

THE GOVERNMENT

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THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom – Happiness

Hanoi, November 26, 2014

DECREE

ON SUBJECTS ELIGIBLE AND CONDITIONS FOR LICENSED IMPORT AND DISMANTLEMENT OF USED SHIPS

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

Pursuant to the June 14, 2005 Maritime Code of Vietnam;

Pursuant to the June 23, 2014 Law on Environmental Protection;

Pursuant to the November 29, 2005 Enterprise Law;

At the proposal of the Minister of Transport,

The Government promulgates the Decree on subjects eligible and conditions for licensed import and dismantlement of used ships.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides subjects eligible and conditions for licensed import of used ships for dismantlement and the management of ship dismantlement activities in Vietnam.

Article 2. Subjects of application

This Decree applies to domestic and foreign organizations and individuals involved in the import of used ships for dismantlement and ship dismantlement activities in Vietnam.

Article 3. Interpretation of terms

In this Decree, the terms and phrases below are construed as follows:

1. Ship dismantlement means breaking up the entire structure of a ship at a ship dismantlement establishment.

2. Ship dismantlement establishment means an area used exclusively for ship dismantlement.
3. Ship dismantlement enterprise means an enterprise with its charter capital wholly owned by a Vietnamese organization or individual that also owns the operating ship dismantlement establishment.
4. Ship dismantlement plan means a plan made by a ship dismantlement enterprise for dismantlement of each ship.

Article 4. Principles of import and dismantlement of used ships

1. The import and dismantlement of used ships must ensure maritime safety and security, labor safety and protection of human health and the environment.
2. Used ships may only be dismantled at lawfully licensed ship dismantlement establishments.
3. Used ships imported for dismantlement must fall into one of the cases prescribed in Article 8 of this Decree. The ship importer must have a manifest of materials from the ship made according to the form provided in Appendix I to this Decree.
4. Used ships imported for dismantlement may not be transformed, upgraded, used for other purposes, transferred or traded.
5. A used ship imported for dismantlement shall be brought to a ship dismantlement establishment within 30 (thirty) days after customs formalities are completed and 90 (ninety) days after it arrives at the first seaport of Vietnam; the ship dismantlement period must not exceed 180 (one hundred and eighty) days after the ship is brought to the ship dismantlement establishment.
6. Used ships for dismantlement must neither be in a hypothecation nor subject to a maritime claim.

Article 5. Environmental protection in ship dismantlement activities

An enterprise dismantling used ships shall:

1. Plan the collection, storage, transport and treatment of wastes discharged from the dismantlement of each ship or enter into a contract on collection, transport and treatment of wastes discharged from the dismantlement of each ship with an enterprise licensed to provide this service.
2. Arrange areas to safely keep wastes discharged from ship dismantlement activities before treating them in accordance with the environmental protection law.
3. Adopt plans to tackle environmental incidents which might occur in ship dismantlement activities.

4. Promptly and effectively apply measures to tackle environmental incidents in ship dismantlement activities and report such to competent agencies for coordinated handling.
5. Buy insurance and fulfill obligations to insure the liability for compensation of environmental damage caused by the import and dismantlement of used ships.
6. Comply with other relevant provisions of the environmental protection law.

Article 6. Provisions on dismantlement of Vietnamese ships and foreign ships wrecked in Vietnam

1. Ships bearing the flag of Vietnam which are dismantled in Vietnam must comply with Articles 17, 18 and 19 of this Decree and other relevant laws.
2. Ships bearing flags of foreign states which have met with accidents or have been damaged or wrecked and are to be dismantled in Vietnam shall be imported and dismantled in accordance with this Decree and other relevant laws.

Chapter II

CONDITIONS FOR IMPORT OF USED SHIPS FOR DISMANTLEMENT

Article 7. Conditions for import of used ships for dismantlement

1. A ship dismantlement enterprise which fully meets the following conditions may be licensed by the Ministry of Transport for import of used ships for dismantlement:
 - a/ Having registered the business line of importing used ships for dismantlement;
 - b/ Having specialized sections in charge of import; maritime law; labor safety and environmental protection;
 - c/ Having a legal capital of at least VND 50 (fifty) billion.
2. A license for import of used ships for dismantlement is valid for 5 (five) years from the date of grant.
3. The Minister of Transport shall provide the order and procedures for licensing the import of used ships for dismantlement.

Article 8. Types of used ships eligible for import for dismantlement

1. Dry bulk carriers carrying general cargo, cargo in loose form, equipment, wood chips, timber, grains, packed goods and iron and steel products.
2. Container ships.

3. Ore ships.
4. Tankers carrying crude oil, oil products and vegetable oil.
5. Tankers carrying gas and liquefied gas.
6. Ro-Ro ships, passenger ships, sea barges and ferries.
7. Floating rigs.
8. Jack-up rigs.
9. Ship-type floating storage units.
10. Floating storage and offloading facilities.
11. Other ships as decided by the Prime Minister at the proposal of the Minister of Transport.

Article 9. Order of purchasing used foreign ships for dismantlement

A ship dismantlement enterprise purchasing used foreign ships for dismantlement shall carry out the following steps:

1. Approving the policy to purchase used foreign ships for dismantlement.
2. Selecting ships, determining the purchase price and expenses related to the purchase of used foreign ships for dismantlement.
3. Formulating and approving the project on purchase of used foreign ships for dismantlement which must cover the necessity of investment, type, quantity, basic technical specifications and estimated price of ships, funding sources for and form of purchase, ship dismantlement plan, economic efficiency and other necessary contents.
4. Deciding on the purchase of used foreign ships for dismantlement.

Article 10. Competence to approve the policy for, and decide on, the purchase of used foreign ships for dismantlement

1. The competence to approve the policy for, and decide on, the purchase of used foreign ships for dismantlement for state enterprises or enterprises with state-contributed capital must comply with the Government's Decree No. 99/2012/ND-CP of November 15,2012, on assignment and decentralization of the exercise of rights and performance of responsibilities and obligations of the state owner toward state enterprises and state capital invested in enterprises, and Decree No. 71/2013/ND-CP of July 11,2013, on state capital invested in enterprises and finance management of enterprises with wholly state-owned charter capital, and other relevant laws.

2. The competence to approve the policy for, and decide on, the purchase of used foreign ships for dismantlement for enterprises without state capital shall be decided by enterprises on their own.

Article 11. Procedures for import of used ships for dismantlement

1. A dossier submitted for the import of a used ship for dismantlement must comprise:
 - a/ The license for import of used ships for dismantlement (1 original or certified copy);
 - b/ The enterprise's decision on purchase of the used foreign ship for dismantlement (1 original);
 - c/ The contract on purchase and sale of the used foreign ship (1 original or certified copy);
 - d/ The written record of delivery of the foreign ship (1 original);
 - dd/ The certificate of ship deregistration (1 original or certified copy);
 - e/ The certificate of state of ship ownership (1 original);
 - g/ Insurance for the liability for compensation of environmental damage (1 original or certified copy);
 - h/ The ship owner's manifest of materials from ships (1 original);
 - i/ The approval decision enclosed with the ship dismantlement plan (1 original or certified copy).
2. On the basis of the ship import dossier prescribed in Clause 1 of this Article, the customs law and other relevant laws, the customs office shall clear procedures for the import of used ships for dismantlement.

Chapter III

OPERATION CONDITIONS FOR SHIP DISMANTLEMENT ESTABLISHMENTS

Article 12. Conditions for a ship dismantlement establishment to be put into operation

1. Conforming with the approved master plan on ship dismantlement establishments.
2. Having physical foundations, technical equipment and facilities and human resources qualified for ship dismantlement.
3. Having the dossier prescribed in Clause 2, Article 14 of this Decree.

4. Having environmental protection facilities serving the operation period and requirements of the decision approving the environmental impact assessment report with contents related to ship dismantlement activities certified.

Article 13. Competence to decide to put ship dismantlement establishments into operation

1. The director of the Vietnam Maritime Administration shall appraise dossiers of request for operation of ship dismantlement establishments and propose the Ministry of Transport to decide to put ship dismantlement establishments into operation.

2. The Minister of Transport shall decide to put ship dismantlement establishments into operation based on appraisal results and proposal of the director of the Vietnam Maritime Administration.

Article 14. Procedures to decide to put ship dismantlement establishments into operation

1. A ship dismantlement enterprise shall submit 2 (two) sets of dossier of request for operation of a ship dismantlement establishment to the Vietnam Maritime Administration directly, by post or in another prescribed form.

2. A dossier of request for operation of a ship dismantlement establishment must comprise:

a/ A written request for operation of a ship dismantlement establishment made according to Form No. 1 provided in Appendix II to this Decree (1 copy);

b/ The enterprise registration certificate (1 original or certified copy);

c/ The decision approving the environmental impact assessment report of the ship dismantlement establishment (1 original or certified copy);

d/ The certificate of environmental protection facilities serving the operation period (1 original or certified copy);

dd/ The written registration of the hazardous waste generator (1 original or certified copy);

e/ The permit for discharge of waste into water sources (1 original or certified copy);

g/ The document on take-over test of the fire and explosion protection plan (1 original or certified copy);

h/ The plan on response to oil spill incidents approved by a competent agency (1 original or certified copy);

i/ The general plan of the positions of equipment and facilities of the ship dismantlement establishment (1 original or certified copy);

k/ The list of employees directly engaged in ship dismantlement activities (1 original or certified copy);

l/ The list of labor protection equipment and facilities (1 original or certified copy);

m/ The certificate of the environmental management system (1 original or certified copy).

3. The Vietnam Maritime Administration shall receive, examine and process dossiers as follows:

a/ For a dossier submitted directly, it shall issue a dossier receipt and set a date of result notification according the prescribed time limit if the dossier is valid or guide the enterprise to complete the dossier if it is not valid;

b/ For a dossier submitted by post or in another prescribed form, within 2 (two) working days after receiving the dossier, it shall issue a document guiding the enterprise to complete the dossier if it is not valid;

c/ Within 5 (five) working days after receiving a valid dossier, it shall appraise the dossier and send a report on dossier appraisal results to the Ministry of Transport;

d/ Within 3 (three) working days after receiving an appraisal report and proposal from the Vietnam Maritime Administration, the Ministry of Transport shall issue a decision on operation of a ship dismantlement establishment according to Form No. 2 provided in Appendix II to this Decree. In case of disapproval, it shall issue a written reply clearly stating the reason.

Article 15. Decision on termination of operation of ship dismantlement establishments

1. The Ministry of Transport shall decide to terminate the operation of a ship dismantlement establishment when:

a/ The ship dismantlement enterprise requests such due to inefficient operation of the establishment or for other plausible reasons;

b/ The establishment violates regulations on maritime safety, maritime security, labor safety or environmental pollution prevention at the request of competent state agencies.

2. The decision on termination of operation of a ship dismantlement establishment shall be made as follows:

a/ The ship dismantlement enterprise shall send a written request for termination of its ship dismantlement establishment to the Vietnam Maritime Administration directly or by post. Within 3 (three) working days after receiving a written request for termination of a ship dismantlement establishment, the Vietnam Maritime Administration shall report such to the Ministry of Transport for decision;

b/ Within 5 (five) working days after receiving a report from the Vietnam Maritime Administration, the Ministry of Transport shall decide to terminate operation of a ship dismantlement establishment and notify such to the ship dismantlement enterprise and related agencies.

3. A ship dismantlement establishment shall terminate operation as prescribed by other relevant laws.

Article 16. Decision on suspension from operation of ship dismantlement establishments

1. For the purpose of assurance of maritime safety or security or environmental protection or in case the enterprise fails to properly implement the approved ship dismantlement plan or in other urgent cases, the director of the Vietnam Maritime Administration shall decide to suspend operation of a ship dismantlement establishment at the proposal of the regional port authority.

2. When the reason behind the suspension from operation of a ship dismantlement establishment is remedied, the director of the Vietnam Maritime Administration shall decide to cancel such suspension at the proposal of the related port authority.

3. After deciding to suspend operation of a ship dismantlement establishment or canceling the suspension decision, the director of the Vietnam Maritime Administration shall immediately report such to the Ministry of Transport and concurrently notify the ship dismantlement enterprise and specialized state management agencies in the region.

Chapter IV

SHIP DISMANTLEMENT PLANS

Article 17. Ship dismantlement plans

1. Before dismantling a ship, a ship dismantlement enterprise shall make a ship dismantlement plan according to Clause 2 of this Article and submit it to the Vietnam Maritime Administration for appraisal and approval.

2. A ship dismantlement plan must have the following major contents:

a/ Information on the ship to be dismantled: Name and flag state of the ship; name and address of the ship owner; technical specifications and the overall drawing of the ship;

b/ Information on the ship dismantlement establishment: Names and addresses of the ship dismantlement enterprise and ship dismantlement establishment, drawing of the position of ship dismantlement within the general plan of the ship dismantlement establishment, dismantling equipment, facilities, technologies and personnel;

c/ The ship dismantlement plan together with the dismantlement schedule for specific items;

d/ Labor safety, environmental sanitation, and fire and explosion protection measures;

dd/ The plan on environmental protection in ship dismantlement activities certified by the state management agency in charge of environment under regulations.

3. The plan on environmental protection in ship dismantlement activities must include plans on response to environmental incidents, and collection, storage, transport and treatment of waste discharged from the dismantlement of each ship.

Article 18. Procedures for approval of ship dismantlement plans

1. A ship dismantlement enterprise shall submit 1 (one) dossier of request for approval of a dismantlement plan for every ship to the Vietnam Maritime Administration directly, by post or in another prescribed form. Such a dossier must comprise:

a/A written request for approval of a ship dismantlement plan made according to Form No. 3 provided in Appendix II to this Decree (1 copy);

b/ The ship dismantlement plan (1 original).

2. The Vietnam Maritime Administration shall receive, examine and process dossiers as follows:

a/ For a dossier submitted directly, it shall issue a dossier receipt and set a date of result notification according the prescribed time limit if the dossier is valid or guide the enterprise to complete the dossier under regulations if it is not valid;

b/ For a dossier submitted by post or in another prescribed form, within 2 (two) working days after receiving the dossier, it shall issue a written guidance for the enterprise to complete the dossier if it is not valid;

c/ Within 2 (two) working days after receiving a valid dossier, it shall consult related agencies on the ship dismantlement plan. Within 5 (five) working days after receiving the Vietnam Maritime Administration's written request for comment, related agencies shall issue written replies;

d/ Within 3 (three) working days after receiving opinions of related agencies, the Vietnam Maritime Administration shall issue a decision approving a ship dismantlement plan according to Form No. 4 provided in Appendix II to this Decree and send it to the ship dismantlement enterprise directly or by post. In case of disapproval, it shall issue a written reply clearly stating the reason.

Article 19. Implementation of ship dismantlement plans

1. A ship dismantlement enterprise shall dismantle ships according to the approved ship dismantlement plan and report on implementation results to the Vietnam Maritime Administration.

2. Maritime administrations shall assume the prime responsibility for, and coordinate with related agencies in, examining and supervising the implementation of the dismantlement plan for each ship.

3. The Ministry of Transport shall annually report on the ship dismantlement in Vietnam to the Prime Minister.

Chapter V

IMPLEMENTATION PROVISIONS

Article 20. Effect

This Decree takes effect on January 15, 2015.

Article 21. Implementation responsibilities

1. The Ministry of Transport shall perform the state management of import and dismantlement of ships; assume the prime responsibility for, and coordinate with related ministries, sectors and provincial-level People's Committees in, organizing the implementation of this Decree; assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment and related localities in, identifying, elaborating and announcing specific master plans on establishments dismantling used ships.

2. The Ministry of Natural Resources and Environment shall perform the state management of environmental protection in ship dismantlement activities; assume the prime responsibility for, and coordinate with related ministries and sectors in, guiding the insurance on liability for compensation of environmental damage; and coordinate with the Ministry of Transport in specifically guiding the certification of plans on environmental protection in ship dismantlement activities.

3. The Ministry of Finance shall assume the prime responsibility for, and coordinate with related ministries and sectors in, guiding the payment of taxes related to the import and dismantlement of used ships.

4. Ministries and provincial-level People's Committees shall, based on their prescribed functions, tasks and powers, perform the state management of import and dismantlement of used ships in Vietnam.

Article 22. Organization of implementation

Ministers, heads of ministerial-level agencies and government-attached agencies, chairpersons of provincial-level People's Committees and related organizations, units and persons shall implement this Decree.-

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

Notes: All the Appendices to this Decree are not translated.