prescribed in Clause 5 of this Article when it is inexpedient or impossible to wait for funds or instructions from the shipowner.

7. During a voyage, if means necessary for the completion of the voyage cannot be obtained in any other way, after having by all means sought instructions from the charterer and the shipowner but in vain, to pledge or sell part of the cargo. In this case, the master shall minimize the damage to the shipowner, the charterer and persons with interests related to the cargo.

8. In case on the seagoing ship, during a voyage, the reserved food and provisions have run out, to requisite part of the cargo being food and provisions carried on board, and in the case of extreme necessity, to requisition food and provisions of persons on board. This requisition

shall be recorded in writing. The shipowner shall compensate for the food and provisions requisitioned.

9. In case the seagoing ship is in peril at sea, to request rescue, and after reaching agreement with the ships which come for assistance, to designate which ship to render salvage.

**Article 55.** Responsibility of the master for civil status matters on board the seagoing ship

1. For each case of birth or death and other related events on board the seagoing ship, to make entries in the ship's logbook and make a minutes thereon in the presence of the ship's medical person and two witnesses; to keep in good conditions the body of the deceased, make an inventory list of, and preserve, his/her property.

2. To report births and deaths occurring on board the seagoing ship and send testaments and inventory lists of the property of the deceased to the competent civil status agency in the first Vietnamese seaport at which the ship calls or to the Vietnamese representative mission in the nearest place if the ship calls at a foreign seaport.

3. After having tried all means possible to ask for instructions of the shipowner and for opinions of the relatives of the deceased, the master shall, in the name of the shipowner, carry out necessary procedures and organize the burial of the deceased. All costs incurred from the burial shall be paid in accordance with law.

**Article 56.** Responsibility of the master for arresting and seizing persons on board the seagoing ship

1. Upon detecting a criminal act red-handed or a wanted person or detaining a person in an emergency case on board the seagoing ship which has departed from the port, the master shall:

a/ Arrest, or order the arrest of, the person caught red-handed or wanted person; detain the person in an emergency case;

b/ Take all necessary measures to stop such act and compile files as prescribed by law;

c/ To protect evidences and, depending on the practical conditions, hand over the arrested person together with relevant files to a competent state agency in the first Vietnamese port at which the seagoing ship calls or to an official-duty ship of Vietnam encountered on the sea, or to inform such act to the nearest Vietnamese representative mission and to follow the instructions given by such agency, if the seagoing ship calls at a foreign port.

2. In case of necessity to protect the safety and order of the seagoing ship, persons and cargo on board, the master may confine to a separate compartment any person who is prepared to commit a crime, a criminal caught red-handed or a wanted person.

**Article 57.** Responsibility of the master to notify Vietnamese representative missions

1. Upon arrival of the seagoing ship at a foreign port, if necessary, the master shall notify the nearest Vietnamese representative mission of the ship's arrival.

2. The master shall produce the seagoing ship's certificates and documents if the Vietnamese representative mission in the host country so requests.

**Article 58.** Responsibility of the master to report on the occurrence of maritime accidents

Immediately after the occurrence or detection of a maritime accident or another incident related to maritime safety or maritime security, the master shall report it to a competent state agency and make a report thereon according to regulations.

## **Section 2**

### **CREWMEN**

**Article 59.** Crewmen working on board a seagoing ship

1. Crewmen are those who fully meet the conditions and criteria for holding job titles on board a Vietnamese seagoing ship.

2. Crewmen working on board a Vietnamese seagoing ship must fully meet the following conditions:

a/ Being Vietnamese citizens or foreign citizens permitted to work on board a Vietnamese seagoing ship;

b/ Meeting all criteria of health and working age and having all professional certificates as prescribed;

c/ Being assigned to hold job titles on board a seagoing ship;

d/ Having crewman's books;

dd/ Having passports for exit or entry, if such crewmen are assigned to work on board a seagoing ship operating on an international route.

3. Vietnamese citizens who meet all required conditions may work on board a foreign seagoing ship.

4. The Minister of Transport shall prescribe job titles of crewmen and tasks of each job title; the minimum safe complement; professional criteria and professional certificates of crewmen; registration of crewmen; crewman's passports and books; and conditions for crewmen who are foreign citizens to work on board Vietnamese seagoing ships.

5. The Minister of Health shall prescribe health criteria for crewmen working on board Vietnamese seagoing ships.

**Article 60. Obligations of crewmen**

1. Crewmen working on board a Vietnamese seagoing ship have the following obligations:

a/ To strictly abide by Vietnamese law, treaties to which the Socialist Republic of Vietnam is a contracting party, and the law of the country where the Vietnamese seagoing ship operates;

b/ To perform with due diligence the tasks according to their assigned titles and take responsibility to the master for these tasks;

c/ To promptly, strictly and accurately obey the orders of the master;

d/ To prevent accidents and incidents occurring to the seagoing ship, cargo, persons and luggage on board. When detecting dangerous circumstances, to immediately report them to the master or the officer on watch, and, at the same time, take necessary measures to prevent accidents or incidents that may arise from such dangerous circumstances;

dd/ To manage and use certificates, documents, equipment, tools and other property of the seagoing ship assigned to them for management;

e/ To perform other tasks as prescribed by law.

2. Vietnamese crewmen working on board a foreign seagoing ship shall be obliged to perform labor contracts signed with the foreign shipowner or employer.

**Article 61. Working regime and benefits of crewmen**

1. The working regime and benefits of crewmen working on board a Vietnamese seagoing ship must comply with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party.

2. In case the shipowner or master requests crewmen to leave the seagoing ship, the shipowner must be responsible for covering all living and travel costs necessary for crewmen to repatriate; in case the master

requests crewmen to leave the seagoing ship, the master shall report it to the shipowner.

3. In case the loss of or damage to lawful personal property of crewmen is caused by an accident occurring to the seagoing ship, the shipowner shall pay compensation for such property at the market price at the time when and at the place where the accident is dealt with. If the accident is caused by the fault of a crewman, he/she is not entitled to claim for such loss or damage.

4. The working regime and benefits of Vietnamese crewmen working on board a foreign seagoing ship and of foreign crewmen working on board a Vietnamese seagoing ship must comply with their labor contracts.

#### **Article 62.** Crew employment contracts

1. Before working on board a seagoing ship, a crewman and the shipowner shall sign a labor contract.

2. A crew employment contract must have basic contents as prescribed by the labor law and the following details:

- a/ Repatriation of the crewman;
- b/ Accident insurance;
- c/ Payment for annual leave;
- d/ Conditions for terminating the labor contract.

#### **Article 63.** Hours of work, hours of rest of crewmen

1. Hours of work shall be arranged in shifts in 24 consecutive hours, including weekends, public and new year holidays.

2. Hours of rest are prescribed as follows:

a/ The minimum hours of rest must be 10 hours in any 24-hour period and 77 hours in any 7-day period;

b/ Hours of rest in any 24-hour period may be divided into no more than two periods, one of which must be at least 6 hours in length and the interval between two consecutive periods of rest must not exceed 14 hours.

3. In case of emergency to ensure the security and safety of the ship and persons and cargo on board, render assistance for another ship or rescue a person in distress at sea, the master has the right to require crewmen to perform any hours of work at any time. After crewmen fulfill the emergency task, the master shall arrange sufficient hours of rest for them as prescribed at Point a, Clause 2 of this Article.

4. A table of shipboard working arrangements shall be made for hours of work and hours of rest and posted up at an easily noticeable place on board the ship.

5. In case of musters, fire-fighting and lifeboat drills and other drills as prescribed, the master may arrange hours of rest other than those prescribed at Point a, Clause 2 of this Article that must minimize the disturbance of rest periods and not induce fatigue to crewmen and shall be stated in collective labor agreements or labor contracts of crewmen on the following principles:

a/ Minimum hours of rest must be 10 hours in any 24-hour period and 70 hours in any 7-day period. The application of exceptions must not extend beyond two consecutive weeks. The interval between two periods of application of exceptions must be at least two times the interval of the previous period of application of exceptions.

b/ Minimum hours of rest prescribed at Point a, Clause 2 of this Article may be divided into no more than three periods, one of which must be at least 6 hours in length and the two remaining periods must be at least 1 hour;

c/ The interval between two consecutive periods of rest must not exceed 14 hours;

d/ The application of exceptions must not extend beyond two 24-hour periods in any 7-day period.

6. The master or a person authorized by the master shall make records of hours of rest and provide them to crewmen.

**Article 64.** Annual leave and public and new year holidays of crewmen

1. Crewmen working on board a seagoing ship are entitled to fully paid annual leave, public and new year holidays. Crewmen who have not yet taken annual leave, public or new year holidays shall be arranged with compensatory leave.

2. The number of annual leave days shall be calculated in accordance with law and treaties to which the Socialist Republic of Vietnam is a contracting party. Public and new year holidays, compassionate leave and unpaid leave as prescribed by law shall not be counted as annual leave days.

3. Any agreement to forgo annual leave for crewmen is prohibited.

**Article 65.** Wages, allowances and other incomes of crewmen

1. Shipowners shall pay monthly wages and allowances directly to crewmen or persons lawfully authorized by crewmen.

2. Wages, allowances and other incomes of crewmen shall be paid in cash or into personal accounts of crewmen or persons authorized by crewmen. If paying via bank accounts, shipowners shall reach agreement with crewmen on expenses related to the opening, transfer of money and maintenance of accounts according to regulations.

3. Shipowners shall make and provide every crewman with a monthly statement of his/her incomes including wage, allowances and other incomes.

**Article 66. Repatriation of crewmen**

1. Shipowners shall make arrangements for crewmen's repatriation and pay the cost thereof in the following cases:

a/ The labor contract of a crewman expires;

b/ The crewman falls ill or encounters a maritime labor accident and should be sent home;

c/ The ship is sunk;

d/ The ship is sold or its registration is changed;

dd/ The ship operates in a war zone and the crewman refuses to continue to work on board;

e/ Other cases as agreed upon by the two parties.

2. In case a crewman unilaterally terminates his/her labor contract against the law or is dismissed for breach of discipline, the shipowner shall still make arrangements for the crewman to return to the place stated in his/her labor contract but the crewman shall refund the cost of his/her repatriation to the shipowner.

3. The cost of repatriation of a crewman payable by a shipowner must cover:

a/ Travel to the place of repatriation stated in the contract;

b/ Meal and accommodations for the crewman from the time of leaving the ship to the time of arriving at the place of repatriation;

c/ Wage and travel allowance of the crewman from the time of leaving the ship to the time of arriving at the place of repatriation;

d/ Transportation of maximum 30 kilograms (kg) of personal luggage of the crewman to the place of repatriation;

dd/ Necessary medical treatment until the crewman is physically fit to reach the place of repatriation.

4. Shipowners shall arrange for repatriation of crewmen by appropriate and convenient means. A crewman shall be repatriated to the place stated in the contract or to the place of his/her residence.

5. The statute of limitations for crewmen to make repatriation-related claims is 1 year from the date of repatriation.

6. Shipowners shall preserve on board their ships copies of legal documents on repatriation and provide them to crewmen.

7. Shipowners shall ensure finance for payment for repatriation of crewmen in accordance with law.

8. In case a competent Vietnamese agency has to arrange for repatriation of crewmen, shipowners shall refund all the costs thereof.

9. The Minister of Finance shall guide Clauses 7 and 8 of this Article.

#### **Article 67.** Food and drinking water

1. Shipowners shall provide for free crewmen on board their seagoing ships with adequate, nutritious, quality and varied food and drinking water prepared and served in safe and hygienic conditions, which are suitable to their religion, belief and culture.

2. The master or persons appointed by the master shall regularly inspect and make records on the following contents:

a/ Supply of food and drinking water;

b/ Stores, boxes and devices used to preserve and store food and drinking water;

c/ Galley and other equipment to prepare and serve meals.

3. Shipowners shall arrange cooks and catering staff to serve crewmen on board their seagoing ships. In case a ship has fewer than 10 crewmen, no cook is required but a catering person shall be arranged.

4. The Minister of Health shall prescribe hygiene and safety standards for food and drinking water and meal rations for crewmen working on board seagoing ships.

#### **Article 68.** Healthcare for crewmen

1. Crewmen are entitled to regular, timely and free healthcare while working on board seagoing ships and in ports at which their seagoing ships call.

2. Shipowners shall take measures to take care of the health of crewmen working on board seagoing ships according to the following provisions:

a/ To protect and care for the health of crewmen on board ships like employees working ashore regarding medicine, medical equipment, medical instruction documents, medical information and professional medical advice;

b/ To ensure medical examination and treatment for crewmen at medical examination and treatment or dental establishments in ports at which the ships call.

c/ To prevent maritime labor accidents and diseases through health communication and education for crewmen.

3. Shipowners shall implement the following provisions on arrangement of medical doctors on board ships:

a/ For a seagoing ship with one hundred or more people on board and engaged in an international voyage of more than three days, at least one medical doctor shall be arranged;

b/ For a seagoing ship with under 100 people on board and without any medical doctor, at least one crewman shall be arranged to take medical care and administer medicines or a crewman capable of providing medical first aid shall be arranged.

The crewman in charge of medical care or first aid must have completed a training course on medical care or first aid according to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers.

4. Masters or persons in charge of on-board medical care shall fill out medical report forms according to regulations. Medical reports shall be used to exchange information with medical examination and treatment establishments ashore. Information in medical reports shall be kept confidential and may only be used for medical diagnosis, care and treatment of crewmen.

5. The Minister of Health shall:

a/ Announce health care establishments for crewmen;

b/ Prescribe medicine chests, medical equipment and medical guides on board seagoing ships and medical report forms.

**Article 69.** Responsibilities of shipowners for crewmen encountering maritime labor accidents or suffering occupational diseases

1. To pay expenses they are jointly responsible for and expenses outside the list of insured expenses including those for medical treatment, surgery, in-patient care, necessary medicines and equipment for treatment and meal and accommodations for crewmen from the time

they are provided with first aid to the time they recover or their disease is determined to be a chronic one.

2. To fully pay wages stated in labor contracts for crewmen during the medical treatment.

3. To pay funeral costs in case crewmen die on board a ship or ashore in their period of service of the ship.

4. To transport the bodies or ashes of deceased crewmen to their place of repatriation.

5. Shipowners are not obliged to pay expenses for crewmen in the following cases:

a/ Crewmen are injured or fall ill beyond the time of service of the ship;

b/ They are injured or fall ill from their intentional acts.

6. To protect and return the property left on board the ships to crewmen or their relatives in case crewmen have to leave the ships when falling ill, being injured or deceased.

**Article 70.** Declaration, investigation, making of statistics and reporting on maritime labor accidents or occupational diseases

1. Upon occurrence of a maritime labor accident, the shipowner or master shall declare it in accordance with the labor law to the following competent agencies:

a/ The port authority, if the ship is operating in the seaport waters;

b/ The state management agency in charge of shipping, if the ship is operating in Vietnam's sea area or on the high sea;

c/ The Vietnamese representative mission, if the ship is operating in a foreign sea.

2. The investigation, making of statistics and reporting on maritime labor accidents and occupational diseases must comply with the labor and occupational safety laws.

3. The Minister of Labor, War Invalids and Social Affairs shall prescribe the declaration of, investigation into, and statistics and reporting on, maritime labor accidents.

**Article 71.** Prevention of maritime labor accidents and occupational diseases

1. Shipowners shall work out and implement measures pursuant to current regulations on maritime labor safety and health and occupational diseases for crewmen, including:

a/ Providing guidance on and training in occupational safety and health for crewmen before assigning tasks to them on board seagoing ships or other jobs or jobs involving higher risks;

b/ Providing regular training in occupational safety and health in accordance with law;

c/ Examining and assessing dangerous and hazardous elements; working out measures to avert and minimize dangers and hazards; improving working conditions and health care for crewmen;

d/ Assigning specific duties to crewmen for occupational safety and health on board their ships;

dd/ For a ship with five or more crewmen, establishing an occupational safety board and defining its tasks and powers;

e/ Fully equipping and instructing the use of personal protection, labor protection and other devices to prevent accidents for crewmen. Personal protection devices must be of prescribed quality;

g/ Ensuring that machinery, equipment and supplies subject to strict labor safety requirements on board ships be technically inspected before putting into use and periodically inspected during their use in accordance with law;

h/ Ensuring that only persons on duty may have access to areas on the ship where health and safety are affected;

i/ Preparing emergency response plans for maritime labor accidents related to crewmen and organizing annual drills.

2. Shipowners shall buy accident insurance, shipowner civil liability insurance and compulsory insurance prescribed for crewmen in the period they are working on board ships.

3. Masters shall press for, regularly and periodically examine the implementation of measures to ensure occupational safety and health for crewmen worked out by shipowners; redress unsafe conditions on board ships and report thereon to shipowners.

4. Crewmen shall fully implement all occupational safety and health assurance measures worked out by shipowners.

5. The Ministry of Labor, War Invalids and Social Affairs shall promulgate a list of machines and equipment of seagoing ships subject to strict occupational safety and health at the proposal of the Ministry of Transport.

## **Article 72. Training of crewmen**

1. Crew training institutions must ensure conditions on physical foundations and lecturers under regulations of the Government.
2. Crewmen training programs must conform with law and treaties to which the Socialist Republic of Vietnam is a contracting party.
3. Shipowners are entitled and obliged to receive and create favorable conditions for apprentices on board seagoing ships.
4. The Minister of Transport shall detail Clauses 2 and 3 of this Article.

## **Chapter IV**

### **SEAPORTS**

#### **Section 1**

#### **GENERAL PROVISIONS**

##### **Article 73. Seaports**

1. Seaport is an area covering port land and port waters where facilities are built and equipment is installed for ships to load and unload cargo, embark and disembark passengers and provide other services. A seaport may have one or more wharves. A wharf may have one or more piers.

Offshore oil and gas port is a facility built or installed in an offshore oil and gas exploitation area for ships to load and unload cargoes and provide other services.

Seaport facilities include piers, waters in front of piers, warehouses, storage yards, workshops, office buildings, service facilities, road, information and communication, electricity and water systems and other aids constructed or installed on the port land and in the waters in front of piers.

3. Water zones and water areas include pilot embarkation and disembarkation area, quarantine area, ship turnaround area, anchorage zone, transshipment zone and storm shelter zone in the seaport waters.

4. Military ports, fishing ports and inland waterway ports and berths situated in the seaport waters are subject to the state management of maritime safety, maritime security, fire and explosion prevention and fighting and environmental pollution prevention in accordance with this Code and other relevant laws.

##### **Article 74. Seaport identification criteria**

1. Having a water area connected to the sea.
2. Having natural geographical conditions meeting the requirements on construction of piers, wharves, anchorage zones, transshipment zones and marine navigable channels for ships' safe entry, departure and operation.
3. Having advantages in maritime navigation.
4. Being a hub of transportation serving domestic transportation of cargoes; transportation of imported and exported cargoes and transshipment by sea.

**Article 75.** Classification of seaports and announcement of the list of classified seaports

1. Seaports shall be classified into:
  - a/ Special seaports, which are big seaports serving national or inter-regional socio-economic development and functioning as international transshipment ports or international gateway ports;
  - b/ Seaports of class I, which are big seaports serving national or inter-regional socio-economic development;
  - c/ Seaports of class II, which are medium seaports serving regional socio-economic development;
  - d/ Seaports of class III, which are small seaports serving local socio-economic development.
2. The Prime Minister shall decide on the classification of seaports and announce the list of classified seaports at the proposal of the Minister of Transport.
3. The Minister of Transport shall announce the list of wharves of Vietnamese seaports at the proposal of the specialized maritime state management agency.

**Article 76.** Basic functions of seaports

1. To provide services to support ships in entering and leaving seaports.
2. To provide facilities, equipment and manpower necessary for ships to anchor, load and unload cargoes, and embark and disembark passengers.
3. To provide cargo transportation, loading and unloading, warehousing and preservation services in seaports.
4. To connect to the transport system outside seaports.

5. To provide shelter, repair, maintenance or necessary services to ships in emergency cases.

6. To provide other services for ships, people and cargoes.

**Article 77.** Principles of naming of seaports, offshore oil and gas ports, wharves, piers, pontoon quays and water zones and areas

Seaports, offshore oil and gas ports, wharves, piers, pontoon quays and water zones and areas shall be named on the following principles:

1. Seaports, offshore oil and gas ports, wharves, piers, pontoon quays and water zones and areas shall be named in the course of formulating development master plans or construction investment projects or announcing their use at the request of investors or related agencies and organizations.

2. Their names must neither be identical nor cause confusion with already announced names of existing ones nor improperly reflect their functions.

3. Their names may not include those of state agencies, armed forces units, political organizations or socio-political organizations, unless it is consented by such agencies, units or organizations.

4. Their names may not include words or signs that are against the national historical and cultural traditions, ethnics and fine customs and practices.

**Article 78.** Competence to name seaports, offshore oil and gas ports, wharves, piers, pontoon quays and water zones and areas

1. The Minister of Transport shall decide to name seaports and offshore oil and gas ports.

2. The head of the specialized maritime state management agency shall decide to name wharves, piers, pontoon quays and water zones and areas.

**Article 79.** Announcement of closure and opening of seaports and seaport waters

The Government shall prescribe the competence, conditions and procedures for closure and opening of seaports, wharves, piers, pontoon quays and water zones and areas, and management of marine navigable channels and maritime activities in seaports.

**Article 80.** Temporary prohibition of ships from entering and leaving seaports, wharves, piers, pontoon quays and water zones and areas

1. For reasons of assurance of maritime safety, maritime security, environmental protection, national defense and security, natural disasters or epidemics, directors of port authorities shall decide to temporarily prohibit ships entering and leaving seaports, wharves, piers, pontoon quays and water zones and areas.

2. When the reason for temporarily prohibiting ships from entering and leaving seaports, wharves, piers, pontoon quays or water zones and areas no longer exists, directors of port authorities shall decide to cancel their temporary prohibition decisions.

3. Immediately after deciding on temporary prohibition or cancelling the decision on temporary prohibition of ships from entering and leaving seaports, wharves, piers, pontoon quays or water zones and areas, directors of port authorities shall report such to the specialized maritime state management agency and at the same time notify such to the shipowners or their agents and specialized state management agencies in the seaports.

**Article 81.** Master plan on development of the seaport system

1. The master plan on development of the seaport system shall be based on socio-economic development strategies; national defense and security tasks; demands and resources; master plans on development of the transport sector, other sectors and localities, and the world maritime development trend.

When drawing up master plans on construction of seaport-related facilities, ministries and provincial-level People's Committees shall obtain written opinions from the Ministry of Transport.

2. The Prime Minister shall approve the master plan on development of the seaport system.

3. The Minister of Transport shall approve detailed plans on development of the seaport system.

**Article 82.** Responsibility to make and manage the master plan on development of the seaport system

1. Responsibilities of the Ministry of Transport:

a/ To elaborate and submit to the Prime Minister for approval the master plan on development of Vietnam's seaport system or propose modifications to the approved master plan;

b/ To publicize the approved master plan and guide and examine its implementation;

c/ To approve detailed plans on development of seaport groups, wharves, piers, pontoon quays and water zones and areas; to decide on

specific modifications to detailed plans on seaport groups, wharves, piers, pontoon quays and water zones and areas, which must not be contrary to their functions and sizes already determined in the master plan on development of Vietnam's seaport system.

2. Responsibilities of ministries, ministerial-level agencies and provincial-level People's Committees:

a/ To coordinate with the Ministry of Transport in organizing the management of the seaport development master plans under this Decree and other relevant laws;

b/ To assure land and water areas for the construction and development of seaports according to the approved master plan.

**Article 83.** Investment in building, management and operation of seaports and marine navigable channels

1. Investment in building seaports and marine navigable channels must comply with the master plans on development of the system of seaports and marine navigable channels, the provisions of this Code and investment and construction and other relevant laws.

2. Domestic and foreign organizations and individuals may invest in building seaports and marine navigable channels in accordance with law.

Organizations and individuals investing in building seaports and marine navigable channels shall decide on the forms of management and operation of seaports and marine navigable channels.

3. Before approving investment projects, competent agencies shall obtain written agreement from the Ministry of Transport.

4. Organizations and individuals investing in building seaports, wharves and piers shall decide on the forms of management and operation of these seaports, wharves and piers in accordance with law.

**Article 84.** Charts of seaport waters and marine navigable channels and maritime routes

The Ministry of Transport shall assume the prime responsibility for, and coordinate with the Ministry of National Defense in, drawing and issuing charts of seaport areas and marine navigable channels and maritime routes serving the assurance of maritime safety at the proposal of the specialized maritime state management agency.

**Article 85.** Detailed provisions on seaports

1. The Minister of Transport shall prescribe in detail the management of operation of ships in seaports, inland waterway berths and fishing ports in seaport waters.

2. The Government shall prescribe in detail criteria for classification of seaports; investment in the building, management and operation of seaports and marine navigable channels and conditions on commercial operation of seaports; the order and procedures for naming and renaming seaports, offshore oil and gas ports, wharves, piers, pontoon quays and water zones and areas.

## **Section 2**

### **MANAGEMENT OF SEAPORTS**

**Article 86.** Management of operation of seaport infrastructure facilities invested by the State

1. Seaport infrastructure facilities invested by the State may be leased out for operation in part or in whole in accordance with law.

2. The lease for operation of seaport infrastructure facilities must comply with the bidding law and other relevant laws.

3. Agencies deciding on investment in seaport infrastructure facilities shall decide on the lease for operation of seaport infrastructure facilities.

4. An operation lessee must fully meet the following conditions

a/ Having the legal person status;

b/ Having a plan for effective operation for proper purposes;

c/ Having financial capability.

5. The Government shall prescribe in detail the lease for operation of seaport infrastructure facilities and the use of proceeds from such lease.

**Article 87.** Port management and operation boards

A port management and operation board shall be established by the Government and assigned with seaport land and waters for planning, investment, building, development and operation of seaport infrastructure facilities and logistics zones behind ports.

**Article 88.** Tasks and powers of a port management and operation board

1. To develop and submit to the Ministry of Transport for consideration and reporting to the Prime Minister for approval the master plan on development of its assigned seaport land and waters.

2. To draw up and submit to the Ministry of Transport for approval detailed plans on development of its assigned port land and waters.

3. To invest in the building and development of seaport infrastructure facilities according to the approved plans.

4. To register investment, appraisal and grant, modify and revoke investment certificates with regard to investment projects on logistics zones behind ports in its assigned seaport land and waters.

5. To issue regulations on management of activities in its assigned seaport land and waters.

6. To organize the management of investment in and operation of seaport infrastructure facilities and logistics infrastructure facilities behind ports.

7. To organize bidding for operating lease of pier and wharf infrastructure facilities.

8. To examine and supervise activities of operators in seaports and logistics zones behind ports.

9. To control and supply equipment and ensure safety in port operations and ship movement in its assigned seaport land and waters.

10. To provide pilotage, towage, logistics and other related services in its assigned seaport land and waters.

11. To maintain and repair seaport infrastructure facilities in its assigned seaport land and waters.

12. To decide on service charge rates in its assigned land and waters on the basis of the service price frame prescribed by a competent agency.

To decide on service prices in its assigned land and waters on the basis of the service price frame prescribed by the Minister of Transport.

13. Other tasks and powers assigned by the Government.

**Article 89.** Organizational structure of the port management and operation board, areas where the port management and operation board model shall be applied

1. The Members' Council of a port management and operation board must include the chairperson, vice chairpersons and members.

2. The chairperson and members of the Members' Council and the director general of the port management and operation board shall be appointed by the Prime Minister at the proposal of the Minister of Transport, including representatives from the Ministry of Transport, the Ministry of Finance, the Ministry of Planning and Investment, the

Ministry of Natural Resources and Environment and provincial-level People's Committee of the locality where the board is established.

3. The Government shall prescribe in detail the organizational structure, tasks and powers of port management and operation boards and areas where this model shall be applied.

**Article 90.** Maritime dues and fees and service prices in seaports

1. Maritime dues and fees and the collection, payment, management and use of maritime dues and fees must comply with the law on charges and fees.

2. Service prices in a seaport include:

a/ Container loading and unloading service price, pilotage service price; pier, wharf and anchorage buoy use price, and towage service price.

b/ Other service prices in a seaport.

3. Enterprises may decide on service prices prescribed at Point a, Clause 2 of this Article within the price frame prescribed by the Ministry of Transport.

4. Enterprises may decide on service prices prescribed at Point b, Clause 2 of this Article.

5. Enterprises shall declare service prices in seaports to competent agencies and post them up in accordance with the law on price.

**Article 91.** Port authority

1. Port authority is an agency attached to the specialized maritime state management agency and performing the state management of maritime activities in the seaport and seaport waters assigned to it for management.

2. The director of a port authority is the highest commander of the port authority.

3. The Ministry of Transport shall prescribe the organization and operation of port authorities.

**Article 92.** Tasks and powers of directors of port authorities

1. To participate in formulating master plans and plans on development of seaports under their management and organize and supervise the implementation of these plans after they are approved by competent state agencies.

2. To organize the implementation of regulations on management of maritime activities in seaports and areas under their management; to

inspect and supervise marine navigable channels and the system of maritime signs; to supervise maritime activities of organizations and individuals in seaports and areas under their management.

3. To grant permits and supervise ships leaving, entering and operating in seaports; to prohibit ships which fail to meet all necessary conditions on maritime safety, maritime security, maritime labor and environmental pollution prevention from entering or leaving seaports.

4. To assume the prime responsibility for coordinating navigational traffic in seaports and areas under their management.

5. To execute seagoing ship arrest decisions issued by competent state agencies.

6. To temporarily detain seagoing ships under Article 114 of this Code.

7. To assume the prime responsibility for organizing search and rescue of persons in distress in seaport waters; to mobilize persons and necessary means for conducting search and rescue or handling environmental pollution incidents.

8. To organize the registration of seagoing ships and registration of crewmen when assigned by competent agencies; to collect, manage and use seaport dues and fees in accordance with law.

9. To organize maritime inspection, investigate and handle according to their competence maritime accidents occurring in seaports and areas under their management.

10. To assume the prime responsibility for and administer the coordination of activities of state management agencies in seaports.

11. To sanction administrative violations in the maritime field according to their competence.

**Article 93.** Coordination of state management in seaports

1. State management agencies in charge of maritime activities, security, quarantine, customs, tax, culture, sports and tourism, fire and explosion prevention and fighting and environmental protection and other state management agencies shall perform their respective tasks and powers in seaports in accordance with law. Within the scope of their respective tasks and powers, these agencies shall operate in coordination with one another and place themselves under the coordination by directors of port authorities.

2. State management agencies operating constantly in seaports may locate their working offices in seaports. Seaport enterprises shall create

favorable conditions for these agencies to perform their tasks and powers.

### **Section 3**

## **PROCEDURES FOR SHIPS TO ENTER AND LEAVE SEAPORTS**

### **Article 94.** Requirements on ships entering seaports

1. Ships of all types, regardless of their flag state, tonnage and use purpose, may enter a seaport only when they satisfy all maritime safety, maritime security, maritime labor, environmental protection and other conditions prescribed by law.

2. Ships of all types may operate at seaports, wharves and piers which have been announced and commissioned and their operations must be suitable to the utilities of these seaports, wharves and piers.

3. When a foreign ship enters a Vietnamese sea area outside seaport waters, procedures shall be carried out for seaport entry and departure at the port authority managing such area. Port authorities shall supervise the operation of ships to ensure maritime safety, maritime security and environmental pollution prevention.

### **Article 95.** Principles for foreign military ships to visit Vietnam

1. To visit Vietnam, foreign military ships must have permission of competent state management agencies according to regulations.

2. Foreign military ships on visit to Vietnam must respect and abide by Vietnamese law, unless otherwise agreed between the flag state of the ship and competent Vietnamese state management agencies via diplomatic channel before the ship arrives in Vietnam.

3. The activity program of the ship and members on board shall be implemented under the agreed plan; any arising change is subject to permission by competent Vietnamese agencies.

4. When a foreign military ship enters Vietnam's territorial sea in order to call at a seaport, it must comply with the following provisions:

a/ Submarines and other underwater crafts must emerge to the water surface and raise the flag of the Socialist Republic of Vietnam in a position on par with that of their national flag, unless otherwise permitted by the Vietnamese Government or agreed between the Vietnamese Government and the Government of the flag state;

- b/ The ship hull must bear its number and name;
- c/ All weapons shall be disengaged or in the preservation state;
- d/ They must stop in the pilot embarkation and disembarkation area for carrying out entry procedures and follow the instructions of the Vietnamese port authority and pilots;
- dd/ They may only use the equipment necessary for maritime safety and the registered radio frequency;
- e/ They must arrive at the designated seaport via prescribed routes and fairways.

5. Foreign military ships in Vietnam that wish to move from one seaport of Vietnam to another must obtain the approval from competent Vietnamese agencies.

**Article 96.** Time limits for carrying out procedures for ships to enter or leave seaports

1. Within two hours after a ship has anchored at a pier or intends to leave a port, a responsible person shall carry out the procedures for the ship to enter or leave the seaport.

2. Within one hour after the person responsible for carrying out the procedures has submitted and produced all papers as prescribed, the port authority shall decide to permit the ship to enter or leave the seaport.

3. A ship that has completed the entry procedures at a seaport of Vietnam shall be exempted from carrying out the entry procedures at the next seaport. The port authority of the seaport where the ship enters shall base itself on the port departure permit issued by the authority of the previous port from which the ship left to decide to permit the ship to enter and operate at its port; other specialized state management agencies shall base themselves on the port transfer dossiers (if any) provided by related agencies in the previous seaport from which the ship left to perform their management tasks in accordance with law.

**Article 97.** Provisions on exemption from and reduction of procedures for ships to enter or leave seaports

1. Official-duty ships on duty, pilot embarkation and disembarkation ships, ships specialized in search and rescue, assurance of maritime safety, fire and explosion prevention and fighting, oil spill prevention and control or performing other emergency tasks shall be exempted from carrying out port entry and departure procedures under regulations, but their master shall notify the port authorities thereof in writing or by other appropriate means of communication.

2. Ships that enter a seaport for delivering persons, property and other ships rescued at sea and only stay at the seaport for no more than 12 hours shall be allowed to carry out the port entry and departure procedures at a time.

**Article 98.** Principles for ships to enter or leave seaports

1. A ship may leave a seaport only after having completed the procedures as prescribed.

2. A ship is not permitted to leave a port in the following cases:

a/ It had insufficient conditions on maritime safety, maritime security, maritime labor and environmental pollution prevention as prescribed;

b/ It has not yet fully paid all maritime dues and fees according to the prescribed deadline;

c/ Other threats to its own safety and safety of persons or cargoes on board or to the marine environment are detected;

d/ A warrant to arrest or detain it has been issued by a court or a competent agency in accordance with law.

3. If disallowing a ship to leave the seaport under Point a, b or c, Clause 2 of this Article, the director of the port authority or competent organization or person shall notify the reason to the master and related agencies, and carry out the procedures for the ship to leave the seaport immediately after such reason no longer exists.

**Article 99.** Competence to permit, and order and procedures for, ships to enter and leave seaports

The Government shall prescribe in detail the competence to permit, and order and procedures for, ships to enter and leave seaports and for foreign military ships to visit Vietnam.

## **Section 4**

### **INLAND CLEARANCE DEPOTS**

**Article 100.** Functions of inland clearance depots

1. To receive and deliver containerized cargoes.

2. To load cargoes into and unload cargoes from containers.

3. To muster containers for transportation to seaports and vice versa.

4. To inspect and complete customs procedures for imported and exported cargoes.

5. To gather and divide cargoes of different owners in the same containers.

6. To temporarily store imported and exported cargoes and containers.

7. To repair and maintain containers;

**Article 101.** Criteria of inland clearance depots

1. To comply with the approved master plan on development of the inland clearance depot system.

2. To be connected to the major transport corridors and seaports serving regional economic development.

3. To have at least two modes of transport to facilitate organization of multi-modal transport or be directly connected to a high-capacity mode of transport.

4. To ensure sufficient areas for working offices of concerned agencies and organizations.

5. To meet fire and explosion prevention and fighting and environmental protection requirements prescribed by law.

**Article 102.** Master plan on development of the inland clearance depot system

1. The master plan on development of the inland clearance depot system shall be based on the socio-economic development strategy, national defense and security tasks and transport development master plan.

2. The Prime Minister shall approve and adjust the master plan on development of the inland clearance depot system at the proposal of the Minister of Transport.

3. The Minister of Transport shall approve the detailed plan on development of the inland clearance depot system, announce and organize the guidance and inspection of the implementation of the approved master plan.

4. Ministries and provincial-level People's Committees shall:

a/ Coordinate with the Ministry of Transport in managing the implementation of the master plan on development of the inland clearance depot system in accordance with this Code and other relevant laws;

b/ Ensure land areas for the construction and development of inland clearance depots according to the approved master plan.

**Article 103.** Investment in construction and management of operation of inland clearance depots

1. Investment in the construction of inland clearance depots must comply with the master plan on development of the inland clearance depot system and the investment, construction and other relevant laws.

2. Organizations and individuals have the right to invest in the construction and operation of inland clearance depots in accordance with law.

3. The Government shall prescribe in detail investment in the construction and operation of inland clearance depots.

**Article 104.** Competence to announce the opening, suspension of operation and closure of inland clearance depots and responsibilities of state management agencies in inland clearance depots

1. The Minister of Transport shall announce the opening, suspension of operation and closure of inland clearance depots.

2. State management agencies in charge of security, quarantine, customs and tax and other state management agencies shall perform their respective tasks and powers in inland clearance depots in accordance with law.

3. State management agencies constantly operating in inland clearance depots may locate their working offices in these depots. Inland clearance depot enterprises shall create favorable conditions for these agencies to perform their tasks and powers.

## **Chapter V**

### **MARITIME SAFETY, MARITIME SECURITY, MARITIME LABOR AND ENVIRONMENTAL PROTECTION**

**Article 105.** Assurance of maritime safety, maritime security, maritime labor and environmental protection

1. Vietnamese seagoing ships shall be employed for the purposes registered in the Vietnam National Register of Ships only when their structures, equipment, certificates and documents, complement and professional competence of their crews comply with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party.

2. Seagoing ships, military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, seaplanes, floating and offloading storage units, mobile offshore units and floating docks, when operating in Vietnam's seaport waters and seas, must follow instructions of maritime signs and observe the rules for the collision prevention and regulations of the Minister of Transport.

3. In marine navigable channels, at necessary positions along the coast, on islands, in water areas where exist obstructions and other structures at sea and in seaport waters where seagoing ships are permitted to operate, maritime signs shall be installed according to regulations of the Minister of Transport.

4. When operating in Vietnam's seaport waters and seas, seagoing ships exclusively employed for carrying oil, oil products and other dangerous cargoes shall be covered by insurance for civil liability of their owners for environmental pollution.

5. Foreign seagoing ships operated by nuclear power and ships carrying radioactive substances may not enter Vietnam's seaport waters, internal waters or territorial sea unless entry permission is granted by the Prime Minister.

6. Organizations and individuals operating in Vietnamese seaports and seas shall comply with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party concerning maritime safety, maritime security, maritime labor and environmental protection.

**Article 106.** Seagoing ship security and seaport security

1. Passenger seagoing ships and cargo seagoing ships of 500 GT or more and mobile offshore units that fly the Vietnamese flag and operate along international routes must have seagoing ship security plans according to regulations.

2. Vietnamese seaports that receive foreign ships and Vietnamese ships mentioned in Clause 1 of this Article must have seaport security plans according to regulations.

3. The Minister of Transport shall prescribe in detail the drawing up, appraisal and approval of seagoing ship security plans, seaport security plans and plans on security of water zones and areas; and the grant of certificates related to seagoing ship security and seaport security.

**Article 107.** Transmission of maritime security information

1. Maritime security information is information on acts of illegally obstructing the navigation of seagoing ships or dangers that have caused or are likely to cause security incidents to seagoing ships.

2. When facing maritime security problems, seagoing ships operating in Vietnam's seaport waters or seas shall give out security signals according to regulations.

3. Other seagoing ships, upon receiving maritime security information from any seagoing ships operating at sea must transmit such information to responsible agencies or organizations of the coastal state.

4. An agency that receives maritime security information shall organize watch around the clock to process information and promptly transmit maritime security information to concerned agencies.

5. The Government shall prescribe the disclosure, reception, processing and transmission of maritime security information.

**Article 108.** Assurance of maritime safety

1. Assurance of maritime safety includes the following activities:

a/ Organizing and managing maritime safety;

b/ Providing maritime safety assurance services.

2. Organizing and managing maritime safety assurance means establishing and operating a maritime safety assurance system, including planning and managing investment in the construction of infrastructure, organizing the operation of the maritime safety assurance system; standardizing, assessing and supervising to ensure the quality of maritime safety assurance services.

3. Maritime safety assurance services include:

a/ Establishing, operating, preserving and maintaining maritime signs and marine navigable channels and maritime routes;

b/ Surveying, drawing and distributing charts of seaport waters, marine navigable channels and maritime routes;

c/ Issuing notices to mariners;

d/ Regulating maritime safety assurance;

dd/ Developing and issuing documents and publications on maritime safety;

e/ Communicating electronic maritime information;

g/ Providing maritime pilotage;

h/ Conducting maritime search and rescue;

i/ Clearing obstacles affecting maritime safety;

k/ Providing other maritime safety assurance services as prescribed by law.

4. Providers of maritime safety assurance services shall fully meet the conditions on equipment, financial sources and manpower prescribed by law.

5. The Government shall prescribe conditions for provision of maritime safety assurance services.

The Minister of Transport shall organize and manage the work of maritime safety assurance.

**Article 109.** Maritime routes in Vietnam's territorial sea

1. Maritime route means the path of ships in Vietnam's territorial sea, delimited with points with positions and coordinates determined and announced by competent state agencies as instructions for ships operating in Vietnam's territorial sea.

2. The establishment of maritime routes in Vietnam's territorial sea to serve the innocent passage and ensure maritime safety for ships must comply with Vietnamese law, the United Nations Convention on the Law of the Sea and other relevant treaties to which the Socialist Republic of Vietnam is a contracting party.

**Article 110.** Establishment and announcement of maritime routes and traffic division in Vietnam's territorial sea

1. The Ministry of Transport shall establish and announce maritime routes and divide traffic flow in Vietnam's territorial sea at the proposal of the specialized maritime state management agency.

2. The Ministry of Foreign Affairs shall coordinate with the Ministry of Transport and concerned agencies in notifying international organizations of maritime routes and traffic division in Vietnam's territorial sea in accordance with Vietnamese law and relevant treaties to which the Socialist Republic of Vietnam is a contracting party.

**Article 111.** Contents of announcement of maritime routes and traffic division in Vietnam's territorial sea

1. Name of maritime route.
2. Position, coordinate and technical specifications of maritime route.
3. Information relating to traffic division
4. Instructions for ships operating along maritime routes;
5. Other necessary information.

**Article 112.** Forms of announcement of maritime routes and traffic division in Vietnam's territorial sea

1. The announcement of maritime routes and traffic division in Vietnam's territorial sea shall be effected in the following forms:

a/ Issuing relevant charts or paper or electronic documents serving maritime activities;

b/ Transmitting notices to mariners;

c/ Making a directory of maritime routes and traffic routes in Vietnam's territorial sea;

d/ Other appropriate forms in accordance with law.

2. The specialized maritime state management agency shall:

a/ Organize the transmission of notices to mariners regarding maritime routes and traffic division in Vietnam's territorial sea already announced according to regulations;

b/ Organize the making and distribution of the directory of maritime routes in Vietnam's territorial sea.

3. Financial source for the making and distribution of the directory of maritime routes in Vietnam's territorial sea shall come from the state budget and other lawful sources.

**Article 113.** Inspection and examination of maritime safety, maritime security, maritime labor and environmental protection with regard to seagoing ships

1. Seagoing ships, when operating in Vietnam's seaport waters, internal waters and territorial sea, are subject to inspection and examination by the maritime inspectorate and port authorities of maritime safety, maritime security, maritime labor, fire and explosion prevention and fighting and environmental protection in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party.

2. The inspection and examination stated in Clause 1 of this Article shall be conducted in accordance with law and may not affect seagoing ships' maritime safety, maritime security, maritime labor conditions, fire and explosion prevention and fighting and environmental protection.

3. Shipowners and masters shall create conditions for competent state agencies specified in Clause 1 of this Article to conduct inspection and examination of their seagoing ships.

4. Shipowners and masters shall repair and remedy their seagoing ships' defects related to maritime safety, maritime security, maritime labor, fire and explosion prevention and fighting and environmental protection as requested by the maritime inspectorate and port authorities.

#### **Article 114.** Temporary detention of seagoing ships

The temporary detention of seagoing ships shall be effected in the following cases:

1. In the process of investigation of a maritime accident and the temporary detention is necessary to serve the investigation;
2. Failure to fully pay a fine for an administrative violation in accordance with law;
3. Commission of an illegal act falling in the case subject to temporary detention of means of commission in accordance with law.

#### **Article 115.** Competence to temporarily detain seagoing ships

1. Directors of port authorities have the power to temporarily detain seagoing ships prescribed in Clause 1, Article 144 of this Code for no more than 5 days.

In case of necessity to extend the time limit for collecting evidences to investigate a maritime accident occurring in seaport waters, the director of the port authority shall report it to the specialized maritime state management agency for consideration and decision to extend the temporary detention for another 5 days at most; for a maritime accident occurring outside seaport waters, the extension of the temporary detention shall be considered and decided by the Minister of Transport.

The investigation into a maritime accident shall be conducted expeditiously and the temporary detention of the seagoing ship must immediately end after adequate evidences have been collected to serve the investigation.

2. Persons competent to temporarily detain seagoing ships in accordance with the Law on Handling of Administrative Violations have the power to temporarily detain seagoing ships prescribed in Clause 2, Article 114 of this Code. The temporary detention of a seagoing ship must immediately end after the fine for an administrative violation has been paid or guaranteed for full payment.

3. The competence and time limits for temporary detention of seagoing ships prescribed in Clause 3, Article 114 of this Code must comply with law.

4. Persons who issue decisions to temporarily detain seagoing ships shall pay compensation for damage in accordance with law if such temporary detention is wrong.

#### **Article 116.** Procedures for temporarily detaining seagoing ships

1. Competent persons prescribed in Article 115 of this Code shall issue decisions to temporarily detain seagoing ships in the cases prescribed in Article 114 of this Code. A decision on temporary detention of a seagoing ship shall be immediately sent to its master, the specialized maritime state management agency and related state management agencies in the seaport.

2. Upon receiving a decision on temporary detention of his/her seagoing ship, the master and related persons shall comply with requirements stated in the decision.

3. After the reason for the temporary detention of a seagoing ship no longer exists or the time limit for such detention expires without any extension decision according to regulations, the competent person that has issued the decision on temporary detention shall issue a decision to end the temporary detention of the seagoing ship and send it to the master of the seagoing ship, the specialized maritime state management agency and related state management agencies in the seaport.

4. The temporary detention of a seagoing ship shall be recorded in writing.

5. The Government shall prescribe in detail procedures for temporarily detaining seagoing ships for investigation of maritime accidents.

**Article 117.** Complaints and settlement of complaints about decisions to temporarily detain seagoing ships

Masters or owners or operators of seagoing ships have the right to lodge complaints about decisions on temporary detention of their seagoing ships. The order and procedures for settling such complaints must comply with the law on complaints.

**Article 118.** Sea protests

1. Sea protest is a document made and announced by the master, describing the circumstance encountered by his/her seagoing ship and measures already taken by him/her to overcome such circumstance, limit loss and damage and protect lawful rights and interests of the shipowner and related persons.

2. When his/her seagoing ship, persons or cargo on board is/are damaged or lost or suspected to be damaged or lost on account of an accident or incident, the master shall make a sea protest and submit it to a competent state agency prescribed in Clause 3 of this Article for certification of this submission.

3. State agencies competent to certify the submission of sea protests in Vietnam include port authorities or commune-level People's Committees of the nearest places.

State agencies competent to certify the submission of sea protests in foreign countries include Vietnamese representative missions in the nearest places or competent agencies or organizations of the coastal states where the seagoing ships operate.

4. A sea protest shall be made and certified in Vietnamese or English; for a sea protest in English, as requested by the competent agency certifying the submission of such sea protest, the master shall submit it together with its Vietnamese translation.

5. The provisions on sea protests also apply to other types of ships operating in Vietnam's seaport waters and seas.

6. The Minister of Transport shall specifically prescribe the order and procedures for submission and certification of sea protests.

**Article 119.** Legal validity of sea protests

1. Sea protests that are certified in accordance with this Code are valid for use as evidence in the settlement of related disputes.

2. Certified sea protests do not relieve masters of their liability for related events.

**Article 120.** Time limits for submission of sea protests

1. If the accident or incident occurs when the ship is navigating at sea, a sea protest shall be submitted to a competent agency for certification within 24 hours from the time the ship calls at the first seaport.

2. If the accident or incident occurs in a Vietnamese seaport, a sea protest shall be submitted to a competent agency for certification within 24 hours after such accident or incident occurs.

3. If the accident or incident occurs in relation to the cargo in the cargo hold, a sea protest shall be submitted to a competent agency for certification before the cargo hold lid is opened.

4. If a sea protest cannot be submitted in accordance with Clause 1, 2 or 3 of this Article, it must state the reason therefor.

**Article 121.** Submission of additional sea protests

When finding it necessary, masters have the right to make additional sea protests and submit them to competent agencies for certification.

### **Article 122. Marine search and rescue**

1. When being in danger and in need of help, seagoing ships and seaplanes must emit SOS signals according to regulations.

2. When detecting or receiving SOS signals from persons or other ships in distress at sea, in seaport waters, seagoing ships and seaplanes must, if practical conditions permit and no serious dangers will be caused to the ships and persons on board, help the persons in distress by all means, even if they have to deviate from the set course, and promptly notify related organizations and individuals thereof.

3. The maritime search and rescue-coordinating agency must be ready to organize and coordinate activities of searching and rescuing in time the persons in distress in search and rescue areas under their management, and have the right to mobilize persons and means for the search and rescue.

4. The Minister of Transport shall specifically prescribe the organization and operation of the marine search and rescue-coordinating agency.

### **Article 123. Maritime accidents**

1. Maritime accident means an event directly related to operation of seagoing ships, causing any of the following consequences: loss of life, missing person, serious personal injury; collision of seagoing ships; serious damage to ship structure; missing, sinking, running aground, loss of operability of ships; damage to maritime infrastructure facilities or serious environmental pollution;

Maritime accidents do not include acts that deliberately cause damage to persons, seagoing ships, maritime infrastructure facilities or the environment.

2. Directors of port authorities shall organize investigation into maritime accidents; if detecting any criminal signs in the course of investigation, they shall transfer the case files to competent investigation agencies.

3. The Minister of Transport shall specifically prescribe the reporting on and investigation into maritime accidents.

### **Article 124. Protection of maritime facilities**

1. Protection of maritime facilities include activities of ensuring safety and quality of maritime facilities; taking measures to prevent, stop and handle acts that infringe upon these facilities causing dangers to the lives of people and damage to the properties of the State and people.

2. The scope of protection of a maritime facility covers the facility itself, its protection corridor, sections in the air, sections under the water, sections under the ground related to the safety of the facility and assurance of safety for maritime activities.

3. Outside the scope of protection of seaport facilities and maritime routes, construction and all other activities may not affect the safe use of such seaport facilities and maritime routes.

**Article 125.** Principles of protection of maritime facilities

1. Investment in the construction, management, operation, repair and protection of maritime facilities must comply with relevant laws and technical regulations promulgated and announced by competent state agencies.

2. When formulating master plans that affect maritime facilities, ministries and provincial-level People's Committees shall send written requests for opinions of the Ministry of Transport.

3. Organizations and individuals that invest in the construction, management and operation of maritime facilities shall draw up plans on protection of these facilities, which must include the following basic contents:

a/ Identification of the protection scope of maritime facilities in accordance with this Code;

b/ Installation of maritime signs for maritime facilities;

c/ Manpower; addresses and telephone numbers for contact in the protection of maritime facilities;

d/ Equipment and instruments serving the protection of maritime facilities;

dd/ Plan on protection of maritime facilities and examination and supervision measures to be taken by the investor or manager of the operation of these works;

e/ Measures to be taken to handle damage to, maritime accidents, incidents or illegal acts affecting safety in the operation of, maritime facilities;

g/ Proposing principles, mechanisms and modes of coordination between the investor or manager of the operation of the facilities and the port authorities and competent agencies in the area where the facilities are located.

**Article 126.** Scope of protection of maritime facilities

1. The scope of protection of maritime facilities is prescribed as follows:

a/ For wharves and piers, it is from the outmost edge of the facility to the end of the outer boundary of the water area in front of the wharf or pier;

b/ For offshore oil and gas ports, it is delimited by the safety belt of the work and the no-navigation and anchorage zone in the offshore oil and gas port area;

c/ For maritime routes, it is from the position of the center of the reinforced concrete sinker of the maritime route to both sides of the route determined according to the technical regulations on maritime routes;

d/ For maritime signs, it is from the center of the maritime sign to the outside determined according to the technical regulations on maritime signs;

dd/ For maritime facilities' sections in the air and under the ground, it shall be determined specifically for each facility based on the master plan on development of seaports and maritime routes, technical regulations and relevant laws.

2. When announcing the commissioning of a maritime facility, competent agencies shall also announce the scope of protection of the facility.

3. The Government shall prescribe in detail the distance and scope of protection of maritime facilities.

**Article 127.** Settlement of incidents in protection of maritime facilities

1. When detecting that a marine facility is infringed upon or its safety is at risk, the investor or manager of the operation of the facility or detecting person shall immediately report it to the port authority in the area for taking handling measures in a timely manner.

2. When receiving the information, the director of the port authority shall direct the investor or manager of the operation of the maritime facility to apply necessary measures to protect the facility, reducing damage to the facility; and at the same time notify such to competent agencies and local administration in the area where the facility is located for support and application of necessary rescue and remediation measures, handling of violations and assurance of safety for the facility.

3. The investor or manager of the operation of the maritime facility shall strictly comply with the direction of the port authority and competent agencies; apply rescue and remediation measures, stop acts of

violation according to the facility protection plan; establish necessary warning signs to ensure safety around the facility; and promptly remedy consequences in order to early put the facility into safe operation.

4. Competent agencies and local administrations in the area where a maritime facility is located shall, upon detecting acts of violation or receiving information about a maritime facility that is infringed upon or has its safety at risk, immediately coordinate with the port authority in the area, the investor or manager of the operation of the facility in handling violations, rendering rescue and overcoming the incident in accordance with law.

**Article 128.** Environmental protection in maritime activities

1. Newly built seagoing ships and seaports under construction must have environmental protection facilities and equipment according to regulations; have plans on response to oil and hazardous chemical spills.

Seaports must have plans and measures to receive and dispose of wastes from seagoing ships according to regulations.

2. Shipowners, port owners and related organizations and individuals shall comply with the environmental protection law.

## **Chapter VI**

### **ARREST OF SEAGOING SHIPS**

#### **Section 1**

#### **GENERAL PROVISIONS**

**Article 129.** Arrest of seagoing ships

Arrest of a seagoing ship means an act of banning or restricting the movement of a seagoing ship by decision of a court to secure the settlement of maritime claims, application of provisional urgent measures, enforcement of civil judgments and implementation of mutual legal assistance.

**Article 130.** Competence to decide on arrest of seagoing ships

1. Provincial-level People's Courts of localities of ports where seagoing ships requested to be arrested are operating are competent to decide on arrest of seagoing ships.

In case a port has different wharves located in different provinces and centrally run cities, the provincial-level People's Court of the

locality of the wharf where the seagoing ship is requested to be arrested is operating is competent to arrest such ship.

2. People's Courts that are settling civil cases and provincial-level People's Courts of the localities where the arbitration tribunals accept to settle disputes are competent to decide on application of the provisional urgent measure of arresting seagoing ships.

For a court decision on arrest of a seagoing ship, two copies shall be handed over to the port authority, one for execution and the other for delivery to the master of the arrested ship for compliance.

3. The Chief Justice of the Supreme People's Court shall consider and decide on courts competent to decide on arrest of seagoing ships in case there is a dispute over this competence among provincial-level people's courts.

**Article 131.** Responsibility for wrong request for arrest of seagoing ships

1. Requesters for arrest of seagoing ships shall take responsibility before law for their requests. If the request for arrest of a seagoing ship is wrong, causing damage, the requester shall pay compensation for damage.

2. Any damage caused by a wrong request for arrest of a seagoing ship shall be settled through agreement among involved parties. If no agreement can be reached and a dispute occurs, the case may be brought to a court or an arbitration for settlement in accordance with law.

3. A court that issues a decision on arrest of a seagoing ship not based on the reason for request of the arrest or of a wrong seagoing ship, thereby causing damage, shall pay compensation for damage in accordance with law.

**Article 132.** Financial security for requests for arrest of seagoing ships

1. Requesters for arrest of a seagoing ship shall provide financial security in either or both of the following forms:

a/ Submitting to court an asset guarantee document issued by a bank or another credit institution or another individual, agency or organization;

b/ Depositing a sum of money or valuable paper under a court decision forcing the implementation of financial security into a blockaded account at a bank in the locality where the court competent to decide on arrest of seagoing ships is located within 48 hours after receiving such decision.

2. The value of financial security shall be set by the court corresponding to the loss or damage that might occur as a result of the wrong request for arrest of a seagoing ship.

**Article 133.** Fee for arrest of seagoing ships

1. Requesters for arrest of a seagoing ship shall pay a fee in accordance with law.

2. A fee for arrest of a seagoing ship shall be paid to the court competent to decide on arrest of seagoing ships prescribed in Article 130 of this Code within 48 hours after the court requests payment thereof.

**Article 134.** Documents and evidences to be enclosed with requests for arrest of seagoing ships or release of arrested seagoing ships

1. When requesting arrest or release of a seagoing ship, the requester shall send a written request for arrest of a seagoing ship or for release of an arrested seagoing ship enclosed with documents and evidences proving that such request is grounded and lawful.

2. For foreign-language documents and evidence proving the request for arrest of a seagoing ship or release of an arrested seagoing ship, their Vietnamese translations which are certified in accordance with law shall be enclosed. For documents and papers established, issued or certified in accordance with foreign laws, they shall be legalized by consular offices, unless the consular legalization is exempted in accordance with treaties to which the Socialist Republic of Vietnam is a contracting party.

**Article 135.** Notification of execution of decisions on arrest of seagoing ships, decisions on release of arrested seagoing ships

1. Directors of port authorities shall notify in writing the court, maritime state management agency and related state management agencies in the port of the execution of decisions on arrest of seagoing ships or decisions on release of arrested seagoing ships.

2. Masters shall notify the shipowners, charterers and operators and persons with related interests of the arrest or release of seagoing ships.

**Article 136.** Obligations of property owners during the time of arrest of seagoing ships

1. Shipowners, charterers and operators shall finance the maintenance of the safe operation of their arrested seagoing ships.

2. If shipowners, charterers or operators fail to finance or are unable to finance the maintenance of the safe operation of their arrested seagoing ships, masters or agents of shipowners shall apply necessary measures to maintain the safe operation of such ships.

3. If the agency that arrests a seagoing ship finances the maintenance of the safe operation of the seagoing ship, the shipowner, charterer or operator shall refund all expenses related to the maintenance of the operation of the ship during the time it is arrested, if the request for arrest of the seagoing ship is correct.

**Article 137.** Release of arrested seagoing ships

1. An arrested seagoing ship shall be released in the following cases:

a/ After its owner, charterer or operator has taken substitute security measures or fully paid the debt and related expenses during the time the ship is arrested;

b/ The decision on its arrest is cancelled;

c/ The time limit for its arrest under the arrest decision expires.

2. In case there is no agreement between the involved parties on the level and form of substitute security, the court shall decide on the level and form of substitute security which, however, must not exceed the value of the arrested seagoing ship. The requester for the arrest of a seagoing ship may not perform any action that infringes upon the property or other interests of the shipowner, charterer or operator.

3. The arrested seagoing ship may be released at the request of the person who has requested the arrest; in this case, all related expenses shall be incurred by the requester.

**Article 138.** Application of laws in the arrest of seagoing ships

1. The arrest of seagoing ships to secure the settlement of maritime claims must comply with the provisions of Section 2 of this Chapter and the law on procedures for arrest of seagoing ships.

2. The arrest of seagoing ships in the case of application of the provisional urgent measure, securing the enforcement of civil judgments and provision of mutual legal assistance must comply with the laws on civil procedures and procedures for arrest of seagoing ships and other relevant laws.

**Section 2**

**ARRREST OF SEAGOING SHIPS TO SECURE SETTLEMENT  
OF MARITIME CLAIMS**

**Article 139.** Maritime claims giving rise to the right to arrest seagoing ships

Maritime claims giving rise to the right to arrest seagoing ships are claims in the following cases:

1. The cases specified in Article 41 of this Code;
2. Damage caused by or threatened to be caused by a seagoing ship to the environment or related interests; measures taken to avert, limit or eliminate such damage; monetary indemnity for such damage; expenses for measures actually taken or to be taken to restore the environment; loss already inflicted or to be inflicted on a third party affected by such damage; damage, expenses or loss similar to those specified in this Clause;
3. Expenses incurred in the raising, movement, recovery, destruction or rendering harmless of a seagoing ship which is sunk, wrecked, stranded or abandoned, including any appurtenance that is or has been on board the ship, expenses or costs related to the abandoned seagoing ship and expenses for its crew;
4. Agreement relating to the use or charter of a seagoing ship, whether by charterparty or otherwise;
5. Agreement relating to the carriage of cargo or passengers on board a seagoing ship, whether by charterparty or otherwise;
6. Loss of or damage to cargo, including luggage carried on board a seagoing ship;
7. General average;
8. Towage;
9. Pilotage;
10. Cargoes, materials, food, fuel, equipment (including containers) supplied or services provided to a seagoing ship for its operation, management, preservation and maintenance;
11. Building, transformation, reconstruction, repair or equipment of a seagoing ship;
12. Payments made on behalf of the shipowner;
13. Insurance premiums paid by the shipowner or a person on behalf of the shipowner or bareboat charterer;
14. Commission, brokerage or agent's expenses relating to a seagoing ship which shall be paid by its owner, bareboat charterer or an authorized person;

15. Disputes over ownership of a seagoing ship;
16. Disputes between co-owners of a seagoing ship over the use of the seagoing ship or earnings of the ship;
17. Mortgages of a seagoing ship;
18. Disputes arising from contracts for purchase and sale of seagoing ships.

Persons who have the right to make maritime claims prescribed in this Article have the right to request a competent court prescribed in Clause 1, Article 130 of this Code to decide on arrest of seagoing ships to secure the settlement of maritime claims.

**Article 140.** Conditions for arrest of seagoing ships to secure settlement of maritime claims

1. After receiving a request for arrest of a seagoing ship to secure settlement of a maritime claim prescribed in Article 139 of this Code, the court shall decide on the arrest of the seagoing ship in the following cases:

a/ The shipowner is the person responsible for the maritime claim at the time of arising of the maritime claim and still owns the ship at the time of its arrest;

b/ The bareboat charterer is the person responsible for the maritime claim at the time of arising of the maritime claim and still the bareboat charterer or the owner of the ship at the time of its arrest;

c/ This maritime claim is based on the mortgage of the seagoing ship concerned;

d/ This maritime claim is related to the right to ownership or possession of the seagoing ship concerned;

dd/ This maritime claim is secured by a maritime lien relating to the seagoing ship concerned.

2. The arrest shall be also effected of another or many other seagoing ships owned by the person who is held responsible for the maritime claim and, at the time of arising of the maritime claim, is also:

a/ The owner of the seagoing ship related to the arising maritime claim;

b/ The bareboat charterer, time charterer or voyage charterer of the seagoing ship related to the arising maritime claim.

3. The provisions of Clause 2 of this Article do not apply to maritime claims relating to the right to ownership of seagoing ships.

**Article 141.** Time limit for arrest of seagoing ships to secure settlement of maritime claims

1. The time limit for arrest of seagoing ships to secure the settlement of maritime claims is 30 days counting from the date the seagoing ship is arrested.

2. Within the time limit for arrest of a seagoing ship to secure the settlement of a maritime claim, if the requester for arrest of the seagoing ship brings the case to a court or request an arbitration to settle the dispute and continues requesting the arrest, the time limit for arrest of the seagoing ship to secure the settlement of the maritime claim ends when the court decides to apply or not to apply the urgent provisional measure of arresting the ship.

**Article 142.** Grounds for release of seagoing ships arrested to secure settlement of maritime claims

1. A seagoing ship that is arrested to secure the settlement of a maritime claim shall be immediately released when any of the following grounds exists:

a/ After the shipowner, charterer or operator applies substitute security measures or fully pays the debt;

b/ The property obligation of the shipowner, charterer or operator has been guaranteed by another person or with a letter of commitment of a prestigious insurance organization. The Ministry of Finance shall announce the list of prestigious insurance organizations;

c/ It is so requested by the requester for arrest of the seagoing ship;

d/ The decision on arrest of the seagoing ship is cancelled;

dd/ The time limit for arrest of the seagoing ship under a court decision expires.

2. Substitute security measures shall be agreed upon by involved parties. In case there is no agreement between the parties on the level and form of substitute security, the court shall decide on the level and form of substitute security which, however, must not exceed the value of the arrested seagoing ship or the property obligation serving as the basis for the arrest of the seagoing ship in case the property obligation is smaller than the value of the seagoing ship.

**Article 143.** Request for release of seagoing ships arrested to secure settlement of maritime claims

When any of the grounds prescribed at Points a, b and c, Clause 1, Article 142 of this Code exists, the shipowner, charterer, operator,

master, requester for arrest of a seagoing ship and related persons have the right to request release of the arrested seagoing ship.

**Article 144.** Re-arrest of seagoing ships to secure settlement of maritime claims

1. A seagoing ship that is released after being arrested to secure the settlement of a maritime claim or after a substitute security measure has been implemented with regard to a maritime claim may not be re-arrested on the ground of the same maritime claim, except in the following cases:

a/ The total value of the substitute security already paid is still insufficient for fulfilling the property obligation, if the total value of such substitute security is smaller than the value of the released seagoing ship;

b/ The guarantor of the performance of the property obligation for the shipowner, charterer or operator fails to perform or is unable to perform part or the whole of the guaranteed property obligation;

c/ The release of the ship or cancellation of the substitute security measure has been effected at the request of the requester for the arrest of the ship for a plausible reason;

d/ Although having applied all necessary measures, the requester for the arrest of the seagoing ship cannot stop the release of the ship or cancellation of the substitute security measure.

2. A seagoing ship shall not be regarded as having been released if such release is effected without a decision of a competent court or the seagoing ship escapes from the place of arrest, unless the arrest decision has been cancelled or the time limit for arrest of the ship under a court decision has expired.

3. The procedures for re-arresting seagoing ships to secure the settlement of maritime claims are the same as those for arresting seagoing ships to secure the settlement of maritime claims prescribed in this Section.

## **Chapter VII**

### **CONTRACTS OF CARRIAGE OF CARGO BY SEA**

#### **Section 1**

#### **GENERAL PROVISIONS**

**Article 145.** Contracts of carriage of cargo by sea

1. A contract of carriage of cargo by sea is a contract concluded between a carrier and a charterer, whereby the carrier agrees to carry a cargo by seagoing ship from port of loading to port of delivery, in return for a freight paid by the charterer.

2. Cargo includes machinery, equipment, materials and raw materials, fuels, consumer goods and other moveable assets, including live animals, containers or similar tools supplied by the consignor for cargo packing, which are carried under contracts of carriage of cargo by sea.

**Article 146.** Types of contracts of carriage of cargo by sea

1. Contracts of carriage according to carriage documents, which are contracts of carriage of cargo by sea concluded on the condition that instead of allowing for the cargo the whole cargo space of a ship or a definite part thereof, the carrier will perform the carriage on the basis of the cargo's kind, quantity, measure or weight.

Contracts of carriage according to carriage documents shall be concluded in a form agreed upon by the involved parties.

2. Contracts of carriage according to voyage, which are contracts of carriage of cargo by sea concluded on the condition that the carrier will allow for the cargo the whole cargo space of the ship or a definite part thereof, for a voyage.

Contracts of carriage according to voyage shall be concluded in writing.

**Article 147.** Involved parties to contracts of carriage of cargo by sea

1. Charterer means the party that directly concludes or authorizes another party to conclude a contract of carriage of cargo by sea with a carrier. In case of contracts of carriage according to carriage documents, the charterer shall be called consignor.

In case of contracts of carriage according to carriage documents, the charterer shall be called consignor.

2. Carrier means the party that directly concludes or authorizes another party to conclude a contract of carriage of cargo by sea with a charterer.

3. Actual carrier means the party that is entrusted by a carrier to perform the carriage of cargo by sea in whole or in part.

4. Consignor means the party that directly consigns or is entrusted by another party to consign cargo to a carrier under a contract of carriage of cargo by sea.

5. Consignee means the party that is entitled to receive cargo under Articles 162 and Article 187 of this Code.

**Article 148. Carriage documents**

1. Carriage documents include bills of lading, ocean through bills of lading, sea waybills and other carriage documents. Forms of bill of lading and ocean through bill of lading shall be issued by enterprises and sent to and kept at the specialized maritime state management agency.

2. Bill of lading is a carriage document serving as evidence of the receipt by the carrier of the cargo in the quantity, kind and conditions as indicated in the bill of lading for carriage to the place of discharge; as evidence of the ownership of the cargo for the disposal or receipt of the cargo and as evidence of the contract of carriage of cargo by sea.

3. Ocean through bill of lading is a bill of lading expressly indicating that the carriage of the cargo is performed by at least two ocean carriers.

4. Sea waybill is an evidence of the receipt of the cargo as indicated in the sea waybill; an evidence of the contract of carriage of cargo by sea. Sea waybills are non-negotiable.

5. Other carriage documents are documents with their contents and validity agreed upon by the carrier and the charterer.

**Article 149. Freight and surcharges**

1. Freight means remuneration paid to a carrier under a contract of carriage of cargo by sea.

Surcharge (if any) means an amount of money paid in addition to freight to a carrier.

2. Enterprises shall post freight rates in accordance with the law on prices and post surcharges according to regulations of the Government.

**Article 150. Obligations of carriers**

The carrier shall exercise due diligence that before and at the commencement of a voyage the seagoing ship be seaworthy; properly manned, equipped and supplied and that its holds, cool and refrigerating chambers and all other compartments in which the cargo is loaded, be prepared and brought to a proper condition for the receipt, carriage and preservation of the cargo suitable to its nature.

**Article 151. Exemption of liability of carriers**

1. The carrier is not liable for the loss of or damage to the cargo resulting from the unseaworthiness of the ship if he/she has fully performed the obligations prescribed in Article 150 of this Code. In the case, the carrier shall be obliged to prove that he/she has performed his/her tasks with due diligence.

2. The carrier shall be completely exempted from liability for loss of or damage to the cargo in the following cases:

a/ Fault of the master, crewmen, pilot or servants of the carrier in the operation or management of the ship;

b/ Fire not caused by the carrier;

c/ Perils or maritime accidents at sea or in the port waters where the seagoing ship is permitted to operate;

d/ Natural disasters;

dd/ War;

e/ Acts of infringing upon public order and safety not caused by the carrier;

g/ Acts of seizure by the people or forced seizure by courts or other competent state agencies;

h/ Quarantine restriction;

i/ Acts or omissions of the shipper or owner of the cargo, his/her agent or representative;

k/ Strikes or other similar actions of laborers due to whatever cause which hold up work in general or in part;

l/ Riots or civil commotion;

m/ Acts of saving life or property at sea;

n/ Wastage in bulk or weight or any other loss of or damage to the cargo resulting from its quality, latent defects or other defects;

o/ Insufficiency of packing;

p/ Insufficiency or inadequacy of marking of the cargo;

q/ Latent defects of the ship which are not discoverable by responsible persons even though they have exercised due diligence;

r/ Any other cause arising without the fault or the intention of the carrier or without the fault of his/her servants or agents. In case it is prescribed by law or agreed upon in the contract that a person is fully exempted from the liability of a carrier, such person shall prove that the

carrier has no fault or intention to cause the loss of or damage to the cargo nor his/her agents or servants.

3. Late delivery of cargo means failure to deliver cargo within the time limit agreed upon in the contract or, in the absence of such agreement, within a reasonable time limit necessary for a diligent carrier to deliver the cargo. The carrier is not liable for late delivery of cargo in the following cases:

a/ Deviation from the designated route, which has been consented by the consignor;

b/ Force majeure events;

c/ Saving human life or aiding a ship in distress where human life may be threatened;

d/ Time is needed for rendering emergency aid to crewmen or persons on board.

**Article 152.** Limitation of liability of carriers

1. Unless the kind and value of the cargo have been declared by the consignor before its loading or clearly stated in the bill of lading, the sea waybill or other carriage documents, the carrier shall not be obliged to compensate for the loss of or damage to or in connection with the cargo in an amount not exceeding the equivalent of 666.67 units of account per package or unit of cargo or 2 units of accounts per kilo of gross weight of the cargo lost or damaged, whichever is higher.

The unit of account mentioned in this Code is the currency determined by the International Monetary Fund and established as the Special Drawing Rights.

The compensation amount shall be converted into Vietnamese currency at the exchange rate at the time of payment of compensation.

2. When the cargo is packed into a container or similar tool, each package or unit of cargo indicated in the carriage document and packed in such tool shall be regarded as a package or unit of cargo set out in Clause 1 of this Article. In case the number of packages or units of cargo is not indicated in the carriage document, such container or tool shall only be regarded as a package or unit of cargo.

3. In case the kind and value of the cargo have been declared by the consignor before its loading and have been accepted and written by the carrier in the carriage document, the carrier is liable for any loss of or damage to the cargo on the basis of the so declared value and on the following principles:

a/ For cargo lost, by the value declared;

b/ For cargo damaged, by the difference between the value declared and the residual value of the cargo.

The residual value of the cargo shall be determined at the market price at the time when and place where the cargo is discharged or should have been discharged; where such value cannot be ascertained, it shall be based on the market price at the time when and place where the cargo has been loaded plus the costs of carriage of the cargo up to the port of delivery.

4. The liability of the carrier for the late delivery of cargo shall be limited to a sum equaling 2.5 times the freight of the quantity of cargo that is lately delivered but must not exceed the total freight payable under the contract of carriage of cargo by sea.

**Article 153.** Loss of the right to limitation of liability of carriers

1. The carrier shall lose the right to limitation of liability of carriers prescribed in Article 152 of this Code if the claimant can prove that the loss of or damage to the cargo is the consequence of the carrier's intentional acts of causing such loss or damage, late delivery of the cargo or neglect and knowledge that such loss of, damage to or late delivery of the cargo may occur.

2. Servants or agents of the carrier who perform their work with the intention to cause the loss of or damage to the cargo, delay the delivery of the cargo or with neglect and knowledge that such loss of, damage to or late delivery of the cargo may occur shall also not enjoy limitation of liability provided for in this Section.

**Article 154.** Obligations of consignors

1. The consignor shall ensure that the cargo be packed and marked according to regulations. The carrier may refuse to load on board the seagoing ship cargo which fails to ensure necessary packing standards.

2. For explosive, inflammable or otherwise dangerous cargo or cargo which shall be handled by special measures during loading, carriage, preservation and unloading, the consignor shall furnish within a reasonable time limit to the carrier necessary documents and guidelines pertaining to the cargo.

The consignor shall compensate for the loss or damage arising from the late supply of such necessary documents and guidelines or from irregularities or inaccuracies thereof.

3. The consignor shall be held responsible to the carrier as well as passengers, crewmen and owners of other cargoes for the loss or damage arising from the inaccurate or untruthful declaration of the

cargo, regardless of such declaration is intentional or unintentional, if the carrier can prove that such loss or damage is caused by the fault of the consignor.

**Article 155.** Carriage of dangerous cargo

1. The carrier, while retaining his/her right to the full freight, at his/her discretion, may discharge the cargo from the seagoing ship, destroy or render it harmless without having to make compensation where the cargo being inflammable, explosive or otherwise dangerous has been falsely declared or where during the loading the carrier has not been warned about and could not ascertain the cargo's dangerous nature on the basis of a common operational knowledge.

The consignor must be liable for losses resulting therefrom.

2. Although the dangerous nature of the cargo has been warned or known to the carrier on the basis of a common operational knowledge and the proper preservation measures have been applied according to regulations and the cargo has been loaded onto the seagoing ship, but subsequently such cargo has imperiled the safety of the ship, persons and cargo on board, the carrier may, at his discretion, handle it as provided for in Clause 1 of this Article. In this case, the carrier is liable for arising losses on the general average principles while retaining his/her right to the distance freight.

Distance freight means the freight computed in the proportion of the whole agreed voyage distance to the part of the voyage actually covered by the cargo, as well as in the proportion of the costs and time, perils or troubles on the average related to the part of the voyage covered to what falls to the remaining part of the voyage to be completed.

**Article 156.** Exemption of liability of consignors

The consignor shall be exempted from liability to compensate for any loss and damage caused to the carrier or the seagoing ship if he/she can prove that such loss or damage is not caused by his/her fault or the fault of his/her servants or agents.

**Article 157.** Payment of freight

1. Upon receiving the cargo, the consignee shall pay to the carrier the freight and all other charges stated in the carriage document if such amounts of money have not yet been paid to the carrier.

2. The carrier may refuse to deliver the cargo and retain it if the consignor and the consignee have not yet fully paid or properly secured the amounts being owed to the carrier.

These debts include the freight, other charges as prescribed in Clause 1 of this Article and contribution of the cargo in general average and salvage remuneration falling on the cargo.

Interests, calculated according to the interest rate applied by the relevant transaction bank, shall be charged in addition to the debts which are not paid when falling due.

**Article 158.** Freight in case of loss of cargo

1. Freight shall be exempted for cargo lost during the carriage through any accident whatsoever, and the freight paid in advance shall be refunded. In case the cargo lost has subsequently been saved or recovered, the carrier shall only be entitled to the distance freight if the party with interests in the cargo has gained no benefit from the cargo having been carried by the seagoing ship over such distance.

2. In case in the course of carriage the cargo has been damaged or wasted on account of its special nature or the carried live animals have died, the carrier still have the right to the full freight.

**Article 159.** Issuance of bills of lading

1. The carrier shall be obliged to issue the consignor, at the latter's request, a set of bills of lading.

2. A bill of lading may be issued in the following forms:

a/ To a named consignee, referred to as a straight bill of lading;

b/ To the order of the consignor or of the person designated by the consignor, referred to as an order bill of lading;

c/ To an unnamed consignee or unnamed person issuing the order, referred to as a bearer bill of lading.

3. In case in an order bill of lading the person to whose order the bill of lading is made out, is not specified, such bill of lading shall be automatically deemed to be made out to the consignor.

**Article 160.** Contents of a bill of lading

1. A bill of lading must contain the following details:

a/ The name of the carrier and his/her head office;

b/ The name of the consignor;

c/ The name of the consignee, or a statement to the effect that the bill of lading has been made out to order or bearer;

d/ The name of the seagoing ship;

dd/ A description of the cargo, specifying its kind, measure, volume, quantity, number of pieces, weight or value where necessary;

e/ A description of the apparent conditions of the cargo or its packing;

g/ Marks, signs and particulars to identify the cargo, as furnished in writing by the consignor before commencement of loading and marked on individual pieces of the cargo or its packing;

h/ Freight and other charges due to the carrier; method of the payment;

i/ Place of loading and port of loading;

k/ Port of delivery or a statement as to when and where the port of delivery will be indicated;

l/ The number of copies of the original bill of lading issued to the consignor;

m/ The date and the place of issue of the bill of lading;

n/ The signature of the carrier or of the master or of the other competent representative of the carrier.

A bill of lading, though lacking one or more details specified in this Clause, is still legally valid if it complies with Article 148 of this Code.

2. In case the carrier has not been specified in the bill of lading, the shipowner shall be assumed to be the carrier. If in the bill of lading made out in accordance with Clause 1 of this Article, the carrier has been designated inaccurately or falsely, the shipowner shall be liable to losses resulting therefrom and then have the right to claim indemnity from the carrier.

#### **Article 161.** Remarks in bills of lading

1. The carrier is entitled to insert in the bill of lading his/her remarks on the apparent conditions or the packing of the cargo if he/she has suspicion.

2. The carrier may refuse to enter in the bill of lading the cargo description when he/she has sufficient grounds to suspect the accuracy of the declaration made by the consignor at the moment of loading or he/she has no conditions to verify it.

3. The carrier may refuse to insert in the bill of lading the cargo signs and marks when they have not been clearly marked on individual pieces of cargo or of its packing in such a manner that they should remain legible until the end of the voyage.

4. In case the cargo has been packed before being consigned to the carrier, the carrier may insert in the bill of lading a remark to the effect that the contents are unknown to him/her.

5. In any case, the carrier shall not be liable for any loss of or damage to the cargo or losses in relation to the cargo where the kind and value of the cargo have been deliberately misstated by the consignor during loading and such misstated declaration has been inserted in the bill of lading.

**Article 162.** Transfer of bills of lading

1. An order bill of lading may be transferred by endorsement. The last endorser who is entitled to issue a delivery order shall be the legitimate consignee.

2. A bearer bill of lading may be transferred by delivery of the bill of lading by the carrier to the transferee. The person who produces the bearer bill of lading shall be the legitimate consignee.

3. A straight bill of lading is non-transferable. The person whose name is specified in the straight bill of lading shall be the legitimate consignee.

**Article 163.** Substitution of bills of lading by other carriage documents

The consignor may reach agreement with the carrier on the substitution of the bill of lading by a sea waybill or another carriage document and on the contents and validity of these documents according to international maritime activities custom.

**Article 164.** Application to ocean through bills of lading

The provisions of this Code concerning bills of lading apply to ocean through bills of lading issued by the carrier, unless otherwise prescribed by law.

**Article 165.** Consignors' right to dispose of cargoes

1. The consignor has the right to dispose of the cargo until its delivery to the legitimate consignee if this right has not been vested to another person; and before the commencement of the voyage he/she may request unloading of the cargo, and after the commencement of the voyage alter his/her original indications as to the consignee and the port of delivery, provided that he/she shall compensate for all losses and related expenses. The carrier shall be obliged to follow the consignor's instructions only after withdrawing all copies of the issued original bill of lading.

2. The rights specified in Clause 1 of this Article shall not be applied if the exercise thereof would cause a considerable delay in commencing the voyage, unless it has been so consented by the carrier.

**Article 166.** The obligation to deliver cargo

The carrier shall be obliged to deliver the cargo at the port of delivery to the legitimate consignee holding the bill of lading or the sea waybill or another carriage document valid for receipt of the cargo as provided for in Article 162 of this Code. After the delivery of the cargo, all the other copies of the carriage document will no longer be valid for receipt of cargo.

**Article 167.** Handling of retained cargo

1. In case the consignee does not claim delivery, or refuses to take delivery of the cargo, or delays taking the delivery, the carrier may discharge the cargo and place it in custody at a safe and suitable place and notify the consignee thereof. All costs and charges related thereto and losses resulting therefrom shall be paid by the consignee.

2. In case at the same time several holders of the bill of lading or ocean through bill of lading, sea waybill or another carriage document that is valid for receipt of cargo claim delivery of the cargo, the carrier may act as provided for in Clause 1 of this Article.

3. The indemnification for losses resulting from the detention of the ship for discharging and placing the cargo in custody, as provided for Clause 1 of this Article, shall be settled as in the case of detention of the ship during loading.

4. In case, within 60 days after the day of the ship's arrival at the port of delivery, the cargo placed in custody has not been collected or the consignee has failed to pay in full or provide a proper security for the outstanding debts, the carrier may sell the cargo by auction for clearing the debts. Such cargo may be sold even before the expiration of this time limit if the cargo incurs a risk of deterioration or its putting in custody costs more than the actual value of the cargo.

The carrier shall be obliged to notify the consignor of the cases specified in Clauses 1, 2 and 4 of this Article and also of his/her intention to sell the cargo for clearing debts as prescribed in this Clause.

5. The handling of cargoes retained by carriers at Vietnamese seaports prescribed in this Article and other kinds of cargoes backlogged at seaports must comply with regulations of the Government.

**Article 168.** Proceeds from auctions of cargo

1. After the debts of the consignee and costs of placing the cargo in custody and holding an auction as prescribed in Article 167 of this Code are deducted, the remainder of the proceeds from the auction of the cargo shall be deposited in a bank to be paid to the person(s) entitled thereto.

2. In case the proceeds from the auction of the cargo are insufficient to cover in full the amounts specified in Clause 1 of this Article, the carrier is entitled to claim full payment thereof from the involved parties.

3. In case within the time limit of 180 days counting from the date of auction of the cargo, nobody claims for the remaining amount, this amount shall be remitted into the state coffers.

**Article 169.** Statute of limitations for initiation of lawsuits about damage to or loss of cargo

The statute of limitations for initiation of lawsuits about damage to or loss of cargo is one year from the date on which the cargo is delivered or should have been delivered to the consignee.

## **Section 2**

### **CONTRACTS OF CARRIAGE OF CARGO ACCORDING TO CARRIAGE DOCUMENTS**

**Article 170.** Time of arising and termination of liability of carriers

1. The liability of a carrier arises from the time the carrier receives the cargo at the port of receipt, continues throughout the process of carriage and terminates upon the completion of delivery of the cargo at the port of delivery.

2. The receipt of the cargo is the time the carrier has received the cargo from the consignor, a competent state agency or a third party according to the provisions of law or regulations of the port of receipt.

3. The delivery of the cargo terminates in the following cases:

a/ The carrier completes the delivery of the cargo to the consignee; in case the consignee does not receive the cargo directly from the carrier, the delivery of the cargo shall be effected by the mode requested by the consignee in accordance with the contract, the law of the place of or the custom applied at the port of delivery;

b/ The carrier completes the delivery of the cargo to a competent state agency or a third party according to the provisions of law or regulations of the port of delivery.

4. The parties to a contract of carriage may agree to lessen the liability of the carrier in the following cases:

a/ In the period of time from the receipt of cargo to before the loading of cargo on board a seagoing ship and in the period of time from the completion of the unloading of cargo to the completion of delivery of cargo;

b/ Carriage of live animals;

c/ Carriage of cargo on deck.

**Article 171.** Obligations of carriers of cargo according to carriage documents

In addition to the obligations prescribed in Article 150 of this Code, the carrier of cargo according to carriage documents also have the following obligations:

1. To be responsible for careful and proper loading and unloading of cargo, and take due care of the cargo in the process of carriage.

2. To notify within a reasonable time in advance the consignor of the place of loading and the time the ship is in readiness to load and the deadline for supplying the cargo. This notification does not apply to liners unless the schedule is altered.

**Article 172.** Cargo carried on deck

Cargo may be carried on deck only if it is so agreed upon between the carrier and the consignor or it is a custom and such carriage shall be stated in the carriage documents.

**Article 173.** Liabilities of carriers, actual carriers, their servants and agents

1. The carrier must be responsible for the whole process of carriage as provided for in this Section even though the carriage has been assigned in whole or in part to the actual carrier for performance. For the part of carriage performed by the actual carrier, the carrier shall be responsible for acts taken by the actual carrier as well as its servants and agents within the scope of their assigned work.

2. The actual carrier and its servants and agents shall enjoy the rights relating to the responsibilities of the carrier provided for in this Chapter when the cargo is under their control and when they take part in carrying out any activity stipulated in the contract of carriage of cargo.

3. Special agreements whereby the carrier undertakes obligations not provided for in this Chapter or denounces the rights they are entitled to under the provisions of this Code shall be effective for the actual

carrier if the actual carrier so consents in writing. Regardless of whether or not the actual carrier so consents, the carrier shall still be bound to the obligations arising from these special agreements.

4. In case the carrier and the actual carrier bear joint liability, the extent of liability of each party shall be taken into account.

5. The total sum of indemnities payable by the carrier, the actual carrier and their servants and agents must not exceed the whole limit of liability provided for in this Section.

**Article 174.** Survey of cargo and notification of losses of or damage to cargo or late delivery of cargo

1. The consignee, before taking delivery of the cargo, or the carrier, before delivering the cargo, at the port of delivery, may request a surveying agency to conduct a survey thereof. The party that has ordered the survey shall be obliged to pay survey costs and also have the right to recourse against the damage-causing party for such costs.

2. The cargo shall be deemed to have been fully and completely delivered as indicated in the bill of lading, the sea waybill or another carriage document, unless the consignee has notified in writing the carrier of any loss of or damage to such cargo within 3 days after the time of taking delivery, in case of damage externally imperceptible; for cargoes already surveyed under the provisions of Clause 1 of this Article, written notification is unnecessary.

Any agreement contrary to this Clause shall be invalid.

3. The consignee may issue notices of loss of cargo if he/she receives no cargo within 60 days after the date on which the cargo should have been delivered as agreed upon in the contract.

4. The carrier shall not have to compensate for losses resulting from the late delivery of the cargo, except for the case where a written notice of the late delivery of cargo is sent to the carrier within 60 days from the date on which the cargo should have been delivered as agreed upon in the contract.

### **Section 3**

## **VOYAGE CHARTERPARTY**

**Article 175.** Use of seagoing ships under voyage charterparties

The carrier shall be obliged to use the seagoing ship designated in the contract to carry the cargo, unless the charterer has given his/her consent for the carrier to substitute the designated ship by another.

**Article 176.** Transfer of rights under voyage charterparties

The charterer may, without the carrier's consent, transfer to a third party his/her rights under the contract of carriage but remains responsible for the performance of the contract already concluded.

**Article 177.** Issuance of bills of lading under voyage charterparties

Where the bill of lading is issued under a voyage charterparty and the holder of such bill of lading is other than the charterer, the rights and obligations of the carrier and the holder of the bill of lading shall be governed under the terms of the bill of lading; the terms of the voyage charterparty which have been inserted into the bill of lading shall be applied.

**Article 178.** Ports of loading and places of loading

1. The carrier shall be obliged to direct his/her seagoing ship to the port of loading, being ready for the loading, at the designated time and place; to place the seagoing ship at the place of loading under the terms agreed in the contract of carriage of cargo.

2. The carrier shall direct the seagoing ship to the place of loading designated by the charterer, which is safe and accessible without difficulty for the ship to reach, to lie there and to leave unhindered with the cargo. In case there are several charterers who fail to reach agreement among them on the place of loading, or where the place of loading is not clearly designated by the charterer, the carrier shall direct the ship to a local customary place of loading.

3. In case the contract has no specific agreement on the place of loading at the port of loading, the carrier shall direct the seagoing ship to a local customary place of loading.

4. The charterer may request the carrier to change the place of loading even though this place has been clearly indicated in the contract. The charterer must pay in full all costs related to the satisfaction of this request.

**Article 179.** Loading time

1. The loading time shall be agreed upon between the involved parties in the contract, or, in the absence of such agreement, it must comply with local custom.

2. The time of interruptions caused by the charterer and the time for changing the place of loading at his/her request shall be counted in the loading time.

3. The time of interruption caused by the carrier, interruption caused by force majeure events or by weather conditions which affect the technical correctness of the loading or endanger the loading shall not be counted in the loading time.

4. The charterer may reach agreement with the carrier on the reward for loading to be completed before the loading time expires or the demurrage for delaying the loading beyond the agreed period of time.

**Article 180. Demurrage time**

1. The parties may reach agreement in the voyage charterparty on an additional period of loading beyond the loading time provided for in Article 179 of this Code (below referred to as demurrage time). In case the number of days or hours of the demurrage time is not specified in the voyage charterparty, the demurrage time shall be determined by the parties by local custom.

2. The demurrage money shall be agreed upon by the involved parties in the voyage charterparty; in the absence of such agreement in the voyage charterparty, it shall be determined by local custom. In the absence of such local custom, the demurrage money shall be determined on the basis of the actual total sum of expenses for the maintenance of the seagoing ship and its crew throughout the demurrage time.

3. After expiration of the loading time and demurrage time, the period of time during which the seagoing ship is detained at the port of loading due to the charterer's acts is referred to as the detention time. The carrier is entitled to claim for compensation for losses caused by the detention of the ship.

**Article 181. Notice of readiness**

1. The carrier shall be obliged to notify in writing the charterer of the ship's arrival at the port of loading and readiness for the loading (below referred to as notice of readiness).

2. The day and hour in which a notice of readiness becomes effective shall be agreed upon by the parties in the voyage charterparty; in the absence of such agreement, such day and hour shall be determined by local custom.

3. The carrier shall compensate for the loss resulting from the notice of readiness which at the time of its receipt by the charterer is not true to the facts.

### **Article 182.** Replacement of cargo

1. The charterer have the right to supply, instead of the cargo specified in the contract of carriage of cargo, another cargo with similar characteristics, provided that the carriage of which will not affect the interests of the carrier and of other charterers.

2. The freight for the carriage of such cargo must not be lower than the agreed freight for the replaced cargo.

### **Article 183.** Loading and stowage of cargo on board seagoing ships

1. The cargo shall be stowed on board the seagoing ship in accordance with the cargo plan decided by the master. Stowage of cargo on deck is subject to written consent of the charterer.

2. The carrier shall be obliged to take due care of the loading, stowage, lashing and separation of the cargo on board the seagoing ship. The related expenses shall be agreed upon by the two parties in the contract.

### **Article 184.** Ships leaving ports of loading

1. After the expiration of the loading time and demurrage time as stated in the voyage charterparty, the carrier may let his/her seagoing ship leave the port of loading even though the whole agreed cargo or part thereof has not been loaded onto the ship for reasons on the part of the charterer. In this case, the carrier is still entitled to the full freight including the freight falling on the cargo not loaded.

2. In case of lease of the whole space of the seagoing ship, the carrier, while maintaining his/her right to the full freight, shall comply with the following requests of the charterer:

a/ To commence the voyage before the agreed date;

b/ To load onto the seagoing ship the cargo already supplied at the place of loading even though the demurrage time has expired, if the loading of such a cargo might cause detention of the ship for no longer than 14 days, while the carrier still enjoys the benefits specified in Clause 3, Article 180 of this Code.

3. In case of lease of part of the space of the seagoing ship, the carrier is entitled to the full freight and to refuse the loading of the cargo which is supplied after the expiration of the agreed loading time or demurrage time due to the delay caused by the charterer.

### **Article 185.** Routes and time of carriage

1. The carrier shall perform the carriage within a reasonable period of time by the route determined in the contract or by the usual route, unless otherwise agreed in the contract.

2. A deviation from the route for the purpose of saving life or property at sea or for other plausible reasons does not constitute an infringement of the contract of carriage. The carrier is not liable for any loss to cargo resulting therefrom.

**Article 186.** Substitute ports

1. In case the seagoing ship cannot enter the port of delivery on account of insurmountable hindrances, the cessation of which cannot be anticipated within a reasonable time, the carrier may direct the seagoing ship to the nearest safe substitute port and shall notify the charterer thereof for further instructions.

2. In case of lease of the whole space of the seagoing ship, the master shall, depending on the specific circumstance, ask for and follow the instructions of the charterer; in case it is impossible to follow the charterer's instructions or the charterer's instructions have not been received within a reasonable time, the master may discharge the cargo or carry it back to the port of loading, which may, in his/her judgment, properly protect the interests of the charterer. The charterer shall pay the carrier the distance freight and related costs.

3. In case of lease of part of the space of the seagoing ship, the master may also act as prescribed in Clause 1 of this Article if the charterer's instructions have not been received within 5 days from the time the notification for instructions is sent or if it is impossible to follow the charterer's instructions. The charterer shall pay the carrier the full freight and related costs.

**Article 187.** Discharge and delivery of cargo

1. The discharge of cargo shall be decided by the master. The carrier shall be obliged to take due care of the discharge of cargo.

2. The charterer shall be entitled to dispose of the cargo until its delivery to the legitimate consignee if this right has not been vested to another person; and before the commencement of the voyage he/she may request discharge of the cargo, and, after the commencement of the voyage, alter his/her original indications as to the consignee and the port of delivery, provided that he/she shall compensate for all losses resulting therefrom and related costs.

3. The rights stated in Clause 2 of this Article shall not be applied if the exercise thereof would cause a considerable delay in commencing the voyage, unless it has been so consented by the carrier.

### **Article 188. Freight**

1. In case cargo has been loaded on board the ship in a quantity larger than agreed upon in the contract, the carrier is entitled to the freight also on the surplus at the freight rate agreed upon in the contract.

2. For cargo placed on board without permission of the carrier, the carrier is entitled to the double amount of freight due for the carriage from the port of loading to the port of delivery, as well as to compensation for losses resulting from the loading of such cargo on board without his/her permission. The carrier may discharge such cargo at any port, if deeming it necessary.

3. Upon receiving the cargo, the consignee shall pay the carrier the freight, the compensation for retention of the ship or other costs related to the carriage of the cargo, if such amounts have not yet been paid.

### **Article 189. Payment of freights, handling of detained cargo and handling of proceeds from auctions of cargo**

The provisions on the payment of freight, handling of detained cargo and proceeds from auctions of cargo under Articles 157, 158, 167 and 168 of this Code shall apply in the same manner to the carriage of cargo under voyage charterparties.

### **Article 190. Charterers' right to terminate contracts**

1. The charterer may terminate the contract in the following cases:

a/ The carrier has failed to direct the ship to the place of loading at the agreed date, or has delayed the loading of the cargo onto the ship or the commencement of the voyage; in this case, the charterer is entitled to the compensation for losses resulting therefrom;

b/ After the completion of the loading but still before the commencement of the voyage or during the voyage, the charterer may request discharge of the cargo but shall pay the full freight and related costs to the carrier.

2. The carrier may refuse the charterer's request to discharge the cargo as mentioned at Point b, Clause 1 of this Article in case he/she deems that such would cause a delay of the voyage or affect the interests of the concerned parties on account of the alteration of the fixed schedule.

3. In case of lease of the whole space of the seagoing ship, the charterer may terminate the contract before the commencement of the voyage but shall compensate for costs arising therefrom and, depending on the moment of the termination of the contract, also pay the freight on the following principles:

a/ Half of the freight, where he/she terminates the contract before the agreed loading time is counted;

b/ The full freight, where he/she terminates the contract after the agreed loading time is counted or after the agreed demurrage time is counted if the contract has been concluded for a single voyage;

c/ The full freight for the voyage, before the commencement of which he terminates the contract, and plus half of the freight for all subsequent voyages if the contract has been concluded for multiple voyages.

4. In case the charterer terminates the contract under the provisions of Clause 3 of this Article, the carrier shall be obliged to detain the ship at the place of loading until the cargo discharge is completed even though this may detain the ship beyond the loading time and demurrage time.

5. In case of lease of part of the space of the ship, the charterer may terminate the contract and shall compensate for the costs arising therefrom, and, depending on the moment of the termination of the contract, also pay the freight on the following principles:

a/ Half of the freight, where he/she terminates the contract after the agreed time for supply of the cargo;

b/ Full freight, where he/she terminates the contract during the voyage.

#### **Article 191.** Carriers' right to terminate contracts

In case the quantity of cargo loaded on board the seagoing ship is smaller than the contracted quantity and the total value of the quantity of such loaded cargo does not secure the freight and other amounts expended by the carrier on the cargo, the carrier may terminate the contract before the commencement of the voyage, unless the charterer has paid the full freight or provided an adequate security. The charterer shall pay the expenses for the cargo discharge and half of the agreed freight.

#### **Article 192.** Termination of contracts without compensation

1. Either party to the contract may terminate the contract without having to pay compensation if, before the departure of the ship from the place of loading, one of the following events has occurred:

a/ War has broken out, threatening the safety of the seagoing ship or cargo; the port of loading or port of delivery has been declared blockaded;

b/ The seagoing ship has been arrested or detained by decision of a competent state agency not due to the faults of the contractual parties;

c/ The seagoing ship has been requisitioned by the State;

d/ A ban has been imposed on carriage of the cargo from the port of loading or into the port of delivery.

2. The party that terminates the contract in the cases specified in Clause 1 of this Article must bear the costs of discharge.

3. Upon the occurrence of the events specified in Clause 1 of this Article, either party may terminate the contract also during the voyage; in this case, the charterer shall be obliged to pay the distance freight and costs of discharge.

#### **Article 193.** Automatic termination of contracts

1. The contract will automatically terminate and neither party shall pay compensation after the conclusion of the contract and before the departure of the seagoing ship from the place of loading for the following reasons for which neither party is at fault:

a/ The seagoing ship designated in the contract has been sunk, missing or captured;

b/ The cargo designated in the contract has been lost;

c/ The seagoing ship designated in the contract is deemed to be so damaged that its repair is impossible or economically inefficient.

2. In case the events specified in Clause 1 of this Article have occurred during the voyage, the carrier is only entitled to the distance freight; in case only the ship has been damaged while the cargo has been saved or returned, the carrier is entitled to the distance freight for the saved or returned cargo.

#### **Article 194.** Preservation of cargo upon termination of contracts

In case the contract is terminated under the provisions of this Section, the carrier shall still be obliged to preserve the cargo until it is delivered to the legitimate consignee, except for the cases specified at Points a and b, Clause 1, Article 193 of this Code.

#### **Article 195.** Statute of limitations for initiation of lawsuits regarding the performance of voyage charterparties

The statute of limitations for initiation of lawsuits regarding the performance of voyage charterparties is 2 years from the date the claimants know or must have known that their interests have been infringed upon.

## Section 4

### MULTIMODAL TRANSPORT CONTRACTS

#### **Article 196.** Multimodal transport contracts

1. A multimodal transport contract is a contract concluded between a consignor and a multimodal transport dealer, whereby the multimodal transport dealer shall perform the carriage of cargo in return for a freight for the whole carriage process from the place of loading to the place of delivery of the cargo to a consignee by at least two modes of transport, one of which must be by sea.

2. A multimodal transport dealer is a person who personally concludes or authorizes another person to conclude a multimodal transport contract with a consignor.

3. A consignor is a person who personally concludes or authorizes another person to conclude a multimodal transport contract with a multimodal transport dealer.

4. A multimodal transport bill of lading constitutes evidence of a multimodal transport contract, certifying the multimodal transport dealer's receipt of the cargo for carriage and commitment to deliver the cargo as agreed upon in the contract.

#### **Article 197.** Liability of multimodal transport dealers

1. The multimodal transport dealer must be liable for the cargo carried under the multimodal transport contract from the time of its receipt to the time of its delivery.

2. The multimodal transport dealer may sign separate contracts with carriers of each mode of transport, clearly defining the responsibility of each involved party for each mode of transport. These separate contracts do not affect the liability of the multimodal transport dealer for the whole carriage process.

#### **Article 198.** Limitation of liability of multimodal transport dealers

1. In case the cargo is lost or damaged when it is carried by a certain mode of transport employed in the carriage process, the provisions of law relevant to such mode of multimodal transport shall be applied to the liability as well as limitation of liability of the multimodal transport dealer concerned.

2. In case the cargo is lost or damaged but it is impossible to determine by which mode of transport such loss or damage occurs, the multimodal transport dealer concerned shall pay compensation under the

provisions of Articles 151 and 152 of this Code regarding exemption from and limitation of liability of carriers.

**Article 199.** Detailing provisions on multimodal transport

The Government shall prescribe in detail multimodal transport.

### **Chapter VIII**

## **CONTRACTS OF CARRIAGE OF PASSENGERS AND LUGGAGE BY SEA**

**Article 200.** Carriage of passengers and luggage

1. A contract of carriage of passengers and luggage by sea is a contract concluded between a carrier and a passenger, whereby the carrier agrees to carry a passenger and his/her luggage by seagoing ship, in return for passage money and a luggage freight to be paid by the passenger, from port of embarkation to port of disembarkation.

2. A carrier is the person who personally concludes or authorizes another person to conclude a contract of carriage of passengers and luggage with a passenger.

3. An actual carrier is a person entrusted by a carrier to perform the carriage of passengers and luggage in whole or in part.

4. A passenger is a person carried by seagoing ship under a contract of carriage of passengers or a person who is permitted by a carrier to accompany a means of transport or live animals carried under a contract of carriage of cargo.

5. Luggage is objects or means of transport carried under a contract of carriage of passengers by sea, excluding:

- a/ Objects and vehicles carried under a contract of carriage of cargo;
- b/ Live animals.

6. Hand luggage is luggage kept by a passenger in his/her compartment or under his/her supervision, care and control.

**Article 201.** Documents of carriage of passengers and luggage

1. Documents of carriage of passengers and luggage include:

a/ Tickets constituting evidence of the conclusion of a contract of carriage of passengers;

b/ Luggage receipt coupons constituting evidence of the dispatch of passengers' luggage.

2. The carrier may substitute tickets with equivalent vouchers, if passengers are carried on board a seagoing ship other than a passenger ship.

3. The carrier shall stipulate the exemption from and reduction of fares, prioritized purchase and refund of passenger fares and luggage freight.

**Article 202.** Rights and obligations of passengers

1. The passenger is entitled to all interests in compliance with the class of his/her ticket and does not have to pay for the carriage of his/her hand luggage within the limit of weight and kind designated by the carrier.

2. The passenger shall be obliged to observe the command of the master and follow all rules and guidelines on board, and follow the instructions of responsible officers and crewmen.

3. Any agreement limiting the rights of the passenger or lessening or relieving the liability of the carrier prescribed in this Chapter shall be null and void.

**Article 203.** Obligations and rights of carriers

1. The carrier shall be obliged to exercise due diligence that the seagoing ship is seaworthy, properly manned, furnished and supplied from the commencement of carriage, throughout the process of carriage to the port of disembarkation.

2. The carrier shall be obliged to take due care of and properly protect the passengers together their luggage from the time they have embarked on board the seagoing ship up to the time they have safely together with their luggage left ship at the port of disembarkation; where during the voyage an extraordinary and unexpected event has occurred, the carrier shall be liable to pay the fares necessary to cover the transportation of the passengers from and to the ship as well as costs of meal, and necessary daily-life services for staying on board.

3. The carrier shall be obliged to buy carrier's civil liability insurance for passengers.

4. The carrier may refuse to perform the contract without having to pay compensation if one of the following circumstances has occurred:

a/ War has broken out or another event has occurred, posing a threat of possible arrest of the seagoing ship;

b/ The port of embarkation or port of disembarkation has been declared blockaded;

c/ The seagoing ship has been arrested or detained by decision of a competent state agency not due to the faults of the contractual parties;

d/ The seagoing ship has been requisitioned by the State;

dd/ A ban has been imposed on carriage of passengers from the port of embarkation or into the port of disembarkation.

5. In case the carrier refuses to perform the contract of carriage under the provisions of Clause 4 of this Article before the commencement of the voyage, he/she shall refund the passengers the passage money and luggage freight.

In case the voyage has commenced, the carrier shall refund the passengers part of the passage money corresponding to the remaining distance of the voyage; at the same time, he/she shall be obliged to return the passengers to the port of embarkation on his/her own money or compensate them an equivalent sum of money.

6. The carrier does not have to refund the collected passage money if the passenger is not present on board at the fixed time including the period of time the ship calls at an en-route port during the voyage.

7. The carrier may postpone the time of commencement of the voyage, alter the route of transportation or alter the place of embarkation or disembarkation if the sanitary and epidemiological conditions in the place of commencement of the voyage, the place of destination or along the route of transportation are unfavorable or other circumstances have occurred beyond their control. The carrier shall, at the request of the passengers, pay the expenses for returning the passengers to the port of embarkation or compensate them for reasonable actual losses.

8. The provisions of Clause 7 of this Article do not restrict the passengers' right to refuse to perform the contract of carriage.

**Article 204.** Liability of carriers and actual carriers in the carriage of passengers

The liability of the carrier and the actual carrier in the carriage of passengers by sea must comply with the provisions of Article 173 of this Code.

**Article 205.** Exemption of carriers' liability in case of arrest of passengers

The carrier shall be exempted from liability for the arrest of the passenger by a competent state agency during the voyage due to the fault of the passenger at the port at which the ship calls.

**Article 206.** Handling of passengers on board without a ticket

1. A passenger on board without a ticket is a person who has embarked the ship without the carrier's, master's or responsible person's permission when the ship is in the port or at a place within the port area and remains on board the ship after it leaves the port or the place within the port area.

2. A passenger on board without a ticket shall be obliged to pay in full the passage money for the covered distance plus a fine equal to such amount.

3. The master may disembark a passenger on board without a ticket or transfer him/her onto another ship going to the port at which such person embarked the ship and shall inform a competent state agency of the name, age and citizenship of that person, the port at which he/she embarked and hid on the ship.

4. In case a passenger on board without a ticket is accepted to be carried over the remaining distance, he/she shall buy a ticket and has the rights and obligations like other passengers.

**Article 207.** Carriers' liability to compensate for damage

1. The carrier shall be liable for loss of life or personal injury and damage to health of the passengers as well as loss of or damage to their luggage if the causal incidents have occurred in the course of carriage due to the fault of the carrier or his/her servant or agent within the scope of his/her assigned jobs.

The fault of the carrier or of his/her servant or agent shall be deemed natural unless he/she can prove that the occurrence of loss of life or personal injury and damage to health of the passengers as well as loss of or damage to their hand luggage has been caused by collision, shipwreck, destruction, running aground, explosion, fire or any defect of the seagoing ship.

The fault of the carrier or of his/her servant or agent shall be deemed natural unless he/she can prove that the occurrence of loss of or damage to other types of luggage does not depend on the causes of such loss or damage.

In other cases, the burden of proof of a fault shall be borne by the claimants.

2. The burden of proof of damage and the extent of the loss or damage caused during the voyage by collision, shipwreck, destruction, running aground, explosion, fire or any defect of the seagoing ship shall be borne by the claimants.

**Article 208.** Process of carriage of passengers and luggage

1. The process of carriage of passengers by sea starts from the time the passenger embarks the seagoing ship and ends when the passenger leaves the ship, including the transportation of the passenger by water from land to ship and vice versa, if the fare for such transportation is included in the price of the ticket.

2. The process of carriage of hand luggage of passengers is similar to that provided in Clause 1 of this Article. The process of carriage of luggage other than hand luggage starts from the time the carrier or his/her servant or agent receives such luggage at the port of embarkation and ends when such luggage is returned to the passenger at the port of disembarkation.

**Article 209.** Limitation of liability of carriers of passengers and luggage

1. The liability of the carrier for the death, personal injury or other damage to the health of a passenger must not exceed 46,666 units of account per contract of carriage of passengers and luggage with the total compensation amount not exceeding 25,000,000 units of account; for cases in which the payment of compensation, by decision of a court, is made in installments, the total amount of such compensation money must also not exceed the limit specified in this Clause.

2. The liability of the carrier for loss of or damage to hand luggage must not exceed 833 units of account per passenger per contract of carriage of passengers and luggage.

3. The liability of the carrier for loss of or damage to means of transport, including all luggage carried on board such means of transport, must not exceed 3,333 units of account per means of transport per contract of carriage of passengers and luggage.

4. The liability of the carrier for loss of or damage to luggage other than luggage specified in Clauses 2 and 3 of this Article must not exceed 1,200 units of account per passenger per contract of carriage of passengers and luggage.

5. The carrier and the passenger may agree to lessen the liability of the carrier by deducting no more than 117 units of account in case of damage to a means of transport, and no more than 13 units of account per passenger in case of loss of or damage to other kinds of luggage.

**Article 210.** Loss of the right to limitation of liability

1. The carrier shall lose the right to limitation of liability provided for in Article 209 of this Code if the occurrence of the loss or damage is proved to be the consequence of the carrier's intentional acts of causing

such loss or damage or neglect and knowledge that such loss or damage may occur.

2. The provisions of Clause 1 of this Article shall be applied similarly to the carrier's servants and agents.

**Article 211.** Loss of and damage to valuables and other valuable property

For valuables, money, valuable papers, works of arts or other valuable property, the carrier shall be liable to compensate when on delivering such property for safe keeping the passenger has declared their characteristics and value to the master or the officer responsible for luggage.

**Article 212.** Liens on luggage

1. The carrier, for securing his/her legitimate interests, may have a lien on the luggage of the passenger who has not yet paid in full his/her debts until the passenger pays such debts or provides a proper security.

2. For the luggage which has not been collected, the carrier may take it ashore and deposit it in a safe and appropriate place and inform the passenger or his/her authorized person thereof. All costs and charges arising therefrom shall be paid by the passenger.

**Article 213.** Notification of loss of or damage to luggage

1. The passenger shall inform in writing the carrier or his/her agent of the loss of or damage to luggage in the following cases:

a/ Apparent damage to hand luggage shall be informed before or when the passenger disembarks the ship;

b/ Apparent damage to luggage other than hand luggage shall be notified before or at the time of delivery of the luggage;

c/ Externally imperceptible loss of or damage to luggage shall be notified within 15 days after the date the passenger disembarks the ship or the luggage should have been delivered.

2. In case the passenger fails to comply with the provisions of Clause 1 of this Article, his/her luggage shall be deemed to be delivered and received without any loss or damage, unless the contrary is proved.

3. The passenger is not required to make such notification in writing if upon delivery, the luggage has been jointly inspected or surveyed by the carrier and passenger.

**Article 214.** Statute of limitations for initiation of lawsuits regarding the carriage of passengers and luggage

1. The statute of limitations for initiation of lawsuits for compensation for loss of life, personal injury or damage to the health of passengers and for loss of or damage to luggage is 2 years.

2. The statute of limitations specified in Clause 1 of this Article shall be counted from the date the passenger:

a/ Disembarks the ship, in case of personal injury of the passenger;

b/ Should have disembarked the ship, in case of loss of life of the passenger during the voyage.

In case of personal injury of the passenger during the voyage resulting in his/her loss of life after disembarking the ship, the statute of limitations shall be counted from the date such person was dead but must not exceed 3 years from the date of his/her disembarkation.

c/ Disembarks the ship or should have disembarked the ship, whichever comes later, in case of loss of or damage to luggage.

3. Notwithstanding the suspension or interruption of the statute of limitations for initiation of lawsuits for compensation specified in Clause 1 of this Article, the statute of limitations for initiation of lawsuits must not exceed 3 years as from the date the passenger disembarks or should have disembarked the ship, whichever comes later.

## **Chapter IX**

### **CHARTERPARTIES**

#### **Section 1**

#### **GENERAL PROVISIONS**

##### **Article 215.** Charterparty

Charterparty means a contract concluded between a shipowner and a charterer, whereby the shipowner transfers the right to use his/her seagoing ship to the charterer for a specified period of time and for a specified purpose agreed upon in the contract for remuneration paid by the charterer.

##### **Article 216.** Forms of charterparty

1. A charterparty shall be concluded in the form of time charterparty or bareboat charterparty.

2. A charterparty shall be made in writing.

##### **Article 217.** Subletting of ships

1. The charterer may sublet the ship to a third party if there is such agreement in the contract but shall still be obliged to perform the contract concluded with the shipowner.

2. The rights and obligations of the shipowner provided for in this Chapter shall also apply to the charterer who sublets the ship to a third party.

**Article 218.** Principles of application of laws to charterparties

The provisions pertaining to the rights and obligations of the shipowner and the charterer in this Chapter shall apply only when the shipowner and the charterer do not otherwise agree.

**Article 219.** Statute of limitations for initiation of lawsuits regarding charterparties

The statute of limitations for initiation of lawsuits regarding the charterparty is 2 years from the date of termination of the charterparty.

## **Section 2**

### **TIME CHARTER**

**Article 220.** Time charterparty

1. A time charterparty is a charterparty whereby a shipowner supplies a specific ship together with its crew to a charterer.

2. A time charterparty must contain the following details:

a/ The name of the shipowner, the name of the charterer;

b/ The name, nationality, class, tonnage, engine capacity, capacity, speed and fuel consumption level of the ship;

c/ The operation area of the ship, use purpose and term of the charterparty;

d/ The time, place of and conditions on the delivery and return of the ship;

dd/ The charter hire, mode of payment;

e/ Other related contents.

**Article 221.** Obligations of shipowners under time charter

1. The shipowner shall be obliged to deliver to the charterer at the right agreed place and on the right agreed time the seagoing ship in technically safe conditions, properly supplied and adapted for the

purpose of employment agreed upon in the contract and maintain such throughout the term of the charterparty.

2. The shipowner shall be obliged to supply a complement of crew qualified for the purpose of employment of the ship agreed upon in the contract and to pay the wages and secure the other legitimate interests of crewmen throughout the term of the charterparty.

**Article 222.** Rights of charterers under time charter

1. The charterer is entitled to dispose of the entire space in the ship appropriated for the carriage of cargo, passengers and luggage.

2. The charterer may not dispose of the other space on board the ship for the carriage of cargo, passengers and luggage, unless it is consented by the shipowner.

**Article 223.** Obligations of charterers under time charter

1. The charterer shall be obliged to employ the ship for the purposes as agreed upon in the charterparty and to take due care of the shipowner's interests.

2. The charterer shall be obliged to ensure that the ship be employed only for the lawful carriage of cargo, passengers and luggage.

3. When the period for time charter terminates, the charterer shall be obliged to redeliver the ship to the shipowner at the place and time and in technical conditions as agreed upon, except for the ship's natural wear.

**Article 224.** Relations between shipowners, charterers and crew of ships under time charter

1. During the term of a time charterparty, the master and other crewmen shall remain under the shipowner's labor management. The shipowner must be completely liable for all matters pertaining to crew.

2. In the operation of the ship, the master shall act as the representative of the charterer and comply with the instructions given by the charterer in accordance with the time charterparty.

3. For the acts of the master performed within his/her powers stated in Clause 2 of this Article, the shipowner must be liable jointly with the charterer, unless the master has clearly stated his/her commitment that he/she exercises such powers in the name of the charterer.

**Article 225.** Division of salvage remuneration under time charter

If during the term of a time charterparty the ship involves in salvage operations, the salvage remuneration shall be divided equally between the shipowner and the charterer after deducting the sum covering

expenses arising from salvage operations and the share of salvage remuneration due to the crew.

**Article 226.** Beyond the term of time charter

If, according to reasonable calculations, the ship will complete the last voyage beyond the time for redelivery determined in the charterparty, the charterer may continue to employ the ship till completion of such voyage; the charterer shall pay a hire for such excessive time at the rate determined in the charterparty; if the hire rate on the market is higher than that determined in the charterparty, the charterer shall pay the hire at the market price at the time of payment.

**Article 227.** Payment of hires under time charter

1. The charterer shall pay the hire for the period from the date of receipt of the ship to the date of its redelivery to the shipowner.

2. The charterer does not have to pay to the shipowner the hire for any period during which the ship is unfit for operation on account of technical breakdown, lack of supplies, or incompetent crew. In this case, the charterer shall be relieved of the obligation to pay the costs of the ship's maintenance.

3. In case the ship's unfitness for operation is due to the fault of the charterer, the shipowner shall still be entitled to the hire and to the compensation for the damage arising therefrom.

4. In case the chartered ship is missing, the hire shall be calculated until the date when the last information on the ship is received.

5. In case the charterer fails to pay the hire as agreed upon in the charterparty, the shipowner has the right to retain the cargo and property on board the ship, provided that such cargo and property are under the ownership of the charterer.

**Article 228.** Termination of time charterparties

1. In case the failure to perform the obligations specified in Article 221 of this Code is due to the fault of the shipowner, the charterer is entitled to terminate the charterparty and claim for compensation for the damage arising therefrom.

2. Either party may terminate the time charterparty without having to pay compensation to the other if the performance of the charterparty has been hindered by an outbreak of war, a riot or coercive measures taken by a competent state agency and such event is unable to come to an end within a reasonable time.

3. A charterparty will automatically terminate when the ship is missing or has been sunk, destroyed, or so damaged that its repair is impossible or economically inefficient.

### **Section 3**

## **BAREBOAT CHARTER**

#### **Article 229.** Bareboat charterparties

1. A bareboat charterparty is a charterparty whereby a shipowner supplies a specific ship without crew to a charterer.

2. A bareboat charterparty must contain the following details:

a/ The name of the shipowner, the name of the charterer;

b/ The name, nationality, class, tonnage and engine capacity of the ship;

c/ The operation area of the ship, employment purpose and term of the charterparty;

d/ The time, place of and conditions on the delivery and redelivery of the ship;

dd/ Inspection, maintenance and repair of the ship;

e/ The charter hire, mode of payment;

g/ Insurance of the ship;

h/ Time and conditions for termination of the charterparty;

i/ Other related contents.

#### **Article 230.** Obligations of shipowners under bareboat charter

1. The shipowner shall perform with due diligence his/her obligations to deliver a seaworthy ship together with its documents to the bareboat charterer at the place and time agreed upon in the charterparty.

2. During the term of a charterparty, without the charterer's written consent, the shipowner may not mortgage the ship; in case the shipowner acts against this provision, he/she shall compensate for the damage caused to the charterer.

3. In case the ship is arrested on account of disputes over the ownership of the ship or the shipowner's debts, the shipowner shall secure that the interests of the charterer not be affected and compensate for the damage caused to the charterer.

**Article 231. Obligations of bareboat charterers**

1. The charterer shall be obliged to maintain the ship and equipment on board during the term of the bareboat charter.

2. The charterer shall be obliged to repair breakdowns of the ship and to keep the shipowner informed thereof. The shipowner shall refund the repair costs occurring beyond the scope of the charterer's liability.

3. During the term of the bareboat charter, the charterer shall bear the costs of insurance for the ship with the value and mode as agreed upon in the charterparty.

4. During the term of the bareboat charter, if the employment and operation of the ship by the charterer causes damage to the shipowner, the charterer shall be obliged to remedy or compensate for such damage.

**Article 232. Obligation to redeliver ships, employment of ships beyond the term of the charter, and termination of bareboat charterparties**

The obligation to redeliver ships, employment of ships beyond the term of the charter, and termination of bareboat charterparties must comply with the provisions of Clause 3 of Article 223, Article 226, and Article 228, of this Code.

**Article 233. Payment of hires under bareboat charter**

The bareboat charterer shall pay the hire as agreed upon in the charterparty. In case the ship suffers total loss or is missing, the payment of the hire will terminate from the date the ship suffers total loss or the date of receipt of the last information on the ship. Part of the hire paid in advance shall be refunded corresponding to the time the ship is not employed.

**Article 234. Hire-purchase of ships**

1. If there is a term on the hire-purchase of the ship in the bareboat charterparty, the ownership of the ship under the bareboat charterparty shall be transferred to the charterer as agreed upon in the charterparty.

2. The hire- or finance-lessor of a seagoing ship shall keep only a copy of the registration certificate of the ship.

**Chapter X**

**SHIPPING AGENCY AND SHIP BROKERAGE**

**Section 1**

**SHIPPING AGENCY**

### **Article 235. Shipping agency**

Shipping agency is a service whereby the shipping agent provides, in the name of the owner or operator of the ship, services in connection with the ship's operation at the port, including the clearance of procedures for the seagoing ship to enter and leave the port; conclusion of contracts of carriage, marine insurance contracts, contracts for cargo loading and unloading, charterparties, and crew employment contracts; issuance of bills of lading or similar carriage documents, furnishment of supplies, fuel, food and drinking water for the seagoing ship, submission of sea protests; communication with the owner or operator of the ship; provision of services related to crew; receipt and payment of all amounts related to the ship's operation; and settlement of disputes over contracts of carriage or maritime accidents, and other services related to the ship.

### **Article 236. Shipping agents**

1. A shipping agent is a person authorized to act as a representative to provide within the scope of authority designated by the principal shipping agency services at the seaport.

2. The shipping agent may, after obtaining the consent of the owner or operator of the ship, provide shipping agency services for the consignor, the charterer or other persons having contractual relations with the owner or operator of the ship.

### **Article 237. Shipping agency contracts**

A shipping agency contract is a contract concluded in writing between the principal and a shipping agent, whereby the principal authorizes the shipping agent to provide shipping agency services for a certain call or for a specified period of time.

### **Article 238. Responsibilities of shipping agents**

1. The shipping agent shall carry out necessary activities for taking due care of and protecting the lawful rights and interests of the principal; comply with his/her orders and instructions; promptly provide him/her with the necessary information about developments related to the authorized work; and accurately calculate the received and spent amounts related to the authorized work.

2. The shipping agent shall be obliged to indemnify the principal for losses or damage resulting from his/her fault.

### **Article 239. Responsibilities of principals**

1. The principal shall instruct his/her shipping agent to provide the authorized service when necessary and to give the latter, on demand, adequate advances for covering expenses for the authorized service.

2. In case the shipping agent has performed an act beyond the scope of his/her authority, the said act is nevertheless binding upon the principal unless the latter has, immediately upon receipt of information on the act, notified the other related parties that he/she does not recognize this act of the shipping agent.

**Article 240.** Shipping agency service prices

Shipping agency service prices shall be agreed upon by the involved parties, unless otherwise prescribed by law.

**Article 241.** Statute of limitations for initiation of lawsuits regarding performance of shipping agency contracts

The statute of limitations for initiation of lawsuits regarding performance of shipping agency contracts is 2 years from the date of arising of disputes.

**Article 242.** Conditions for provision of shipping agency services

1. Enterprises that provide shipping agency services in Vietnam shall be established in accordance with law; foreign-invested enterprises shall ensure contributed capital portions according to regulations.

2. Having full-time employees in charge of providing shipping agency services and legal affairs.

3. Shipping agents must be Vietnamese citizens possessing professional shipping agency certificates.

4. The Government shall detail this Article.

**Article 243.** Shipping agency for foreign official-duty ships, fishing ships, submarines, submersibles, floating storage and offloading units, mobile offshore units, seaplanes and military ships visiting Vietnam

The provisions of this Section on shipping agency apply to foreign official-duty ships, fishing ships, submarines, submersibles, floating storage and offloading units, mobile offshore units, seaplanes and military ships visiting Vietnam.

## **Section 2**

### **SHIP BROKERAGE**

**Article 244.** Ship brokerage and shipbrokers

1. Ship brokerage is a service whereby a shipbroker acts as an intermediary under a ship brokerage contract for the involved parties in the transaction, negotiation and conclusion of contracts of carriage,

contracts of marine insurance, charterparties, contracts on sale and purchase of seagoing ships, seagoing ship towage contracts, crew employment contracts and other contracts pertaining to maritime activities.

2. The shipbroker is the person providing the ship brokerage service.

**Article 245.** Rights and obligations of shipbrokers

1. To serve the contracting parties provided that he/she shall inform each party thereof, and to pay due attention to the lawful rights and interests of the involved parties.

2. To enjoy brokerage commission when the contract has been concluded as a result of his/her efforts. The shipbroker's commission shall be mutually agreed upon between the shipbroker and his/her principal; in the absence of such agreement, the shipbroker's commission shall be determined by local custom.

3. To be obliged to perform brokerage in an honest manner.

4. To be responsible for the legal status of the principals during the time of brokerage.

5. The shipbroker's liability will terminate when the contract between the involved parties has been concluded, unless otherwise agreed.

**Article 246.** Statute of limitations for initiation of lawsuits regarding performance of ship brokerage contracts

The statute of limitations for initiation of lawsuits regarding performance of ship brokerage contracts is 2 years as from the date of arising of disputes.

## **Chapter XI**

### **MARITIME PILOTAGE**

**Article 247.** Regime of maritime pilotage in Vietnam

1. The employment of pilots in Vietnam aims to ensure maritime safety, maritime security and environmental pollution prevention, and contribute to protecting the national sovereignty as well as exercising national sovereign rights and jurisdiction.

2. For Vietnamese seagoing ships and foreign seagoing ships, when operating in the Vietnamese navigable areas where maritime pilotage is

compulsory, Vietnamese pilots shall be employed for their navigation and pilotage dues shall be paid.

3. Cases where maritime pilotage is not compulsory:

a/ In navigable areas where maritime pilotage is not compulsory;

b/ Vietnamese ships carrying passengers, oil, liquefied gas or chemicals of under 1,000 GT; other types of Vietnamese ships of under 2,000 GT;

c/ Foreign ships of under 100 GT;

d/ Ships whose masters are Vietnamese citizens possessing a certificate of maritime pilotage or a certificate of maritime pilotage area suitable to the type of the ships and navigational area where maritime pilotage is compulsory and the ships operate and permitted to steer by themselves the ships.

4. The master of a ship prescribed in Clause 3 of this Article may, if deeming it necessary, request a pilot to steer the ship.

**Article 248.** Maritime pilotage organization

The maritime pilotage organization is an enterprise providing services of navigating seagoing ships to enter or leave seaports and to operate in Vietnamese navigable areas where maritime pilotage is compulsory.

**Article 249.** Legal status of maritime pilots

1. The maritime pilot shall advise the master on navigating the ship in navigational conditions in the areas where the maritime pilot steers the ship. The employment of maritime pilots does not relieve the master of the responsibility to command the ship.

2. The maritime pilot, while steering the ship, shall be under the command of the master of the steered ship.

3. The master has the right to choose a maritime pilot or to suspend the maritime pilot's service and request his/her substitution.

**Article 250.** Conditions for practicing maritime pilotage

1. Being Vietnamese citizens.

2. Being physically fit.

3. Having a certificate of maritime pilotage.

4. Piloting ships only in the maritime pilotage area in conformity with the granted maritime pilotage area certificate.

5. Being under the management of a maritime pilotage organization.

**Article 251.** Rights and obligations of maritime pilots when steering ships

1. The maritime pilot has the right to refuse to steer the ship and inform the responsible port authority and maritime pilotage organization when the master deliberately disobeys his/her instructions or reasonable recommendations.

2. The maritime pilot shall be obliged to furnish the master with all instructions concerning the navigational conditions in the area of pilotage and to recommend the master on activities incompliant with regulations on maritime safety assurance and other relevant provisions of law.

3. The maritime pilot shall be obliged to notify the port authority of the steering of the ship and dangerous navigational changes which he/she has detected while steering the ship.

4. The maritime pilot shall exercise his/her obligations with due diligence. The maritime pilot's steering duties terminate when securing the ship at anchor, mooring it or safely taking it to the agreed place or being substituted by another pilot. The maritime pilot may not leave the ship without the consent of the master.

**Article 252.** Obligations of masters and shipowners when employing maritime pilots

1. The master shall be obliged to furnish the maritime pilot with accurate information on the navigational property and characteristics of the ship; to ensure the pilot's safety when embarking and disembarking the ship; to provide the pilot with working and accommodation facilities throughout his/her stay on board the ship.

2. The shipowner shall compensate for losses resulting from the maritime pilot's mistakes while steering the ship as for those resulting from mistakes of the ship's crewmen.

3. For the safety reason, if the maritime pilot cannot depart from the ship after he/she has fulfilled his/her duties, the master shall arrange the ship to call at the nearest port for the maritime pilot's departure. The owner or operator of the ship shall arrange for the maritime pilot's return to the place where he/she was received and pay all the expenses arising therefrom.

**Article 253.** Liability of maritime pilots upon occurrence of losses resulting from steering mistakes

The maritime pilot shall only bear administrative or criminal liability for losses resulting from his/her steering mistakes in accordance with law but shall not bear civil liability therefor.

**Article 254.** Detailing provisions on maritime pilots

The Minister of Transport shall prescribe navigable areas where maritime pilotage is compulsory; criteria for training of maritime pilots; and grant and withdrawal of certificates of maritime pilotage and certificates of maritime pilotage areas.

**Article 255.** Pilotage for foreign official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, floating storage and offloading units, mobile offshore units, seaplanes and military ships

The provisions of this Chapter apply to foreign official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, floating storage and offloading units, mobile offshore units, seaplanes and military ships visiting Vietnam.

## **Chapter XII**

### **TOWAGE OF SEAGOING SHIPS**

**Article 256.** Towage of seagoing ships

1. Towage of seagoing ships means towing, pulling away, pushing or standing by seagoing ships or other floating objects on the sea and in seaport waters by towing ships.

2. Towage of seagoing ships includes towage on the sea and assisting towage in seaport waters.

**Article 257.** Conditions for provision of seagoing ship stowage services

1. Enterprises that provide seagoing ship towage services in Vietnam shall be established in accordance with law; foreign-invested enterprises shall ensure contributed capital portions according to regulations.

2. Having full-time employees in charge of providing seagoing ship towage services and legal affairs.

3. Having a number of towing ships as prescribed. Towing ships must be Vietnamese ones.

4. The Government shall detail this Article and the towage in Vietnam by ships other than those prescribed in Clause 1 of this Article.

**Article 258.** Contracts for towage of seagoing ships

1. A contract for towage of a seagoing ship is a contract concluded in writing between the owner of a towing ship and the towage hirer, except for assistance towage in seaport waters.

2. Seagoing ship towage service prices shall be agreed upon by the involved parties, unless otherwise prescribed by law.

**Article 259.** The right to command towage of seagoing ships

1. The towing ship and the seagoing ship or other towed objects constitute a towage team. A towage team shall be set up as soon as the towing ship and other ships forming the towage team are ready to carry out necessary maneuvers on the order of the commander of the towage team, and it shall break up as soon as the last maneuver is completed and the ships forming the towage team have sailed away one from another to a safe distance.

2. The commander of the towage team shall be determined by agreement between the parties to the contract for towage of the seagoing ship; in the absence of such agreement, he/she shall be determined by local custom.

3. The right to command assistance towage in seaport waters shall be vested in the master of the towed ship. In case the towed ship has no master or chief officer, the right to command shall be vested in the person designated by the director of the port authority.

**Article 260.** Obligations of the parties to contracts for towage of seagoing ships

1. The owner of the towing ship shall be obliged to provide at the agreed time and place a towing ship with technical conditions as agreed upon in the contract for towage of the seagoing ship.

2. The towage hirer shall be obliged to prepare all safety assurance conditions for ships as agreed upon in the contract for towage of the seagoing ship.

**Article 261.** Liability to compensate for damage arising from towage of seagoing ships

1. The owner of the ship whose master is in navigational command of the towage team shall be liable for damage to another ship in the team as well as to persons and property on board such ship, unless he/she can prove that such damage has occurred beyond the scope of his/her liability.

2. A ship which is under the navigational command of the master of another ship shall not be relieved of or lessened the liability to take care

of the safety of the towage team; the shipowner shall be liable for damage caused by his/her ship's fault to another ship in the team as well as to persons and property on board such ship.

3. In the course of performance of the contract for towage of the seagoing ship, if damage has been caused to a third party, the contractual parties shall compensate for such damage corresponding to the extent of each party's fault.

**Article 262.** Statute of limitations for initiation of lawsuits regarding performance of contracts for towage of seagoing ships

The statute of limitations for initiation of lawsuits regarding performance of contracts for towage of seagoing ships is 2 years from the date of arising of disputes.

**Article 263.** Towage of military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, floating storage and offloading units, mobile offshore units, floating docks and seaplanes

The provisions of this Chapter apply to military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, floating storage and offloading units, mobile offshore units, floating docks and seaplanes.

### **Chapter XIII**

#### **MARITIME SALVAGE**

**Article 264.** Maritime salvage

1. Maritime salvage is an operation for saving a seagoing ship or property on board from danger or an action of rendering assistance to a seagoing ship in peril at sea or in the seaport waters, which shall be undertaken under a maritime salvage contract.

2. A maritime salvage contract is a contract on the salvage concluded between a salvor and the owner of the salvaged property. The master of the seagoing ship in distress may conclude on behalf of the shipowner a salvage contract. The master or shipowner of the seagoing ship in distress may conclude on behalf of the owner of the property carried on board the ship a contract for salvage of such property.

3. A maritime salvage contract shall be concluded in the form as agreed upon by the involved parties.

4. The parties to a maritime salvage contract may request cancellation or modification of the unreasonable conditions in the

contract if they were agreed upon in an urgent and dangerous circumstance and under the influence of such circumstance or where the parties can prove that they were deceived or misled to have concluded the contract or where the salvage remuneration agreed upon is too lower or too higher than what is actually deserved.

**Article 265.** Obligations of salvors, shipowners and masters

1. In the course of salvage, the salvor has the following obligations:

a/ To conduct salvage with due diligence;

b/ To apply appropriate measures to avert or reduce damage to the environment;

c/ To request assistance from other salvors when necessary;

d/ To accept salvage acts of other salvors at reasonable requests of the shipowner, the master of the seagoing ship or the owner of the property in danger. In this case, the salvage remuneration of such salvor shall not be affected if the salvage by other salvors is unreasonable.

2. The shipowner, the master of the seagoing ship or the owner of the property in danger has the following obligation:

a/ To cooperate with the salvor throughout the process of salvage;

b/ To act with due diligence to avert or reduce damage to the environment when being salvaged;

c/ When the seagoing ship or other property is taken to a safe place, to deliver such seagoing ship or property to the salvor if the salvor has a reasonable request therefor.

**Article 266.** The right to salvage remuneration

1. All operations of maritime salvage that have brought about useful results shall be entitled to reasonable salvage remuneration.

2. The salvage remuneration comprises the salvage remuneration, salvage expenses, expenses incurred in the transportation and preservation of the salvaged ship or property, and the remuneration reward.

3. The salvage remuneration shall also be paid in cases in which the salvor has conducted direct or indirect salvage operations to assist the owner of the salvaged property in protecting his/her interests related to freight and passage money due for the carriage of passengers; and where the salvaged ships belong to the same shipowner.

4. Salvage operations contrary to an express and reasonable designation of the master of the salvaged seagoing ship are not entitled to salvage remuneration.

**Article 267.** Principles of determination of salvage remuneration

1. The salvage remuneration shall be agreed upon in the salvage contract but must be reasonable and not exceed the value of the salvaged seagoing ship or property.

2. In case the salvage remuneration is not agreed upon in the contract or is unreasonable, it shall be determined on the following basis:

a/ The value of the salvaged seagoing ship and property;

b/ Skills and efforts of the salvor in averting or minimizing the environmental pollution damage;

c/ The effect of the salvage by the salvor;

d/ The nature and degree of danger of the accident;

dd/ Skills and efforts of the salvor in salvaging the seagoing ship, persons and property on board;

e/ The time spent, expenses incurred and related losses suffered by the salvor;

g/ The risk of liability and other risks faced by the salvor or the equipment employed for the salvage;

h/ The timeliness of the salvage operations performed by the salvor;

i/ The readiness and capability of the ship(s) and other equipment employed for the salvage;

k/ The readiness, effectiveness and value of the equipment employed for the salvage.

3. The salvage remuneration may be reduced or disallowed if the salvor has by his/her fault caused the necessity of the salvage or has committed theft, deceitful or fraudulent act when performing the salvage contract.

**Article 268.** Special remuneration in maritime salvage

1. In case the salvor who has performed salvage operations related to the seagoing ship or cargo on board threatening to cause damage to the environment is not entitled to the remuneration determined under Clause 1 or 2, Article 267 of this Code, he/she is entitled to a special remuneration paid by the shipowner.

2. The special remuneration stated in Clause 1 of this Article to be paid by the shipowner to the salvor must not exceed 30% of the expenses incurred by the salvor. In case where a lawsuit is initiated, if deeming it reasonable and pursuant to the provisions of Clause 2, Article 267 of this Code, the court or arbitration may decide to increase the special

remuneration, which, however, must not exceed 100% of the expenses incurred by the salvor.

3. Expenses incurred by the salvor stated in Clauses 1 and 2 of this Article include reasonable expenses directly incurred by the salvor and other reasonable expenses arising from the actual employment of equipment and employees for the salvage operations. The determination of expenses incurred by the salvor must comply with the provisions of Points h, i and k, Clause 2, Article 267 of this Code.

4. In all cases, the whole special remuneration provided for in this Article shall be paid only when it is bigger than the salvage remuneration the salvor may enjoy under the provisions of Article 267 of this Code and constitute the difference between the special remuneration and the salvage remuneration.

5. The salvor may not be entitled to part or the whole of such special remuneration if, due to his/her neglect, the environmental pollution damage cannot be averted or minimized.

6. The provisions of this Article do not affect the shipowner's right to recourse against the parties that have their seagoing ships and/or property salvaged.

**Article 269.** Principles of determination of the value of salvaged seagoing ships or property

The value of a salvaged ship or property is the actual value of the ship or property at the place where it is kept after being salvaged or is the proceeds from the sale or valuation of the property after deducting the costs of deposit, preservation and organization of the auction and other related expenses.

**Article 270.** Life-saving reward in salvage remuneration

1. Persons whose lives have been saved shall not be obliged to pay any money to their rescuers.

2. A rescuer of human life is entitled to a fair reward in the remuneration or special remuneration due for the salvage of a property, if his/her life-saving acts have been related to the accident giving rise to the salvage of such property.

**Article 271.** Salvage reward in other cases

Those who are performing the duties of maritime pilotage or towage of a seagoing ship are entitled to a salvage reward if they have rendered exceptional assistance beyond the scope of their contract for salvage of such seagoing ship.

**Article 272.** Division of maritime salvage remuneration

1. The salvage remuneration shall be divided equally between the shipowner and the crew of the salving ship after deducting expenses incurred and damage suffered by the ship as well as expenses and losses on the part of the shipowner or the crew related to the salvage operations.

This principle does not apply to ships exclusively employed for professional salvage.

2. In case more than one ship take part in the salvage, the division of the salvage remuneration must comply with the provisions of Clause 2, Article 267 of this Code.

3. The Minister of Transport shall prescribe the division of the salvage remuneration among the crew of Vietnamese seagoing ships.

**Article 273.** The right to detain salvaged seagoing ships or property

1. The salvaged seagoing ship or property may be detained to secure the payment of the salvage remuneration and other costs related to the valuation and organization of an auction.

2. The salvor may not exercise the right to detain the salvaged seagoing ship or property if the shipowner or the owner of such property has provided an adequate security for his/her claim for payment of the salvage remuneration, including profits and related expenses.

**Article 274.** Statute of limitations for initiation of lawsuits regarding performance of contracts for maritime salvage

The statute of limitations for initiation of lawsuits regarding performance of contracts for maritime salvage is 2 years from the date of completion of salvage operations.

**Article 275.** Maritime salvage of military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, seaplanes, floating docks, floating storage and offloading units and mobile offshore units

The provisions of this Chapter also apply to military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, seaplanes, floating docks, floating storage and offloading units and mobile offshore units.

## **Chapter XIV**

### **RECOVERY OF SUNKEN PROPERTY**

### **Article 276.** Sunken property

1. Sunken property means ships, cargo or other objects sunken or adrift in Vietnam's seaport waters or seas or washed ashore the Vietnamese coast.

2. Dangerous sunken property means sunken property that obstructs or imperils maritime activities, threatens people's life and health, affects natural resources, or pollutes the environment.

### **Article 277.** Obligations of owners of sunken property

1. The owner of sunken property shall be obliged to recover his/her sunken property and bear all expenses arising therefrom, except for the case specified in Clause 2 of this Article. Where the owner of sunken property fails to recover the sunken property or cannot recover it within the time limit as requested, competent state agencies defined in Article 284 of this Code shall decide on the recovery of such property.

2. In case the sunken property is a seagoing ship, cargo or other objects from a seagoing ship, the shipowner shall be obliged to recover the sunken property and bear all expenses arising therefrom. The manager or operator of the seagoing ship shall bear joint responsibility for such recovery and payment of expenses arising therefrom.

3. In case the sunken property causes environmental pollution, its owner shall take all measures to avert and limit the damage resulting therefrom and compensate for the environmental pollution damage in accordance with law.

### **Article 278.** Time limit for notification and recovery of sunken property

Except for the case specified in Article 279 of this Code, the time limit for notification and recovery of sunken property is prescribed as follows:

1. Within 30 days from the date the property is sunk, its owner shall notify the competent state agency specified in Article 284 of this Code of the recovery and the expected date for completion of the recovery.

2. Within 30 days from the date of receipt of the above-said notification, based on the practical situation, the competent state agency specified in Article 284 of this Code shall decide on the expected time for completion of recovery operations or fix the time limit within which the owner of the sunken property shall complete recovery operations.

### **Article 279.** Recovery of dangerous sunken property

1. Immediately after an incident occurs, the owner of dangerous sunken property shall be obliged to notify it to the director of the port

authority in the nearest place and shall recover such property within the time limit prescribed by the Government. If the owner fails to perform the recovery or is unable to recover the property within the specified time limit, a competent agency shall organize the recovery and fix a time limit for the owner to reimburse the costs incurred therefrom.

The owner shall compensate for related losses and be sanctioned in accordance with law even when he/she has lost the ownership of his/her sunken property under Clause 1, Article 281 of this Code.

2. After 30 days counting from the date of receipt of the notification of the recovery of his/her property, if the owner fails to claim delivery of the property or to pay the related costs within the fixed time limit, the competent state agency shall decide to sell the property by auction. In case the dangerous sunken property is of an easy-to-deteriorate kind or the expense for the preservation would be higher than the value of such property, the competent state agency shall decide to sell it by auction immediately after its recovery. Such auction shall be conducted in accordance with law.

3. Out of the proceeds from the auction, the balance shall be deposited at a bank after deducting the costs of the recovery, expenses for the preservation and auction of the property as well as other reasonable expenses specified in Clause 2 of this Article, and notified to the owner of the property; after 180 days counting from the date of such notification, if the owner of the property fails to receive the balance, this balance and its interest shall be remitted into state coffers, unless the owner has lost the ownership of the sunken property under Article 281 of this Code.

4. In case the proceeds obtained from the auction of the sunken property as prescribed in Clause 3 of this Article is not enough to cover the costs and expenses incurred, the owner of the sunken property shall fully pay the deficit within the time limit fixed by the agency that has decided on the recovery of such sunken property; if the owner of the sunken property is unable to pay or is unknown, the deficit shall be covered by the state budget.

**Article 280.** Preemptive right to recovery of sunken property

Vietnamese organizations and individuals shall be prioritized to conclude contracts for recovery of property sunken in the Vietnamese internal waters or territorial sea.

**Article 281.** Loss of ownership of sunken property

1. The owner of the sunken property shall lose his/her ownership of such property if he/she fails to notify or recover the property within the

time limit specified in Articles 278 and 279 of this Code and, in this case, such sunken property shall automatically belong to the Vietnamese State.

2. In the case stated in Clause 1 of this Article, competent state agencies specified in Article 284 of this Code shall decide on the disposal of the sunken property.

3. The owner of the dangerous sunken property who has lost his/her ownership under Clause 1 of this Article shall still compensate for any damage and be penalized in accordance with law.

**Article 282.** Disposal of sunken property which is incidentally recovered

1. Immediately after incidentally recovering property sunken in Vietnam's internal waters or territorial sea or transporting incidentally recovered property into Vietnam's internal waters or territorial sea, the recoverer shall notify competent state agencies specified in Article 284 of this Code of the time, place and relevant circumstances of the recovery of the property; protect such property till the delivery thereof to its owner or competent state agencies and, if conditions permit, notify the owner of the property thereof.

2. In case the recovered property mentioned in Clause 1 of this Article is of an easy-to-deteriorate kind, or where its preservation requires excessive costs, the recoverer may dispose of the property under Clauses 2 and 3, Article 279 of this Code.

3. Within 15 days from the date of notification of the recovery, if the owner of the property fails to claim delivery of the property or to pay the amounts due, the recoverer shall be obliged to deliver the recovered property to competent state agencies specified in Article 284 of this Code.

4. Within 60 days from the date of notification of the recovery, if the owner of the property mentioned in Clause 3 of this Article fails to have any actions to protect his/her interests, competent state agencies specified in Article 284 of this Code may dispose of the property under Clauses 2 and 3, Article 279 of this Code.

5. In the case specified in Clause 1 of this Article, the recoverer is entitled to a recovery remuneration and the reimbursement of related costs and expenses, the amount of which shall be determined on the principles applied to maritime salvage remuneration.

6. In case the owner of the sunken property is unknown, the recovered property shall be disposed of in accordance with law.

**Article 283.** Disposal of property adrift on the sea or washed ashore

1. The disposal of property adrift on the sea or washed ashore must comply with Clauses 1, 2, 3, 4 and 6, Article 282 of this Code.

2. Those who have found, salvaged or participated in salvaging another person's property adrift on the sea shall be entitled to a remuneration on the principles applied to maritime salvage remuneration, provided that he/she has notified the owner of the property of his/her claim not later than the time of delivery of the property.

3. Those who have found and preserved property washed ashore shall be entitled to a reward and the reimbursement of preservation expenses not exceeding 30% of the market value of such property, provided that he/she has notified the owner of the property of his/her claim not later than the time of delivery of the property.

**Article 284.** Competence to dispose of sunken property

1. The Ministry of Transport shall assume the prime responsibility for organizing the disposal of dangerous sunken property.

2. The Ministry of Culture, Sports and Tourism shall assume the prime responsibility for organizing the disposal of sunken property being cultural heritage.

3. The Ministry of National Defense shall assume the prime responsibility for organizing the disposal of sunken property related to national defense and of property sunken in military zones.

4. The Ministry of Public Security shall assume the prime responsibility for organizing the disposal of sunken property related to national security.

5. Provincial-level People's Committees shall assume the prime responsibility for organizing the disposal of sunken property other than those mentioned in Clauses 1, 2, 3 and 4 of this Article.

6. The Government shall prescribe in detail the disposal of sunken property.

## **Chapter XV**

### **COLLISION**

**Article 285.** Collision

Collision means a collision which has occurred between seagoing ships, between a seagoing ship and an inland waterway craft or a seaplane, or between other floating structures on the sea or in the seaport waters.

**Article 286.** Obligations of masters when collisions occur

1. After a collision occurs, the master of each of the ships in collision shall be obliged to render assistance to the other ship, persons and property on board so far as he/she can do without serious danger to his/her ship as well as the persons and property on board his/her ship.

2. Immediately after a collision occurs, the master of each of the ships in collision shall be obliged to inform the master of the other ship of the name of his/her own ship, its call-sign, the place of ship registration, and the ports from which his/her ship has come and to which it is bound.

3. The shipowner is not responsible for the master's failure to perform the obligations specified in Clauses 1 and 2 of this Article.

**Article 287.** Principles of identification of faults and compensation for losses resulting from collisions

1. A ship at fault in a collision is a ship causing a collision as a result of its operation or omission in equipping, navigation and management of the ship, in observing regulations on the prevention of collisions at sea and regulations on assurance of maritime safety or as a result of non-compliance with necessary professional customs.

2. The ship at fault in a collision shall be liable for damage caused to another ship or to persons and property involved in such collision. In case two or more ships are at fault in a collision, each of them is liable in proportion to the degree of its fault; if the degree of the fault is equal or it is impossible to establish the specific degree of the fault of each ship, the liability for compensation shall be equally divided to the involved ships.

3. In case the fault is not clearly determined, no ship shall be held liable for the collision.

4. In case of compensation for loss of life, personal injuries or other health damage, the ships at fault in the collision must bear joint liability. A ship which has paid compensation in excess of its liability is entitled to recover from the other ships the sum paid in excess.

5. A military ship shall be relieved of the compensation liability only if it, due to its fault, has caused a collision when performing its duties in the military exercise areas or no-maritime activities areas

already declared, but its master shall, if practical conditions permit, perform his/her obligations specified in Clauses 1 and 2, Article 286 of this Code.

6. Pursuant to Clauses 1, 2, 3, 4 and 5 of this Article, the parties involved in a collision may reach agreement on their own to determine the degrees of their faults and liabilities for compensation for losses resulting from the collision; if they cannot reach such agreement, they may initiate a lawsuit at an arbitration or a competent court.

**Article 288.** Collisions due to force majeure events, accidental events or unidentified fault

In case a collision has occurred by force majeure event, by an accidental event or where it is impossible to determine which ship is at fault, the damage shall be borne by the ship that has suffered it, even when the ship is at anchor, moored to or alongside another ship at the time of the collision.

**Article 289.** Indirect collision

The provisions of this Chapter shall be applied when a ship has caused damage to another ship or persons or property on board such ship even though no direct collision has occurred.

**Article 290.** Statute of limitations for initiation of lawsuits regarding collisions

1. The statute of limitations for initiation of lawsuits regarding collisions is 2 years from the date of occurrence of collisions.

2. The statute of limitations for initiation of lawsuits regarding claims for reimbursement of excessive amounts prescribed in Clause 4, Article 287 of this Code is one year from the date of payment of compensation money.

**Article 291.** Collisions of military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, seaplanes, floating docks, floating storage and offloading units and mobile offshore units

The provisions of this Chapter also apply to military ships, official-duty ships, fishing ships, inland waterway crafts, submarines, submersibles, seaplanes, floating docks, floating storage and offloading units and mobile offshore units.

## **Chapter XVI**

### **GENERAL AVERAGE**

**Article 292.** General average

1. General average means extraordinary sacrifices or expenditures intentionally and reasonably made or incurred for the common safety for the purpose of preserving from a common peril the ship, cargo, luggage, freight or passage money for the carriage of passengers.

2. Only losses, damage and expenses which are the direct consequence of the action causing general average may be accounted as general average.

3. All losses, damage and expenses which are related to damage to the environment or the consequence of the leakage or discharge of pollutants from the property on board the ship during its voyage shall not be accounted as general average in any circumstance.

4. Demurrage money and any loss or damage incurred or expenses paid for delay during or after the voyage and any indirect damage shall not be accounted as general average.

5. Special expenses in excess of the necessary levels may be accounted as general average, but only within a reasonable limit on a case-by-case basis.

**Article 293.** Apportionment of general average

1. General average shall be apportioned in proportions between the value of the loss resulting from the action causing general average and the value saved at the place where and time when the ship calls immediately after the general average occurs.

2. The provisions of Clause 1 of this Article shall be also applied to the case in which the peril has been due to the fault of any party with interests in the general average or a third party.

3. The apportionment of general average does not preclude the right of any involved party to claim compensation from the party at fault.

4. The principles applicable to a detailed adjustment of the loss value and contribution value shall be agreed upon by the parties in the contract. In the absence of such agreement, adjusters shall comply with the provisions of this Chapter and international custom.

**Article 294.** Apportionment of general average to cargoes loaded on board without permission

Any loss of the cargo loaded on board without permission or wrongly declared in terms of its kind and value shall not be accounted as

general average; however, such cargo, if saved from a common peril, is also subject to a corresponding contribution value.

**Article 295.** Particular average

Any loss of or damage to the ship, cargo, luggage, freight and passage money for the carriage of passengers which is not allowed to be accounted as general average on the principles specified in Article 292 of this Code shall be referred to as particular average. Those who suffer such loss or damage shall not be entitled to compensation unless he/she can prove that such loss or damage has been caused by another party's fault.

**Article 296.** Declaration of general average and appointment of general average adjusters

1. The identification of a general average, the assessment of the amount of general average and its apportionment shall be carried out by general average adjusters appointed by the shipowner.

2. The shipowner is the only person entitled to declare a general average and shall appoint his/her general average adjuster within 30 days after the date of declaration of the general average occurrence.

**Article 297.** Statute of limitations for initiation of lawsuits regarding general average

The statute of limitations for initiation of lawsuits regarding general average is 2 years as from the date of occurrence of general average. The period for apportionment of general average shall not be counted in this statute of limitations.

## **Chapter XVII**

### **LIMITATION OF CIVIL LIABILITY FOR MARITIME CLAIMS**

**Article 298.** Persons entitled to limit civil liability

1. The shipowner shall be entitled to limit civil liability for maritime claims specified in Article 299 of this Code.

2. The shipowner's right to limit civil liability shall be also applied on similar principles to the salvor, the operator, the charterer and the manager of the ship where the shipowner or any of such persons must be liable for his/her act, neglect or fault.

3. In case the insured is entitled to limit his/her liability for maritime claims, the insurer liable for these maritime claims shall be also entitled to limit his/her liability like the insured.

4. The exercise of the right to limit liability does not mean that the person entitled to such right has acknowledged all liabilities.

5. The person entitled to limit civil liability under the provisions of this Chapter shall lose his/her right to limit civil liability if the loss is proved to be the consequence of his/her fault.

**Article 299.** Maritime claims subject to limitation of civil liability

1. Claims in respect of loss of life, personal injury or another health damage; loss of or damage to property, including damage to harbor facilities, areas for anchorage and marine navigable channels and aids to navigation, occurring on board or in direct connection with the operation of the seagoing ship or with salvage operations, and consequential loss resulting therefrom.

2. Claims in respect of loss resulting from delay in the carriage of cargo, passengers or their luggage by sea.

3. Claims in respect of other losses resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the seagoing ship or salvage operations.

4. Claims in respect of the recovery, removal, destruction or the rendering harmless of a seagoing ship which is sunk, wrecked, destroyed or abandoned, including property that is or has been on board such ship.

5. Claims in respect of the removal, destruction or the rendering harmless of the cargo on board the seagoing ship.

6. Claims of a person other than the person who has civil liability in respect of measures taken by himself/herself in order to avert or minimize losses for which such person may limit his/her liability, and further losses caused by the application of such measures.

**Article 300.** Maritime claims not subject to limitation of civil liability

1. Claims for salvage remuneration or contribution in general average.

2. Claims for oil pollution damage.

3. Claims for nuclear pollution damage.

4. Claims by servants of the shipowner or salvor whose duties are related to the seagoing ship or the salvage operations, including claims of their heirs, dependents or other persons entitled to make such claims,

if under the law governing the labor contracts between the shipowner or salvor and such servants, the shipowner or salvor is not entitled to limit his/her civil liability for such claims, or if he/she is only permitted to limit his/her civil liability to an amount greater than that specified in Article 301 of this Code.

**Article 301. Limits of civil liability**

1. The limits of civil liability for maritime claims in respect of loss of life, personal injury or other health damage to passengers carried by sea and loss of or damage to their luggage must comply with the provisions of Article 209 of this Code.

2. The limits of civil liability for other maritime claims in respect of loss of life, personal injury or other health damage to non-passengers are specified as follows:

a/ 167,000 units of account, for a seagoing ship with a tonnage not exceeding 300 GT;

b/ 333,000 units of account, for a seagoing ship with a tonnage of between over 300 GT and 500 GT;

c/ For a seagoing ship with a tonnage of over 500 GT, in addition to that mentioned at Point b of this Clause for the first 500 GT, the limit of liability is 500 units of account, for each GT from 501 to 3,000; 333 units of account, for each GT from 3,001 to 30,000; 250 units of account, for each GT from 30,001 to 70,000; or 167 units of account, for each GT of 70,001 or over.

3. The limits of civil liability for other maritime claims are specified as follows:

a/ 83,000 units of account, for a seagoing ship with a tonnage not exceeding 300 GT;

b/ 167,000 units of account, for a seagoing ship with a tonnage of between over 300 GT and 500 GT;

c/ For a ship with a tonnage of over 500 GT, in addition to that mentioned at Point b of this Clause for the first 500 GT, the limit of liability is 167 units of account, for each GT from 501 to 30,000; 125 units of account, for each GT from 30,001 to 70,000; or 83 units of account, for each GT of 70,000 or over.

4. In case the total amount calculated under Clause 2 of this Article is insufficient to pay such maritime claims, the total amount calculated under Clause 3 of this Article shall be used to pay the deficit of maritime claims under Clause 2 of this Article and such deficit shall rank rateable with other maritime claims under Clause 2 of this Article.

5. Maritime claims specified in Clause 3 of this Article and related to damage to port facilities, anchorage areas, marine navigable channels and aids to navigation shall be the first to be settled.

6. The limits of liability of the salvor not operating on any seagoing ship or operating solely on the ship to, or in respect of which he/she is rendering salvage services, shall be calculated like those for a ship of 1,500 GT.

7. The limits of liability prescribed in this Article shall be applied to the total value of all claims which arise from a distinct case.

8. The limits of civil liability prescribed in this Article shall be converted into Vietnamese currency at the exchange rate announced by the State Bank of Vietnam at the time of payment.

**Article 302.** The compensation assurance fund

1. Those who are entitled to limit their civil liability under the provisions of this Code may constitute a compensation assurance fund for settlement of maritime claims for which they are entitled to limit their liability. The compensation assurance fund shall be constituted in the sum of the total of the amounts specified in Article 301 of this Code together with interest thereon from the date of the occurrence of the event giving rise to the maritime claims until the date of the constitution of the fund.

2. The compensation assurance fund shall be distributed among the maritime claimants in proportion to their established claims against the total value of the fund.

3. A compensation assurance fund may be constituted by the shipowner's depositing the sum or producing another financial guarantee approved by the court that has accepted the case.

4. After the compensation assurance fund has been constituted, nobody may infringe upon the interests or property of the liable person. The court may release the seized property of the liable person or terminate similar guarantees already provided by the liable person.

5. If, before the compensation assurance fund is distributed, the person liable, or any of those who are entitled to limit their civil liability under the provisions of this Code, has settled a maritime claim falling within the scope of compensation by the fund, such person shall, up to the amount he/she has paid, enjoy by subrogation all interests from the fund with respect to the settled maritime claim.

6. The establishment of a compensation assurance fund does not mean that the shipowner has acknowledged all liabilities.

**Chapter XVIII**  
**CONTRACTS OF MARINE INSURANCE**  
**Section 1**  
**GENERAL PROVISIONS**

**Article 303.** Contracts of marine insurance

1. A contract of marine insurance is a contract of insurance for maritime perils whereby the insured shall pay premiums as agreed and the insurer undertakes to indemnify the insured, in the manner and under the conditions agreed in it, against marine losses covered by insurance.

Maritime perils mean the perils incidental to the navigation of the sea, including perils of the sea, fires, explosions, war perils, pirates, thieves, attachments, captures, seizures, detentions, jettisons, acquisitions, requisitions, compulsory purchases, illegal acts and similar perils or any other perils as agreed upon in the insurance contract.

2. A contract of marine insurance may be extended in accordance with specific conditions or custom so as to protect the interests of the insured against losses occurring on inland waters or land or railway or airway that may be incidental to a voyage.

3. A contract of marine insurance shall be concluded in writing.

**Article 304.** Subject matters of marine insurance

1. The subject matter of marine insurance may be any material interest related to maritime activities and appraisable in terms of money.

2. The subject matters of marine insurance include:

a/ Seagoing ship, seagoing ship under construction, cargo or other property that are threatened by maritime perils;

b/ Freight, ship charter-hire, ship hire-purchase money, expected profit on cargo, commission, loans, advanced security money and costs in danger when seagoing ships, seagoing ships under construction, cargo or other property are threatened by maritime perils;

c/ Civil liability arising from maritime perils.

**Article 305.** Identification of insurable interests

1. A person with an insurable interest is a person who is interested in the subject matter of insurance in a sea voyage.

2. A person is interested in a sea voyage when he/she has grounds to prove that he/she has any relation to the voyage or to any subject matter of insurance at risk in it, in consequence of which such person may benefit by the safe and due arrival of the subject matter of insurance, or may not benefit by its loss or by damage to it or by the detention of it, or may incur liability in respect of it.

3. The insured must have interest in the subject matter of insurance at the time of occurrence of the loss though the insured need not be interested in the subject matter of insurance when the insurance is effected. When the subject matter of insurance is insured under the “lost or not lost” condition, the insured may recover although the insured may not have acquired that interest until after the loss occurred, unless the insured was aware of the loss and the insurer was not.

In case the insured has no interest in the subject matter of insurance at the time of occurrence of the loss, the insured cannot acquire interest by any act or selection after the insured is aware of the loss.

4. In case the buyer of goods has insured them, the buyer will have an insurable interest, even though the buyer might have rejected the goods or have treated them as at the seller’s risk, by reason of the latter’s delay in making delivery or by other reasons.

5. Part of the interest of a seagoing ship, a seagoing ship under construction, cargo or other property is the insurable interest.

#### **Article 306.** Reinsurance

1. The insurer may reinsure to another insurer the subject matter of insurance which the insurer has accepted to insure.

2. The contract of reinsurance is independent from the original contract of insurance while the original insurer must still be responsible to the insured.

#### **Article 307.** Insurance policy, insurance certificate

1. At the request of the insured, the insurer shall be obliged to issue to him/her an insurance policy or insurance certificate. The insurance policy or certificate constitutes an evidence of the conclusion of the contract of marine insurance.

2. An insurance policy may be issued in the following forms:

a/ Voyage policy, which is a policy issued to the subject matter of insurance from one place to another or others;

b/ Time policy, which is a policy issued to the subject matter of insurance for a definite period of time;

c/ Valued policy, which is a policy in which the insurer has agreed in advance to the value of the subject matter of insurance as specified in the policy, which is compatible with the insurable value and shall be used for indemnification for total or partial loss.

Unless otherwise stated in the insurance policy, the value specified in the policy and the provisions of Clause 1, Article 333 of this Code shall be used as a basis for determining whether there has been a constructive total loss.

d/ Unvalued policy, which is a policy that does not specify the value of the subject matter of insurance, but, specifies the sum insured.

3. An insurance policy must contain the following basic details:

a/ The name of the insured, or of the insured's representative;

b/ The subject matter of insurance;

c/ The insurance conditions;

d/ The period of time covered by the insurance;

dd/ The sum insured;

e/ The place, date and hour of issue of the policy;

g/ The insurer's signature for certification.

4. The forms and basic details of an insurance policy shall be applied to insurance certificates.

#### **Article 308.** Obligations of the insured

1. The insured shall be obliged to inform the insurer of all information which the insured has known or should have known in relation to the conclusion of the contract of insurance, and may affect the assessment by the insurer of the possible risk or the decision by the insurer as to whether or not the insurance proposal and the terms of the contract should be accepted, except information which is common knowledge or has been known or should have been known to the insurer.

2. The obligation of the insured specified in Clause 1 of this Article shall be also applied to the insured's representative.

#### **Article 309.** Automatic invalidation of contracts of marine insurance

A contract of marine insurance will automatically become invalid if at the time of its conclusion the peril covered by insurance has already occurred or the possibility of its occurrence does not exist in reality; in this case, the insurer does not have to indemnify but shall retain the right

to the insurance premium as contracted, unless before concluding the contract, the insurer knew about such event.

**Article 310.** The right to terminate contracts of marine insurance

1. In case the insured intentionally commits a breach of his/her obligation prescribed in Article 308 of this Code, the insurer has the right to terminate the contract. If the insured fails to provide information or provides inaccurate information according to Article 308 of this Code not due to his/her fault, the insurer has no right to terminate the contract, but may request a reasonable increase of the insurance premium.

2. Before the commencement of the insurance liability, the insured may request termination of the contract of marine insurance, provided that he/she pays the insurer all administrative costs, and the insurer shall refund the insurance premium to the insured.

3. The insurer and the insured may not terminate their contract once the insurance liability has commenced, unless otherwise agreed upon in the contract.

In case it is agreed in the contract that the contract may terminate after the insurance liability commences and the insured requests termination of the contract, the insurer has the right to the insurance premium from the date of commencement of the insurance liability to the date of termination of the contract, and the to-be-refunded premium must correspond to the remaining time. In case the insurer requests termination of the contract, the insurance premium amount of the remaining time shall be refunded to the insured for the period of time from the date of request for termination to the date of expiration of the contract.

4. The provisions of Clause 2 of this Article do not apply to the case in which the insured requests termination of the cargo or voyage policy for the seagoing ship after the commencement of the insurance liability.

## **Section 2**

### **INSURABLE VALUE AND INSURED SUM**

**Article 311.** Insurable value

Insurable value is the real value of the subject matter of insurance and shall be determined as follows:

1. The insurable value of the seagoing ship is its total value at the commencement of the insurance. This value also includes the value of

the ship's machinery, equipment, spare parts and stores plus the whole insurance premium amount. The insurable value of the seagoing ship may also include money advanced for crew's wages and other disbursements incurred to make the ship fit for the voyage as agreed upon in the contract;

2. The insurable value of the cargo is its value invoiced at the place of loading or its market value at the place and time of loading plus the insurance premium, the freight and may include the expected profit;

3. The insurable value of the freight is the gross amount of freight plus the insurance premium. In case the charterer has the freight insured, this amount of freight shall be included in the insurable value of the cargo for insurance;

4. The insurable value of any other subject matter of insurance, except obligations arising under civil liability, is the value of the subject matter of insurance at the place and time of the commencement of the insurance, plus the insurance premium.

**Article 312.** The insured sum

1. Upon concluding a contract of marine insurance, the insured shall declare the sum for which the subject matter of insurance is insured.

The insured sum is the sum of money the insurer shall pay to the insured upon occurrence of the insured event.

2. In case the insured sum specified in the insurance contract is lower than the insurable value, the insurer shall compensate for losses in such proportions as the insured sum bears to the insurable value, including other expenses under the insurance.

3. In case the insured sum specified in the contract exceeds the insurable value, the excessive amount shall not be accepted.

**Article 313.** Double insurance

1. In case two or more policies have been concluded by the insured or his/her representative for the same subject matter of insurance against the same maritime peril for the insured sums which in aggregate exceed the insurable value, the insured shall be deemed to have been overinsured by double insurance.

2. In case of double insurance mentioned in Clause 1 of this Article, all such insurers must be liable only up to the amount of the insurable value, and within limit of that value each of them must be liable in proportion to the insured sum accepted by such insurer.

### Section 3

#### TRANSFER UNDER CONTRACTS OF MARINE INSURANCE

##### **Article 314.** Transfer of marine insurance policies

1. A marine insurance policy is transferable unless it contains terms expressly prohibiting transfer. It may be transferred either before or after the loss of the subject matter of insurance.

2. A person who has no interest in the subject matter of insurance may not transfer the policy.

##### **Article 315.** Mode of transfer of marine insurance policies

A marine insurance policy may be transferred by the insured's endorsement on it or according to commercial practice.

### Section 4

#### FLOATING INSURANCE

##### **Article 316.** Floating insurance

1. Floating insurance is a package insurance covering the subject matter of insurance of a kind or some kinds of cargo which the insured will dispatch or receive within a specified period of time.

2. In a contract of floating insurance, the insurer shall be obliged to issue, at the request of the insured, a policy or a certificate of insurance for each shipment or each unit of cargo.

##### **Article 317.** Performance of contracts of floating insurance

1. The insured, who has concluded a contract of floating insurance, shall be obliged to notify to the insurer immediately upon receipt of information concerning the dispatch or receipt of the cargo and to specify in each case the name of the seagoing ship, the route, the cargo and the insured sum, even when the notice reaches the insurer, the cargo may have been dispatched or have arrived at the port of delivery.

2. In case the insured has intentionally or through his negligence failed to fulfill the obligation specified in Clause 1 of this Article, the insurer may terminate the contract while retaining the right to the insurance premium to which he would have been entitled had the contract been properly performed.

##### **Article 318.** Termination of contracts of floating insurance

A contract of floating insurance may be terminated by either party subject to a 90 days' notice.

## Section 5

### PERFORMANCE OF CONTRACTS OF MARINE INSURANCE

#### **Article 319.** Payment of insurance premiums

The insured shall be obliged to pay the insurance premium to the insurer immediately after the conclusion of the contract or the issue of the policy or certificate of insurance, unless otherwise agreed by the involved parties.

#### **Article 320.** Notification of increased risks

1. If, after the conclusion of the contract of insurance, there is any change in the insured perils, increasing their degree of risk, the insured shall notify the insurer of such change immediately after it is known to him/her.

2. In case the insured violates the provisions of Clause 1 of this Article, the insurer may refuse to indemnify part or the whole of the insured sum.

#### **Article 321.** Obligations of the insured upon occurrence of losses

1. In case a loss related to the maritime perils insured has occurred, the insured shall be obliged to take all necessary measures to avert the loss or lessen its extent as well as to secure the insurer's exercise of the right to claim against the parties responsible for the loss. When performing this obligation, the insured shall follow the reasonable instructions of the insurer.

2. When the insured has intentionally or through gross negligence failed to perform the obligation mentioned in Clause 1 of this Article, the insurer will not be liable for losses caused thereby.

#### **Article 322.** The insurer's liability to refund

The insurer shall refund to the insured all reasonable and necessary expenses incurred for the purpose of averting the loss or lessening its extent; expenses incurred in the implementation of the instructions of the insurer as prescribed in Article 321 of this Code, or expenses incurred for identifying the cause and extent of the loss within the scope of liability of the insurer, and expenses contributed to the general average. These expenses shall be refunded in such proportion as the insured sum bears to the insurable value.

**Article 323.** The insurer's liability for losses

1. Within the limit of the insured sum, the insurer must be liable for losses resulting directly from the peril insured and shall refund the expenses specified in Article 322 of this Code even though the aggregate amount to be paid to the insured may exceed the insured sum.

2. The insurer will not be liable for losses arising from an intentional fault or a gross negligence of the insured, but must still be liable for losses caused by the negligence or fault of the master who is also insured in the navigation and management of the ship as well as losses caused by the fault of another crewman or the maritime pilot.

3. The contract of insurance of ship hull may be extended to compensation for losses occurred in relation to liabilities in a collision, accordingly, apart from his/her liability to compensate the insured for loss of or damage to the subject matter of insurance, the insurer must be responsible for loss of or damage to a third party in the collision for which the insured is liable even though the aggregate amount of indemnity may exceed the insured sum.

4. In case the maritime perils insured under the contract of insurance occur, the insurer may indemnify the insured the total sum insured against the exemption from all other liabilities under the terms agreed in the contract. In this case, the insurer shall notify the insured of his/her intention to do so within 7 days from the date on which he/she receives the notice from the insured of the occurrence of the maritime perils and their consequences; the insurer are not entitled to claim the ownership of the subject matter of insurance if the total insured sum is lower than the insurable value.

In addition to the indemnification of the total insured sum, the insurer shall also refund expenses incurred for the purpose of averting the loss or lessening its extent, as well as repairing and recovering the subject matter of insurance, which the insured had paid before he/she received the notice from the insurer.

**Article 324.** Indemnification for successive losses

1. The insurer must be liable for successive losses, even though the aggregate amount of losses may exceed the insured sum, unless otherwise agreed upon in the contract.

2. In case a partial loss of the subject matter of insurance that has not been repaired or otherwise made good is followed by a total loss, the insured shall only recover in respect of the total loss.

3. The provisions of Clauses 1 and 2 of this Article do not relieve the insurer of the liability for refunding the expenses related to the performance of the liabilities prescribed in Article 323 of this Code.

**Article 325.** Exemption of the insurer's liability

1. Unless otherwise agreed upon in the contract of insurance, in the insurance of a seagoing ship and freight, the insurer is not liable for losses arising from:

a/ The seagoing ship being not seaworthy at the beginning of the voyage, unless this is due to latent defects of the ship or caused by circumstances which could not have been prevented in spite of due diligence exercised by the insured;

b/ Loading on board the seagoing ship of explosive or inflammable materials or other dangerous cargoes without compliance with regulations on the carriage of cargoes of that kind, of which the insured was aware but the insurer was not.

2. Unless otherwise agreed upon in the contract of insurance, in the insurance of the cargo, the insurer is not liable for losses arising from:

a/ The nature of the cargo;

b/ Ordinary leakage, ordinary wear and tear of the cargo;

c/ Improper packing of the cargo;

d/ Delay in its supply.

3. Unless otherwise agreed upon in the contract of insurance, the insurer is not liable for losses of the subject matter of insurance arising from war or military activities of any nature and their consequences; from being appropriated; from civil commotion; strikes; or from acquisition, requisition, compulsory purchase, detention or destruction of the seagoing ship or cargo under military orders or decisions of competent state agencies.

## **Section 6**

### **TRANSFER OF THE RIGHT TO RECOURSE**

**Article 326.** Transfer of the right to recourse

After having indemnified the insured, the insurer has the right to recourse against the person who is responsible for such loss (below referred to as the third party) within the amount paid. The insurer shall

exercise this right in accordance with the provisions applicable to the insured.

**Article 327.** The insured's obligations in the recourse against the third party

1. The insured shall be obliged to provide the insurer with all information, documents as well as proofs and to take necessary measures to enable the insurer to exercise the right to recourse against the third party.

2. In case the insured fails to perform the obligations specified in Clause 1 of this Article or he/she is at fault that makes the insurer's right to recourse unexercisable, the insurer shall be exempted from the payment of the whole indemnity or is entitled to a reasonable reduction of the payable indemnity.

3. If the insured has received the indemnity for losses from the third party, the insurer shall be obliged to pay only the difference between the indemnity amount according to the contract of insurance and the amount of money the insured received from the third party.

**Article 328.** Guarantee for general average contributions

1. Unless otherwise agreed upon in the contract of insurance, the insurer shall guarantee for general average contributions within the limit of the insured sum on the basis of the insured's commitment to general average contributions.

2. When adjusting general average, the insured shall be obliged to pay due attention to the insurer's interests.

## **Section 7**

### **ABANDONMENT OF THE SUBJECT MATTER OF INSURANCE**

**Article 329.** The right to abandon the subject matter of insurance

1. The insured has the right to abandon the subject matter of insurance and surrender to the insurer his/her rights and obligations related to the subject matter of insurance in return for the payment of the indemnity for total loss if the total loss of the subject matter of insurance is inevitable, or the aversion of such loss would entail expenditure too high in comparison with the value of the subject matter of insurance.

2. The right to abandon the subject matter of insurance may be applicable in case the seagoing ship has been sunk, appropriated or damaged in an accident in consequence of which it has become

irreparable, or its cost of repair, recovery or redemption is economically inefficient.

3. The right to abandon the subject matter of insurance prescribed in Clause 2 of this Article shall also be applied to cargo, even when the costs of its repair and delivery to the port of delivery would be too high in comparison with its market value at the port of delivery.

**Article 330.** The mode and time limit for exercising the right to abandon the subject matter of insurance

1. The exercise of the right to abandon the subject matter of insurance shall be declared in writing, stating the grounds for the application of this right.

2. The declaration of the abandonment of the subject matter of insurance shall be sent to the insurer within a reasonable time limit not exceeding 180 days, counting from the date on which the insured has learned of the circumstances used as grounds for the application of this right, or within 60 days, counting from the date on which the insurance has expired in case the seagoing ship or cargo has been appropriated or the right to possession of the ship or cargo has been lost for other reasons; after the time limit specified in this Clause, the insured will lose the right to abandon the subject matter of insurance but still have the right to claim the indemnity for the loss.

3. The abandonment of the subject matter of insurance must be unconditional; if the abandonment has been accepted, neither the insurer nor the insured can change his/her decision.

**Article 331.** The insured's obligations when declaring the abandonment of the subject matter of insurance

When declaring the abandonment of the subject matter of insurance, the insured shall be obliged to provide the insurer with information on any proprietary rights related to the subject matter of insurance and on other insurance amounts and limitations known to the insured.

**Article 332.** The time limit for the insurer to accept or refuse to accept the abandonment of the subject matter of insurance

1. Within 30 days counting from the date of receipt of the declaration of abandonment of the subject matter of insurance, the insurer shall be obliged to notify in writing the insured of his/her acceptance or refusal of the abandonment. The insurer will lose the right to refuse to accept the abandonment after the expiration of this time limit.

2. The rights and obligations related to the subject matter of insurance shall be transferred to the insurer immediately after he/she notifies that he/she accepts the abandonment; the insurer has the right not to demand this right.

3. In case the declaration of abandonment of the subject matter of insurance has been effected according to regulations but the insurer refuses to accept the abandonment, the insured will still retain the right to an indemnity.

**Article 333. Indemnity for total loss**

1. A constructive total loss means loss resulting from the damage to a seagoing ship or cargo whose actual total loss is deemed to be unavoidable or the cost of repairing or recovering the seagoing ship would exceed the value of the ship when repaired or exceed the market value of the cargo at the port of delivery; in this case, the insured shall send the declaration of abandonment of the subject matter of insurance to the insurer before demanding the payment of the insured sum.

2. Actual total loss means loss resulting from the total destruction or damage of the seagoing ship or cargo which renders the ship or cargo unrecoverable or from the missing of the ship together with the cargo on board thereof; in this case, the insured may demand from the insurer the indemnity for the total insured sum without having to declare abandonment of the subject matter of insurance.

3. In case the ship found missing has been insured for a definite period of time, the insurer must only be liable for the indemnity if he/she has last received the information of the ship before the expiration of the insurance period. The insurer is not liable for the indemnity if he/she can prove that the ship has been found missing after the expiration of the insurance period.

**Article 334. Refund of indemnified amounts**

In case the insurer has paid the indemnity, the seagoing ship then escapes from the maritime peril, he/she will be entitled to request the insured to continue his/her ownership of the seagoing ship and refund the indemnity paid after deducting the indemnified amount for partial loss of the seagoing ship provided that such partial loss is the direct consequence of the maritime peril insured.

**Section 8**

**SETTLEMENT OF INDEMNITY**

**Article 335.** Responsibility for settlement of indemnity

In payment of indemnified amounts for the loss of the subject matter of insurance, the insurer may request the insured to provide him/her with information on relevant circumstances, submit documents and other proofs necessary for assessing the circumstances and the extent of the loss.

**Article 336.** Statute of limitations for initiation of lawsuits regarding contracts of marine insurance

The statute of limitations for initiation of lawsuits regarding contracts of marine insurance is 2 years from the date of arising of disputes.

## **Chapter XIX**

### **SETTLEMENT OF MARITIME DISPUTES**

**Article 337.** Maritime disputes

Maritime disputes are disputes arising from maritime activities.

**Article 338.** Principles of settlement of maritime disputes

1. The disputing parties may settle their maritime disputes through negotiation, agreement or initiation of lawsuits before an arbitration or a competent court.

2. Maritime disputes shall be settled by arbitration or court in accordance with the jurisdiction and procedures prescribed by law.

**Article 339.** Settlement of maritime disputes involving at least one party being a foreign organization or individual

1. In case a contract has at least one party being a foreign organization or individual, the contracting parties may agree to refer their dispute to a foreign arbitration or court.

2. In case all the parties to a maritime dispute are foreign organizations and/or individuals and they have agreed in writing to refer their dispute to a Vietnamese arbitration, the Vietnamese arbitration shall be entitled to settle such dispute, even though the dispute occurred outside the Vietnamese territory.

3. A maritime dispute specified in Clause 2 of this Article may be also settled by a Vietnamese court if the grounds for establishment, modification or termination of the relations among the parties to such

dispute comply with the Vietnamese law or the property connected with such relations is located in Vietnam.

## **Chapter XX**

### **IMPLEMENTATION PROVISIONS**

#### **Article 340.** Effect

1. This Code takes effect on July 1, 2017.
2. The 2005 Vietnam Maritime Code ceases to be effective on the date this Code takes effect.

#### **Article 341.** Detailing provision

The Government and competent agencies shall detail the articles and clauses in this Code as assigned.

*This Code was passed on November 25, 2015, by the XIII<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 10<sup>th</sup> session.-*

*Chairman of the National Assembly*  
NGUYEN SINH HUNG