

**THE MINISTRY OF NATIONAL DEFENSE**

**SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom - Happiness**

No.: 05/2010/TT-BQP

*Hanoi, January 18, 2010*

**CIRCULAR**

**GUIDING THE GOVERNMENT'S DECREE NO. 50/2008/ND-CP OF APRIL 21, 2008, ON  
MANAGEMENT AND PROTECTION OF SECURITY AND ORDER AT SEAPORT BORDER GATES**

**THE MINISTER OF NATIONAL DEFENSE**

*Pursuant to the Government's Decree No. 50/ 2008/ND-CP of April 21, 2008, on management and protection of security and order at seaport border gates;*

*Pursuant to the Government's Decree No. 104/2008/ND-CP of September 16, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of National Defense;*

*At the proposal of the Border Guard Command,*

**CIRCULARIZES:**

**Chapter I**

**GENERAL PROVISIONS**

**Article 1.** Scope of regulation

This Circular guides in detail activities of Vietnamese and foreign people, ships and boats on entry, exit, in transit or port transfer; border-guard procedures, inspection and supervision and other activities related to security and order; and responsibilities to guide and coordinate the management and protection of security and order at seaport border gates.

**Article 2.** Subjects of application

This Circular applies to Vietnamese and foreign individuals, organizations, ships, boats and other vessels operating at seaport border gates. In case a treaty to which the Socialist Republic of Vietnam is a contracting party otherwise provides for, that treaty prevails.

**Article 3.** Military ports

1. Military ports are regulated by Clause 2, Article 1 of the Government's Decree No. 50/ 2008/ND-CP of April 21, 2008, on management and protection of security and order at seaport border gates (below referred to as Decree No. 50/2008/ND-CP).

2. Military ports which are permitted by the Government to operate for commercial purposes are subject to Decree No. 50/2008/ND-CP and other relevant regulations on commercial ports and internal rules of military ports.

**Article 4.** Seaport border-gate areas

1. Seaport border-gate areas are regulated by Article 4 of Decree No. 50/2008/ND-CP.

2. Specific boundaries of port land and port waters shall be delimited by competent agencies under law. The port land boundaries shall be decided by a competent agency in charge of land

administration under the land law. The port water boundaries shall be announced by the Minister of Transport under the Maritime Code.

3. Specialized state management agencies at a seaport border gates, including port authority, port border-gate guard, port border-gate customs office, medical quarantine, animal quarantine and plant quarantine offices may arrange their personnel, install equipment and technical devices in seaport border-gate areas. Such arrangement and installation shall be decided by the relevant line agencies but must not obstruct normal operations of port enterprises.

## **Chapter II**

### **BORDER-GUARD PROCEDURES**

#### **Article 5.** Time limit for completion of border-guard procedures

1. The time limits for completion of border-guard procedures comply with Article 6 of Decree No. 50/2008/ND-CP.
2. For ships or boats anchoring or mooring far away from places for carrying out border-guard procedures, at the request of person carrying out these procedures, port border-gate guards shall reach agreement with specialized state management agencies on carrying, out the procedures 2-24 hours before departure of these ships or boats.
3. After completing procedures, post border-gate guards shall continue border-guard inspection and supervision of people, ships and boats under law.
4. If ships or boats still stay in ports 24 hours after the completion of exit procedures, they shall carry out exit procedures once again.

#### **Article 6.** Places for carrying out border-guard procedures

Places for carrying out border-guard procedures are specified as follows:

1. Head offices or representative offices of port authorities;
2. Border guard offices, for seaport border gates that have established computer networks for e-declaration;
3. On board ships, including:
  - a/ Passenger ships;
  - b/ In case there are sufficient grounds to doubt the truthfulness of quarantine declarations of the ship owner or before its arrival at a Vietnamese port, a ship or boat leaves the last port in an area where occurs a human, animal or plant epidemic, procedures shall be carried out in the quarantine area.

Port border-gate guards shall notify all cases in which border-guard procedures must be carried out on board ships to port authorities and persons carrying out the procedures.

#### **Article 7.** Responsibilities of port border-gate guards upon carrying out border-guard procedures\* for people, ships and boats on entry, exit, in transit or port transfer

1. To firmly grasp the situation and receive information on plans on ship arrival at and departure \*from ports, anchoring or mooring places, time of cargo handling and law observance by vessel owners, ship crewmembers, staff and passengers in order to take the initiative in arranging forces for performing tasks under regulations.
2. To receive and check the legality and validity of entry or exit papers of ships, boats, crewmembers and passengers and verify evidence under regulations. Papers produced by persons carrying out procedures shall be returned immediately after checking, unless there is a decision on temporary seizure of material evidence and tools used for commission of administrative violations or temporary seizure of papers until violators completely execute sanctioning decisions.
3. To receive and settle according to their competence and carry out procedures for granting permits

for traveling ashore for sightseeing or tourist purpose, emergency first-aid, medical examination and treatment, or for applying for visas for ship crewmembers and passengers as requested by shipmasters.

4. Upon detecting violations in the course of carrying out procedures, port border-gate guards shall sanction these administrative violations according to their competence provided in the July 2, 2002 Ordinance on Handling of Administrative Violations; the April 2, 2008 Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Handling of Administrative Violations. In case of necessity to promptly stop administrative violations or to secure the handling of administrative violations, heads of port border-gate guard stations shall decide to apply deterrent measures under law.

**Article 8.** Responsibilities of persons carrying out border-guard procedures for people, ships and boats on entry, exit, in transit or port transfer

1. To declare, submit and produce papers required by law.

2. To supply adequate and accurate information on ships, boats, crewmembers, passengers and cargoes on board. Upon detecting unauthorized passengers on board ships or boats, shipmasters shall apply necessary deterrent measures, depending on each case and practical conditions, make dossiers to protect evidence and manage these people, and may, when necessary, hold these people in temporary custody under law, and concurrently report such to port border-gate guards for coordination with other specialized state management agencies operating at seaport border gates for handling according to their competence.

3. To execute decisions and satisfy requests of port border-gate guards in the course of carrying out border-guard procedures or conducting border-guard inspection and supervision of ships, boats, crewmembers, passengers, cargoes and devices banned from use.

4. To perform other obligations specified by law.

**Article 9.** Border-guard procedures for people, ships and boats on entry

1. People carrying out entry procedures shall submit and produce to port border-gate guards the following papers:

a/ Papers to be submitted (one original):

- General statement;
- List of crewmembers;
- List of passengers (if any);
- Manifest of dangerous cargoes, weapons and explosive materials (if any).
- Declaration of unauthorized passengers on board (if any).

b/ Papers to be produced (original):

- Crewmember passports or equivalent papers;
- Passenger passports or equivalent papers.

2. Port border-gate guards shall perform the tasks specified in Article 7 of this Circular; inspect the preservation of dangerous cargoes, weapons and explosive materials, and seal up weapons and explosive materials of ships.

**Article 10.** Border-guard procedures/or ships and boats on exit

1. People carrying out exit procedures shall submit and produce to port border-gate guards the following papers:

a/ Papers to be submitted (one original):

- General statement;

- List of crewmembers;
- List of passengers (if any);
- Manifest of dangerous cargoes, weapons and explosive materials (if any).
- Declaration of unauthorized passengers on board (if any).

b/ Papers to be produced (originate)

- Crewmember passports or equivalent papers;
- Passenger passports or equivalent papers.

2. Port border-gate guards shall perform the tasks specified in Article 7 of this Circular and check package seals on dangerous, cargoes, weapons and explosive materials; and revoke papers they have granted to ships, crewmembers and passengers.

**Article 11.** Border-guard procedures for ships and boats in transit

1. Procedures to be carried out at port border gates of entry and port border gates of exit comply with Articles 9 and 10 of this Circular.

2. During transit, shipmasters shall manage crewmembers, passengers and cargoes on board their ships or boats, and keep intact the sealed border-guard dossiers from the port border gate of entry to the port border gate of exit.

**Article 12.** Border-guard procedures for ships and boat in port transfer

1. Entry procedures are not required for ships and boats which have completed entry procedure at a Vietnamese port but later arrived at another port (port transfer). After receiving a notice of the time and purpose of port transfer of a ship or boat, the name of the port of arrival and expected change in crewmembers or passengers, the border guard of the port of arrival shall request the shipmaster to submit only the port transfer dossier of the border guard of the port border gate from which the ship or boat has departed.<sup>^</sup>

2. Based on port transfer dossiers supplied by border/guards of ports from which ships or boats have departed, border guards of ports of arrival shall perform their professional management operations under law, receive port transfer dossiers and notify border guards of ports of department of the law observance by crewmembers and ships or boats in port transfer.

Shipmasters shall manage crewmembers, passengers and cargoes on board their ships, and keep intact the sealed port transfer dossiers of border guards of port border gates from which their ships have departed.

**Article 13.** Border-guard procedures for ships and boats under flags of countries bordering on Vietnam

1. Upon arrival of a ship or boat of a tonnage of 200 DWT or less under the flag of a country bordering on Vietnam at a seaport in the border area between Vietnam and that country, the person carrying out procedures shall submit and produce to the port border-gate guard the following papers:

a/ Papers to be submitted (one original):

- List of passengers (if any);
- Manifest of dangerous cargoes, weapons and explosive materials (if any).
- Declaration of unauthorized passengers on board (if any).

b/ Papers to be produced: passports or equivalent papers of crewmembers and passengers as prescribed by Vietnamese law or a treaty signed between Vietnam and that country.

2. Port border-gate guards shall perform the tasks specified in Article 7 of this Circular and check the preservation of dangerous cargoes, weapons and explosive materials; and seal up weapons and explosive materials banned from import into Vietnam.

**Article 14.** Border-guard procedures for tourist ships

1. These ships shall carry out entry and exit procedures specified in Articles 9 and 10 of this Circular.
2. Upon receiving seaborne tourists in a port, a tourism company shall submit to the port border-gate guard the following papers:
  - a/ One original of the tourist program for tourists;
  - b/ One copy of the business license (for first-time submission)
  - c/ One copy of the international travel business license (for first-time submission).
  - d/ One original of the tourist profile approval sheet of the Immigration Department of the Ministry of Public Security permitting passengers' entry into Vietnam (except passport holders with Vietnamese visas and passport holders exempt from Vietnamese entry or exit visas).
3. Seaborne tourists shall be granted visas or sightseeing or tourist permits under the Vietnamese law on entry and exit.
4. Before receiving passengers in a port, for an international tourist passenger ship permitted to transport domestic tourists between domestic ports, the person carrying out procedures shall submit to the port border-gate guard the following papers:
  - a/ Copies of permissions of competent Vietnamese authorities for reception and transport of domestic tourists between domestic ports.
  - b/ Tourism companies shall submit to the port border-gate guard the tourist program for domestic tourists and the list of passengers.
  - c/ Domestic tourists getting on board ships shall produce their passports or equivalent papers (for foreign passengers); identity cards or passports (for Vietnamese) and permits for passengers to travel ashore bearing the certification seal of the port border-gate guard.
  - d/When leaving ships, domestic tourists shall return to the port border-gate guard their permits for traveling ashore.

**Article 15.** Border-guard procedures for sailboats

1. Crewmembers and passengers on board sailboats must possess visas granted by a competent Vietnamese state agency upon their entry (except those eligible for visa exemption).
2. Those who possess no visas shall be granted visas by port border-gate guards under regulations.

**Article 16.** For Vietnamese ships and boats operating along domestic routes

1. Ships and boats operating along domestic routes are not subject to border-guard procedures upon their arrival at or departure from ports but shall make arrival and departure registrations and submit to inspection and supervision by port border-gate guards.
2. Upon registering arrival or departure of their ships or boats, shipmasters shall submit and produce to port border-gate guards the following papers:
  - a/ Papers to be submitted:
    - List of crewmembers;
    - List of passengers (if any);
  - b/ Papers to be produced:
    - Crewmember book;
    - Crewmember passports or Univalent papers;
    - Passenger passports or equivalent papers.

**Article 17.** For special-use ports

1. Special-use ports announced by the Ministry of Transport are those exclusively used by enterprises for export or import of a certain goods item.
2. Port border-gate guards shall carry out procedures and conduct border-guard inspection and supervision upon entry or exit of Vietnamese or foreign ships or boats. Procedures and border-guard inspection and supervision shall be carried out and conducted in a port by the border guard station closest to such port.

**Article 18.** For inland waterway ports receiving foreign ships and boats

At inland waterway ports announced and permitted by the Ministry of Transport to receive foreign ships and boats for cargo handling, procedures and border-guard inspection and supervision shall be carried out and conducted under law.

**Article 19.** Electronic border-guard procedures

1. The Border Guard Command shall register and grants-mail addresses for port border-gate guard units that have established computer networks for electronic border-guard declaration procedure to receive and transmit information under regulations; set the electronic border-guard declaration form and guide the process of filling in and certifying electronic border-guard procedure. Port border-gate guards shall notify their e-mail addresses to concerned agencies, organizations and individuals.
2. Port authorities, port enterprises and persons carrying out procedures for ships and boats shall notify port border-gate guards information on ships, boats, cargoes, lists of crewmembers, lists of passengers (if any) and projected time of arrival at or departure from ports through computer networks.
3. Information transmitted through computer networks shall be used for quick completion of procedures before receipt of official documents. Upon receiving information transmitted through computer networks, port border-gate guards shall verify its accuracy and may permit ships and boats to handle cargoes and conduct technical activities if they see that conditions are fully satisfied. Crewmembers may travel ashore after completing passport-checking procedures and apply for permits for traveling ashore.

### Chapter III

#### BORDER-GUARD INSPECTION AND SUPERVISION

**Article 20.** Responsibilities of port border-gate guards

1. At piers and in port waters

a/ To inspect, control and supervise ships and boats on entry or exit or in transit or port transfer.

b/ To coordinate with port authorities in acquiring information on ships and boats anchoring, mooring or handling cargoes in ports; inspecting, controlling and supervising activities and movement of people, ships, boats and cargoes in port border-gate areas; fully and accurately register in logbooks activities of people getting on board or leaving ships, entering or leaving port border-gate areas or of vessels drawing alongside to one another under their permits.

c/ To inspect, control and supervise all activities of people and vessels in seaport border-gate areas; to detect and promptly stop illegal acts.

d/ To assume the prime responsibility for the implementation of the Regulation on sea border areas; to detect, combat and prevent cross-border intrusion or travel for the purpose of undermining security and order; to defend the national sovereignty; to combat drug trafficking, weapon and explosive trading, smuggling, trade fraud, transportation of banned goods and articles and other illegal acts through seaport border gates.

## 2. At port entrance gates

a/ To check and register permits granted by port border-gate guards for people getting on board or leaving foreign ships and boats anchoring or mooring in ports for inland travel.

b/ To inspect and control crewmembers and passengers who have completed entry procedures for repatriation through other border gates and people who have entered into the country through other border gates for getting on board ships for exit.

c/To inspect, control and register permits for traveling ashore of foreign crewmembers who have traveled ashore and returned to their ships.

d/ To coordinate with port security forces in managing, inspecting and controlling people and vessels entering or leaving port border gates and other subjects operating in port border-gate areas.

**Article 21.** Border-guard supervision conducted by border guards in person on board ships and boats

Border-guard supervision conducted by border guards in person on board ships and boats must comply with Article 14 of Decree No. 50/ 2008/ND-CP.

When necessary, port border-gate guards may supervise voyages of ships and boats in port transfer from a domestic port to another.

**Article 22.** For non-tariff zones in seaport border-gate areas

People and vessels entering, leaving or operating in non-tariff zones in seaport border-gate areas shall comply with Decree No. 50/2008/ ND-CP and other relevant Vietnamese regulations.

## Chapter IV

### PROVISIONS ON GETTING ONBOARD SHIPS AND BOATS, TRAVELING-ASHORE AND ENTERING INTO SEAPORT BORDER-GATE AREAS

**Article 23.** Papers for getting on board foreign ships and boats

1. The papers specified in Article 17 of Decree No. 50/2008/ND-CP.

2. Permits for getting on board granted by port border-gate guards to Vietnamese and foreigners (except on-duty employees of specialized state management agencies at seaport border gates and crewmembers in the ship's complement and passengers on board who get on board foreign ships and boats to work or carry out other activities during the anchorage or moorage of these ships and boats in seaport border-gate areas.

3. Permits for getting on board include:

a/ Permit for getting on board to be granted to Vietnamese and foreigners of agencies or enterprises who regularly get on board foreign ships to work. Such a permit is valid for 12 months at most.

b/ Permit for getting on board to be granted to Vietnamese and foreigners who get on board foreign ships currently anchoring at port border gates to work. Such a permit is valid for 3 months at most.

c/ Permit to be granted to Vietnamese and foreigners who conduct press, scientific research, sightseeing and tourist activities, supply food, foodstuff, fuels and commodities, or provide other services for foreign ships and boats in seaport border-gate areas. Such a permit is for single use only.

d/ When coming to work or carry out the above activities, permit holders shall produce their permits to port border-gate guards and submit to inspection and supervision by the latter. Shipmaster shall take responsibility for letting unauthorized people to get on board their ships.

4. The collection of fees for the above permits complies with regulations of the Ministry of Finance.

**Article 24.** Foreign crewmembers traveling ashore

1. Foreign crewmembers traveling ashore shall comply with Article 18 of Decree No. 50/ 2008/ND-CP.
2. During the time of anchorage or moorage of ship and boats at a seaport border gate, crewmembers on board these ships and boats may travel ashore within the province or centrally run city where this seaport border gate is located. Those who travel outside that province or city or leave the Vietnamese territory through other border gates shall strictly comply with legal provisions on entry and exit.
3. The time for traveling ashore is from 7:00 hrs to 24:00 hrs a day. Those traveling for sightseeing, tourist, emergency first-aid or medical treatment purpose may have that duration extended on a case-by-case basis.
4. Permits for traveling ashore (shorepass) shall be granted by port border-gate guards to foreign crewmembers working on board foreign or Vietnamese ships and boats and valid for single use only during the time of anchorage or moorage of ships and boats.
5. Application for permits for traveling ashore for crewmembers shall be written in the notes section of the general statement. In case crewmembers wishing to travel ashore have not yet been registered in the notes section of the general statement, the shipmaster shall apply for such permit through an agent. For a crewmember who stays on shore overnight, the port border-gate guard's permit as applied for by the shipmaster is required.
6. During the time of anchorage or moorage of ships and boats, foreign crewmembers who commit violations of Vietnamese law shall be prohibited from traveling ashore. Those who commit violations while traveling ashore shall be handled under Vietnamese law.
7. The collection of the fee for a permit for traveling ashore complies with regulations of the Ministry of Finance.

**Article 25.** Papers of foreigners entering to work or operate in seaport border gates

1. Foreigners entering to work or operate in seaport border gates must possess passports or equivalent papers and permits granted by provincial or higher-level police offices and shall submit to inspection and supervision by port border-gate guards.
2. For foreigners entering seaport border-gate areas in delegations of Vietnamese agencies or organizations, these agencies or organizations shall make and notify lists of foreigners in their delegations to port border-gate guards and these foreigners shall submit to inspection and supervision by the port border-gate guards.

## **Chapter V**

### **RESPONSIBILITIES TO GUIDE AND COORDINATE ACTIVITIES OF MANAGING AND PROTECTING SECURITY AND ORDER**

**Article 26.** Responsibilities of port border-gate guards

1. To assume the prime responsibility for, and coordinate with the public security force, specialized state management agencies at seaport border gates, port enterprises and local administrations in, managing and protecting security and social order and safety at seaport border gates.
2. To arrange and use forces and devices, weapons, military equipment and technical tools and supporting tools for applying border-guard professional measures, firmly grasping the local situation and strictly manage local suspects, maintaining social security, order and safety in seaport border-gate areas.
3. To deploy forces for carrying out procedures, inspecting and supervising entries and exits at seaport order gates; to guide, inspect and supervise activities of Vietnamese and foreign people, ships and boats on entry or exit, in transit or port transfer.



4. To prevent and fight crimes, smuggling and trade frauds.
5. To perform border-guard external affairs work under law.
6. To detect, prevent, arrest violators and handle violations of Decree No. 50/2008/ND-CP, the Regulation on sea border areas, Vietnamese law, and treaties to which Vietnam is a contracting party.
7. To assume the prime responsibility for, and coordinate with specialized state management agencies having their forces operating at seaport border gates and port enterprises in, elaborating the Regulation on coordination in security and order protection and handling cases involving different agencies at seaport border gates.
8. To organize periodical briefings with functional forces and specialised state management agencies at seaport border gates, port enterprises and local administrations to update them on the social security order and safety situation at seaport border gates.

**Article 27.** Responsibilities of port enterprises

1. To ensure port border-gate guards' access to port entrance gates and other works and facilities for managing and protecting and order at port border gates.
2. To notify in writing port border-gate guards of operation plans and actual operations of ports, supply data at the request of port border-gate guards, and coordinate with the latter in managing employees and workers of ports, thereby assuring security and order in ports.
3. To abide by regulations on border-guard procedures for people and vessels on entry or exit and exported or imported cargoes, and assure security and order at piers where cargoes are loaded onto or unloaded from ships or passengers embark or are disembarked from ships.

## **Chapter VI**

### **ORGANIZATION OF IMPLEMENTATION**

**Article 28.** Effect

This Circular takes effect on March 3, 2010 and replaces the Minister of National Defense's Decision No. 167/2004/QD-BQP of December 13, 2004, on border-guard procedures, inspection and supervision in seaports and special-use ports.

**Article 29.** Organization of implementation The Border Guard Command shall:

Direct border guard command posts in province and centrally run cities where exist seaport Border gates in assuming the prime responsibility for, and coordinating with provincial-level Justice Departments and concerned branches in, advising provincial-level People's Committees on holding conferences to disseminate Decree No. 50/2008/ND-CP and this Circular among local authorities and branches; and propagate and popularize these documents among population, especially inhabitants in seaport border-gate areas and sea border areas, for uniform implementation.

Assume the prime responsibility for, and coordinate with the Finance Department of the Ministry of National Defense and functional agencies of the Ministry of Finance in, studying and proposing the Ministry of National Defense and the Ministry of Finance to supplement the list of fees payable for permits specified in Articles 17 and 18 of Decree No. 50/2008/ND-CP-

**FOR THE MINISTER OF NATIONAL DEFENSE  
DEPUTY MINISTER SENIOR LIEUTENANT GENERAL  
PHAN TRUNG KIEN**