



# Legal Preparedness for Responding to Disasters and Communicable Disease Emergencies: study report

## Viet Nam

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- Ministry of Health
- International Federation of Red Cross and Red Crescent Societies, Viet Nam Office
- World Health Organization, Viet Nam Office
- Natural Disaster Mitigation Partnership (NDMP)
- United Nations Development Programme, Viet Nam Office

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## Executive summary

This report is the result of legal research taken within the framework of the Project on Legal Preparedness for Responding to Disasters and Communicable Disease Emergencies in Viet Nam. This forms part of a series of studies to encourage greater legal preparedness in countries of the Greater Mekong Sub-region, including Lao PDR and Cambodia. The Project was managed by the International Federation of Red Cross and Red Crescent Societies (IFRC) with technical assistance from World Health Organization (WHO), supported by Asian Development Bank (ADB)-funded Pooled Fund of the Greater Mekong Sub-region Communicable Disease Control Project.

The legal research was undertaken from March 2009 to July 2009 by a team of legal experts from the Faculty of International Law of the Diplomatic Academy of Viet Nam and involved document collection and analysis as well as consultations with key actors.

The aims of the Project were to:

- Identify areas of good practice and potential gaps in addressing legal issues and implementing the key regional and international instruments relevant to disaster and communicable disease emergencies in Viet Nam.
- Recommend legal measures to minimize barriers and encourage effective response to disasters and communicable diseases in Viet Nam, particularly in situations where international cooperation is required.

Two international texts were used as the principal basis for analysis: Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines) of 2007<sup>1</sup> and International Health Regulations of 2005 (IHR)<sup>2</sup>, in addition to a number of other international and regional texts. However this research is not only limited to an assessment of the consistency of Vietnamese law with international commitments and standards. This research also seeks to identify and recommend measures to minimize legal barriers to an effective preparedness and response to disasters and communicable diseases in Viet Nam.

It is also necessary to emphasize that while the findings focus primarily on the current gaps in the legal framework in order to achieve the aims of the research, many positive findings were made as well.

### General findings on the legal framework in Viet Nam

#### Disaster

- There are a large number of legal texts comprising laws, ordinances, decrees and circulars covering different types of disaster and related activities, but as yet no single comprehensive law on multi-hazard disaster risk management. Consequently the system remains dispersed, although it is adaptable to Viet Nam's current situation and capability.
- Although definitions of disaster are included in various planning and strategy documents, there is no common definition of 'disaster' reflected in existing legal instruments. Nor are there specific criteria for determining and responding to different levels of disaster and the receipt of international assistance.

#### Communicable disease

- Compared with disaster management, the legal framework for communicable disease control is relatively well developed through a few key legal instruments, in particular the recently adopted Law on Communicable Disease Prevention and Control (2007). Additionally, consultations are taking place on a draft Decree on Border Medical Quarantine.

- There still remain several gaps in the current legal framework particularly concerning the role and functions of the National IHR Focal Point, the receipt of international assistance during a communicable disease emergency and the details concerning the application of constitutional rights and freedoms for measures such as isolation, quarantine and medical treatment.

#### International assistance

- There are numerous legal instruments covering issues relating to the receipt of international assistance on issues such as tax, visas, legal status, customs and transport.
- Although these instruments do contain many provisions consistent with international standards and practices, the legal framework is dispersed and the procedures are often suited more to development activities rather emergency relief.
- Additionally, there remain some gaps and weaknesses in several areas.

### Overarching recommendations

#### Disaster

- *Development of a new Law on Disaster Risk Management to replace existing legal texts, supplemented by implementing decrees on specific aspects.* This recommendation will be in line with the plan of the Vietnamese government set out in the National Strategy on Natural Disaster Prevention, Response and Mitigation by 2020, to be completed by 2012. The Law on Disaster Risk Management should include the following:
  - A definition of disaster, taking a multi-hazard approach which does not distinguish between types of disaster (but excluding armed conflict).
  - General objectives and principles of disaster management
  - Government institutional responsibilities and coordination mechanisms
  - Roles and responsibilities of communities, civil society organizations, national organizations and the international community
  - Mobilization of human, material and financial resources
  - Arrangements and legal facilities for requesting/receiving international assistance
  - General quality and accountability standards.

#### Communicable disease

- *The existing Law on Prevention and Control of Infectious Diseases (2007) should be supplemented with additional implementing regulations* which include the following aspects:
  - Details on the role and functions of the National IHR Focal Point
  - Special provisions concerning the entry and exit of urgent humanitarian personnel, goods and equipment during communicable disease emergency

- o Further detail on the application of constitutional rights and freedoms during communicable disease emergencies

### Arrangements for international assistance

There are two proposed options to strengthen the legal framework for international assistance, as follows:

- Option 1: Development of a comprehensive regulation (e.g., a Decree under the Law on Disaster Risk Management) on the arrangements for receiving international assistance in the event of a disaster or communicable disease emergency, which covers the full range of legal facilities and minimum standards applicable to relief and recovery operations.

This option is a long-term objective and will require extensive collaboration and agreement between different ministries and departments to ensure the most appropriate arrangements are put in place. However, once established, this will ensure that international assistance will be managed in the most streamlined and efficient manner. It can be clearly understood by domestic and international partners, and can be easily updated without requiring amendments to other instruments.

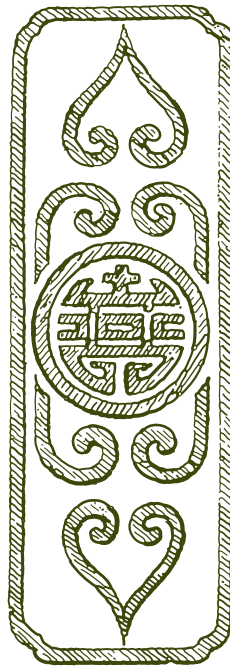
- Option 2: Amendment of the various existing laws, regulations, decrees and other instruments which have a bearing on the arrival and conduct of international assistance, and the publication of a separate compilation which clearly summarizes the various rules and procedures for international assistance.

This option can be more quickly achieved, at least in part, in the shorter term and the legal recommendations can be implemented individually by the different departments and ministries concerned. The limitation of this option is that the legal system will remain dispersed and risks duplication or confusion between the different rules. Additionally, the publication of the compilation of rules will require frequent updating to ensure that all legal amendments are included.

## Acronyms and abbreviations

|                 |  |
|-----------------|--|
| AADMER          | ASEAN Agreement for Disaster Management and Emergency Response   |
| ADB             | Asian Development Bank   |
| AHA Centre      | ASEAN Coordinating Centre for Humanitarian Assistance on disaster management   |
| APEC            | Asia-Pacific Economic Cooperation  |
| APSED           | Asia Pacific Strategy for Emerging Diseases  |
| ASEAN           | Association of Southeast Asian Nations   |
| ASEAN SASOPs    | ASEAN Standby Arrangements and Standard Operating Procedures   |
| CAAV            | Civil Aviation Administration of Viet Nam  |
| COMINGO         | Committee for Foreign Non-Governmental Organization Affairs  |
| DANI            | DIPECHO Advocacy Network Initiative  |
| DMWG            | Disaster Management Working Group  |
| ECSPA           | Economic Cooperation Strategy Plan of Action   |
| HFA             | Hyogo Framework for Action   |
| IAEA            | International Atomic Energy Agency   |
| ICRC            | International Committee of the Red Cross   |
| IDRL            | International Disaster Response, Laws and Principles   |
| IDRL Guidelines | Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance |
| IFRC            | International Federation of Red Cross and Red Crescent Societies   |
| IHRs            | International Health Regulations   |
| JANI            | Joint Advocacy Networking Initiative   |
| MARD            | Ministry of Agriculture and Rural Development  |
| MOU             | Memorandum of Understanding  |
| NDMP            | Natural Disaster Mitigation Partnership  |
| NGO             | Non-Governmental Organization  |
| NOTAM           | Notice to Airmen   |
| PACCOM          | People's Aid Coordinating Committee  |

|        |   |
|--------|---|
| PMRA   | Professional Medical Regulatory Authority                     |
| SARS   | Severe Acute Respiratory Syndrome                             |
| UNDP   | United Nations Development Programme                          |
| UNISDR | United National International Strategy for Disaster Reduction |
| VNRC   | Viet Nam Red Cross  |
| WHO    | World Health Organization                                     |



# Background to the project and methodology

# Chapter 1

# Chapter 1

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## Background to the project and methodology

### 1.1 Background to the project

Legal issues are often overlooked as part of preparedness planning for disasters and communicable diseases. This is particularly so for situations where cross-border or international assistance may be needed.

Recent research on large-scale disaster operations around the world, conducted by the IFRC International Disaster Response Laws, Rules and Principles (IDRL) Programme, has demonstrated that vital international support can be hampered by issues such as: the lack of legal recognition for foreign relief providers; customs delays and tax requirements for medication, relief goods and equipment; complications with visas for relief personnel; and a lack of recognition of foreign professional qualifications in emergency situations. It has also been found that coordination and information-sharing between response agencies can also be lacking as well as adherence to human rights, humanitarian principles and standards of quality and accountability.

Additionally, concerns about potential pandemics, such as Severe Acute Respiratory Syndrome (SARS) and pandemic influenza, have heightened the need to ensure that legal issues are anticipated and managed in advance of an outbreak situation, to enable a rapid response. The control of communicable disease brings with it additional legal issues relating to monitoring, alert procedures, quarantine and the restriction of the movement of people and goods as part of outbreak containment. In these situations, it is especially important to have the necessary legal mechanisms in place to facilitate the flow of information, medical activities and humanitarian assistance without compromising public health and safety and while respecting human rights and dignity.

At the international and regional levels, a number of significant legal instruments and guidelines have been developed to address a number of these issues, such as:

- IDRL Guidelines (2007)
- IHR (2005)
- Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (HFA)
- Association of Southeast Asian National (ASEAN) Agreement for Disaster Management and Emergency Response (AADMER)

It is important to ensure that these and other relevant instruments are effectively implemented at the national level. National and provincial laws and policies must also be able to accommodate the needs of large-scale disaster and disease situations, involving a range of local, national and international partners.

### 1.2 Project description, objectives and methodology

#### Project description

This legal research involved the commission of a research study on Legal Preparedness for Responding to Disasters and Communicable Disease Emergencies in Viet Nam. It forms part of a series of studies to encourage greater legal preparedness in countries of the Greater Mekong Subregion, including Lao PDR and Cambodia.

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## Project partners

The study was managed by the IFRC with technical assistance from the WHO. Funding support was provided by the supported by the ADB Regional Pooled Fund of the Greater Mekong Subregion Communicable Disease Control Project.

## Objectives

Through legal research and consultations, this study aimed to:

- Identify areas of good practice in addressing legal issues and implementing the key regional and international instruments relevant to disaster and communicable disease emergencies in Viet Nam
- Recommend measures to minimize legal barriers and encourage effective national and international response to disasters and communicable diseases in Viet Nam

It is noteworthy that although the IDRL Guidelines and the IHR were used as the principal basis for analysis in addition to a number of other international and regional texts, this research was not only limited to an assessment of the consistency of Vietnamese law with international commitments and standards. The research also tried to identify and recommend measures to minimize other legal barriers to effective preparedness and response to disasters and communicable diseases in Viet Nam.

It is also important to mention that the Action Plan to Implement the National Strategy on Natural Disaster Prevention, Response and Mitigation by 2020 (adopted by the Prime Minister on 16 November 2007) includes the objective to draft a Law on Natural Disaster Prevention and Control within 2 years from 2009 to 2010. For this purpose, a three-year United Nations Development Programme (UNDP) technical assistance project entitled: 'Strengthening institutional capacity for Disaster Risk Management in Viet Nam, including climate change-related disasters' was approved in September 2008 by the Government of Viet Nam. This project, supported by UNDP funding of US\$4.25 million until December 2011 and an in-kind contribution from the Government, will be implemented by the Ministry of Agriculture and Rural Development (MARD) in collaboration with the Provincial People Committees of Binh Thuan, Can Tho and Cao Bang, the Viet Nam Red Cross (VNRC), the Hanoi Water Resources University and other universities and institutes. One of the specific objectives of the project is to support the process of legislative reform of disaster risk management and the development of a Disaster Risk Management Law by 2012.

Therefore, the recommendations included in this report on the development of a Law on Disaster Risk Management and of an overall text on international assistance during disasters and communicable diseases emergencies in the long term are consistent with the objective of the government and the support of the UN. As such, it is hoped that the findings and recommendations from this report will be taken into consideration for that initiative.

## Methodology

The legal research process took place between March 2009 and July 2009 by the legal research team from the Faculty of International Law (Viet Nam Diplomatic Academy), involving:

- **Legal documents collection and analysis in light of key international and regional agreements.** In March, the research team completed the first collection of Viet Nam's legal documents relating to disaster and diseases. From this, the team established an index of relevant legal documents, marking versions available in English<sup>3</sup>. From April to May, the team analyzed all legal documents obtained to answer questions in the draft outline of the legal preparedness and response study report provided by the project coordinator and tried to make an overall assessment and recommendations for each of the 16 fields of research.

The analysis consisted of comparing the current legal preparedness of Viet Nam to the requirements stipulated in regional and international documents in order to identify gaps and areas of good practice in addressing legal issues and implementing the key regional and international instruments relevant to disaster and communicable disease emergencies in Viet Nam. In

June, the team drafted the legal report with technical support of the IFRC's IDRL Asia Pacific Coordinator, Ms. Victoria Bannon.

- **Consultations with key actors (government and non-government).** In May, with the help of the project's coordinator, Mrs. Mai Tuyet Nhung, the team undertook a series of consultations with the following governmental and non-governmental organizations, as well as international organizations, in order to fulfill practical aspects of the research.

Governmental organizations:

- Ministry of Agriculture and Rural Development (Department for Dyke Management and Floods and Storms Prevention and Control, Department of Justice, Department for Plant Protection, Medicine Veterinary Department, Department of Forest Protection)
- Ministry of Health (Office, Institute of Health Strategy and Policy and General Department of Preventive Medicine and Environmental Health)
- National Institute of Infectious and Tropical Diseases
- National Institute of Hygiene and Epidemiology
- People's Aid Coordinating Committee (PACCOM)

International organizations:

- UNDP
- WHO

Non-governmental actors:

- CARE International
- Oxfam Hong Kong
- Save The Children

The consultations with these actors provided a variety of information on the implementation of disaster and disease-related laws and regulations, as well as recommendations from people whose activities are directly affected by these laws and regulations.

- **Consultations with leading experts.** Experts provided comments for the findings of the report include:
  - Ms. Nguyen Thi Hoang Anh, Director of Department of International Law and Treaties, Ministry of Foreign Affairs
  - Mr. Nguyen Khanh Ngoc, Deputy Director of Department of International Law, Ministry of Justice
  - Ms. Trinh Minh Hien, Director of Legal Department, Ministry of Transport
  - Ms. Nguyen Thi Cuc, Former Deputy Director of the General Tax Department, Ministry of Finance

- Ms. Nguyen Thi Oanh, Expert of Legal Department, Ministry of Agriculture and Rural Development
- **Consultations during workshops and meetings.** The legal research team participated in a training session and presented the initial research findings at the IFRC / Natural Disaster Mitigation Partnership (NDMP) Training and Consultation on Legal Preparedness for Disaster Response and Communicable Disease Control on 28-29 April 2009.

The preliminary report was presented to:

- Members from NGOs during the meeting of the disaster management working group (DMWG) on 7 July 2009
- Leaders of the Viet Nam Red Cross on 13 July 2009
- Representatives from different Vietnamese ministries and departments, international organizations as well as NGOs during the high-level workshop on “the Legal Preparedness for Responding to Disasters and Communicable Disease Emergencies in Viet Nam” on 31 July 2009

Comments on the report during these meetings have been taken into account.

### Major outputs

- A study report containing the findings, analysis and recommendations
- A collection of key national, regional and international materials in Vietnamese and translations in English (where available)
- A National High-level Workshop on Legal Preparedness, held in July 31, 2009, with key stakeholders to review the findings and encourage the development of a plan of action for implementing the recommendations

### 1.3 Selection of topics covered in this report

It should be emphasized that this report is not intended to cover all legal and regulatory issues associated with disaster management and communicable disease control, due to the complexity of the system of legal documents in Viet Nam (see further below).

The primary focus of this report is on key issues strongly emphasized by the project taskforce, identified in the checklists for domestic law research pursuant to the IDRL Guidelines and the IHR, and to a lesser extent, to other international and regional instruments. Those key issues are:

- Institutional arrangements, coordination of relief and information exchange
- Role of civil society organizations
- Early warning and surveillance for cross-border disaster and communicable disease outbreaks
- Requests for external assistance
- Legal status of foreign entities providing assistance
- Customs arrangements for the arrival of relief goods in disaster

- Customs arrangements for communicable disease emergencies
- Management of foreign personnel during a disaster
- Management of international travellers and personnel during a communicable disease emergency
- Transport during disaster
- Transport during communicable disease emergencies
- Tax, currency exchange and charges
- Freedom of access and security
- Additional facilities and measures
- Accountability and transparency
- Viet Nam as a transit or sending state for international assistance





## **Overview of disaster and communicable disease scenarios**

# Chapter 2

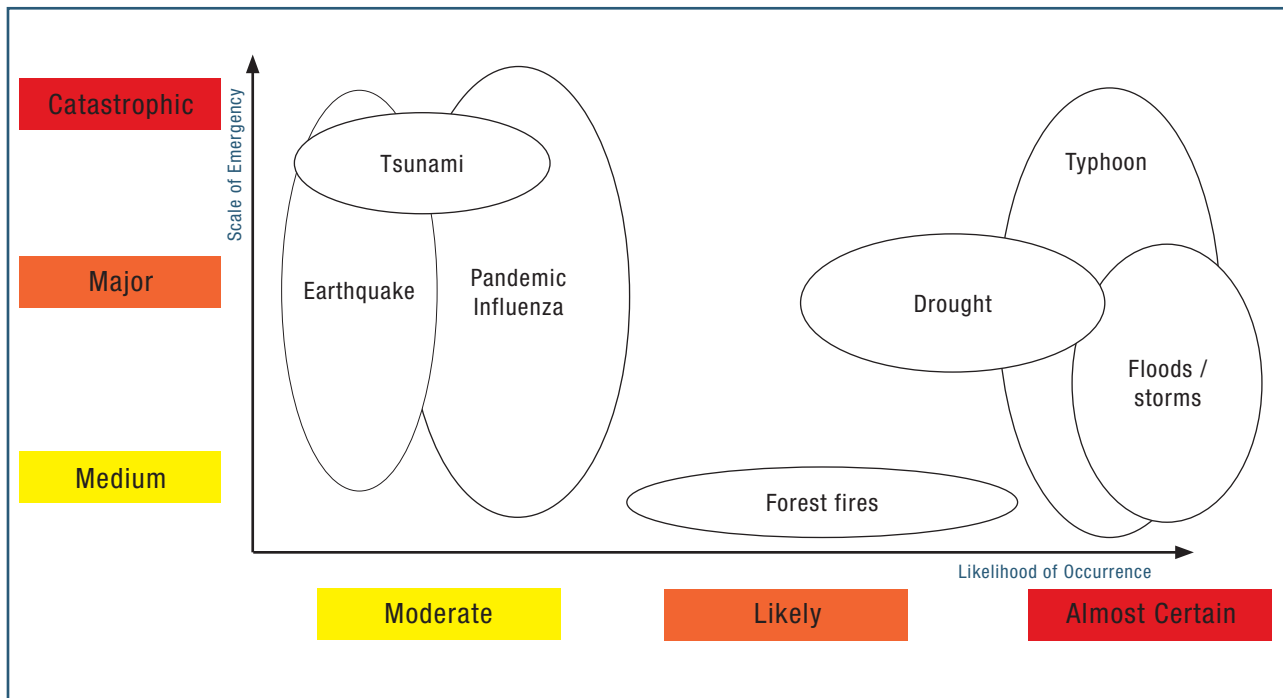
## Overview of disaster and communicable disease scenarios

### 2.1 Disaster threats<sup>4</sup>

In recent decades, natural disasters have increased in terms of severity all over the world with a serious impact on human life, especially the poor. Disasters are natural phenomena; however, their magnitude and consequences are exacerbated by human activity during the process of socio-economic development which encourages the wider use of technology, urbanization, population increases, and the depletion and indiscriminate use of natural resources resulting in environmental degradation. In the past two decades, an average of more than 200 million people are estimated to have directly suffered from the consequences of natural disasters every year. All over the world, the occurrence of natural disasters is forecasted more regularly in terms of type and frequency, more complex in terms of development and more serious in terms of outcome. Global warming, climate change, the El Niño and La Niña phenomena and the increase of typhoons and drought, occurring recently throughout the world and in the region, are thought to have caused direct impact on the climate and natural disasters in Viet Nam.

Viet Nam is located in the tropical monsoon area, one of the five storm-prone areas in the Asia Pacific region. The territory of Viet Nam extends over 15 latitudes with 3,200 km coastline and is located in the area of complex topography and dense river networks. This covers many different sub-climate zones and ecologies with mean annual temperatures ranging from 18-29°C, with a distinct seasonal difference felt between the cool, dry season in November to April and the warm, rainy season from May to October. Mean annual rainfall ranges from 600 millimetres to 5000 millimetres, 80-90 per cent of which falls during the rainy season. Affected directly by the Pacific Ocean typhoon centre, Viet Nam is generally hit by about six to seven typhoons and tropical depressions every year.<sup>5</sup> The frequency and levels of usual disasters occurring in Viet Nam is illustrated in the following table and chart:<sup>6</sup>

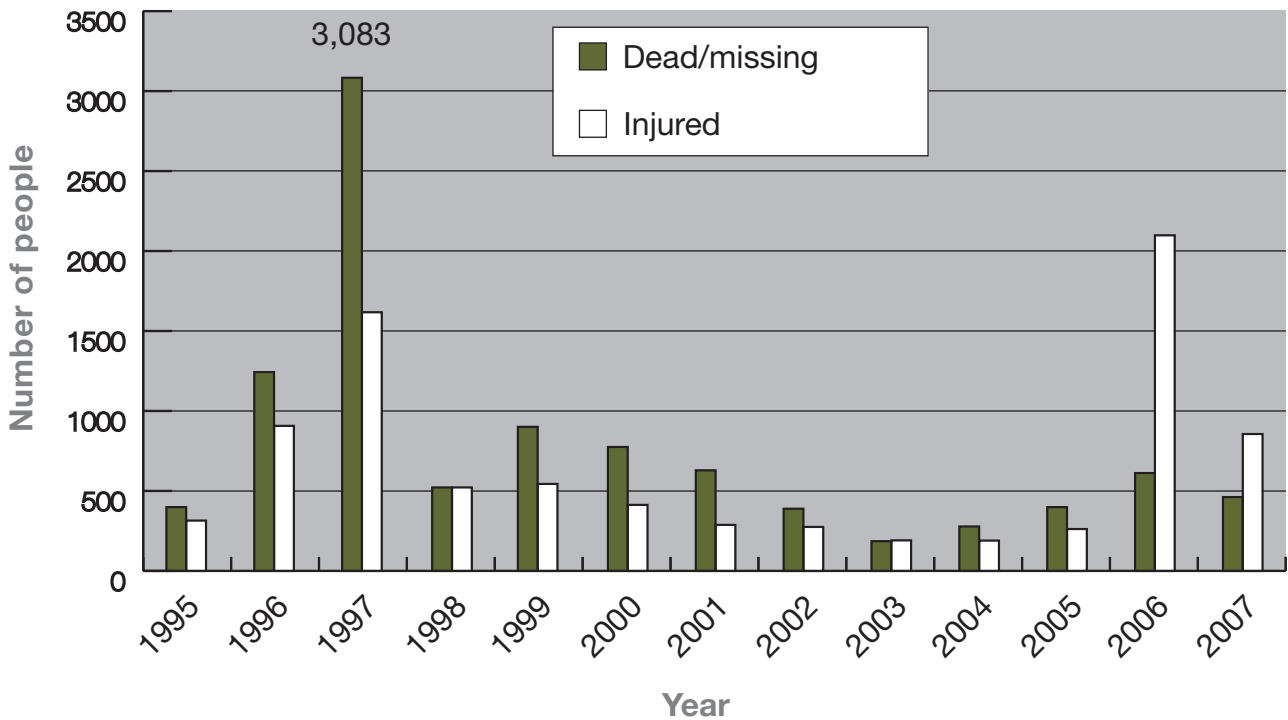
| High                         | Medium               | Low                      |
|------------------------------|----------------------|--------------------------|
| Flood, Inundation            | Hail rain            | Earthquake               |
| Typhoon, tropical depression | Landslide            | Accident (technological) |
| Flash flood                  | Forest fire          | Frost                    |
| Tornado                      | Salt water intrusion |                          |
| Drought                      |                      |                          |



Moreover, while rapid industrialization and modernization in the country have resulted in comprehensive development, these have led to the increase of disaster risk. Environmental degradation, poor natural resource management and population pressures combined with human activity seeking to intensify socio-economic development against natural norms exacerbate the situation. These include the leveling of mountains for construction and infrastructure activities, encroachment on sea and river banks, deforestation, rapid population growth and urbanization. As such, there is an increase in the occurrence of disaster and other negative impacts both economically and environmentally. It is clear these factors have intensified the effects of natural disasters on both the people and sustainable development in the country.

The total population in the country is now more than 85 million. In the near future, this figure is estimated to be about 100 million people (as reported by APEC in 2006). The rapid population growth in the areas of potential productivity has led to land shortages for both residential and cultivation purposes. With escalated developmental activity and increasing amounts of waste, consequences such as constrained water flow, impoverished soil, silt reservoirs; and land, rock and mudslides have risen, increasing the risk of natural disaster.

In addition, projections of population change and development suggest that, even without any changes in climate or sea level, the number of people at risk is expected to rise 60 per cent by 2025, and that the USD 720 million of capital value currently at risk from annual flooding may increase ten-fold, constituting five per cent of Viet Nam's GDP.<sup>7</sup> Rising sea levels would increase this risk even further. A sea-level rise of 30 centimetres to one meter over the next 100 years is expected and is projected to cause a capital value loss every year of up to USD 17 billion (80 per cent of the country's annual GDP) if no protective measures are taken.<sup>8</sup> The increased risk is not restricted to coastal areas; in fact, the rise of river beds and backwater effects will also cause serious problems to inland river regions, with a total of 40 000 km<sup>2</sup> flooded annually.<sup>9</sup> In the recent decade (1997-2006), natural disasters such as typhoons, floods and drought have caused significant losses, including 7,500 missing or dead people, and asset damage equivalent to 1.5 per cent of GDP. Natural disasters in Viet Nam have been increasingly severe in terms of magnitude, frequency and volatility. The following statistics provide a concrete number of disaster-related casualties and people injured in Viet Nam from 1995 to 2007:<sup>10</sup>



Additionally, most climate models indicate overall increases in precipitation, resulting in greater flooding problems. The concentration of Viet Nam’s annual rainfall over a short rainy season makes the system sensitive to rainfall increases.<sup>11</sup> Wet season rainfall increases are expected to increase peak flows considerably and reduce the return period of 100-year events to 20 years. In fact, all parts of Viet Nam’s territory are prone to certain types of disasters. The map on the opposite page shows the main hazard zones in Viet Nam.<sup>13</sup>

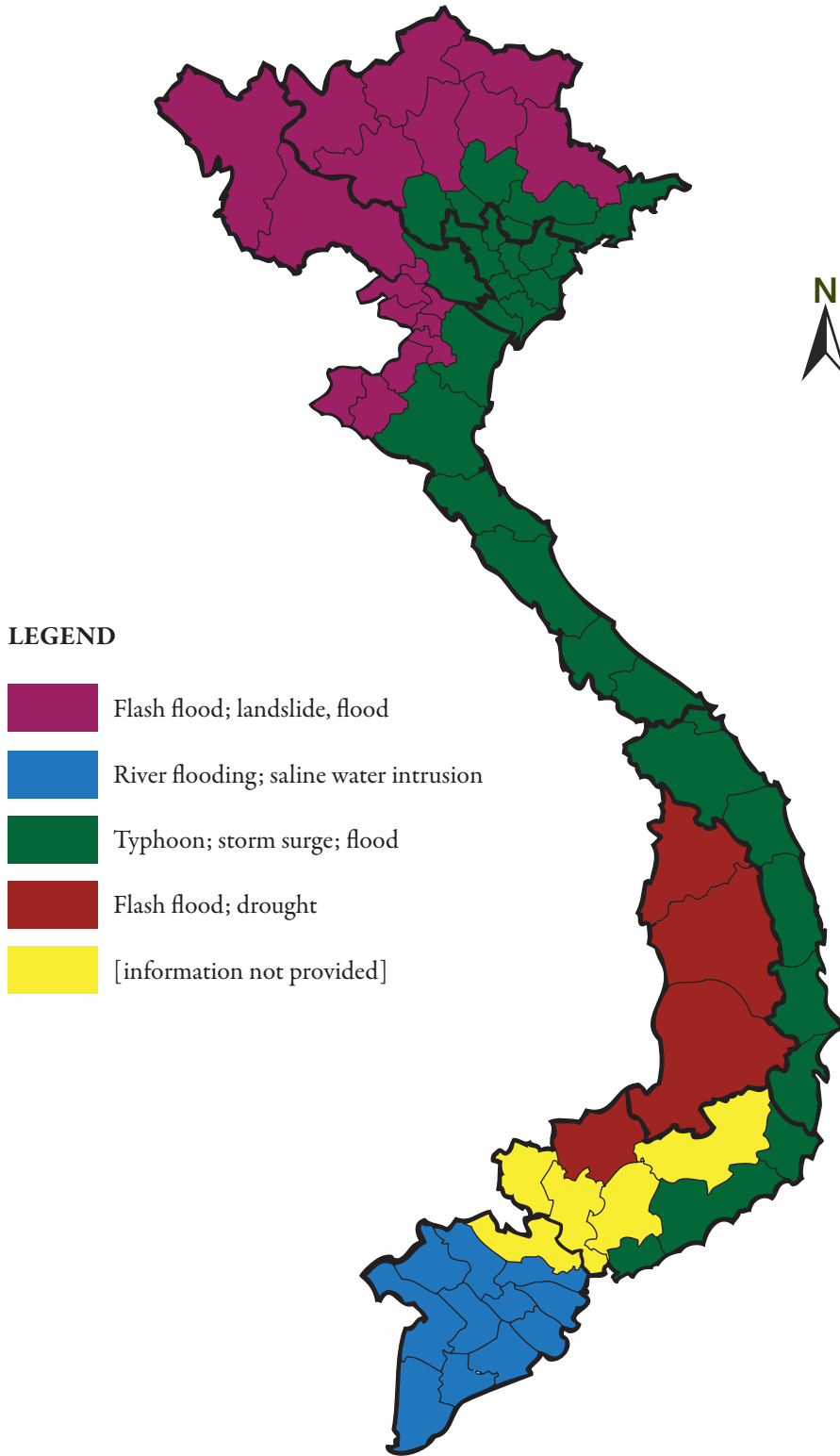
It can be said that disasters are tangible threats, causing a negative impact on the sustainable development of Viet Nam. The government of Viet Nam has acknowledged these threats and issued the National Strategy for Natural Disaster Prevention, Response and Mitigation to 2020. In this Strategy, the building of new legislation for disaster risk management plays an important role in facilitating the success of natural disaster prevention, response and mitigation.



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### MAIN HAZARD ZONE MAP OF VIET NAM



0 50 100 200 400 Kilometres

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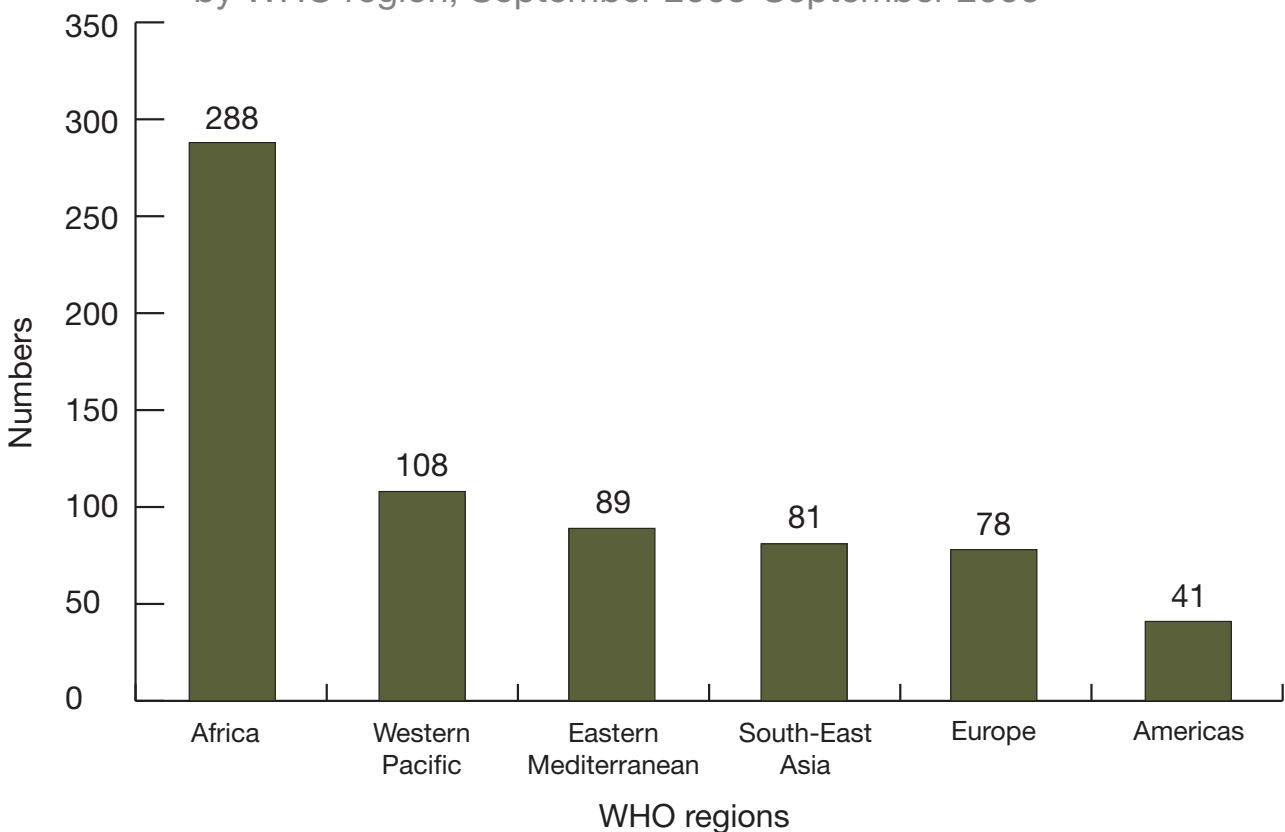
## 2.2 Communicable disease threats<sup>14</sup>

Today's highly mobile, interdependent and interconnected world provides myriad opportunities for the rapid spread of infectious diseases. These are now spreading geographically much faster than at any time in history. It is estimated that 2.1 billion airline passengers travelled in 2006; an outbreak or epidemic in any one part of the world is only a few hours away from becoming an imminent threat elsewhere.

Infectious diseases also appear to be emerging more quickly than ever before. Since the 1970s, newly emerging diseases have been identified at the unprecedented rate of one or more per year. There are now nearly 40 diseases that were unknown a generation ago. In addition, during the last five years, WHO has verified more than 1,100 epidemic events worldwide.

The categories and examples given below illustrate the variety and breadth of public health threats confronting people today:

**Figure 1** Verified events of potential international public health concern, by WHO region, September 2003-September 2006



Total number of cases = 685

Cholera, yellow fever and epidemic meningococcal diseases made a comeback in the last quarter of the 20th Century and called for renewed efforts in surveillance, prevention and control. SARS and avian influenza in humans have triggered major international concern, raised new scientific challenges, and caused major human suffering and enormous economic damage. Other emerging viral diseases such as Ebola, Marburg haemorrhagic fever and Nipah virus pose threats to global public health security and also require containment at their source due to their acute nature and resulting illness and mortality. During outbreaks of these diseases, rapid assessment and response, often needing international assistance, has been required to limit local spread. Strengthening of capacity is imperative in the future to assess such new threats.

In recent years, Viet Nam has witnessed the devastating effects of outbreaks of the following emerging and re-emerging communicable diseases:

**Avian influenza:** Viet Nam was one of the countries worst-affected by the current highly pathogenic avian influenza A (H5N1) panzootic. There have been [three main waves of outbreak in poultry](#) since late 2003, with 93 confirmed human cases and 42 deaths. Overall, 32 provinces and municipalities reported human infections, with a concentration around the Red River delta provinces in the north and the Mekong delta region in the south, matching the distribution of poultry outbreaks. Virus outbreaks in poultry continue to be reported and have again caused human death.

**HIV/AIDS:** The number of people infected with HIV/AIDS in need of antiretroviral treatment in Viet Nam is increasing rapidly. The country is now facing a major challenge regarding HIV care and treatment. Since the first HIV case was detected in Viet Nam in 1990, the majority of reported infections and AIDS cases have been from injecting drug users (IDUs) (50-60 per cent). However, heterosexual transmission, particularly through commercial sex workers, appears to be increasing. It is estimated that there are around 300,000 people living with HIV (PLHIV) in Viet Nam.

**Intestinal parasites:** A large number of Vietnamese children are infected with “worms”. A 2004 study found that multiple infestations of roundworms, hookworms and whipworms are very common among children in all parts of the country.

**Pandemic influenza:** Viet Nam is now facing the global human pandemic caused by the A(H1N1) virus. By 24 July 2009, in Viet Nam there were 499 cases of A(H1N1). All cases involved people who had arrived in the country by air, or who had been in close contact with infected passengers following their arrival. The Ministry of Health also reported an increase in infections recently among people entering Viet Nam by road.

**Tuberculosis:** Tuberculosis (TB) is an airborne infectious disease that is both preventable and curable. People ill with TB bacteria in their lungs can infect others when they cough. TB is one of the world’s leading infectious killers of young adults. In Viet Nam, almost 20,000 people die every year (approximately one death every 26 minutes) from TB.

**Zoonoses:** Zoonotic diseases are communicable diseases that originate in animals, but also infect humans. These diseases are receiving increasing attention from the international community, as they account for 75 per cent of newly emerging infectious diseases. Recent examples include avian influenza and SARS.

Originating from China in November 2002, the first SARS case in Viet Nam was recorded on 26 February 2003. On 12 March 2003, WHO had declared it a world pandemic. Following a quick and effective response, Viet Nam was the first country to declare itself in complete control of SARS on 28 April 2003 with 62 infected cases and four casualties. This pandemic caused 8,422 infectious cases and 916 deaths in the world. This SARS pandemic resulted in approximately USD 150 billion damage worldwide and Southeast Asian countries suffered a total loss of USD 28.4 billion.

# Chapter 3



## **Overview of relevant international and regional laws and policies applicable to Viet Nam**

## Chapter 3

### Overview of relevant international and regional laws and policies applicable to Viet Nam

#### 3.1 International instruments

##### Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2007)

The Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines) were adopted by Resolution 4 of the 30th International Conference of the Red Cross and Red Crescent in November 2007.<sup>15</sup> The IDRL Guidelines were developed through an extensive research and consultation process, led by the IFRC, to address a number of legal challenges frequently encountered during international disaster relief operations.

The IDRL Guidelines provide recommendations to governments for removing legal barriers and unnecessary red tape which can delay the entry and operation of international disaster relief teams, goods and equipment. At the same time, they encourage governments to appropriately regulate incoming assistance to ensure it meets minimum quality and accountability standards.

Some key provisions of the IDRL Guidelines are:

Domestic actors have the primary role

- The Guidelines recognize that it is first and foremost the responsibility of the government of the affected state to address the humanitarian needs caused by a disaster within its borders. National Red Cross or Red Crescent Societies and other domestic civil society actors in the affected state play a key supporting role.
- International disaster assistance should be designed and implemented so as to be complementary to the efforts of these domestic actors, rather than displace them.

International relief providers have responsibilities

- The Guidelines also insist that international assistance providers be held responsible for abiding by certain minimum humanitarian standards in their disaster assistance.
- These include the principles of humanity, neutrality, and impartiality as well as minimum standards of coordination and quality in their relief goods, personnel and programmes, as drawn from sources such as the Code of Conduct of the Red Cross and Red Crescent Movement and NGOs in Disaster Relief and the Sphere Humanitarian Charter and Minimum Standards in Disaster Relief.

International actors need legal facilities

- The IDRL Guidelines set out specific types of legal facilities or accommodations that governments should provide to assisting states and humanitarian organizations so that they can do an effective job of responding to humanitarian needs. For example, they call for:
  - Expedited visa processing and customs clearance for relief personnel, goods and equipment
  - Facilitation of relief transport
  - Exemptions from taxes, duties and fees on relief activities
  - Simplified means for humanitarian organizations to acquire temporary domestic legal personality in order to operate legally in the country
- A distinction is made in some of these provisions between “relief” and “initial recovery assistance” because speed is much more critical for emergency relief.
- The IDRL Guidelines also encourage states to reduce legal barriers to disaster relief originating within or passing through their territories to another country affected by a disaster, in order to avoid delays.

Some legal facilities should be conditional

- In order to lend some weight to the responsibilities of assisting humanitarian organizations in particular, the IDRL Guidelines encourage governments (to the extent permissible under international law) to condition the granting of legal facilities to these organizations on their commitment to, and ongoing compliance with, the minimal standards described above.
- The IDRL Guidelines suggest that this could be implemented in various ways, for example, through a simple registration procedure, ideally available not only in the immediate aftermath of a disaster but also as a preparatory measure in advance. The granting state should then monitor the performance of registered organizations for ongoing compliance with the required standards.
- The IDRL Guidelines note that some states may wish to grant legal facilities to private companies providing charitable relief in a disaster setting. If they do so, they are encouraged to hold them to the same standards as humanitarian organizations. No similar conditionality is suggested for government-to-government aid due to the availability of alternative diplomatic means of redressing quality or coordination issues.

Although the IDRL Guidelines are non-binding, they have been used and referred to by a number of international and regional bodies and instruments including the United Nations General Assembly<sup>16</sup> and the ASEAN Standing Arrangements and Standard Operating Procedures (ASEAN SASOPS) which were developed to support of the AADMER (see further below).

### International Health Regulations (2005)

The International Health Regulations (IHR) were revised and adopted by the World Health Assembly in 2005. The IHR are legally binding, having entered into force in mid-2007, and now have 194 State Parties including Lao PDR. They create a new international mechanism for issuing official warnings about disease outbreaks and require state parties to strengthen their domestic surveillance and control systems. State Parties have until 15 June 2012 to develop the minimum core public health capacities as outlined in the Regulations.<sup>17</sup>

Whereas the earlier versions of the IHR only applied to a few diseases, as of 2005, they apply to any “public health emergency of international concern.” These include:

A disease or occurrence that creates a potential for disease, which:

- (1) constitutes a public health risk to other States through the spread of disease, and
- (2) requires a coordinated international response.

In other words, the obligations in the IHR are not only for actual outbreaks of diseases such as yellow fever and SARS, but also potentially biological, chemical or radiological accidents or other vectors that could lead to disease, as well as animal diseases that might be transmitted to humans (i.e. zoonotic diseases).

Some other key provisions of the IHR include:

#### Notification

- The IHR obliges states to assess events to determine if they constitute a public health emergency of international concern, and gives guidelines on doing so.
- If a state decides that such a threat exists, it is obliged to notify WHO within 24 hours and continue to give reports. A National IHR Focal Point must be established or designated which is available at all times to effect this communication with a WHO Focal Point. Additionally, the WHO may consider reports from sources other than states.
- A system is also established whereby the WHO, under certain circumstances, may share information with potentially affected states regarding a public health emergency of international concern, even without the permission of the source state.

**Capacity building**

- States must take measures to develop their surveillance and response capacities for health emergencies, in particular at certain entry points which must be designated. The minimum capacities to be developed are set out in detail.
- States are also required to assist each other as far as possible in this regard through technical cooperation and support, as well as mobilization of financial resources.

**Health measures**

- The IHR specify which health measures may be taken against travellers, goods, baggage and conveyances (e.g., requesting information, vaccinations, and health examinations) and under which circumstances. In particular, the Regulations define when a traveller, vehicle, etc., may be considered affected by a disease, and what steps may then be taken. The charges which may be imposed for these measures are also regulated.
- The IHR state that such measures should not unnecessarily impede international trade and travel, and should not be unnecessarily invasive or intrusive to persons.
- States are also required to designate authorities responsible for a specified list of tasks related to health measures (e.g., ensuring that facilities used by travellers at points of entry are kept free of sources of infection).

**Certification**

- The IHR regulates the types of health documents which may be required in respect of travellers, ships or aircraft entering a territory, as well as setting out some of their legal consequences. Model documents are also provided.

**Confidentiality of data**

- The IHR contains provisions regulating the privacy of individually identifiable data when information is exchanged amongst states or to the WHO in terms of the Regulations.

**Respect for human rights**

- The IHR stipulates that their provisions must be applied with full respect for human rights. This is of particular importance in safeguarding the rights of persons undergoing health measures such as medical examinations or quarantine as well as protecting individual privacy.

No later than five years after entry into force (by mid-2012), states must take measures to develop, strengthen and maintain their public health protection capacities consistent with the requirements of the IHR. As of June 2009, states must assess their existing structures, and then develop plans of action to ensure that minimum capacities are present and functioning. After 2012, states may obtain a two-year extension in cases of justified need. In exceptional circumstances, they may receive an additional extension not exceeding two years.

Each State - at all levels and including all its sectors, ministries, officials and personnel - holds the responsibility for implementing the IHR at national level.

**Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations of 1998 (Tampere Convention)**

The Tampere Convention is a treaty aimed at facilitating the use of telecommunication resources and assistance for disaster mitigation and relief. It establishes an international framework for states to cooperate among themselves and with non-state entities and intergovernmental organizations.

Among other aspects, the convention seeks to simplify and strengthen the procedures by which international disaster responders may bring telecommunications equipment across borders during and after an emergency, and use them in their operations. It requires state parties to reduce or remove regulatory barriers and to confer the necessary privileges, immunities, and facilities for international relief providers. The convention also recognizes the sovereign interests of state parties, providing substantial flexibility as to how to carry out their obligations and ensuring that they maintain primary authority in relief coordination in their own borders.

In 1998, 60 states attending the Intergovernmental Conference on Emergency Telecommunications (ICET 98, Tampere, Finland, 16-18 June 1998) unanimously adopted the Tampere Convention. The Convention entered into force on 8 January 2005 and, as of January 2007, it had 35 State parties. Although Viet Nam has not signed or ratified this convention, it is relevant as a reflection of international consensus on reducing regulatory barriers in the use of telecommunications during a disaster response.<sup>18</sup>

### Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters

The Hyogo Framework for Action (HFA) is a set of non-binding guidelines adopted by States at the World Conference on Disaster Reduction organized by the UN International Strategy for Disaster Reduction (UNISDR) in Hyogo in 2005.<sup>19</sup> The HFA promotes a “strategic and systematic approach to reducing vulnerabilities and risk to hazards” by “building the resilience of nations and communities to disasters.”<sup>20</sup> The HFA provides five priorities that states should consider, most notably:

Priority 1: Disaster risk reduction should be a national and local priority

- This priority includes recommendations for strengthening legislative and institutional frameworks, in particular:
  - Creating and strengthening national integrated disaster risk reduction mechanisms, such as multi sectoral national platforms, with designated responsibilities at the national through to the local levels to facilitate coordination across sectors.
  - Integrating risk reduction into development policies and planning at all levels of government, including in poverty reduction strategies and sectors and multi sector policies and plans;
  - Adopting or modifying where necessary, legislation to support disaster risk reduction, including regulations and mechanisms that encourage compliance and that promote incentives for undertaking risk reduction and mitigation activities.

Priority 5: Strengthen disaster preparedness for effective response at all levels

- This priority includes recommendations to prepare for disaster response at national, regional and international levels including:
  - Strengthening policy, technical and institutional capacities in regional, national and local disaster management, including those related to technology, training, and human and material resources
  - Promoting and support dialogue, exchange of information and coordination among early warning, disaster risk reduction, disaster response, development and other relevant agencies and institutions at all levels, with the aim of fostering a holistic approach towards disaster risk reduction.
  - Strengthening and when necessary, developing coordinated regional approaches, and creating or upgrading regional policies, operational mechanisms, plans and communication systems to prepare for and ensure rapid and effective disaster response in situations that exceed national coping capacities.
  - Preparing or reviewing and periodically updating disaster preparedness and contingency plans and policies at all levels, with a particular focus on the most vulnerable areas and groups. Promoting regular disaster preparedness exercises, including evacuation drills, with a view to ensuring rapid and effective disaster response and access to essential food and non-food relief supplies, as appropriate, to local needs.
  - Promoting the establishment of emergency funds, where and as appropriate, to support response, recovery and preparedness measures.
  - Developing specific mechanisms to engage the active participation and ownership of relevant stakeholders, including communities, in disaster risk reduction, in particular building on the spirit of volunteerism.

In 2008, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) and UNISDR published a Guidance and Indicator Package for Implementing Priority 5 of the HFA. This package provides further guidance to governments on strengthening systems on preparedness for response including a number of detailed recommendations on institutional, legislative and policy frameworks.<sup>21</sup>



### 3.2 Regional instruments

#### ASEAN Agreement on Disaster Management and Emergency Response (2005)

The ASEAN Agreement on Disaster Management and Emergency Response (AADMER) was signed by ASEAN member countries, including Viet Nam, in Vientiane on 26 July 2005.

The AADMER aims to facilitate cooperation between the ten ASEAN member countries, as well as international partners, to improve regional capacities for disaster preparedness and response.

The general commitments of Parties under the AADMER are to:

- a. co-operate in developing and implementing measures to reduce disaster losses including identification of disaster risk, development of monitoring, assessment and early warning systems, standby arrangements for disaster relief and emergency response, exchange of information and technology, and the provision of mutual assistance;
- b. immediately respond to a disaster occurring within their territory. When the said disaster is likely to cause possible impacts on other Member States, respond promptly to a request for relevant information sought by a Member State or States that are or may be affected by such disasters, with a view to minimizing the consequences;
- c. promptly respond to a request for assistance from an affected Party; and
- d. take legislative, administrative and other measures as necessary to implement their obligations under this Agreement.<sup>22</sup>

The AADMER also provides a number of facilities for international assistance providers including exemptions from taxes, duties and other charges for the import of goods and equipment (including telecommunications and vehicles), the facilitation of the entry, stay and departure of relief personnel, protection and “local facilities and services for the proper and effective administration of the assistance.” International relief providers are expected to conform to the national laws of the host country and ensure that relief goods and materials meet appropriate quality and validity standards.

The AADMER requires ratification by all ten member states before it officially enters into force. As at August 2009, nine out of ten countries have ratified AADMER including Viet Nam. Nevertheless, ASEAN member states and the Secretariat have already put some aspects of the AADMER into practice, such as the establishment of the AHA Centre (ASEAN Coordinating Centre for Humanitarian Assistance) and development of the ASEAN SASOPS, which provide further details on the process for sending and receiving international assistance.

#### ASEAN declarations on health emergencies

In addition to commitments on disaster management, ASEAN has adopted a number of declarations relating to health emergencies, notably:

- Joint Declaration of the Special ASEAN Leaders Meeting on SARS, Bangkok, 29 April 2003 – in which the member countries resolved to take a number of specific measures to address the spread of SARS relating to both national capacities and regional cooperation.
- Declaration of the 7<sup>th</sup> ASEAN Health Ministers Meeting, Penang, 22 April 2004 – which strengthened the commitment to the ASEAN + 3 Emerging Infectious Diseases Programme
- Declaration of the 8<sup>th</sup> ASEAN Health Ministers Meeting, Yangon, 21 June 2006 – which committed to ensuring that the ASEAN + 3 Emerging Infectious Disease Programme reflects the priorities of the IHR, as the framework for global response to public health emergencies of international concern.<sup>23</sup>

### World Health Organization Regional Committee Asia-Pacific Strategy for Emerging Diseases (APSED)

In September 2005, the Western Pacific Regional Committee of the WHO endorsed the Asia Pacific Strategy for Emerging Diseases, which aimed to “provide a strategic framework to strengthen national and regional capacity for early detection, rapid response and preparedness for emerging diseases.”<sup>24</sup> One rationale behind this strategy was the need for a regional strategic approach to support the implementation of the IHR and national and regional level. The strategy itself covers 48 countries in the Asia and Pacific region, including Viet Nam, and includes five objectives with associated action plans and expected results relating to the risk reduction, early detection, early response and preparedness for emerging diseases as well as the development of sustainable technical collaboration within the region.

The strategy is intended for use by countries and regional partners:

- As a strategic document to guide the development or strengthening of the national capacities required for health protection from emerging diseases.
- As a framework for the development of stronger collaboration with neighbouring countries, sub regional, regional and global networks, and other technical partners to build a regional safety net from emerging diseases.
- To meet the core capacity requirements for surveillance and response under the IHR.
- As a document for national and regional advocacy for adequate, equitable and sustainable health financing arrangements (including resource mobilization and donor coordination), human resource development, and sustainable knowledge, skills and technology transfer.<sup>25</sup>

Objective 3 of the Strategy relating to the strengthening of early response to emerging diseases refers to the importance of the legal framework, noting that authority for the direction of personnel and resources to respond to an outbreak is often established by legislation.<sup>26</sup> Thus efforts to meet this objective must also include an examination of legislation to determine how these mechanisms can be strengthened.

### Greater Mekong Subregion (GMS) Framework Agreement on Goods in Transit and Cross-Border Transport

The GMS Cross-Border Transport Agreement is a multilateral agreement for the facilitation of cross-border transport of goods and people signed by Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam. Developed under an Asian Development Bank technical assistance initiative, the agreement aims to provide greater consistency in the arrangements for cross-border transport, taking into account existing regional and international agreements. Although the agreement does not specifically apply to international humanitarian relief, it nevertheless includes arrangements of benefit to emergency situations, including:

- Single-stop/single-window customs inspection
- Facilities for the cross-border movement of persons (i.e., visas for persons engaged in transport operations)
- Transit traffic regimes, including exemptions from physical customs inspection, bond deposits, escorts, and phytosanitary and veterinary inspection
- Requirements for road vehicles to be eligible for cross-border traffic
- Exchange of commercial traffic rights
- Infrastructure, including road and bridge design standards, road signs and signals.<sup>27</sup>

### Ayeyarwady- Chao Phraya - Mekong Economic Cooperation (ACMECS)

ACMECS is comprised of Cambodia, Lao PDR, Myanmar, Thailand and Viet Nam, and was established in 2003. In August 2003, the Foreign Ministers of each country agreed on an Economic Cooperation Strategy to increase trade and investment, enhance competitiveness, and generate more employment and improve distribution of income and quality of life in the sub-region. In support of this strategy, the Economic Cooperation Strategy Plan of Action (ECSPA) was developed, consisting of a series of more detailed plans between each country. These plans include a number of areas relevant to international disaster assistance and communicable disease emergencies, including the facilitation of cross-border transit and simplified customs procedures and closer regional cooperation and prevent the spread of infectious diseases.<sup>28</sup>

Additionally, in 2005 ACMECS adopted a declaration on Partnership in Controlling Avian Influenza and Other Infectious Diseases<sup>29</sup>, which contained commitments on “facilitating prompt and open exchange of information of infectious

diseases among ACMECS countries and with concerned development partners and relevant international agencies” and “promoting increased collaboration between relevant institutions and agencies at all levels...through the establishment of joint investigation teams, exchange of experts and other measures, in conjunction with international bodies as appropriate”. The Declaration also called for the development and coordination of a “multi-agency contingency response plan for the eventuality of an outbreak of human-human avian influenza”. In 2006 ACMECS adopted an additional Immediate Action Plan for Preventing and Controlling Avian Influenza Pandemic.<sup>30</sup>

### Mekong Basin Disease Surveillance

In 1999, Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam agreed to create the Mekong Basin Disease Surveillance (MBDS) as a method of cooperation for disease surveillance. The MBDS works to “strengthen national and regional capabilities in disease surveillance and response to outbreaks of priority diseases, in order that they can be effectively controlled.”<sup>31</sup> The MBDS aims to:

- Strengthen sustainable national capacity in disease surveillance, outbreak investigation and responses
- Strengthen health manpower development in the field of epidemiology
- Establish a sub-regional surveillance network.

In 2007, the Health Ministries of the six countries concluded an extension of a previously existing Memorandum of Understanding (MOU) on MBDS Cooperation, which specifically committed to strengthening national and sub-regional capabilities in disease surveillance and outbreak response to public health emergencies, as stated in the IHR. This MOU is also supported by the MBDS Cooperation Action Plan 2008-2013, which provides further detail on specific measures to enhance capacities and information sharing, and emphasizes the importance of consistency with the IHR.<sup>32</sup>

### Asia-Pacific Economic Cooperation (APEC) Strategy for Disaster Risk Reduction and Emergency Preparedness and Response in the Asia Pacific Region: 2009-2015

Viet Nam is one of the 21 member states of APEC, which recently adopted a strategy on risk reduction and emergency preparedness in Lima in August 2008. The strategy highlights the importance of regional cooperation in Asia Pacific, including through ‘regional and national harmonization of international relief guidelines’. Annex B of the Strategy includes a list of possible APEC initiatives to be considered including “encouraging improved domestic legal preparedness for regional and international disaster response”. This activity encourages APEC members to assess their existing regulatory frameworks for international relief in cooperation with the IFRC and to undertake workshops and seminars on the IDRL Guidelines.<sup>33</sup>

## 3.3 Bilateral instruments

### Agreement on Border Health Quarantine, Cambodia and Viet Nam (2006)

In March 2006, the governments of Cambodia and Viet Nam concluded an agreement on border health quarantine to “ensure good border health quarantine, border exchange, people’s health and to prevent disease transmission between the Kingdom of Cambodia and Viet Nam”. The agreement identifies the border health quarantine measures to be applied to airway, waterway, roadway and railway traffic, such as the checking of quarantine declaration forms, the observation of passengers and crew, and the sanitary check of vessels to detect vector carriers or diseases.

Additionally each Party may conduct health quarantine activities in border-area markets and trading points, and mutually respect the quarantine certifications of the other Party unless signs of disease or vectors are detected. If such signs are found, the quarantine service of each Party may apply the necessary medical treatment and quarantine measures. The agreement also requires the exchange of information regarding such measures including relevant legal documents on a regular basis, and calls for notification about infectious diseases as required by the International Health Regulations. It also encourages cooperation on the “importing and exporting of medicines and chemicals for border health quarantine”.

### Agreement on Border Health Quarantine, Viet Nam and Lao PDR (2001)

The Agreement on Border Health Quarantine, concluded by the governments of Viet Nam and Laos in December 2001, aims to “ensure good border health quarantine, border exchange, people’s health and to prevent disease transmission” between the two countries. It covers measures such as quarantine declaration forms, medical checks of passengers and crew and the sanitary check of vessels arriving by air, land and sea. If quarantine diseases or vectors are detected – which relate specifically to “cholera, plague and other dangerous infectious diseases as agreed upon by the Ministries of Health of the two countries” – the relevant quarantine service should apply the appropriate medical treatment in accordance with the country’s relevant laws and regulations on border health quarantine. The border health quarantine services of each country are also required to advise each other on infectious diseases and to discuss solutions for better border health quarantine. Additionally, the agreement encourages the quarantine services to “cooperate in applying quarantine techniques, importing and exporting medicines and chemicals for border health quarantine”.





## Overview of the national legal and policy framework

## Chapter 4

### Overview of the national legal and policy framework

#### 4.1 Viet Nam's legal system and hierarchy of legal instruments

The *Law on Promulgation of Legal Acts no. 17/2008/QH12 promulgated by the National Assembly on 3 June 2008* lists a range of legal documents issued by different state bodies and their legally binding effect, but is silent on their hierarchy.<sup>34</sup> Legal documents listed appear in order of issuing organizations as follows (Article 2):

- Constitution, law and resolution issued by the National Assembly<sup>35</sup>
- Ordinance, resolution issued by the Standing Committee of the National Assembly<sup>36</sup>
- Order, decision issued by the President of State<sup>37</sup>
- Decree issued by the Government<sup>38</sup>
- Decision issued by the Prime Minister<sup>39</sup>
- Resolution issued by the Judicial Council of the Supreme Court, and Circular issued by the President of the Supreme Court
- Circular issued by the Chief Prosecutor
- Circular issued by Ministers, Head of Ministerial-level agencies<sup>40</sup>
- Decision issued by the General Director of State Audit
- Joint resolution issued by the Standing Committee of the National Assembly/the Government and the Central Committee of socio-political organizations
- Joint circular issued by the President of the Supreme Court and the Chief Prosecutor; by Ministers or Heads of ministerial-level agencies and the President of the Supreme Court, the Chief Prosecutor; by Ministers or Heads of ministerial-level agencies
- Legal acts issued by the People's Council and People's Committees

This list highlights how enormous and complicated Viet Nam's system of legal norms is. Following the promulgation of a law, governmental decrees are issued to guide its implementation and different Ministries subsequently issue their circulars to guide the implementation of these decrees within their scope of management.

For example, concerning radiation management, the following legal instruments were found:

- The Law on Nuclear Energy, no. 18/2008/QH12 promulgated by the National Assembly on 3 June 2008
- The Ordinance dated on 25 June 1996 on Radiation Safety and Control, promulgated by the Order of President of State no. 50-L/CTN dated 3 July 1999
- The Decree no. 50/1998/ND-CP dated 16 July 1998 regulating in detail the implementation of the Ordinance dated on 25 June 1996 on Radiation Safety and Control;

- The Decree no. 51/2006/ND-CP dated 19 May 2006 providing for the sanctioning of administrative violations in the domain of radiation safety and control,
- The Circular no. 12/2007/TT-BKHHCN dated 12 June 2007 guiding the implementation of a number of articles of the Decree no. 51/2006/ND-CP dated 19 May 2006 providing for the sanctioning of administrative violations in the domain of radiation safety and control,
- The Decision no. 12/2004/QĐ-BKHHCN dated 13 May 2004 promulgating the Organization and Operation Charter of Viet Nam Agency for Radiation and Nuclear Safety and Control.

In addition, there exist many other legal documents also regulating radiation management. Each year, a number of new legal texts are issued to amend, modify or replace existing ones.

Given the scope of this study and the timeframe in which it has been set, the review will focus only on key laws and regulations.

## 4.2 Legal and policy framework for disaster management

### Key findings:

- *There are a large number of legal texts comprising laws, ordinances, decrees and circulars covering different types of disaster and related activities, but as yet no single comprehensive law on multi-hazard disaster risk management. Consequently the system remains dispersed, although it is adaptable to Viet Nam's current situation and capability.*
- *Although definitions of disaster are included in various planning and strategy documents, there is no common definition of 'disaster' reflected in existing legal instruments. Nor are there specific criteria for determining and responding to different levels of disaster and the receipt of international assistance.*

### Policy framework for disaster management

According to the Decision 172/2007/QĐ-TTg of the Prime Minister on 11 November 2007 approving the National Strategy for Natural Disaster Prevention, Response and Mitigation to 2020, disaster prevention and response is the common task of public authorities and the public, and must be integrated into socioeconomic development master planning and plans of every region, sector, and nation-wide.<sup>41</sup> Also, the Decision stipulates that the government is charged with uniform management of disaster preparedness and response, with MARD designated as the permanent body charged with coordination with other ministries and agencies in natural disaster management. More importantly, the Decision stresses that the investment in disaster prevention, mitigation and response is an indispensable factor of sustainable development,<sup>42</sup> demonstrating the willingness of the Vietnamese government to improve country's legal preparedness for responding to natural disaster.

### Legal framework for disaster management

In Viet Nam, there does not exist a single law on disaster preparedness and response. A set of legal texts (laws, ordinances and governmental decrees) have been adopted for each type of disaster.

Currently, the most comprehensive regulation still in force on states of emergency caused by disaster or communicable diseases is Decree no. 71/2002/ND-CP of 23 July 2002 issued by the government, detailing the implementation of a number of articles of the Ordinance on the State of Emergency in Case of Great Disaster or Dangerous Epidemics. This

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Decree is unique because it deals with all cases of emergency, listed in article 1 of the Decision no. 118/2008/QĐ-TTg of the Prime Minister, dated 27 August 2008, promulgating the Regulation on Financial Management of Search, Rescue, Salvage and Response to Natural Disasters and Catastrophes (see below). This includes natural disasters (such as floods and earthquakes), health emergencies and human disasters (such as fire, transport accidents and nuclear accidents). In addition to this Decree, many other texts have been adopted to regulate each specific type of disaster or emergency. For example:

- Flood and storm situations are governed by the Ordinance amending and supplementing a number of articles of the Ordinance on Flood and Storm Prevention and Response, no. 27/2000/PL-UBTVQH promulgated by the Standing Committee of National Assembly on 24 August 2000 and the Governmental Decree (2006) implementing Decision no. 245/2006/QĐ-TTg dated 27th October 2006 by the Prime Minister promulgating the Regulation on Announcements of Tropical Depressions, Typhoons, Hurricanes and Floods.
- Earthquake and tsunami situations are governed by Decision no. 78/2007/QĐ-TTg dated 29th May 2007 by the Prime Minister promulgating the Regulation on Earthquake and Tsunami Prevention and Control and the Decision no. 264/2006/QĐ-TTg dated 16th November 2006 by the Prime Minister promulgating the Regulation on Earthquake Announcements and Tsunami Warning.
- Accidents at sea are governed by Decision no. 103/2007/QĐ-TTg dated 12th July 2007 by the Prime Minister promulgating the Regulation on Search and Rescue Coordination at Sea.
- Accidents of civil aviation are governed by the Regulation on Civil Aviation Search and Rescue promulgated by the Decision no. 26/2007/QĐ-GTVT dated 23 May 2007 by the Minister of Transport.
- Fires are governed by the Law on Fire Prevention and Control no. 27/2001/QH10 promulgated by the National Assembly on 29th June 2001, the Decree no. 35/2003/ND-CP dated 4 April 2003 detailing the implementation of a number of articles of the Law on Fire Prevention and Control and Decree no. 09/2006/ND-CP dated 16th January 2006 by the Government on Forest Fire Prevention.

**Some indicators for a comprehensive Disaster Management framework:**

- *A clearly defined institutional architecture for disaster risk reduction including preparedness is in place and has the commitment of stakeholders at all levels.*
- *An approved legislative framework that accurately reflects institutional arrangements, and the relevant policies, protocols, procedures and funding mechanisms is in place.*
- *Mechanisms for compliance and enforcement of laws, regulations and codes, including penalties for noncompliance are in place.*
- *Information on the legislative framework is widely disseminated and the Government actively trains staff and other stakeholders on its content and application.*

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- Nuclear safety is governed by: Ordinance dated on 25 June 1996 on Radiation Safety and Control, promulgated by the Order of President of State no. 50-L/CTN dated 3 July 1996; Decree no. 51/2006/ND-CP dated 19th May 2006 providing for the sanctioning of administrative violations in the domain of radiation safety and control; Circular no. 12/2007/TT-BKHHCN dated 12th June 2007 guiding the implementation of a number of articles of the Decree no. 51/2006/ND-CP dated 19th May 2006 providing for the sanctioning of administrative violations in the domain of radiation safety and control; and Decision no. 12/2004/QĐ-BKHHCN dated 13th May 2004 promulgating the Organization and Operation Charter of Viet Nam Agency for Radiation and Nuclear Safety and Control. Recently, in 2008, the Law on Nuclear Energy<sup>43</sup> was adopted, containing a Chapter (Chapter 10) on the response to radiation or nuclear incidents.
- Petroleum incidents are governed by Decree no. 03/2002/ND-CP dated 7th January 2002 by the Government on the Protection of Petroleum Security and Safety and the Decision no. 103/2005/QĐ-TTg dated 12th May 2005 by the Prime Minister promulgating the Regulation on the Response to Oil Spills.
- Chemical incidents are governed by the Decree no. 68/2005/ND-CP dated 20th May 2005 by the Government on the Chemical Safety.



- Electric incidents are governed by the Energy Minister's Decision No. 90/NL-KHKT of February 22, 1994 **promulgating the process of responding to breakdowns of the national power system.**

In addition, the government has approved a number of plans of action for disaster preparedness:

- Decision 172/2007/QĐ-TTg of the Prime Minister on 11th November 2007 approving the National Strategy for Natural Disaster Prevention, Response and Mitigation to 2020.
- Decision no. 46/2006/QĐ-TTg dated 28<sup>th</sup> February 2006 by the Prime Minister approving the scheme on the general planning for search and rescue up to 2015, with a vision to 2020: This scheme provides for the establishment of an overall mechanism of organization of search and rescue activities, detailing roles and responsibilities of different actors and financial mechanisms.
- Decision no. 137/2007/QĐ-TTg dated 21st August 2007 by the Prime Minister approving the scheme on information organization in service of disaster at sea prevention and response.
- Decision no. 158/2008/QĐ-TTg dated 2<sup>nd</sup> February 2008 by the Prime Minister approving the National Core Programme on Climate Change.

Disaster preparedness and response are also mentioned in some other related texts such as:

- Law on Forest Protection and Development no. 29/2004/QH11 promulgated by the National Assembly on 3 December 2004 (which covers forest fires and disaster caused by forest destruction).
- Law on Environmental Protection no. 52/2005/QH11 promulgated by the National Assembly on 29<sup>th</sup> November 2005.
- Land Law no. 13/2003/QH11 promulgated by the National Assembly on 26<sup>th</sup> November 2003.
- Law on Mineral Resources promulgated by the Order no. 47-L/CTN of the President of State on 20 March 1996, amended by the Law Amending the Law on Mineral Resources no. 46/2005/QH11 promulgated by the National Assembly on 14 June 2005.
- Law on Fisheries no. 17/2003/QH11 promulgated by the National Assembly on 26<sup>th</sup> November 2003.
- Law on National Defence no. 39/2005/QH11 promulgated by the National Assembly on 14 June 2005 (which mentions the role of national defence forces in disaster prevention and control activities).
- Law on Information Technology (yet to be adopted, indicating the priority of using advanced technology in service of disaster control).
- Ordinance on Exploitation and Protection of Irrigation Works no. 32/2001/PL-UBTVQH10 promulgated by the Standing Committee of the National Assembly on 4 April 2001.
- Ordinance on Protection of Meteorological and Hydrological Works promulgated by the Standing Committee of the National Assembly on 2<sup>nd</sup> December 1994.

These are in addition to all Decrees, Decisions and Circulars related to the aforementioned legal instruments.

It should also be mentioned that a large number of governmental circulars on strengthening preparedness and response to floods and storms or natural disaster are promulgated every year, as well as messages from the Central Steering Committee for Floods and Storm Prevention and Control during flood season or in flood situations.

Concerning the financial management in cases of disaster, the most important text is Decision No. 118/2008/QĐ-TTg of the Prime Minister, dated August 27, 2008, promulgating the Regulation on Financial Management of Search, Rescue, Salvage and Response to Natural Disasters and Catastrophes. In particular, concerning floods and storms, it is necessary to mention the Decree no. 50/CP dated 10th May 1997 by the government issuing regulations on the setting up and operation of local funds for flood and storm prevention and response. Furthermore, the Ministry of Finance has adopted several circulars guiding the financial management of emergency preparedness and response, including the Circular Guiding Financial Management of the Viet Nam Red Cross Society (2005), the Circular Guiding the Financial Management of Humanitarian Medical Examination and Treatment Establishments Under Viet Nam Red Cross (2002), and other texts guiding the governing of funds for construction against natural disasters.

Besides these guiding texts, financial management is also stipulated in some of the specific texts on disaster or health emergency cited above.

The coordination between relevant actors during a disaster is provided in several specific texts, such as the Decree no. 29/CP dated 2 April 1997 promulgating the Regulation on the Coordination of Activities of the State Management Agencies at Civil Airport and Airfields, the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients, and the Circular no. 72/2008/TT-BTC of the Minister of Finance dated 31st July 2008 guiding the implementation of the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients.

It is noticeable that there is no unique focal point for disaster preparedness and response. National Steering Committees are established permanently for, or in the event of, each specific type of emergency.<sup>44</sup> Moreover, each relevant ministry has established departments charged with disaster preparedness and response coordination such as the Department of Dyke Management and Storm and Flood Prevention and Control (with the MARD)<sup>45</sup>. In addition, related ministries and agencies are also charged with participation or coordination in case of natural disaster, which can sometimes lead to an overlapping of authority.

### 4.3 Legal and policy framework for communicable disease emergencies

#### **Key findings:**

- *Compared with disaster management, the legal framework for communicable disease control is relatively well developed through a few key legal instruments, in particular the recently adopted Law on Communicable Disease Prevention and Control (2007). Additionally, consultations are taking place on a draft Decree on Border Medical Quarantine.*
- *There still remain several gaps in the current legal framework particularly concerning the role and functions of the National IHR Focal Point, the receipt of international assistance during a communicable disease emergency and the details concerning the application of constitutional rights and freedoms for measures such as isolation, quarantine and medical treatment.*

#### Policy framework for communicable disease emergencies

The Decision no. 255/2006/QĐ-TTg dated 9th November 2006 by the Prime Minister approving the Strategy on Preventive Medicine to 2010 and Orientation Towards 2020 sets the priority on early detection and prevention against communicable disease and reducing infection, as some of the indispensable factors in improving the quality of life.<sup>46</sup>

Also, according to the Decision, the Ministry of Health is charged with the overall management and coordination with other public and private bodies<sup>47</sup> in communicable disease prevention and response<sup>48</sup>.

### Legal framework for communicable disease emergencies

In general, communicable diseases are governed by the Law on Communicable Disease Prevention and Control (2007), the Law on HIV/AIDS Prevention and Control, no. 64/2006/QH11 promulgated by the National Assembly on 29th June 2006, the Ordinance on Veterinary Medicine (2004), the Ordinance on Protection and Inspection of Food Safety (1993), the Governmental Decree promulgating the Regulation on Border Medical Quarantine (1998)<sup>49</sup> and the Regulation on Information and Reports on Epidemic Contagious Diseases (2002) as well as other legal texts issued by the Ministry of Health. However, noting that the new Law was just adopted in 2007, any inconsistent provisions in all regulation texts adopted before this should now be annulled. While there remains a lack of clarity in the new Law, new implementing regulations should be adopted to ensure its effective implementation.

A specific mechanism for financial management of health emergency preparedness and response does not yet exist. Financial resources come from the national budget, governed by the Law on National Budget in addition to decisions by the Ministry of Finance. The only specific text on financial management in the field of health emergency is the Circular Guiding the Financial Management of Humanitarian Medical Examination and Treatment Establishments Under Viet Nam Red Cross (2002).

Concerning communicable disease management, a number of agencies are charged with this task such as the Department of Preventive Medicine and Environment<sup>50</sup>, the Department of HIV/AIDS Prevention and Control, Medicine Quarantine Agencies and the Department of Veterinary Medicine.

### International assistance

As will be described further below, there are numerous legal instruments covering issues relating to the receipt of international assistance on issues such as tax, visas, legal status, customs and transport. Although these instruments do contain many provisions consistent with international standards and practices, the legal framework is dispersed and the procedures are often suited more to development activities rather emergency relief. Additionally, there remain some gaps and weaknesses on some topics.

## 4.4 Overall analysis and recommendations

### Definition of disaster

Although the terms “disaster”, “natural disaster” and emergency” appear in many of the legal documents described above, no legal text provides a broad definition and specific criteria to define “disaster”.

The Regulation on Financial Management of Search, Rescue, Salvage and Response to Natural Disasters and Catastrophes 2008 lists only specific types of disaster or catastrophe (Article 1):

- a. Storms, tropical low pressure, flood, flash flood, serious inundation, tsunami, landslides;
- b. Forest fire; fire by a bomb, mine, military or industrial explosive; skyscraper fire; urban, industrial and residential areas fire; drilling or gas pipe line fire or explosion;
- c. Earthquake, skyscraper collapse, mineral mine collapse; disasters

#### **The definition of “disaster” provided by the IDRL Guidelines**

*“Disaster” means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.*

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caused by mountain or bridge collapse;

d. Oil spills, toxic chemical leakage or dispersion, radiation;

e. Flying boat accidents occurring in Viet Nam's land and territorial sea and/or airspace under Viet Nam management; accidents at sea; serious traffic accidents; and

f. Serious incidents to land, railway, waterway and airway transport infrastructure; dykes, lake and dam eruption.

Although the list facilitates the assessment of disasters wherever they happen, it is not necessarily comprehensive and so may affect the organization of responding activities.

Some specific texts give further definitions of several types of disaster:

- Definition of tsunami, earthquake (Article 2 of the Decision No. 264/2006/QĐ-TTg dated 16th November 2006 by the Prime Minister promulgating the Regulation on the announcement of earthquake and tsunami warnings)
- Definition of fire (Article 3 Law on fire prevention and control 2001)
- Definition of storms, tropical low pressure, flood, flash flood, serious inundation, tsunami, landslides (Article 2 Decree No. 32/CP dated 20th May 1996 by the Government providing details for the implementation of the Ordinance on the prevention and control against floods and storms)

The ASEAN Agreement on Disaster Management and Emergency Response of 2005 (AADMER), of which Viet Nam is a signatory, gives the following definition of disaster:

*“Disaster” means a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses.*

This definition is shorter than the IDRL guidelines definition of “disaster”, and on the contrary, does not expressly exclude armed conflict, but encompasses at least the main elements of disaster.

As signatory of the AADMER, it is advisable that the government of Viet Nam adopt this definition in law upon ratification. However, to date, the Agreement has not come into force. Therefore this definition is not yet applicable in Viet Nam.

The absence of a full definition and specific criteria may have impact on the organization of disaster and/or health emergency preparedness and response activities such as the notification, information, and coordination among actors, and requests for international assistance.

## Assessment and recommendations on the legal framework for disasters

### Positive findings

- The government's policy is favourable to the improvement of the legal framework for disaster risk management.
- Viet Nam has adopted a large number of legal documents in the field of disaster and communicable disease management, prevention and control. Consequently, the legal preparedness for responding to disasters is good.
- It is notable that recently adopted legal documents are more specific than ever, and clearly allocate responsibilities in disaster preparedness and response.

### Some gaps

However, due partly to the lack of uniform definition, it is clear that as yet no single comprehensive law on multi-hazard disaster risk management leaves the system dispersed, although disasters are given a reasonable degree of priority within national planning.

The dispersion and risks of overlapping between texts and authorities can hinder the clear separation of responsibilities and allocation, and coordination between agencies in case of emergencies caused by disaster or communicable disease, which is presently taking place in Viet Nam.

### Recommendations

- *Development of a new Law on Disaster Risk Management to replace existing legal texts, supplemented by implementing decrees on specific aspects.* This recommendation will be in line with the plan of the Vietnamese government set out in the National Strategy on Natural Disaster Prevention, Response and Mitigation by 2020, to be completed by 2012. The Law on Disaster Risk Management should include the following:
  - A definition of disaster, taking a multi-hazard approach which does not distinguish between types of disaster (but excluding armed conflict). It is recommended to consider the definition by the IDRL guidelines cited above<sup>51</sup>
  - General objectives and principles of disaster management
  - Government institutional responsibilities and coordination mechanisms
  - Roles and responsibilities of communities, civil society organizations, national organizations and the international community
  - Mobilization of human, material and financial resources
  - Arrangements and legal facilities for requesting/receiving international assistance
  - General quality and accountability standards
- This Law should replace all parts relating to the preparedness and response contained in the texts separately adopted on different types of disaster prevention and response, as cited above<sup>52</sup>. A single law on disaster risk management will facilitate the management and coordination activities in being uniform and effective, and prevent the overlapping of texts. The Law on disaster management should be supplemented by implementing decrees which cover all of the relevant legal issues, such as for better financial management, and for receiving international assistance such as registration/eligibility, customs, tax, visas.

### Assessment and recommendations of the legal framework for communicable diseases

#### Positive findings

Compared with disaster management, the legal framework for communicable disease control is relatively well developed with the use of several key legal instruments; in particular, the recently adopted Law on Communicable Disease Prevention and Control (2007). Additionally consultations are taking place on a draft decree on border medical quarantine.

#### Some gaps

Nevertheless there are still some gaps in the current legal framework particularly concerning the role and functions of the

national focal point, receipt of international assistance during a communicable disease emergency and details concerning the application of constitutional rights and freedoms for measures such as isolation, quarantine and medical treatment (discussed further below).

### Recommendations

The existing Law on Communicable Diseases Prevention and Control (2007) should be supplemented with additional implementing decrees which include the following aspects:

- Details on the role and functions of the national focal point
- Special provisions concerning the entry and exit of urgent humanitarian personnel, goods and equipment during communicable disease emergencies
- Further detail on the application of constitutional rights and freedoms during communicable disease emergencies

## 4.5 Recommendations on arrangements for international assistance

There are two proposed options to strengthen the legal framework for international assistance, as follows:

- Option 1: Development of a comprehensive regulation (e.g., a Decree under the Law on Disaster Risk Management) on the arrangements for receiving international assistance in the event of a disaster or communicable disease emergency, which covers the full range of legal facilities and minimum standards applicable to relief and recovery operations.

This option is a long-term objective and will require extensive collaboration and agreement between different ministries and departments to ensure the most appropriate arrangements are put in place. However, once established, this will ensure that international assistance will be managed in the most streamlined and efficient manner. It can be clearly understood by domestic and international partners, and can be easily updated without requiring amendments to other instruments.

- Option 2: Amendment of the various existing laws, regulations, decrees and other instruments which have a bearing on the arrival and conduct of international assistance, and the publication of a separate compilation which clearly summarizes the various rules and procedures for international assistance.

This option can be more quickly achieved, at least in part, in the shorter term and the legal recommendations can be implemented individually by the different departments and ministries concerned. The limitation of this option is that the legal system will remain dispersed and risks duplication or confusion between the different rules. Additionally, the publication of the compilation of rules will require frequent updating to ensure that all legal amendments are included.

Further recommendations in this report will indicate how these two different options can be put into place.



## **Institutional arrangements, relief coordination and information exchange**

## Chapter 5

### Institutional arrangements, relief coordination and information exchange

#### 5.1 Institutional arrangements for disaster management

##### **Key findings:**

- *Government responsibilities for disaster management are divided between many different committees, ministries and departments and their roles depend on the type of disaster (e.g. flood/storm, tsunami, radiation, fire etc), rather than a multi-hazard approach. These arrangements, although dispersed, are appropriate to the current situation of Viet Nam: it permits an effective allocation of resources and management of some types of disaster which happen most frequently in Viet Nam. Indeed, many mechanisms work rather well, i.e. flood and storm prevention and control.*
- *Various government focal points are identified to coordinate international assistance; however, these vary depending on the type of disaster, and current disaster management laws do not provide any specific procedures for receiving international assistance.*
- *There is lack of overall coherence and procedures for ensuring coordination and information management across the different legal instruments.*

##### Government structures

##### Government as leader, MARD as permanent body

It is noticeable that Viet Nam has not as yet established a national body for disaster management. According to the Decision 172/2007/QĐ-TTg of the Prime Minister on 11 November 2007 approving the national strategy for natural disaster prevention, response and mitigation to 2020, the government is charged with uniform management of disaster preparedness and response. This decision designates the MARD as the key body responsible for natural disaster prevention and control.<sup>53</sup>

The Decision No. 26/2008/QĐ-BNN of Ministry of Agriculture and Rural Development dated 28 January 2008, defining the functions, tasks, powers and organizational structure of the Department for Dyke Management and Flood and Storm Prevention and Control has established an agency exclusively charged with the management of flood, storm and dyke protection activities, which is the Department for Dyke Management and Flood and Storm Prevention and Control. The department is situated inside the MARD, and has these following functions:

##### **The primary responsibility of States**

*Affected states have the primary responsibility to ensure disaster risk reduction, relief and recovery assistance in their territory.*

*Affected states have the sovereign right to coordinate, regulate and monitor disaster relief and recovery assistance provided by assisting actors on their territory, consistent with international law.*

IDRL Guidelines (2007), Articles 3(1) and (3)

- Participating in policy and decision-making processes relating to dyke management and flood and storm prevention and response.
- Taking responsibility for control, inspection and management of the implementation of national strategies on natural disaster prevention, mitigation and control, as well as response activities when a disaster occurs.
- Participating in international cooperation within its field of responsibility.



- Guiding the participation of non-governmental organizations in the process of legislative improvement.

However, as noted above, there is not any full definition of “natural disaster” given by law.

#### Role of other Ministries

According to the *Decision 172/2007/QĐ-TTg of the Prime Minister on 11 November 2007 approving the National strategy for natural disaster prevention, response and mitigation to 2020* and other relevant legislation<sup>54</sup>, the role and responsibility of other Ministries can be summarized as follows:

| Ministry                                      | Responsibilities  |
|---|---|
| Ministry of Natural Resources and Environment | Early warning on hydrological and meteorological data countrywide.<br>Management of financial sources used in this activity.  |
| Ministry of Foreign Affairs (MOFA)            | In case of disaster or serious incidents that have impact over national territory; with the permission of the Prime Minister, appeal for assistance of international relief or other countries for coordination.  |
| Ministry of National Defence (MND)            | Participation in disaster prevention and response planning<br>Use of military forces and assets for joint search, rescue and evacuation of those affected, if needed.   |
| Ministry of Public Security                   | Ensuring security and order in disaster situations.<br>Participation in search, rescue and evacuation of those affected.  |
| Ministry of Finance                           | Reserve and delivery of government funds for disaster prevention and control activities, conforming to national budgetary laws.<br>Guidance in the management and distribution of financial sources for disaster prevention and control, and inspecting the implementation of the same. |
| Ministry of Planning and Investment           | Planning and distributing investments to projects relating to disaster prevention and inspecting the use of these investments   |
| Ministry of Trade                             | Coordination with local authorities to supply goods and services to people in disaster areas.   |
| Ministry of Fisheries                         | Responsibility for disaster prevention and control in coastal areas, at sea and in the fishery sector.  |
| Ministry of Transport                         | Ensuring and facilitating the smooth transport flow in disaster situations.<br>Transport means and road networks, and mobilization of the same in case of disaster.   |
| Ministry of Industry                          | Ensuring the protection of mineral extraction areas, water reserve lakes and catchments, electricity networks and national industrial zones   |
| Ministry of Construction                      | Guidance of construction planning and inspection, and ensuring the security of construction sites in disaster situations.   |
| Ministry of Health                            | Stocking of medical equipment and medicines for emergency situations.<br>Hygiene promotion activities and control of diseases stemming from the incidence of disaster, and organization of specialized training for medical teams working during emergency and post-disaster.           |

|   |  |
|---|--|
| Ministry of Information and Culture (MIC)           | Management of timely broadcasting of early warning information, information on emergency operations, and mitigation measures through the media.<br>Promotion of media development for public awareness and educational broadcast programmes on disaster management, publications emphasizing conservation/preservation of the environment and natural resources. |
| Ministry of Education                               | Integration of disaster prevention and response knowledge into education programmes in schools.<br>Guiding school construction planning to adapt to local environments in order to mitigate any occurrence of disaster.  |
| Ministry of Labour, War Invalids and Social Affairs | Follow up on the situation of loss after a disaster in order to propose remedial measures to the government.<br>Promulgating and ensuring the implementation of policies on social aid.  |

Normally, each ministry establishes a department as its focal point for disaster preparedness and response.

#### **Steering Committees for Flood and Storm Prevention and Control**

Established by the Decree no. 168-HDBT dated 19th May 1990 by the Council of Ministries, the Central Steering Committee for Flood and Storm Prevention and Control has undertaken numerous measures to strengthen its role. The most recent text on its functions and structure is the Decision no. 51/QD-PCLBTW dated 7th April 2009 on the strengthening the Steering Committee for Flood and Storm Prevention and Control.

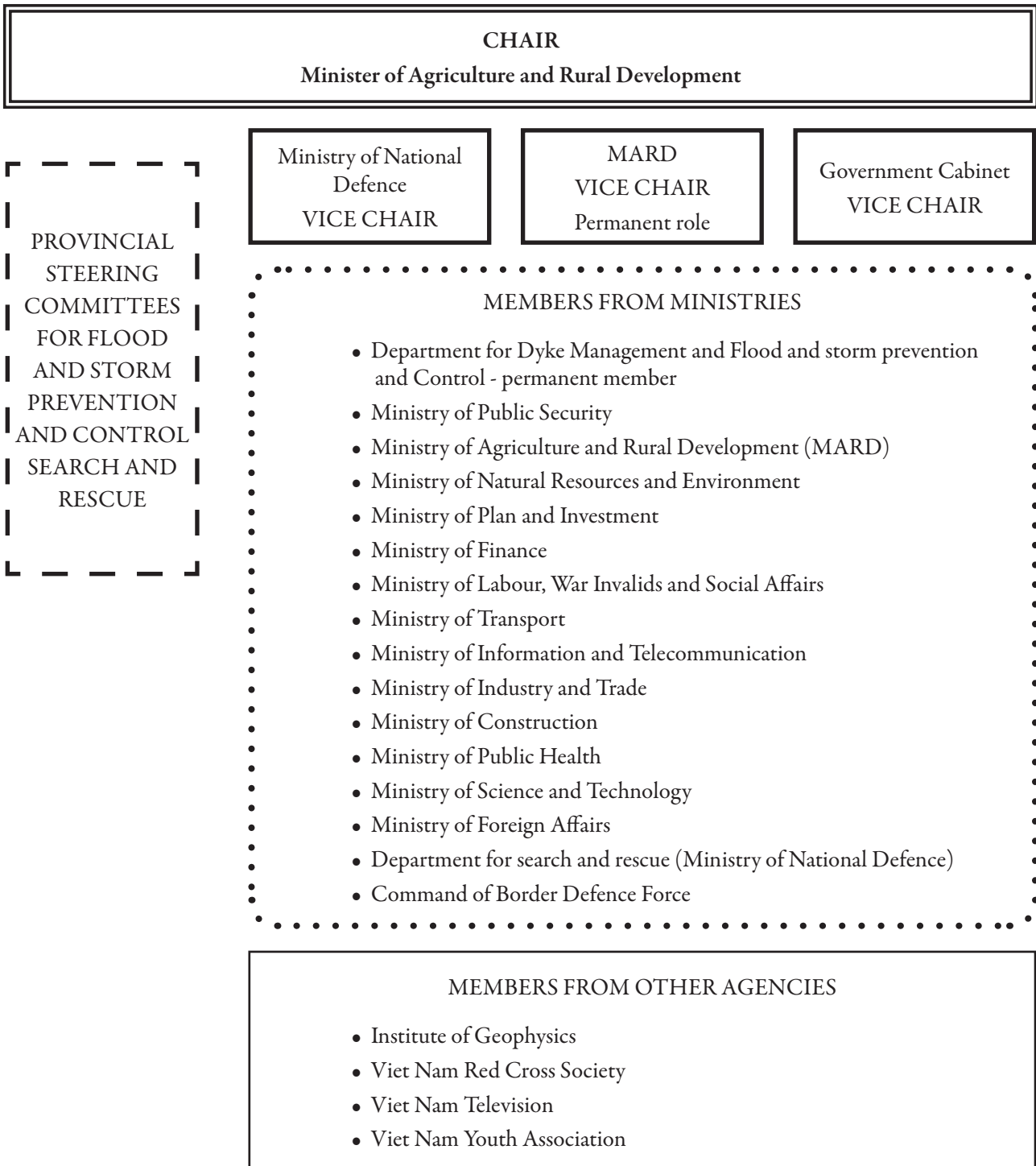
The central and local steering committees for flood and storm prevention and control are the very agencies directly and permanently responsible for carrying out such duties<sup>55</sup>. According to the Decree no. 08/2006/ND-CP promulgated by the Prime Minister dated 16 January 2006 detailing a number of articles of the Ordinance on Flood and Storm Prevention and Control, which was amended and supplemented on 24 August 2000 (Article 11.1), the Central Steering Committee for Flood and Storm Prevention and Control has the following functions:

- Deciding on early warning alerts and measures against floods and storms;
- Controlling ministry participation in preventing and controlling floods and storms;
- Recommending measures of response to the government, based on concrete situations.

The Committee also plays an important role in other natural disaster situations. For example, according to the Decision no. 78/2007/QĐ-TTg dated 29th May 2007 by the Prime Minister promulgating the Regulation on earthquake and tsunami prevention and control (Articles 9.3 & 9.4), the central and local committees are the authority to lead the preparedness and response in case of earthquake and tsunami.

Local steering committees (whose full name is Provincial Steering Committee for Flood and Storm Prevention and Control and Search and Rescue), under the authority of the Central Steering Committee and related Provincial People’s Committee, have almost the same functions at local level.

According to the Decision no. 51/QD-PCLBTW dated 7 April 2009 on strengthening the Steering Committee for Flood and Storm Prevention and Control (Article 1), the Committee regroups representatives from almost all the relevant ministries and agencies. Its organizational structure is as follows:



### The National Committee for Search and Rescue

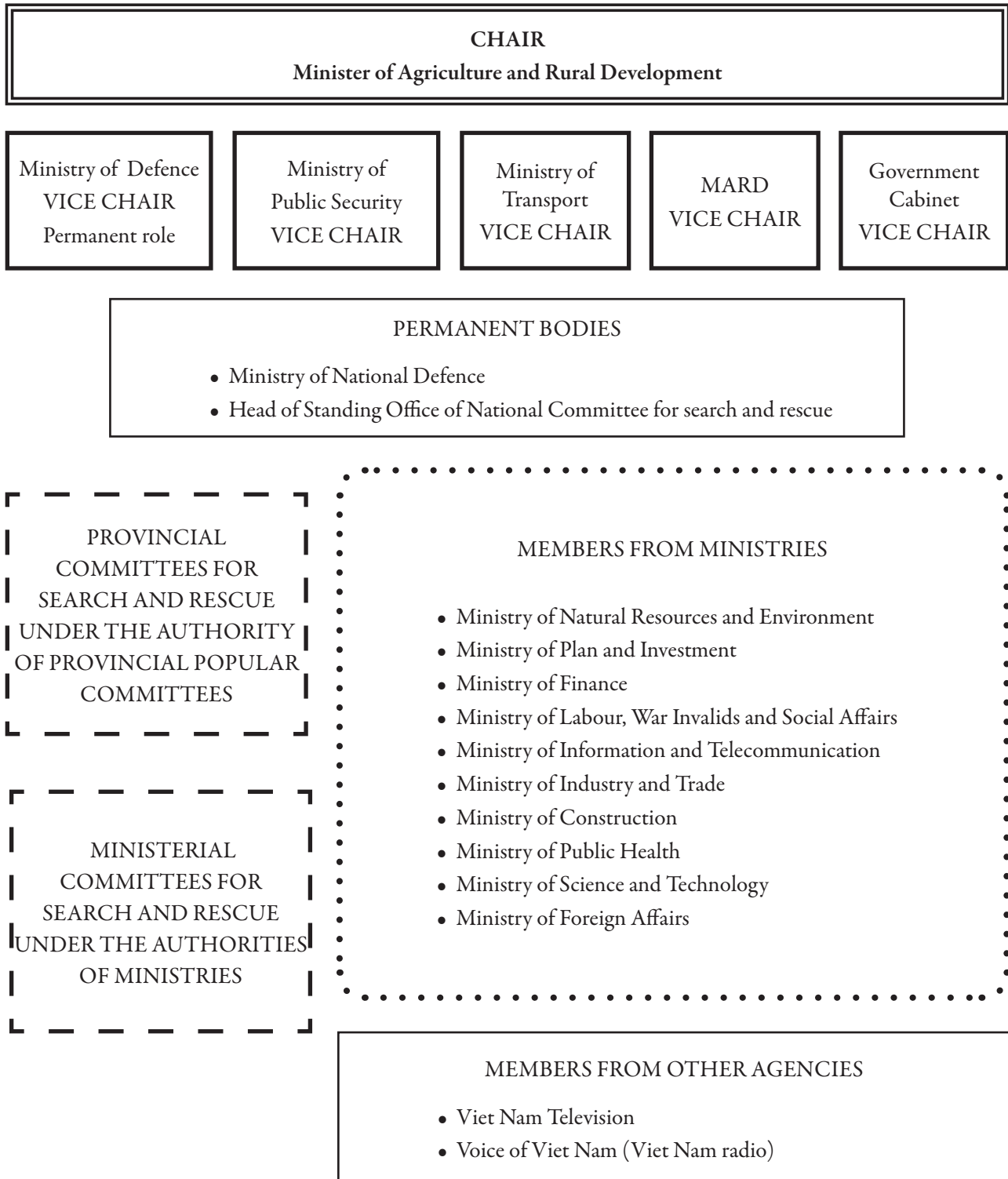
The National Committee for Search and Rescue is governed by the Decision no. 76/2009/QĐ-TTg of the Prime Minister strengthening the national committee for search and rescue (which entered into force on 1 July 2009). According to this Decision (Articles 1 & 2), the Committee is described as a coordinating agency of the government in the planning and organizing of search and rescue strategies and activities, and a focal point for international cooperation<sup>56</sup>. Moreover, it also has the responsibility of participating in preparedness and response activities against natural and human disasters.

Detailed functions of the National Committee for Search and Rescue are stipulated in other legal texts:

- According to the Decree no. 08/2006/ND-CP promulgated by the Prime Minister dated 16th January 2006 detailing a number of articles of the Ordinance on flood and storm prevention and control, which was amended and supplemented on 24 August 2000 (Article 11.3), the National Committee for Search and Rescue has the leading responsibility for organizing search and rescue during floods and storms
- According to the Decision no. 103/2007/QĐ-TTg dated 12th July 2007 by the Prime Minister promulgating the Regulation on search and rescue coordination at sea, it has authority to mobilize other ministries and agencies' forces and equipment for search and rescue in situations beyond the capacity of coastal popular committees and the Viet Nam maritime search and rescue coordination centre (Article 5.6)
- According to the Decision no. 78/2007/QĐ-TTg dated 29th May 2007 by the Prime Minister promulgating the Regulation on earthquake and tsunami prevention and control (Article 16.10), it has the authority to lead the organization in search and rescue operations after an earthquake or tsunami, and to guide local authorities in establishing plans for preparedness and response.



According to the Decision no. 76/2009/QĐ-TTg dated 11th May 2009 of the Prime Minister strengthening the National Committee for search and rescue (Article 4), the organizational structure of the Committee, as well as the system of search and rescue is as follows:



It is noted that while the Decision no. 51/QĐ-PCLBTW dated 7th April 2009 on the strengthening the Steering Committee for Flood and Storm Prevention and Control mentions the existence of Provincial Committees responsible both for floods and storms prevention and control and for search and rescue, the Decision no. 76/2009/QĐ-TTg dated 11th May 2009 of the Prime Minister strengthening the National Committee for Search and Rescue stipulates that only committees are responsible for search and rescue at provincial level. This is a clear example of lack of coherence between legal texts.

Each ministry also establishes a committee for search and rescue<sup>57</sup> as its focal point for search and rescue coordination.

It is noted that while each provincial steering committee has its website with information on disaster preparedness and response, there is no website for either the Central Steering Committee for Floods and Storms Prevention and Control or the National Committee for Search and Rescue. Therefore, the search for information on these two key Committees is very difficult.

### **Ad hoc steering committees**

According to the Decree no. 71/2002/ND-CP of 23 July 2002 issued by the Government, detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics (Article 4.1), upon the announcement of state of emergency, the Prime Minister will establish a Steering Committee with the main task of assisting the Prime Minister in implementing the Resolution of the Permanent Committee of National Assembly or Order of the President of the Republic during a state of emergency.

There are two types of ad hoc steering committees.

Article 4.2 stipulates that ad hoc steering committees chaired by the Prime Minister or Vice Prime Minister will have as Members:

- The Ministers of Agriculture and Rural Development; of Science and Technology; of Environment; and of Public Health
- The representatives from Ministries of Public Security; of Defence, of Finance and from the Central Committee of Viet Nam Fatherland Front
- President of People's Committee where state of emergency occurs

According to Article 4.3, ad hoc steering committees chaired by a Minister will have as Members:

- President of People's Committee where the state of emergency occurs
- Representatives of ministries and agencies mentioned in Article 4.2
- Heads of provincial departments and services, and the president of People's Committees of district where the state of emergency occurs

### **Local People's Committees**

Provincial People's Committees are directly responsible for the implementation of disaster preparedness and response in their provinces<sup>58</sup>, and therefore have all authority (including financial) for disaster preparedness and response with their provinces. The local committees for floods and storms prevention and control, and for search and rescue are placed under their authority. They also work closely with ministries for the preparedness and response activities against disasters.

### Other specific sectors

Radiation safety is governed by a separate legal system (as mentioned above Chapter 3). According to the Decision no. 12/2004/QĐ-BKHCHN dated 13th May 2004 promulgating the Organization and Operation Charter of Viet Nam Agency for Radiation and Nuclear Safety and Control, Viet Nam Agency for Radiation and Nuclear Safety and Control is an agency attached to the Ministry of Science and Technology and tasked with assisting the Minister in performing the function of State management of radiation and nuclear safety and control, such as<sup>59</sup>:

- Taking part in the policy and decision making on radiation control
- Ensuring nuclear accident prevention through inspection, penalty, and dispute settlement
- Ensuring the management of nuclear waste
- Establishing the database on radiation safety
- Responsibility for international cooperation, taking part in the implementation of international treaties on radiation and nuclear safety

Note that there is no provision on the task of the agency in case of nuclear accidents. The Decision only provides for agency's tasks in nuclear accidents control and prevention.

Also, the 2008 Law on Nuclear Energy, chapter X, does not mention the role of the Viet Nam Agency for Radiation and Nuclear Safety and Control, but allocates the responsibility for responding to nuclear incidents to the Ministry of Science and Technology and the National Committee for Search and Rescue.

Concerning forest protection and forest fire, the Decision no. 08/2007/QĐ-BNN dated 26th January 2007 promulgating the Regulation on operation of the Central Steering Committee for urgent issues in forest protection and forest fire prevention and control has established another Steering Committee. The Central Steering Committee for urgent issues in forest protection and forest fire prevention and control is an agency directly responsible to the Government and tasked to assist the Government in performing the function of state management over forest protection and forest fire prevention and control (Article 3). Article 4 sets the organizational structure of the Committee with concrete responsibilities and competent authorities.

The preparedness and response to fire and petroleum incidents are placed under the authority of the Ministry of Public Security<sup>60</sup>. Specifically, regarding oil spills, the responsibility is allocated to the President of the Provincial People's Committees or to the National Committee for Search and Rescue, or to the Centre for responding to oil spills, depending on the level of impact.

Briefly, government responsibilities for disaster management are divided between many different committees, ministries and departments and their roles depend on the type of disaster (e.g. flood/storm, tsunami, radiation, and fire), rather than a multi-hazard approach. Moreover, the lead agency for disaster prevention and control is a Ministerial body – the MARD. Therefore, it can have difficulties in mobilizing resources for disaster response, although in practice, for many cases, Steering Committees for disaster response are directly instructed by the Prime Minister.

### Organization of preparedness and response

In general, the organization of disaster and emergency preparedness and response is described in the Decree no. 71/2002/ND-CP of 23 July 2002 issued by the Government, detailing the implementation of a number of articles of the Ordinance on the state of emergency in case of great disaster or dangerous epidemics - the most comprehensive legal text on activities against catastrophe, disaster, and disease – as follows:

- Search, rescue and evacuation of those significantly affected in areas of disaster (Article 9)
- Protection of construction under threat (Article 10)
- Interlake flood drainage and flood regulation in order to mitigate consequences (Article 11)
- Protection and evacuation of national and cultural patrimony (Article 12)
- Sending and distribution of medical, equipment, foods and elementary goods to devastated areas (Article 13)
- Strengthening the prevention of fire and explosion (Article 14)
- Control of prices to prevent economic disruption (Article 15)
- Mobilization of human and equipment for emergency response and recovery (Article 16)
- Ensuring smooth information flow (Article 17)
- Ensuring public security and order (Article 18 & 19)
- Ensuring hygiene and safety against diseases (Article 20)

In accordance with the Decree, the structure for the preparedness and response to disasters and health emergencies is based on the participation of the mass media, the Steering Committee, ministries and branches, the People's Committees at different levels and other agencies, organizations and people responsible for implementation of special measures. Their roles and responsibilities are clearly indicated in Chapter II of the Decree.

Mechanisms for compliance and enforcement of laws, codes and regulations on disaster prevention and control are provided in articles 30 and 31 of the *Decree*.

Preparedness and response against disasters are also provided in specific texts, including mechanisms for compliance and enforcement, including penalties for non-compliance (mostly administrative sanctions and/or penal liabilities<sup>61</sup> but not in details):

- The Law on dykes (2006), Chapter IV (Dyke protection) provides for the organization of activities for the protection of dykes in the rainy season or when accidents involving dykes occur. Agencies responsible are the government, the Central Steering Committee for Flood and Storm Prevention and Control, Presidents of District people's committees, relevant ministries such as the Ministry of Agriculture and Rural Development, Ministry of Natural Resources and Environment, Ministry of National Defence (Articles 34-36). Individuals, organizations breaching the Law can be administratively sanctioned or examined for penal liabilities; and, if causing damage, have to pay compensation therefore as prescribed by law.
- The Law on Fire prevention and control (2001) and the Decree detailing the implementation of a number of articles of the Law on fire prevention and control (2003) regulate the organization of activities for fire prevention and control, defining clear responsibilities of each agency (Article 37-39 and 58), the information and response mechanism (of 32-35), financial mechanism (chapter VI), and the treatment of breaches of the Law (Chapter VIII).
- The Ordinance on floods and storms prevention and control (1993-2000) regulates the organization of activities against floods and storms, including the prevention, response and reparation. The responsible agencies include the Ministry of Water Resources (now the Ministry of Agriculture and Rural Development), the Local People's Committees, the Central and Local Steering Committee for Flood and Storm Prevention and Control, and the



General Department of Meteorology and Hydrology (Article 20 and 33-35); These all activities are financed by the State budget, the fund for flood and storms prevention and control and support from individuals and organizations in and outside the country (Article 27). Individuals, organizations breaching the Law can be administratively sanctioned or examined for penal liabilities (Article 39); and, if causing damage, have to pay compensation hence as prescribed by law (Article 40)

- The Regulation on search and rescue coordination at sea (2007) regulates organization of search and rescue at sea in case of disaster and accidents at sea (Article 2.8). The agencies responsible include: Viet Nam maritime search and rescue coordination centre (VMRCC), National Committee for Search and Rescue, People's committee of coastal provinces, coastal and marine port authorities, inland waterway port authorities, naval forces, border and marine police, marine transportation police, and fishing inspection authorities, as well as relevant ministries, such as: Ministry of National Defence, Ministry of Fisheries, Ministry of Transport, Ministry of Natural Resources and Environment, Ministry of Post and Telecommunications, Ministry of Health, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Planning and Investment (Articles 5 and 17-28). Individuals and organizations lacking responsibility or breaching the Regulation can be administratively sanctioned or examined for penal liabilities (Article 31); Unfortunately, the financial mechanism for this activity is not clear. Article 26 only stipulates that the Ministry of Finance and the Ministry of Planning and Investment shall have to “coordinate with ministries, branches and People's Committees of coastal provinces and cities to ensure the budget for search and rescue activities at sea in accordance with the law in order to reduce losses, and control the management and use of allocated budget.”
- The Regulation on earthquakes and tsunami prevention and control (2007) provides for the earthquake and tsunami zoning, the organization of activities of education and increasing public awareness, the establishment of preparedness and response to different scenarios; the organization of response activities when accidents occur; the reparation of consequences, that will be financed by provincial budget and governmental support (Article 14); the agencies responsible include: People's Committees of provinces affected by the earthquake or tsunami, Institute of Science and Technology, Ministry of Natural Resources and Environment, Ministry of Post and Telecommunications, the Voice of Viet Nam radio service, Viet Nam television, Ministry of Construction, Ministry of Transport, Ministry of Education and Training, Ministry of Foreign Affairs, Ministry of Public Security, National Committee for Search and rescue, Central Steering Committee for floods and storms prevention and control (Article 16). Individuals and organizations lacking responsibility or breaching the Regulation can be administratively sanctioned or examined for penal liabilities (Article 17)
- The Decree no. 35/2003/ND-CP dated 4th April 2003 detailing the implementation of a number of articles of the Law on fire prevention and control regulates the organization of fire prevention (Chapter II) and control (Chapter III), with concrete responsibility of relevant actors (public and private) (Articles 3, 4 and chapter VII), as well as provisions on incentives and penalties (chapter VIII) and the Decree no. 123/2005/NĐ-CP dated 5th October 2005 by the government 2006 providing for the sanctioning of administrative violations in the domain of fire prevention and control. The Decree no. 35/2003/ND-CP dated 4 April 2003 detailing the implementation of a number of articles of the Law on fire prevention and control also provides for the organization of forest prevention and control forces in its chapter IV.
- The Decree no. 09/2006/NĐ-CP dated 16th January 2006 by the government on forest fire prevention regulates the organization of forest fire prevention (Chapter II) and control (Chapter III), with concrete responsibility of relevant actors (public and private) (Article 4 and chapter VI), as well as provisions on incentives and penalties (chapter VII)
- The Decree no. 50/1998/ND-CP promulgated by the Prime Minister dated 16th July 1998 detailing the implementation of the Ordinance on radiation safety and control regulates issues relating to nuclear accidents in its Chapter III. Articles 19-22 provide procedures and measures in case of nuclear accidents. The incentives and penalties in nuclear accident prevention and control are stipulated in Chapter VI of the Decree, as well as the Decree no. 51/2006/ND-CP dated 19th May 2006 providing for the sanctioning of administrative violations

in the domain of radiation safety and control and the Circular no. 12/2007/TT-BKHHCN dated 12th June 2007 guiding the implementation of a number of articles of the Decree no. 51/2006/ND-CP dated 19th May 2006 providing for the sanctioning of administrative violations in the domain of radiation safety and control

- The Decision no. 103/2005/QĐ-TTg dated 12<sup>th</sup> May 2005 by the Prime Minister promulgating the Regulation on the response to oil spills classifies oil spills following their level of impacts: local level, regional level, national level and international level. It provides responding schemes and responsible authorities for each level.

Briefly, although the organizing of preparedness and response activities is provided in specific texts, there is a lack of defined communication structures between the national and sub-national authorities, as well as between sub-national authorities and with communities. Moreover, although legislations or regulations provide for incentives and penalties for government staff in participation in disaster preparedness and response, but all these provisions are general (even vague) and have almost the same structure (“Organizations and individuals that record achievements ... shall be commended and/or rewarded according to law provisions” - “Individuals and organizations lacking responsibility or breaching the Law/Regulation can be administratively sanctioned or examined for penal liabilities”).

### Information sharing

We assess an almost absolute lack of overall procedures for ensuring information flow and consolidated approach to situation reports and needs assessments from the various levels of government. For example:

- In prevention and control against floods and storms, it presents an absence of adequate procedures for ensuring information flow and consolidated approaches to situation reports and needs assessments from the various levels of government, set in a binding text. Each time where a disaster happens, the government has to issue a public message (*Cong dien*) to guide activities.
- Concerning the search and rescue at sea: The entire chapter II of the *Regulation on search and rescue coordination at sea (2007)* provides, in a detailed manner, the procedure of sharing information during search and rescue activities, but there is no provision on reports and needs assessments from the various levels of government.
- Concerning the prevention and control of earthquake and tsunami, the *Decision No. 264/2006/QĐ-TTg dated 16th Nov 2006 by the Prime Minister promulgating the Regulation on Earthquake Announcements and Tsunami Warning* sets an adequate procedure for ensuring information flow from the various levels of government. However, in both supporting regulations (one on prevention and control, and the other on mechanism of warning), there are no provisions establishing a consolidated approach to situation reports and needs assessments from the various levels of government.

### Resources and funding mechanisms

The overall financial mechanism for disaster preparedness and response is stipulated in the Decision 172/2007/QĐ-TTg of the Prime Minister on 11th November 2007 approving the national strategy for natural disaster prevention, response and mitigation to 2020. According to section IV, Article 1(d), the mechanism is described as follows:

- The State budget ensures the investment for natural disaster prevention, response and mitigation projects and the contingency for disaster relief and recovery.
- The reserved state budget can be used for disaster prevention, response and mitigation if necessary.
- Advantage should be taken of ODA and FDI for disaster prevention and mitigation projects, giving priority of non-refundable ODA utilization for capacity strengthening and technological and management experience transfer.

- The State decentralizes the investment and mobilization of legitimate resources for disaster prevention, response and mitigation to People's Committees of provinces and districts.
- The State has policies to provide preference to, and to protect legitimate interests of, organizations and individuals investing in disaster prevention, response and mitigation and to encourage national and international organizations and individuals to invest in researching and applying science and modern technologies in combination with traditional methods.
- National and international organizations and individuals should be encouraged to finance activities promoting disaster prevention, response and mitigation, and conduct humanitarian and charity activities for disaster affected localities. Studies should also be conducted to establish disaster insurance regimes and disaster self-financing funds.

The Regulation on Financial Management of Search, Rescue, Salvage and Response to Natural Disasters and Catastrophes (2008) sets up principles and procedures of financial management for these activities. Article 11 stipulates: "The Ministry of Finance is responsible for financial management, in collaboration with the National Committee for Search and Rescue, the Steering Committee for Floods and Storm Prevention and Control, and other related ministries and departments".

According to Article 2, financial resources for response activities to natural disasters and catastrophes come from:

- National budget (at central and local levels) in conformity with the law;
- Aid from other governments as well as contributions from individuals and organizations in country and abroad; and
- Sources from service contracts, payments by insurance companies and by individuals and organizations in accordance with the law.

According to Articles 3, 6 and 7, the national budget for disaster preparedness and response will be used for:

- Investing in equipment, construction and other expenses for organizing of response to disasters; and
- Ensuring the activities of permanent agencies such as the National Committee for Search and Rescue, the Steering Committee for Flood and Storm Prevention and Control and the mobilization of human resources.

The financial management process is provided in chapter 3 of the Regulation.

Particularly in the field of flood and storm prevention and control, Decree No. 50/CP dated 10th May 1997 by the Government issuing the regulation on the setting up and operation of the local funds for flood and storm prevention and control, establishes the mechanism for the contribution and use of funds for each province.

According to Article 6, the funds are financed by the compulsory contribution of individuals (men from 18 to 60 years old; women from 18 to 55 years old) and all economic organizations (businesses) situated in each Province. Article 9 specifies the amount of the contribution: equivalent to 1-2 kg of rice for individuals; and 0.02 per cent of capital for businesses. Local funds for flood and storm prevention and control are directly managed and controlled by the relevant local People's Committees, which are responsible for reporting to the Ministry of Finance on the mobilization and use of these funds (Articles 13 and 16). According to Articles 14 and 16, the local Steering Committees may use this fund for training, establishing schemes of response, assisting recovery and investing in equipment.

According to the Decree no. 09/2006/NĐ-CP dated 16th January 2006 by the Government on Forest Fire Prevention, resources for forest fire prevention and control come from the national budget, contributions from owners of forested land, forest fire insurance and other contributions (Article 28). The use of financial resources is provided in Article 29.

The receipt, use and distribution of financial contributions from governments, individuals and organizations for disaster response are detailed in the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents, and for terminally ill patients.

Briefly, resources and funding mechanisms are provided in separate texts in different terms and content, and are therefore fragmented. There is a lack of a clear and stable mechanism for financial management.

### Coordination of international assistance

It is important to note that there is no unique national focal point responsible for international cooperation or coordination of assistance from foreign organizations for disaster in general. However, some texts have designated focal points in different types of disaster:

- The Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients (article 4.2) stipulates that: “Viet Nam Red Cross calls for assistance within the Red Cross system in the country and abroad”.

#### **Coordination of international assistance**

*National legal, policy and institutional frameworks should:*

- *Allow for effective coordination of international assistance*
- *Take into account the role of the UN emergency relief coordinator*
- *Clearly designate domestic government entities with responsibility and authority (for coordination)*
- *Consider establishing a national focal point to liaise between international and government actors at all levels.*

See IDRL Guidelines (2007), Article 8(2)

Article 6.3 also stipulates that: “The receipt, distribution and use of funds and assistance for the recovery from natural disasters, fire, serious accidents by the Red Cross from central to local level will be consistent with the provisions of the Red Cross statutes.”

Article 20.1 states: “the Central Committee of the Viet Nam Fatherland Front and Viet Nam Red Cross Society are responsible for organizing and directing the receipt of financial and material assistance to people for the reparation of consequences due to natural disasters, fire, and serious accidents; and monitoring the distribution from central to local level.”

However, the Viet Nam Red Cross is not a governmental body or the designated national focal point to request international disaster relief and liaise with international aid providers. A number of other agencies also have the authorization to receive and distribute aid and assistance including the Central Committee of the Fatherland Front, the People’s Aid Committees established for each case of disaster, mass media agencies, social funds and charity funds established in accordance with the law as well as organizations and units authorized by the Fatherland

Front (Article 5). However there is no clear and concrete legal provision for requesting international disaster relief and liaising with providers of international aid (including non-state actors).

Some other relevant instruments include:

- The Decree of the Government detailing the implementation of some articles of the Ordinance on the State of Emergency (2002): Article 4 paragraphs 4.d and 4.e stipulate that the Steering Committee established in the case of an emergency may be the focal point able to receive and use the aid of international rescue and salvage forces, foreign organizations and individuals, but only after a decision of the Prime Minister.
- The Decree of the Prime Minister detailing the Ordinance of Flood and Storm Prevention and Control (2006): Article 11.2 (g) stipulates that the MARD shall guide the implementation of international cooperation in

the field of flood and storm prevention and control. Also under Article 11, the Ministry of Natural Resources and Environment, Ministry of Fisheries, Ministry of Transport have the authority to request international cooperation in their field of competency. Similarly, under the Decision of the Prime Minister approving the scheme of organization of information in service of prevention and control of natural disasters at sea (2007), the MARD is assigned the task of “national point of contact with international organizations in this field” (Article 2.1). It is noted that these texts only provide for international cooperation in very general terms.

- The Regulations on Search and Rescue Coordination at Sea (2007), Article 25 assigns the Ministry of Foreign Affairs as the focal point in “collaboration with countries and international organizations for search and rescue in cases where Vietnamese organizations or individuals have an accident at sea out of Viet Nam” in “requesting assistance of foreign relevant authorities in the organization of search and rescue of Vietnamese people and equipment”.
- Finally, the Regulations on Earthquakes and Tsunami Prevention and Control (2007), Article 16.8 also designates the Ministry of Foreign Affairs as the focal point for collaboration with foreign organizations and international cooperation in the search and rescue and reparation of consequences of earthquake, tsunami or other accidents outside the territory of Viet Nam; and for establishment of an information mechanism with adjacent countries, including the receipt and transmission of information about the possibility of earthquakes and tsunami that may have impact on Viet Nam.

Some ministries are assigned the authority to collaborate with other ministries and local authorities in conducting international cooperation tasks, such as the MARD and Ministry of Foreign Affairs. Specialized authorities, such as the Department for Dyke Management and Flood and Storm Prevention and Control and the Central Steering Committee for Flood and Storm Prevention and Control as well as Steering Committees established in cases of emergency are given the authority to propose international cooperation with relevant authorities. However, the concept of “international cooperation” has not been clarified, and the authority to raise issues of international assistance is unclear.

However, it is noteworthy that all legal texts cited above only designate the national focal point, without establishing rules or procedures relating to international assistance. There is no legal text establishing a comprehensive procedure for ensuring coordination of international efforts with those at the national, provincial and municipal levels. All reviewed texts only assign the task of international cooperation, but provide no detail on level of cooperation and with which actors.

Additionally, no legal text was found indicating that a national focal point can coordinate or regulate the activities of actors providing international relief, except Viet Nam Red Cross (at central and local levels) whose role is stipulated in the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients. According to this Decree, Viet Nam Red Cross can coordinate with the “International Red Cross” to receive and use aid resources for the recovery. Also, according to the Law on Red Cross Activities (2008) stipulates that when a disaster or serious communicable disease occurs, causing serious loss of life and property, Viet Nam Red Cross has the authority to request and receive assistance from the “International Red Cross” (Article 18).

Concerning information exchange between Viet Nam and international relief providers, provisions are relatively detailed in the types of information these providers should exchange, as follows:

- Concerning flood and storm prevention, there is no rule about the types of information international relief providers must provide.
- Concerning search and rescue activities at sea, the Regulation on Search and Rescue Coordination (2007). Article 15 (concerning the coordination of search and rescue within areas of common responsibility, adjacent areas between Viet Nam and other countries) stipulates that Viet Nam will receive all information from other countries’ search and rescue centres regarding the situation including: the number of affected people and equipment; other countries’ forces participating in related search and rescue activities; and, the frequency and

method of contact with these parties. The request to provide these types of information established through information channels between the Viet Nam Maritime Search and Rescue Coordination Centre and airline search and rescue services on one hand, and other countries' search and rescue centres on the other.

- Concerning earthquakes and tsunamis, the Regulation on Earthquake Announcements and Tsunami Warning (2006) includes some provisions on the types of information international actors must give: Article 7.2 stipulates that any tsunami warning in the China Sea area provided by the International Centre for Tsunami Warning will be used as a base for tsunami warning in Viet Nam. In accordance with article 8.2, any tsunami warning having an impact on Viet Nam's coastal areas received from the International Centre for Tsunami Warning will be translated into Vietnamese and announced immediately in Viet Nam.

According to the National Progress Report on the Implementation of Hyogo Framework for Action in 2008<sup>62</sup>, the Centre for Natural Disaster Management (within the Department for Dyke Management and Floods and Storms Prevention and Control) should develop a system to store and share standardized database and maps.

Also according to this report, the Standing Office for the Central Steering Committee for Floods and Storms Prevention and Control has been collected and archived in relevant disaster databases in different formats. The main database is for disaster-related damage information. There are two different formal systems: one is the data collection system of the standing office for the Central Steering Committee for Flood and Storm Prevention and Control for the purposes of emergency response; and the other is the system of General Statistics Office used for long-term statistical purposes. Additionally, some NGOs and international organizations have the damage and needs assessment data of several particular disasters. Most disaster-related databases are not archived in a standardized format, and mainly consist of data relating to damage caused by natural disasters at provincial level.

Another system to monitor, archive and disseminate data on key hazards and vulnerabilities is the webpage and the monthly newsletter of NDMP. The information in this system is available in both Vietnamese and English and freely accessible to all stakeholders.

There is no period of notification to international actors prior to terminating their disaster-related legal facilities, nor for considering the impact of termination on beneficiaries.

## 5.2 Assessment and recommendations

### Good practices

The actual institutional arrangements, although dispersed, are considered to be appropriate to the current situation in Viet Nam: they permit an effective allocation of resources and management of certain types of disaster that happen most frequently in Viet Nam. Indeed, many mechanisms are considered to be working well, such as for flood and storm prevention and control.

### Some gaps

- Government responsibilities for disaster management are divided among many different committees, ministries and departments, and their roles depend on the type of disaster (e.g., flood/storm, tsunami, radiation and fire), rather than a multi-hazard approach, and are only generally defined. The existence of too many government structures for disaster management may lead to an overlapping of authority.
- There is currently no unique committee charged with overall disaster management. In general, an ad hoc steering committee will be established upon the announcement of a disaster or emergency, and will terminate at the end of the disaster situation. Thus disaster management structures currently lack stability for longer term recovery and rehabilitation.

- Various government focal points are identified for coordinating international assistance; however, these vary depending on the type of disaster. Additionally, current disaster management laws do not provide any specific procedures for receiving international assistance.
- There is a lack of overall coherence and procedures for ensuring coordination and information management across the different instruments, as well as clear and stable mechanisms for financial management, needs and impact assessments.

## Recommendations

### The new Law on Disaster Risk Management should:

- Establish a National Committee for Disaster Management (NCDM) as a permanent operational entity responsible for all disaster preparedness and response. The Committee should be placed directly under the sole authority of the Prime Minister. The Committee should have as Members representatives from all existing related services from ministries or other governmental bodies, whose roles should be defined clearly, with concrete incentives or penalties for their participation in disaster preparedness and response operations. To ensure the effectiveness of the National Committee as well as the coordination with governmental ministries and agencies, it could also have a permanent secretariat that works closely with focal points placed within each Ministry responsible for carrying out activities.
- Specify the NCDM could represent:
  - a permanent coordinating and policy making body, responsible for establishing national strategies, common policies and practices for all levels;
  - a forum to discuss regular development planning activities which have a bearing on disaster risk reduction;
  - an authority for day-to-day management and operation including the procurement of emergency supplies and equipment as necessary;
  - a focal point for the management of a central disaster database, which receives regular reports from related services and local authorities on disaster situations and which undertakes regular needs and impact assessments for disaster preparedness and response in the country;
  - an authority to ensure international cooperation, communication, contact on disaster situations, particularly with Governments and intergovernmental organizations.
- Ensure the adequate allocation of funding from the national budget, commensurate with the roles and responsibilities of the various institutions from national to community level. Consideration should be given to allocating a minimum percentage of the annual national budget for this purpose.
- Amend existing texts on the activities of non-government organizations (NGOs) in Viet Nam, in order to establish a clear mechanism for the coordination of non-government assistance for disaster response, including international assistance, as well as procedures for communication and consultation with non-state actors including Viet Nam Red Cross, NGOs and communities in all disaster management activities at all levels (see discussion below on the role of civil society organizations).

### 5.3 Institutional arrangements for communicable disease emergencies

#### **Key findings:**

- *Institutional arrangements for communicable diseases emergencies are uniformly organized from the central to the local levels within the health system.*
- *There is a lack of procedures for ensuring information flow and coordination with international assistance.*
- *A National IHR Focal Point has been established and is functioning but no regulations have yet been adopted to clarify its organization, functions, and operational procedures.*

#### Government structures for communicable disease emergencies

According to the Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008 (Article 6) and the Law on HIV/AIDS Prevention and Control, no. 64/2006/QH11 promulgated by the National Assembly on 29th June 2006 (Article 7), the Government is responsible for overall management of disease prevention and control. The Ministry of Health is designated as a permanent agency, directly responsible before the Government for preparing plans and ensuring the implementation of preparedness and response operations for diseases in the country.<sup>63</sup>

According to the Decree no. 188/2007/ND-CP dated 27 December 2007 by the Government on the functions, tasks, authorities and structure of the Ministry of Health, the Ministry of Health has the following tasks in relating with communicable disease prevention and control:

- In coordination with the Ministry of Finance, establishing the needs for medical equipment and drugs in service of communicable diseases, disaster, disaster prevention and control (Article 2.3)
- Responsible for the determination and implementation of preventive measures (Article 2.6)
- In coordination with other relevant ministries, responsible for prevention and control against communicable diseases in disaster situation and for providing aid to people in disaster (Article 2.20)
- Guiding and inspecting the participation of NGOs in activities of disease prevention and control (Article 2.22)
- Responsible for international cooperation in its scope of authority (Article 2.25)

#### **National IHR Focal Points**

- *Each State Party shall designate or establish a National IHR Focal Point and the authorities responsible within its respective jurisdiction for the implementation of health measures under these Regulations.*
- *National IHR Focal Points shall be accessible at all times for communications with the WHO IHR Contact Points.*

IHR (2005)

Within the Ministry of Health a number of departments are responsible for carrying out different aspects of communicable disease control such as the Preventive Medicine and Environment Department<sup>64</sup> and the HIV/AIDS Prevention and Control Department<sup>65</sup>.

According to Decision No. 54/2008/QĐ-BYT of the Ministry of Health, dated 30 December, 2008, defining the functions, tasks, powers and organizational structure of the Preventive Medicine and Environment Department of the Ministry of Health, the Department is the agency responsible for communicable disease prevention and response (Article 2.8) (except for HIV/AIDS, which is under the authority of the HIV/AIDS Prevention and Control Department). In particular, the Department has been designated as National Focal Point under the IHR (Article 2.8 b), but no legal text on its function and



organization in this capacity has yet been adopted, although it is planned.<sup>66</sup>

### Role of other Ministries

According to the Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008, the Law on HIV/AIDS Prevention and Control, no. 64/2006/QH11 promulgated by the National Assembly on 29 June 2006 and the Decision no. 255/2006/QD-TTg dated 9 November 2006 by the Prime Minister approving the Viet Nam National Strategy on Preventive Medicine to 2010 and Orientation Towards 2020, the tasks of other ministries and government agencies are as follows:

| Ministry                                      | Responsibilities  |
|---|---|
| Ministry of Finance                           | Planning the budget allocation for communicable disease prevention and control.<br>Mobilizing formal funds for communicable diseases preparedness and response.   |
| Ministry of Planning and Investment           |   |
| Ministry of Natural Resources and Environment | Ensuring pollution prevention and control in service of communicable disease prevention.  |
| Ministry of Agriculture and Rural Development | Working closely with the Ministry of Health and Ministry of Environment in controlling the use of chemicals in agriculture, protecting the environment in rural areas and controlling animal communicable diseases. |
| Ministry of Education                         | Ensuring the dissemination of education and information on communicable diseases prevention and control to the population.  |
| Ministry of Culture and Information           |   |
| Ministry of National Defence                  | Coordinating with the Ministry of Health in rescue and recovery operations to prevent disease infection.  |

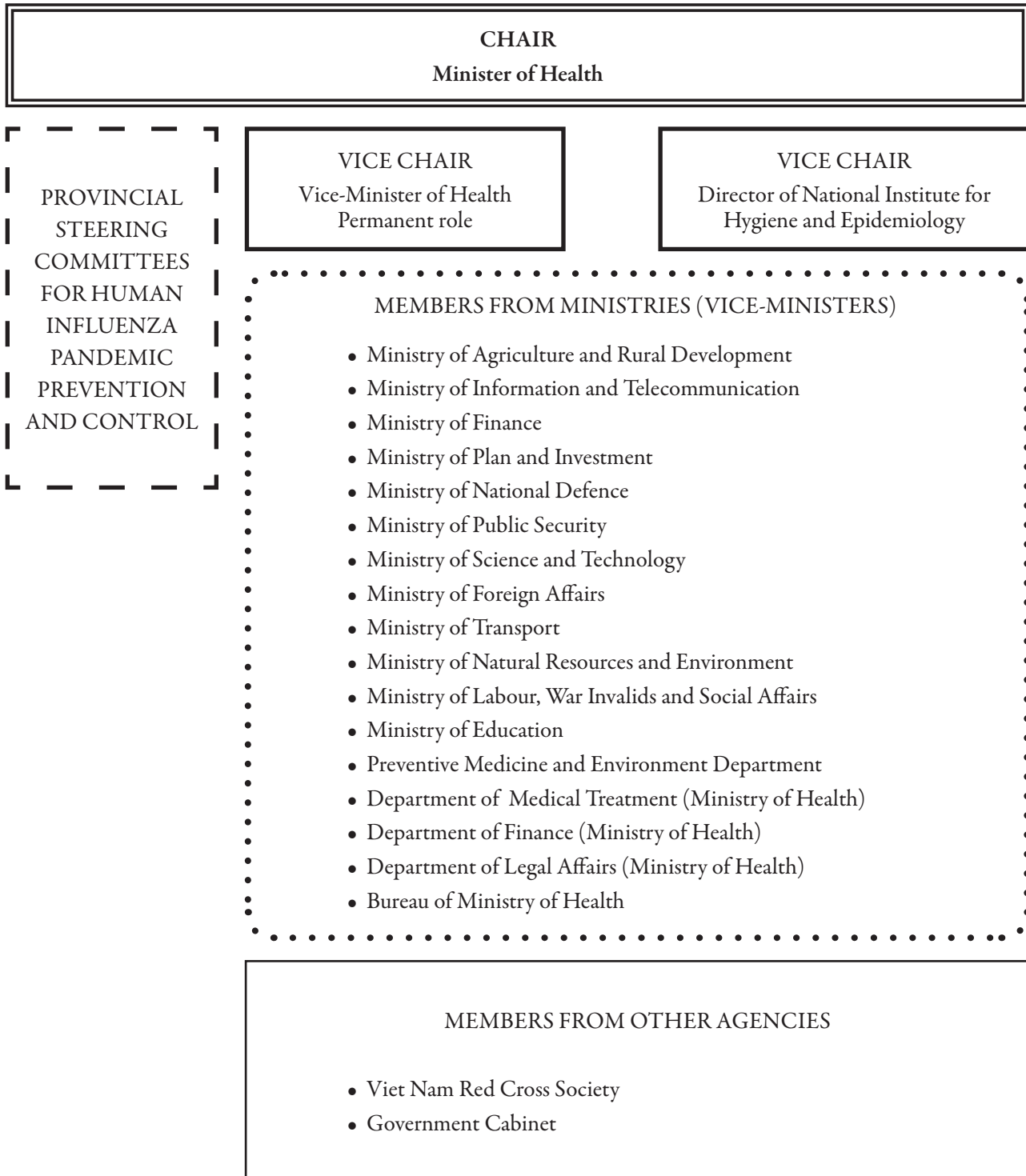
### Steering Committees for disease prevention and control

There is currently no permanent steering committee for communicable disease prevention and control. According to the Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008 (Article 46), following the announcement of a disease, the Government will decide to establish a Steering Committee for that particular emergency. The structure of these ad hoc Steering Committees is described in Article 46.2:

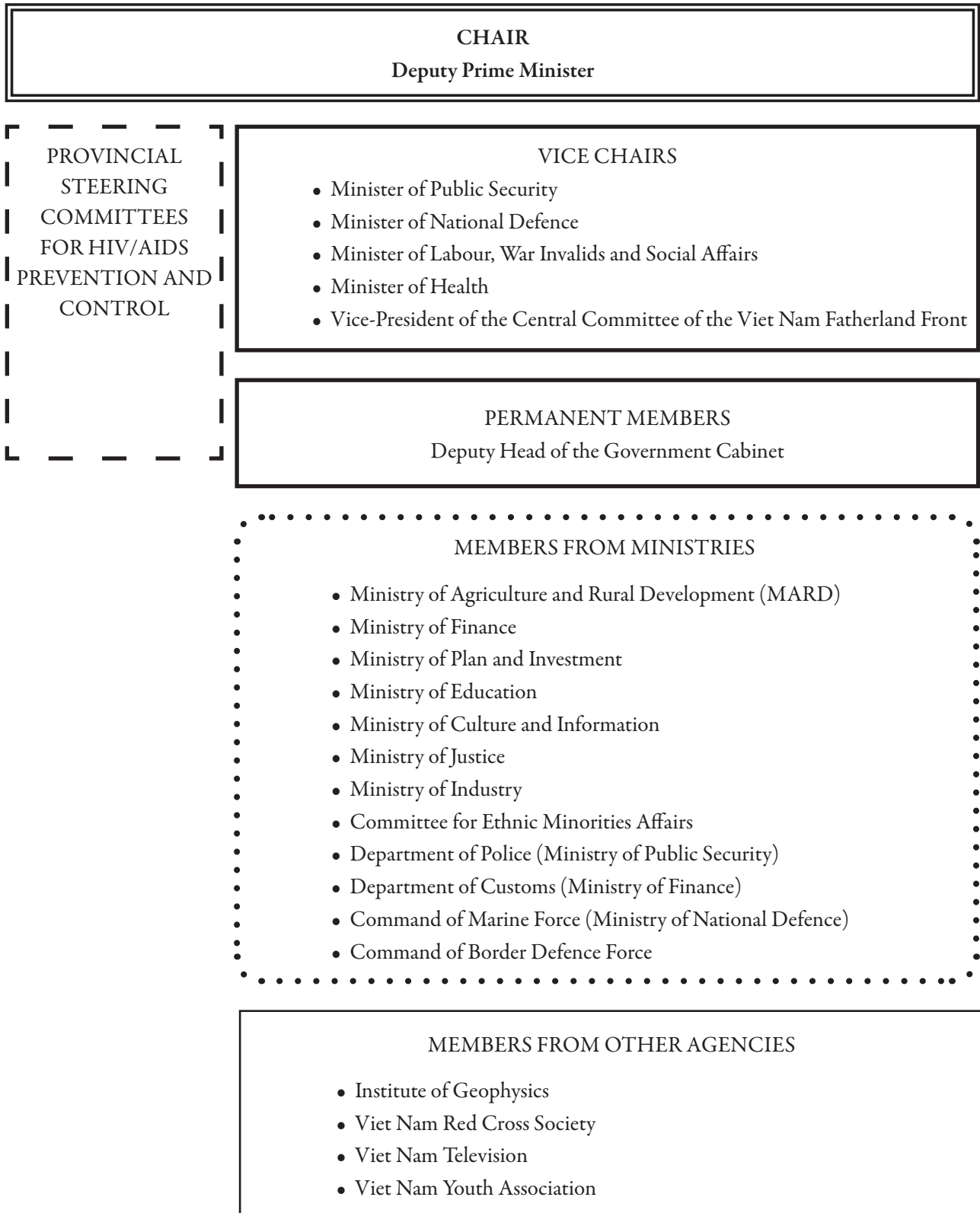
- The National Steering Committee comprises representatives from Ministries and Agencies of Health, Finance, Information, Foreign Affairs, Defence and Public Security. Based on the nature of the disease, the Prime Minister will designate a Vice Prime Minister or the Minister of Health as the Chair. The Ministry of Health is the permanent agency.
- The local Steering Committees comprise representatives from the ministries of Health, Finance, Information, Defence and Public Security. The President of the People's Committee will be the Chair and the Health Service at relevant levels will be the permanent body for disease prevention and control.

To date, there are two National Steering Committees charged with human influenza pandemic and HIV/AIDS prevention and control: the National Steering Committee for Human Influenza Pandemic Prevention and Control<sup>67</sup> and the National Committee for HIV/AIDS Prevention and Control.<sup>68</sup>

**Organization of the Steering Committee  
for human influenza pandemic prevention and control<sup>69</sup>**



**Organization of the National Committee  
for HIV/AIDS, drug and prostitution prevention and control<sup>70</sup>**



In brief, as noted above, there does not exist a permanent steering committee for communicable diseases prevention and control, but the establishment of such a committee will be decided upon the appearance of each disease. This case-by-case approach is similar to disaster response and can mean that arrangements for longer term recovery and rehabilitation may be a challenge.

There may also be some duplication of activities under current structures. For example, the Ministry of Health is at the Head of the Committee for Human Influenza Prevention and Control, whereas the Committee for Avian Influenza Prevention and Control is under the lead of MARD.

### Organization of preparedness and response communicable disease emergencies

Decree no. 71/2002/ND-CP of 23 July 2002 issued by the Government, detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics, which regulates Governmental operations in case of emergency caused, among others, by dangerous communicable diseases, provides for the organization of activities to deal with such emergencies in chapter III (section II). Measures to be taken during an emergency include:

- Organization of the rescue and treatment of affected people (Article 21)
- Quarantine measures for all entry and exit from epidemic areas (Article 22)
- Urgent measures to control diseases (Article 23)
- Transporting medical equipment, drugs and essential goods to epidemic areas (Article 27)
- Organizing urgent disease control equipment (Article 28)

The Decree also makes clear the responsibilities of each agency, organization or individual. Article 30 stipulates that any person lacking responsibility or breaching the Regulation can be administratively sanctioned or examined for penal liabilities, but it does not provide further details. Other legislation and regulations also include the same provisions on responsibilities and penalties.

The Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008 includes a comprehensive procedure to prevent and control communicable diseases including through information, education, advocacy, prevention and hygiene, surveillance and border medical quarantine (chapter III) as well as notification of an epidemic or emergency and implementation of measures against the disease (Chapter IV).

Concerning HIV/AIDS, the Law on HIV/AIDS Prevention and Control, no. 64/2006/QH11 promulgated by the National Assembly on 29 June 2006 provides for the organization of activities of prevention and control against HIV/AIDS, including the preparation for human and financial resources.

The Ordinance on Plant Protection and Quarantine no. 36/2001/PL-UBTVQH10 promulgated by the Standing Committee of National Assembly on 25 July 2001 also includes some articles on measures to prevent and deal with health risks from harmful organisms as well as mechanism for information and reporting by responsible agencies (Articles 10-12). Chapter III also includes quarantine procedures to prevent the entry and diffusion of plant diseases. Additionally, the Ordinance on Veterinary Medicine, no. 18/2004/PL-UBTVQH11 promulgated by the Standing Committee of National Assembly on 12 May 2004 contains measures to prevent animal diseases, including the responsibility of government agencies (Article 10), the declaration of an epidemic (Articles 17, 20), organization of activities against the epidemic (Articles 18, 19), financial mechanisms (Article 22), and the process for animal control and quarantine (chapter III).

To date, a draft of the new Decree on Border Medical Quarantine is being submitted for wide discussion. This decree, if adopted, will replace the old Decree no. 41/1998/ND-CP dated 11 June 1998 by the Government promulgating the Regulation on Border Medical Quarantine which is outdated, and will contribute to the implementation of the Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21st November 2008<sup>71</sup> and the implementation of the IHR. The Decree regulates all aspects of border medical quarantine and provides detailed procedures and necessary forms. Also according to the Decree (Article 19), Quarantine Agencies must be established in each border province in one of two forms: a Border Medical Quarantine Centre or a Border Medical Quarantine Service within provincial preventive medicine centres.

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## Resources and Funding Mechanisms

According to the *Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008*, financial resources for communicable disease preparedness and response are from the State budget and ODA funds (Article 60).

Additionally, various legislation has established different funds for communicable disease prevention and control:

- The Fund to support all activities of prevention and treatment of infected people under the Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008) will be financed by voluntary contributions as well as aid from national and/or foreign organizations and individuals. (Article 60)
- The Fund for animal communicable disease prevention and control established under the Ordinance on Veterinary Medicine, no. 18/2004/PL-UBTVQH11 promulgated by the Standing Committee of National Assembly on 12 May 2004) will be financed by the State Budget, contributions from businesses in the sector, voluntary contributions and aid from national and/or foreign organizations and individuals. These Funds are to be set up at central and provincial levels and will be used to finance the prevention, response, termination and reparation of consequences caused by communicable diseases in animals. (Article 22)

The financial management of voluntary donations or contributions to disaster and communicable disease response is governed by the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients.

In general, resources and funding are expected to come from different sources and are managed by different mechanisms and agencies. However, it would be preferable for such funds to be established and managed in a coherent manner, as consultations with representatives from relevant agencies of the Ministry of Health revealed that the mobilization of resources for response activities from these various sources are sometimes delayed.

## Coordination of international assistance

The Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008, article 56 stipulates that the Ministry of Health shall decide all questions relating to international cooperation in epidemic response. However, in the case of the announcement of a health emergency, it is the Prime Minister who has the authority to call for assistance from other countries and international organizations. The Law is has no instructions on procedures for requesting international relief (including from WHO) and liaising with international aid providers.

This is also the case under the Ordinance on Veterinary Medicine and the Ordinance on Plant Protection and Quarantine.

As noted above, the Decree of the Government detailing the implementation of some articles of the Ordinance on the State of Emergency (2002), Article 4 paragraphs 4d & 4e stipulate that the Steering Committee established in the case of an emergency is the focal point for receiving and using aid of international search and rescue, foreign organizations and individuals, but only after a decision of the Prime Minister.

In exception, the Law on HIV/AIDS Prevention and Control has more detailed provisions on international cooperation. According to its provisions, Vietnamese individuals and organizations are encouraged to cooperate with international organizations (public actors) and foreign individuals and organizations (private actors). But the Law does not establish any procedure for this cooperation.

### Information sharing

The Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008 sets out adequate procedures for ensuring information flow from the various levels of government in Chapter I, Section 1 (information, advocacy, and education on communicable disease prevention and control), section 3 (control of communicable diseases), section 6 (prevention of infection), and Chapter 4, Section 1 (declaration of an epidemic).

The Law also includes provisions on situation reports from the various levels of government including reports on control of communicable diseases (Article 22) and the declaration and reporting of epidemics (Article 47). In particular, procedures for ensuring information flow and consolidated approaches to situation reports from the various levels of government on communicable diseases has been established in detail in the Decision No. 4880/2002/QĐ-BYT of Ministry of Health, dated 6 December 2002, promulgating the Regulation on information and reports on epidemic contagious diseases. However, there is no provision on needs assessment. Article 11 stipulates that the Preventive Medicine and Environment Department (Ministry of Health) may use the information on communicable diseases provided by the WHO, or those available on the internet and other channels of information in making reports to the head of the Ministry. But the Regulation does not discuss the impacts of these types of information on decision making.

## 5.4 Assessment and recommendations

### Good practices

The existing legal framework, especially with the recent adoption of the *Law on Communicable Disease Prevention and Control* 2007 appears to be relatively comprehensive, with clear mechanisms of coordination between governmental actors, responsibility allocation, and financial management, information sharing and reporting.

### Some gaps

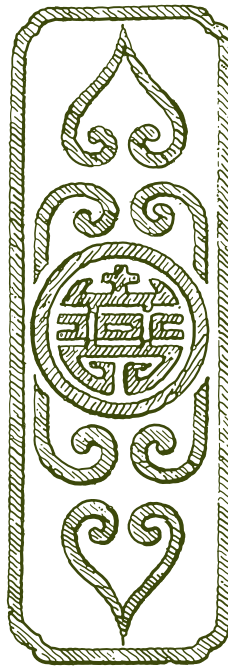
- The case-by-case approach in the organization of Steering Committees for communicable disease prevention and control may lead to challenges in longer term recovery and rehabilitation and create gaps or duplication in the allocation of responsibilities.
- There are a lack of procedures for needs and impact assessments and detailed mechanism of collaboration with international relief.
- A National IHR Focal Point has been established and is functioning but lacks legal provisions on its organization, functions, and operational procedures. As a State Part to the IHR, Viet Nam has a responsibility to designate or establish a National IHR Focal Point and the authorities responsible within its respective jurisdiction for the implementation of health measures under these Regulations (Article 4.1 IHR 2005). For this purpose, countries should adopt legislation (Law/Act/Decree/Order/Decision) concerning designation of National IHR Focal Point in accordance with the IHR ideally following the WHO's model legislation (WHO, *Toolkit for implementation in national legislation: The National IHR Focal Point*, WHO/HSE/IHR/2009.4, January 2009).
- All texts containing provisions on border medical quarantine have been adopted before 2007, prior to the entry into force of the IHR in Viet Nam. Therefore, there are not enough detailed provisions satisfying requirements in the 2005 IHR on core capacity for surveillance and response and for designated airports, ports and ground crossings, set out in Annex 1 of the IHR.

## Recommendations

- Establish a single National Committee for communicable disease prevention and control, with the Prime Minister at the Head. Within the National Committee, different sub-committees may be charged of the management of specific diseases and placed under the permanent responsibility of the most relevant Ministry.
- Adopt a regulation (such as a Ministerial Decision) to supplement the Law on Communicable Diseases Prevention and Control, detailing the needs and impacts assessment task and procedures.
- Adopt a Decree on Financial Management in Disease Control, to provide for the establishment of a fund for communicable diseases which is financed by the national budget and other sources (such as governmental aid and voluntary donations by individuals and organizations). Also, consideration should be given to allocating a minimum percentage of the annual national budget for this purpose.
- Regarding the formalization of coordination with international organizations in preventing and responding to communicable disease, we recommend to adopt a Ministerial Decision establishing a National Focal Point with concrete tasks and functions, as stipulated by the IHR. This entity should be independent from the Ministry of Health and comprise representatives from all related ministries and governmental bodies working in communicable disease prevention and control (such as the MARD, the Ministry of Environment, the Ministry of Information and the Ministry of Education). It should work closely with the Preventive Medicine and Environment (Ministry of Health) and local Preventive Medicine Services, to collect information and reports from communicable diseases state and evolution, ensuring the notification and communication with the WHO. This Agency could also have the authority to request assistance from foreign and intergovernmental organizations in communicable diseases preparedness and response.
- The mechanism for coordination, communication and consultation with NGOs in disease control could be integrated with that on disaster management (see the recommendations above and the discussion in the chapter on the role of civil society organizations below).
- Adopt the new Decree on Border Medical Quarantine which should contain provisions, procedures and forms in conformity with the IHR.



# Chapter 6



## Role of civil society organizations



## Chapter 6

### Role of civil society organizations

#### **Key findings:**

- *The role of civil society organizations, conditions for the operation of foreign NGOs in Viet Nam are well recognized and regulated in law.*
- *There is still a lack of provisions conditioning the operation of Vietnamese NGOs in Viet Nam and of provisions on the coordination of NGOs' activities in Viet Nam, except those in the Law on Red Cross Activities.*

### 6.1 Overview

First of all, it is noteworthy that no legal documents were found containing the terms “civil society” or “civil society organization”. Legislation and regulation on disaster and health emergency preparedness and response use the terms “non-governmental organizations”, “mass organizations”, “social organizations” and “charity organizations”.

There are no clear definitions of these terms, but some legal texts list conditions under which these organizations can operate in Viet Nam.

A foreign non-governmental organization is eligible for an Operating Permit when it fulfills the following conditions:

1. It has legal status under the law of its country or the law of the country where it is allowed to set up its head office
2. It has a well defined statute, guiding principle and objective.
3. It has worked out or has at least conceived a plan for the programmes and projects of development and humanitarian aid in Viet Nam in line with the policy of the Vietnamese State on socio-economic development; it is committed to strictly abiding by the Vietnamese law and the traditional customs and habits of Viet Nam.<sup>72</sup>

A Social Fund or Charity Fund is defined as an NGO having the legal status established by a person or an organization, in order to assist cultural, educational, healthy, scientific, charity or humanitarian activities and other activities for public interest and non-profit making<sup>73</sup>.

Among non-governmental organizations, the Red Cross Society of Viet Nam and its local network plays a key role in humanitarian assistance, as stipulated by the Law on Red Cross Activities, no. 11/2008/QH12 promulgated by the National Assembly on 3 June 2008 and the Decision No. 33/QĐ-BNV of the Minister of Home Affairs dated January 14, 2008, approving the amended Statute of the Viet Nam Red Cross Association, as well as other texts on disaster and health emergency preparedness and response.

### 6.2 Role of Viet Nam Red Cross

Viet Nam Red Cross is a humanitarian organization originally established in 1947.<sup>74</sup> On 5 June 1957, President Ho Chi Minh, representing Viet Nam government, sent an official letter to Swiss Federal Government to ratify the Geneva Conventions, enabling Viet Nam Red Cross to become a member of International Red Cross and Red Crescent Movement and the IFRC, thus widening its scope of activities. The International Red Cross and Red Crescent Movement was officially recognized as member of the International Red Cross and Red Crescent Movement at the General Assembly of International Federation held in New Delhi, India on 4 November 1957. Viet Nam Red Cross is fully responsible for proper implementation of both

humanitarian works and Statutes and Resolutions of the International Red Cross and Red Crescent Movement.

According to the Decision No. 33/QD-BNV of the Minister of Home Affairs dated 14 January 2008, approving the amended Statute of the Viet Nam Red Cross Association, Viet Nam Red Cross is recognized as a social association, functioning in accordance with the Constitution and Law, its Statute and Fundamental Principles of International Red Cross and Red Crescent Movement<sup>75</sup>. It is also able to undertake activities in the humanitarian sector and may cooperate with and facilitate activities of the International Committee of the Red Cross and IFRC.<sup>76</sup>

Article 2 of the Decision grants the Viet Nam Red Cross its legal status and confirms its headquarters in Hanoi with a network organized at four levels (Central, Provincial, District-level and Commune-level). Local branches of the Viet Nam Red Cross are established by the President of Local People's Committees.

The functions of Viet Nam Red Cross are described in Article 3, including general participation in humanitarian activities, disaster preparedness and response, communicable disease prevention and control, and assisting people affected by disaster war or other difficulties. The Decision also stipulates that Viet Nam Red Cross has the role of promoting international cooperation in humanitarian sectors.

The Law on Red Cross Activities, no. 11/2008/QH12 promulgated by the National Assembly on 3 June 2008 also recognizes the role of Viet Nam Red Cross in activities for disaster prevention and response (Articles 2, 7, 11, especially Article 3 on Red Cross activities for disaster preparedness and response), communicable disease prevention and control (Article 8).

Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious accidents and for terminally ill patients clearly mentions the role of Viet Nam Red Cross in the mobilization, receipt, distribution and use of sources of voluntary donations.

Viet Nam Red Cross is also a member of national and local committees for disaster or communicable diseases management at all levels, such as:

- Steering Committees for human influenza pandemic prevention and control
- Committees for HIV/AIDS, drug and prostitution prevention and control
- Steering Committees for flood and storm prevention and control
- Local Committees for search and rescue<sup>77</sup> (but not the National Committee for Search and Rescue)

The Law on Red Cross Activities, no. 11/2008/QH12 promulgated by the National Assembly on 3 June 2008 and the Decision No. 33/QD-BNV of the Minister of Home Affairs dated 14 January 2008, approving the amended Statute of the Viet Nam Red Cross Association include the role of Viet Nam Red Cross in international cooperation as follows:

- Establishment and implementation of programmes or projects on Red Cross activities
- Execution of tasks with the International Red Cross and Red Crescent Movement
- Exchange information and experience on Red Cross activities
- Training for personnel taking part in Red Cross activities
- Signing international agreements on Red Cross activities

In addition, in case of disasters or health emergencies, Viet Nam Red Cross may request for assistance from the International Red Cross and Red Crescent Movement in the country and abroad.<sup>78</sup>

According to Article 25 of the Statutes of Viet Nam Red Cross, financial resources come from contributions of members, national budget allocation, voluntary donations and humanitarian aid. These resources may be used for undertaking activities in disaster preparedness and response, assistance to victims and health care, among others.

The mobilization, receipt, management and use of voluntary donations for Viet Nam Red Cross activities are governed by the Law on Red Cross Activities, no. 11/2008/QH12 promulgated by the National Assembly on 3 June 2008 (chapter IV)

and the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious accidents and for terminally ill patients (Articles 4.2, 5.1, 6.3, 7.3 and 9.1).

The Ministry of Finance has also issued Circulars regulating financial management of some Red Cross activities, such as the Circular no. 07/2005/TT-BTC of Ministry of Finance dated January 18, 2005 on financial management over Red Cross Associations and the Circular no. 60/2002/TT-BTC dated 10th July 2002 guiding the financial management of humanitarian medical examination and treatment establishments under Viet Nam Red Cross.

### 6.3 Role of other civil society organizations

Most legislation and regulations on disaster and health emergencies include provisions for the rights and responsibilities of communities in preparedness and response activities. For example, the Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008 recognizes the right of communities to access information on communicable diseases, but also their responsibility to take preventive measures in order to limit the transmission of diseases. The Law on Dykes no. 79/2006/QH11 promulgated by the National Assembly on 29 November 2006 provides for the responsibility of communities in dyke protection. Other texts also stipulate that communities have the right of access to information on disasters or emergencies and the responsibility to participate in preparedness, mitigation and response.

Viet Nam has a large number of national and international NGOs and grassroots organizations, many of which are active in various aspects of disaster management. Several legal texts on disaster or health emergency management require communication and coordination with NGOs in funding and resource-raising in response to disasters but do not prescribe them any specific roles and responsibilities.

The Regulation on the operation of foreign non-governmental organizations in Viet Nam, issued together with the Prime Minister's Decision No. 340/TTg of 24 May 1996 recognize the role of foreign NGOs in Viet Nam. Article 1 states: "The foreign Non-Governmental Organizations, in order to conduct non-profit activities in development support and humanitarian aid in Viet Nam or other purposes, must have the permission of the Vietnamese Government in these forms: Operating Permit, Permit to establish a Project Office or Permit to establish a Representative Office".

Article 2 sets conditions for foreign NGOs to be granted a Permit:

1. It has the legal status under the law of its country or the law of the country where it is allowed to set up its head office.
2. It has a well defined statute, guiding principle and objective.
3. It has worked out or has at least conceived a plan for the programmes and projects of development and humanitarian aid in Viet Nam in line with the policy of the Vietnamese State on socio-economic development; it is committed to strictly abiding by the Vietnamese law and the traditional customs and habits of Viet Nam.

However, few texts have been adopted to regulate Vietnamese NGO activities. The Decree no. 148/2007/ND-CP dated 25th September 2007 by the Government on the organization and activities of Social Funds and Charity Funds is one of the few legal texts adopted for that purpose. The Decree includes a definition of "Fund" (Article 3) and establishes the financial management mechanism of the fund (Article 4), as well as conditions and procedures for its establishment (chapter II). Chapter III details the organization of activities including the mobilization of contributions and aid (Article 21). Article 22 paragraphs 2 and 11 stipulate that the Fund should send regular reports to the competent authority establishing it and paragraph 6 requires the use of contributions mobilized in accordance with set objectives.

There was no legal text identified to clarify the role of NGOs in policy and decision making on disasters or health emergencies, however the Government has made some efforts to involve civil society organizations in law making and implementation.

The Draft of Law on Associations (not yet adopted) defines Associations as voluntary organizations, regardless of legal

status, able to undertake non-profit activities, except for activities forbidden in Article 9.<sup>79</sup> Associations governed by the Draft of Law on Associations include humanitarian organizations.

Additionally, to implement the National Strategy for Natural Disaster Prevention, Response and Mitigation to 2020, the Central Committee for Flood and Storm Control – Ministry of Agriculture and Rural Development organized the Forum on “Integration of disaster mitigation into socio-economic development planning in Viet Nam and implementation of National Strategy for Natural Disaster Prevention, Response and Mitigation to 2020” with the support of NDMP and in the collaboration with the DIPECHO Advocacy Network Initiative (DANI) project. The forum was organized on 11 March 2008 in Hue City for 36 provinces and cities from Binh Dinh to the North and on 28 March 2008, in Ho Chi Minh City for the remaining 28 provinces and cities from Phu Yen to the South. Over 250 participants attended representing ministries and sectors participating in NDMP, the Viet Nam Red Cross society, of provincial flood and storm control committees, search and rescue, the Departments of Agriculture and Rural Development and Departments of Planning and Investment of 64 provinces and cities, as well as international partners such as the Embassies of Luxembourg, Sweden and Australia, UNDP and some international NGOs such as CARE, CECI, Development Workshop France, Oxfam and Netherlands Red Cross.

Based on the comments received at the Forum, the Central Steering Committee for Floods and Storms Prevention and Control will revise and finalize the draft templates of an action plan to implement the Strategy. There will be an Instruction from the Government or an Inter-Ministerial Circular calling on line ministries and provinces to develop their action plans to implement the Strategy in accordance with official templates.

It is also important to mention the role of the NDMP in promoting the coordination between the Vietnamese Government and other partners. The NDMP was initiated following the serious flooding in seven provinces of Central Viet Nam in 1999. MARD was assigned by the Government as national focal point and the Royal Netherlands Embassy and UNDP were nominated as coordinators of the initiative on behalf of the donor community. The NDMP undertook a number of initiatives and projects on disaster preparedness, mitigation and response in the country.

It was tasked NDMP to support the Vietnamese Government in improving capacity for natural disaster reduction in three aspects: 1) Managing and sharing information for improved coordination among partners, awareness and community involvement for effective natural disaster reduction; 2) Advising the government on legislation, policies, and strategies on natural disaster risk management; 3) Facilitating the development of institutional capacity for an integrated approach to natural disaster reduction at the central and provincial levels; and 4) Facilitating the development and funding of priority disaster mitigation projects.

In order to achieve the above objectives, a two-track approach was adopted by the Partnership:

- Support the Government and local communities in developing good policy framework and institutional capacity to implement national and local priorities for disaster mitigation.
- Support the prioritization of interventions in disaster reduction that forms an integral part of development policies and planning and facilitate fund mobilization for and deployment of priority projects suiting to development strategies of Government, Donors and NGOs.

In its role as a national focal point for information sharing in relation to disaster management, NDMP sought to establish a broad network for information sharing among line ministries, provinces and sectors, including national and international organizations working in the field of natural disaster management in Viet Nam. A list of focal point agencies involved in managing disasters in Viet Nam was also developed.

Some other groups or forums working in the sector of disaster or disease control in Viet Nam have also impacted on legal preparedness and response:

- Disaster Management Working Group (DMWG): created in 1999 bringing together NGOs, the Government (through NDMP) and UN agencies (through the UN's PCG 10). The group is currently chaired by PCG 10. Based on discussions at monthly meetings, members take on joint activities related to disaster reduction and management.

- Partnership for Avian Human Influenza (PAHI)<sup>80</sup>: established on 1 November 2006 by the Government of Viet Nam (represented by the Chair of the National Steering Committee for Avian Influenza) together with representatives of UN agencies, bilateral and multilateral donors, non-governmental organizations and research agencies. The purpose of the Partnership is to facilitate implementation of Viet Nam's National Integrated Operational Programme for Avian and Human Influenza 2006-2010, also known as the Green Book or OPI. The Green Book has been endorsed by the Government of Viet Nam and international partners as the medium-term country programme on Avian and Human Pandemic Influenza, with the overall objective to reduce the health risk to humans from avian influenza: (i) by controlling the disease at source in domestic poultry, (ii) by detecting and responding promptly to human cases, and (iii) by preparing for the medical consequences of a human pandemic.
- Joint Advocacy Networking Initiative (JANI)<sup>81</sup>: a joint initiative of fourteen agencies including the Development Workshop France; CARE International in Viet Nam; Save the Children Alliance; Spanish Red Cross; Netherlands Red Cross; Centre for International Studies and Cooperation; World Vision International; Asian Disaster Preparedness Centre; World Health Organization; Action Aid Viet Nam; ADRA; Natural Disaster Management Partnership; Oxfam and the Viet Nam Women's Union. Each organization is implementing its own activities with communities to improve disaster preparedness in Viet Nam. JANI aims to improve information sharing and coordination between the partners and to promote the benefits of community based disaster risk management among all levels of government. Activities include: workshops, trainings, exercises and media campaigns.

#### 6.4 Management and coordination of non-governmental organization activities

The management and coordination of foreign NGO activities are governed by the Regulation on operation of foreign non-governmental organizations in Viet Nam, issued together with the Prime Minister's Decision No. 340/TTg of 24 May 1996. The Steering Commission of Non-Governmental Organizations, established in 1993<sup>82</sup> and the Working Committee for Foreign Non-Governmental Organizations has been established in 1993<sup>83</sup> are in charge of assisting the Prime Minister in directing and handling matters related to Vietnamese and foreign non-governmental organizations operating in Viet Nam.

According to Article 2 of the 2001 Decision, the Working Committee for Foreign Non-Governmental Organizations, with a Vice Minister for Foreign Affairs at the head, is tasked to:

- Propose strategies and policies concerning foreign non-governmental organizations operating in Viet Nam; coordinate with the concerned agencies in guiding, supervising and inspecting the implementation of law and policies related to activities of foreign non-governmental organizations.
- Manage the consideration, granting, amendment and withdrawal of the operation licenses, permits for establishing project offices, permits for establishing representative offices of foreign non-governmental organizations in Viet Nam according to the Regulation on operation of foreign non-governmental organizations in Viet Nam.
- Periodically report to the Prime Minister on the operation of foreign non-governmental organizations in Viet Nam.
- Perform other duties on foreign non-governmental organizations, which are assigned by the Prime Minister.

The Steering Commission of Non-Governmental Organizations, with the Head of the Office of the Government as chair, has been assigned similar tasks with regard to Vietnamese NGO activities.<sup>84</sup>

However, no text contains detailed provisions specific to the coordination of disaster management and emergency activities, or procedures for undertaking communication and consultations with these organizations.

#### 6.5 Assessment and recommendations

##### Overall assessment

The Law on Red Cross Activities (2008) clearly recognize the role of the Viet Nam Red Cross in humanitarian assistance

during disaster situations or health emergencies, as well as in international cooperation relating to Red Cross activities.

- The role of foreign NGOs in humanitarian assistance is recognized by the Regulation on operation of foreign non-governmental organizations in Viet Nam.
- The role of Vietnamese mass organizations in humanitarian assistance is also recognized in relevant legislation or regulation, particularly in the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious accidents and for terminally ill patients.
- The management of NGO activities are well established in law, with the establishment of Committees for NGOs, but these are not specific to disaster management or communicable disease control and do not contain provisions on the coordination of their activities.
- There are relatively few provisions for the operation of Vietnamese NGOs, except for activities relating to Charity or Social Funds, while in fact, many mass organizations can and do participate in humanitarian assistance during disasters and other emergencies.

### Recommendations

- The Draft Law on Associations covers a range of associations, including organizations not working in the humanitarian sector, however it is not known when the Law will be adopted. It is recommended to also adopt a specific regulation to establish conditions and mechanisms for Vietnamese mass organizations, NGOs and civil society organizations to operate in Viet Nam during disaster or health emergencies in particular. It should contain provisions on the scope of their operations as well as procedures for consultation and coordination.
- The establishment of Committees for NGOs should include provisions on the tasks of these Committees in relation to the coordination of NGO activities, including for disaster and health emergencies.
- The Regulation on the operation of foreign NGOs in Viet Nam should be amended to include procedures for the communication and consultation with NGOs during disaster and health emergencies.





## **Early warning and declaration of a disaster or communicable disease emergency**

## Chapter 7

### Early warning and declaration of a disaster or communicable disease emergency

#### Key findings:

- Government responsibilities for early warning and the declaration of disaster are divided between many different committees, ministries and departments and different mechanisms depending on the type of disaster (such as flood/storm, tsunami, radiation and fire), rather than taking a multi-hazard approach.
- There are no clear timelines for disaster early warning and declarations.
- There is a lack of clarity surrounding the process of officially declaring a disaster situation.

### 7.1 Early warning for disaster

#### Overall system of early warning for disaster

The overall system of early warning for disaster in Viet Nam from central to local levels is described in the National Progress Report on the Implementation of Hyogo Framework for Action in 2008<sup>85</sup>, as follows:

Disaster early warning information has been disseminated through two channels: a government system, and a mass media system (television and radio). The government system disseminates the information down to local communities through the communication networks of the Central Steering Committee for Flood and Storm Prevention and Control by using telephone, fax, and finally by loudspeaker systems to local communities. In some isolated areas the dissemination of early warning messages and reports on disaster situations is difficult due to poor communication systems such as the lack of landline or mobile phone systems. However, the Voice of Viet Nam (VOV) radio, in collaboration with relevant agencies, also assists to disseminate timely information on disaster situations as well as response and recovery activities.

In 2008, Voice of Viet Nam completed all the procedures to start the first phase of the “East Sea radio signal coverage project” which can cover sea areas of up to 3,500km. It also built small and medium radio stations at northern mountainous areas, valleys, and weak signal areas. It is planned that by 2009, 99 per cent of all residential areas will be covered by radio signal in order to effectively disseminate the disaster information to isolated and remote areas.

At provincial level, warning messages received from the Central Steering Committee for Floods and Storms Prevention and Control are passed on to the district, which in turn is passed to the commune. Although daily weather forecasts are shown on Viet Nam TV and radio, warnings are also provided using telephone and faxes to all provinces.

#### Responsibilities for early warning for disaster

Two texts can be cited here that provide for early warning:

- Decision no. 245/2006/QĐ-TTg dated 27 October 2006 by the Prime Minister promulgating the Regulation on announcement of tropical depressions, typhoons, hurricanes and floods.
- Decision no. 264/2006/QĐ-TTg dated 16th November 2006 by the Prime Minister promulgating the Regulation on Earthquake Announcements and Tsunami warning.

According to the Decision no. 245/2006/QĐ-TTg dated 27th October 2006 by the Prime Minister promulgating the Regulation on announcement of tropical depressions, typhoons, hurricanes and floods (Article 3), early warning systems and dissemination about flood and weather forecasting are the responsibility of the Ministry of Natural Resources and Environment. The Decision also defines concrete tasks of related entities:

- Placed within the Ministry, the National Centre of Meteorology and Hydrology is charged with permanent



management of early warning systems and dissemination about tropical depressions, typhoons, hurricanes and floods (Article 12.1).

- The Central Steering Committee for Floods and Storms Prevention and Control receives and treats information from the Ministry of Natural Resources and Environment and supplies immediately practical information on tropical depressions, floods and storms to the Ministry (Article 12.2).
- The National Committee for Search and Rescue receives and treats information from the Ministry of Natural Resources and Environment and supplies immediately practical information on tropical depressions, floods and storms to the Ministry (Article 12.3).
- Viet Nam Television, the Voice of Viet Nam radio and daily newspapers, upon the receipt of warning from relevant agencies, conduct timely and prompt dissemination of the information.

According to the Decision no. 264/2006/QĐ-TTg dated 16 November 2006 by the Prime Minister promulgating the Regulation on Earthquake Announcements and Tsunami Warning (Article 4.1), the National Institute of Geophysics is the only agency having authority to launch early warning on earthquake and tsunami.

Concerning forest fire early warning, the Decision No. 127/2000/QĐ-BNN-KL of 11 December 2000 promulgating the Regulation on grades of forest fire forecast and alarm and measures to organize forest fire prevention and control (Article 3) stipulates that the Local Forest Protection Department is responsible for forest fire early warning. Article 12 provides for the establishment of the National Centre for forest fire forecasting, which is responsible for the network of forest fire forecasting and early warning. Provincial Steering Committees, in coordination with local Centres of Hydrology and Meteorology are responsible for the organization of forecasting and early warning operations.

Concerning nuclear accidents, the Decree no. 50/1998/ND-CP promulgated by the Prime Minister dated 16 July 1998 detailing the implementation of the Ordinance on radiation safety and control (Articles 20.5 & 22) stipulates that the Ministry of Science, Technology and Environment<sup>86</sup> is responsible for early warning and declaration of nuclear accidents on mass media. However, the 2008 Law on Nuclear Energy (chapter X) is less clear on early warning and declaration responsibility. Article 84.8 only stipulates that the Ministry of Foreign affairs, in coordination with the Ministry of Science and Technology, has the authority to request international assistance in case where the accidents have cross-border impacts. Article 85 establishes principles for information dispersion on the mass media.

For each type of disaster, the relevant Ministry and/or Steering Committee will be responsible for determining the need for communication and making the communication specified. Concretely:

- In case of flood and storm, parties responsible are the Central Steering Committee for Flood and Storm Prevention and Control<sup>87</sup>, the Department for Dyke Management and Flood and Storm Prevention and Control<sup>88</sup> and the MARD<sup>89</sup>.
- In case of earthquake and tsunami, the Ministry of Natural Resources and Environment<sup>90</sup> is responsible.
- In case of accidents at sea, the National Committee for Search and Rescue, the Viet Nam Maritime Search and Rescue Coordination Centre and the Central Steering Committee for Flood and Storm Prevention and Control<sup>91</sup> are responsible.
- In case of fire, there is no clear provision but Article 58.2, Law on Fire Prevention and Control stipulates that the Ministry of Public Security is responsible for fire prevention and control. In case of forest fire, according to Articles 38-39 of the Law on Forest Protection and Development of 2005, local popular committees shall have the decisive authority in fire fighting, including the MARD.

Despite the number of instruments, the communication mechanisms,

#### Some Indicators for Early Warning Systems:

- *National legislation clearly indicates roles and responsibilities of all stakeholders including which agencies are responsible for generating and disseminating hazard warnings to the public.*

IISDR/UNOCHA HFA Priority Five Guidance and Indicator Package (2008), Indicator 2.3

- *The Parties shall, as appropriate, establish, maintain and periodically review national disaster and early warning arrangements.*
- *The Parties shall cooperate, as appropriate, to monitor hazards which have transboundary effects, to exchange information and to provide early warning information and to provide early warning information through appropriate arrangements.*

See ASEAN AADMER (2005), Articles 7(1)-(2)

particularly concerning multiple types of hazards, are not clear and the fact that so many departments are involved may delay the communication process.

### Procedures for early warning for disaster

Procedures for early warning for tropical depressions, typhoons, hurricanes and floods are stipulated in the Decision no. 245/2006/QĐ-TTg dated 27 October 2006 by the Prime Minister promulgating the Regulation on announcement of tropical depressions, typhoons, hurricanes and floods in Chapter II on mechanisms for early warning). The chapter provides for the types of information to be disseminated, content for each type of information and the frequency of the dissemination.

Procedures for early warning for earthquake and tsunami are stipulated in the Decision no. 264/2006/QĐ-TTg dated 16 November 2006 by the Prime Minister promulgating the Regulation on Earthquake Announcements and Tsunami warning in Chapter II on the collection of data, early warning and dissemination of information. Concretely, Article 4 establishes a procedure for early warning and communication between relevant entities. The Institute of Geophysics must communicate to the Central Steering Committee for Flood and Storm Prevention and Control and the National Committee for Search and Rescue, as well as the mass media and other agencies listed in the Annex III. Information disseminated by these other agencies must be exactly as provided by the Institute. Articles 5 to 9 specify the types of information to disseminate, as well as the content of the information. Article 10 stipulates the frequency of information dissemination.

Procedures for forest fire early warning are less clear. Decision No. 127/2000/QĐ-BNN-KL of 11 December 2000 promulgating the Regulation on grades of forest fire forecast and alarm and measures to organize forest fire prevention and control, seems to integrate warning procedures within the procedures for declaring a forest fire (see chapter II on alarm levels and declaration of forest fire alarms). Article 4 describes different forest fire alarm levels and concrete measures to be implemented for each level, as well as the mechanism for disseminating information on forest fire.

Procedures for nuclear incident warning are also not very detailed. In the Decree no. 50/1998/ND-CP promulgated by the Prime Minister dated 16 July 1998 detailing the implementation of the Ordinance on radiation safety and control, Chapter III on Responsibilities for Handling Radiation Incidents identify the levels of different radiation incidents (Article 18) and stipulates that when a radiation incident occurs, the 'radiation establishment manager' shall notify to the Ministry of Science, Technology and Environment which will launch the warning through mass media.<sup>92</sup>

In case of oil spills, information must be provided immediately to one of a number of different entities including: the nearest Coastal and Marine Port Authorities, the relevant Ministry or People's Committee, the Service of Natural Resources and Environment, the Centre for Responding to Oil Spills, or the Provincial People's Committees. Upon the receipt of information, the relevant authorities must adopt a plan of response and report to the Centre for Responding to Oil Spills, the Provincial People's Committees and the National Committee for Search and Rescue.<sup>93</sup>

### Declarations of disaster

Due to the lack of a multi-hazard definition of "disaster", a range of processes for declaring different types of disaster is found throughout numerous regulations and legislation. However, in most cases, there is a lack of clarity surrounding the process and it is often confused with the process of early warning and notification, such as in the case of floods, storms, earthquakes and tsunamis as described above.

The same assessment could be made in the case of nuclear incidents. Decree no. 50/1998/ND-CP promulgated by the Prime Minister dated 16 July 1998 detailing the implementation of the Ordinance on Radiation Safety and Control (Articles 20.5 and 22) stipulates that the Ministry of Science, Technology and Environment provides official information on the radiation incidents to the mass media. While there is no provision on making an official declaration, the Decree set up a clear mechanism of notification between relevant organizations. In this regard, Article 19 states that, when a radiation incident occurs, the 'radiation establishment manager' shall have to notify:

- The direct managing agency and the State management agency in charge of radiation safety and control under the Ministry of Science, Technology and Environment, if the incident is at level 1;

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- The State management agency in charge of radiation safety and control under the Ministry of Science, Technology and Environment, his/her direct managing agency, the People's Committees of district/provincial town and of province/city directly under the Centre Government, if the incident is at level 2; or
- The competent authorities to evacuate local population from dangerous areas if the incident is at level 3.

Moreover, since 1987, Viet Nam has been a State Party to the Convention on Early Notification of a Nuclear Accident of 1986. According to this Convention, States Parties commit that, in the event of a nuclear accident that may have transboundary radiological consequences, they will notify countries that may be affected and the International Atomic Energy Agency (IAEA)<sup>94</sup>, and provide relevant information on the development of the accident. The IAEA in turn informs States Parties, Member States and other States that may be physically affected as well as relevant international organizations, of a notification received and promptly provides other information on request.

According to Decision No. 127/2000/QĐ-BNN-KL of 11 December 2000 promulgating the Regulation on grades of forest fire forecast and alarm and measures to organize forest fire prevention and control (Article 6), the Ministerial Steering Committee for Forest Fire Prevention and Control shall propose to the MARD to declare an Alarm, based on forecast information from the National Centre of Meteorology and Hydrology and local Forest Fire Forecasting Stations.

## 7.2 Assessment and recommendations

Although there are procedures in place for early warning and declaring disasters, there are many different procedures involved across a wide range of instruments. This is due in part to the lack of a multi-hazard definition of disaster and may lead to gaps or overlapping responsibilities given the many different entities involved.

There is also an absence of a clear timeline for disaster early warning dissemination and for the declaration of a disaster.

### Recommendations

The new Law on Disaster Risk Management and implementing regulations should:

- Establish a uniform disaster early warning and declaration system in which the proposed National Committee for Disaster Management shall receive information and notification on potential hazards and launch early warning through clearly defined channels. The proposed National Committee for Disaster Management should also have the exclusive authority to determine the need for making official announcements about disaster situations based on well defined criteria, and to declare a disaster.
- Include, where possible, time indicators for communicating early warning information to ensure that it reaches communities, national and local authorities and other organizations to allow maximum time to prepare and respond.
- Establish criteria and an expeditious process for the public declaration of different levels of disaster to trigger the appropriate level of response (provincial, national, international). This should be distinguished from a 'state of emergency' provided under the Ordinance on State of Emergency no. 20/2000/PL-UBTVQH promulgated by the Standing Committee of National Assembly on 4 April 2000.

## 7.3 Surveillance and notification of communicable disease outbreaks

### Key findings:

- *Although the laws and regulations in this area are quite well developed, there is a lack of procedures for notifying international partners about communicable diseases emergencies and is a lack of detailed provisions for the notification of communicable diseases from Border Quarantine Agencies.*

At the cross-border and regional levels, the Vietnamese Government has signed agreements on border medical quarantine with several countries in the region such as China, Cambodia, Laos in order to ensure better communication, prevention, and response to communicable disease and disease emergency at the border.<sup>95</sup>

The surveillance and notification of communicable disease outbreaks are governed in various legal texts, but the most comprehensive mechanism is provided by the legislations and regulations on communicable diseases prevention and control:

According to the Law on Communicable Disease Prevention and Control, no. 03/2007/QH12 promulgated by the National Assembly on 21 November 2008 (Article 38), all communicable diseases must be announced and the announcement must be exact and timely. Depending on type of diseases, the announcing authority may be the Prime Minister, the Minister of Health or the President of the Provincial People's Committee. Article 38 also proscribes a deadline for disease announcement of within 24 hours from the receipt of disease announcement proposal (respectively from the Minister of Health, the President of the Provincial People's Committee or the Director of Provincial Health Service).

Article 39 clarifies the content of disease announcement and Article 40 provides for the authority and conditions for the announcing the end of a communicable disease threat.

The surveillance and notification mechanism of communicable disease outbreaks is completed by the Decision No. 4880/2002/QĐ-BYT of Ministry of Health, dated December 6, 2002, promulgating the Regulation on information and reporting on epidemic contagious diseases. The system of information and notification is described in Article 5. Article 6 stipulates that within 24 hours following the detection of a communicable disease causing large number of infections or deaths (whether it is a known or unknown disease), the competent organization should notify immediately and directly the Ministry of Health and Provincial Institutes for Hygiene and Epidemiology by telephone, fax or email. Articles 7 and 8 establish a mechanism for weekly and monthly notification and reporting.

Concerning communicable diseases occurring outside the country, Article 9 stipulates that the Ministry of Health has exclusive authority for notification. However, there is no provision on responsibility and procedures for notification to international organizations and foreign government.

All information on communicable diseases are required to be sent to the Preventive Medicine and Environment Department (Ministry of Health) because this department is responsible for the management of the communicable disease database.<sup>96</sup>

Decree no. 71/2002/ND-CP of 23 July 2002 issued by the Government, detailing the implementation of a number of articles of the Ordinance on the State of Emergency in case of great disaster or dangerous epidemics deals with emergency situations caused by dangerous communicable diseases. In these instances, the Standing Committee of the National Assembly or the President of State will announce a State of Emergency (Articles 1 and 2). However, the Decree does not establish a procedure for the announcement, stipulating only the implementation of measures afterwards.

According to the Ordinance on Plant Protection and Quarantine no. 36/2001/PL-UBTVQH10 promulgated by the Standing Committee of National Assembly on 25th July 2001 (Article 11.2), "when harmful organisms grow quickly and densely on a large scale, posing a danger of seriously damaging plant resources in the area of a province or centrally-run city, the President of the People's Committee of such province or city shall consider and decide to declare the plague, then report it to the Minister of Agriculture and Rural Development. Where the plague occurs in an area covering two or more provinces, the Minister of Agriculture and Rural Development shall consider and decide to declare the plague, then report it to the Prime Minister." The Ordinance is not clear in the timeline for the announcement of diseases.

The Ordinance on Veterinary Medicine, no. 18/2004/PL-UBTVQH11 promulgated by the Standing Committee of National Assembly on 12 May 2004 deals particularly with the announcement of animal communicable diseases. According to Article 3.11 and Article 17, the announcement will only be made in case of diseases listed in the List A (defined as "the list of dangerous animal contagious diseases, which cause great economic damage or possibly spread to human beings and must be announced as epidemics" – Article 3.11). According to Article 10, the MARD and the Ministry of Fisheries have the responsibility to decide to announce epidemics, epidemic zones, epidemic-threatened zones, buffer zones (paragraph 2d). The People's Committees of the provinces and centrally-run cities have the responsibility to decide to announce epidemics, epidemic zones, epidemic-threatened zones, buffer zones in their respective localities (paragraph 3b). Article 17 establishes the conditions to be fulfilled before the announcement of an animal disease and Article 18 provides for the organization of controlling epidemics in epidemic zones following the disease announcement. The Ordinance does not stipulate a timeline

for the disease announcement.

Another channel for the surveillance and notification of communicable diseases is through the Quarantine Groups located at airports and major border crossings, established by the President of Provincial People's Committee. These are established in two forms: the Border Medical Quarantine Centre or the Border Medical Quarantine Service within the provincial Preventive Medicine Centre (Article 19, Draft Decree on Border Medical Quarantine, which will replace the old Decree no. 41/1998/ND-CP dated 11 June 1998 by the Government promulgating the Regulation on Border Medical Quarantine). Their duties include monitoring for infectious sources in goods, identifying infected persons, issuing identification cards to infected travellers and transporting them to hospital, as well as responsibilities for dead body management (in Chapter II). However, there is no clear provision on their responsibility, as well as process, for notification of detected communicable diseases.

The Decree no. 29/CP dated 2 April 1997 promulgating the Regulation on the coordination of activities of the state management agencies at civil airport and airfields also does not have any provision on notification between relevant organizations.

Concerning the notification of international partners, in practice there is reported to be a mechanism for the government to notify the WHO, but no legal text has been provided on this. As noted above, the Regulation on information and reports on epidemic contagious diseases provides only the reception of information on international diseases from WHO. The Department for Medicine prevention and Environment has been designated as National IHR Focal Point but until now, there is not any legal text on its function and activities, as described previously.

According to the Law on Communicable Disease Prevention and Control of 2007, the Ministry of Health has the authority to decide and coordinate with other bodies for the communication and information on diseases (Article 12.2). But no specific provision exists on the mechanism of communication to WHO. Article 38 reinforces that the Prime Minister, the Minister for Public Health or the Head of the Provincial Popular Committee will announce the epidemic situation depending on types of diseases, within 24 hours from the receipt of the request.

While current provisions on communicable diseases (including the Law on Communicable Disease Prevention and Control 2007 and the Regulation on information and reports on epidemic contagious diseases) do not generate any delays in communication of health emergency, in practice to some experts have suggested that the Government will also take into consideration of a number of other variable interests (economic and political) before announcing a communicable disease emergency, which may delay the communication.

## 7.4 Assessment and recommendations

Although the laws and regulations in this area are quite well developed, there is a lack of procedures for notifying international partners about communicable diseases emergencies and is a lack of detailed provisions for the notification of communicable diseases from Border Quarantine Agencies.

### Recommendations

- The National IHR Focal Point identified in the previous chapter on institutional arrangements should ensure notification and communication to international entities on communicable diseases, particularly the WHO. The procedures of notification should therefore be provided in the Decision establishing the National Focal Point.
- The Regulation on information and reports on epidemic contagious diseases of 2002 should be amended to include the role of the National IHR Focal Point and the task of notification and communication to international organizations.

Provisions on notification of communicable diseases by Border Quarantine Agencies should be included in the new Decree on Border Medical Quarantine.

# Chapter 8



## Requests for international assistance

## Chapter 8

### Requests for international assistance

#### **Key findings:**

##### Disaster

- A number of different legal instruments include the possibility of receiving international assistance, but these are generally limited to specific types of disaster situations.
- International assistance may be channeled through the Viet Nam Fatherland Front organizations, the Viet Nam Red Cross, or through charity and social funds as stipulated in Article 4 of Decree 148/2007/ND-CP dated 25 September 2007.
- There is a lack of clarity as to when a situation has resulted in ‘serious consequences’ or a ‘great loss of life’ which may then lead to a request for international assistance being made.
- There are few details on the process of making requests for international assistance and current laws do not specify how or what information will be communicated. Nor do they establish a timeline for making such requests (with one exception under Article 7 of Decree 64/2008/ND-CP)
- There are no specific provisions under Viet Nam’s laws about contacting the Office for the Coordination of Humanitarian Affairs/Emergency Relief Coordinator (OCHA/ERC) for support; however the procedures for requesting international assistance through non-state actors such as the Red Cross or non-governmental organizations are regulated in various instruments.
- Although Viet Nam has ratified the ASEAN Agreement on Disaster Management and Emergency Response, its provisions concerning the receipt and coordination of international assistance have not yet been implemented (and this agreement has yet to come into force as it has not been ratified by all ASEAN Member Countries).

##### Communicable disease

- There are no specific provisions concerning cooperation with WHO as required under the IHR, but in practice the Government has been welcoming of WHO-coordinated activities and acting on their expert advice.

### 8.1 General provisions

Viet Nam’s law, in line with the IDRL Guidelines, provides for requests for external disaster relief. The mechanism for requesting international assistance is not specified in one single legal instrument but rather incorporated into various national legislations dealing with different kinds of disasters and serious incidents. Therefore, an exhaustive list of criteria for requesting international assistance cannot be found in one instrument concerning disaster response and management. In general, however, requests for international assistance may be made when natural disasters, fires, dangerous diseases or serious incidents occur which result in serious consequences in or great loss of life and properties.<sup>97</sup> The extent to which losses may be considered ‘great’ or ‘serious’ is not described. The Law on Communicable Disease Prevention and Control of 2007 envisages that requests may be made after there has been a declaration of a state emergency<sup>98</sup> and accords responsibility to the Ministry of Health for international cooperation

- If an affected State determines that a disaster situation exceeds national coping capacities, it should seek international and/or regional assistance to address the needs of affected persons.
- The affected State should decide in a timely manner whether or not to request disaster relief or initial recovery assistance and communicate its decision promptly.

See IDRL Guidelines (2007), Article 10(1)

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and the Prime Minister for calling on foreign countries and international organizations to support resources and coordinate efforts in implementing measures for preventing epidemic transmission.<sup>99</sup> Otherwise, requests for assistance are made on a case-by-case basis.<sup>100</sup>

The laws and regulations do not go into detail on the process of making requests for external assistance. Nor do they specify the level of detail to be included in such requests. Similarly, most of the laws and regulations on disaster response do not establish a timeline for making such requests except for one occasion where it was required that mobilization should be initiated, at the latest, 3 days after the occurrence of the natural disaster, fire or serious accidents.<sup>101</sup>

## 8.2 Requirements for a request for international assistance

As stated above, official requests are generally made when it is ‘necessary’ and in order to avoid ‘serious consequences’. However, the Law Communicable Disease Prevention and Control of 2007 does provide that an official request can be made by the Prime Minister to other states and international organizations to provide resources to control the disease and coordinate the implementation of measures to prevent the spread of the disease after a declaration of emergency has been issued.<sup>102</sup>

In such cases, the law provides a very clear process and identifies the authorities responsible for making a declaration of emergency. Specifically, a declaration of emergency of diseases shall be made when the disease spreads rapidly and widely, posing serious threats to human lives and health, and to the socio-economic situation of the country.<sup>103</sup> The content of the declaration should include: (i) the reason for the declaration, (ii) the locality of the state of emergency, (iii) the date and time at which the state of emergency will begin and (iv) the authority to issue or withdraw the declaration of emergency.<sup>104</sup> The Prime Minister has the responsibility to propose the issuing or withdrawal of the declaration.

The Standing Committee of the National Assembly is also required to issue a decree declaring the state of emergency at the request of the Prime Minister. In the event that the Standing Committee cannot hold a meeting immediately, the President will issue the declaration of emergency.<sup>105</sup> After the disease has been prevented or terminated, at the proposal of the Prime Minister, the Standing Committee of the National Assembly or the President shall issue a withdrawal of the declaration of emergency issued.<sup>106</sup> The law also provides for the responsibilities of other agencies such as of Viet Nam News Agency, Voice of Viet Nam, Viet Nam National Television, The People Newspaper, The People’s Army Newspaper as well as the local media to broadcast and distribute the decisions and decrees of the government to the people.<sup>107</sup>

Although there are no specific provisions about contacting OCHA/ERC for support, requests through the general humanitarian community and non-state actors such as the Red Cross and NGOs are addressed in various instruments. In particular, the law provides that the Viet Nam Red Cross shall make requests for donations through the Red Cross system domestically and internationally.<sup>108</sup> In addition, the organization and operation of the Red Cross are clearly regulated by a number of other legal instruments as described above.<sup>109</sup>

### ASEAN Arrangements

- *If a Party needs assistance in the event of a disaster emergency, it may request it from any other Party, though the AHA Centre or from other entities.*
- *The requesting Party shall specify the scope and type of assistance required by an Assisting Entity, or if not possible, jointly assess and decide on assistance required.*
- *In the event that the Party requires assistance to cope with a disaster situation, it may seek assistance from the AHA Centre to facilitate such requests.*

See AADMER (2005), Articles 11 and 20(2)

Concerning NGOs, there are several provisions about requesting their assistance. Specifically, the mobilization of NGO aid is determined by the Ministry of Foreign Affairs working with the concerned agencies, which makes a submission to the Prime Minister for a final decision on the proposed level of emergency relief.<sup>110</sup> NGO aid is also mentioned as a financial resource for the prevention and control of floods and storms, including the management and implementation of NGO aid.<sup>111</sup>

## 8.3 Acceptance of offers of assistance

Besides requesting external assistance, the IDRL Guidelines provide



that an affected state may also accept foreign offers. Under Viet Nam's various laws and regulations on disaster response and management, the acceptance of foreign offers is not common. Only in one instance was there found there a provision concerning foreign offers, which provided that in the event of an offer from a competent Rescue Centre of a foreign state to provide personnel and equipment in Viet Nam territorial water, the Viet Nam Centre for Coordinated Maritime Search and Rescue must report to the National Committee for Search and Rescue to liaise with concerned authorities for obtaining permission.

Otherwise, current regulations only provides for the receipt of international assistance, stating that the Steering Committee shall have the tasks and powers “[...] to organize the reception of support from international salvage and rescue forces under the Prime Minister’s decisions” without specifying whether the assistance should be offered by foreign entities or was requested by the Government.<sup>112</sup>

Safeguards against delay are also not mentioned in relevant laws. Although several of the legal instruments in the field dedicate certain provisions for reporting and handling of violations,<sup>113</sup> delays in the process of making declaration of emergency/disaster are not included as a violation to be managed.

## 8.4 Practical experiences

In reality, the declaration of a state of emergency, especially in the case of widespread epidemic has always been a very sensitive issue as it would have serious impacts on the political and economic situation of the country. Therefore, declarations are rarely made. For instance, despite that fact that diarrhoea is widespread possibly to the extent of an epidemic, it has not been declared as such under the Law on Communicable Disease Prevention and Control. Some of the potential consequences may include negative effects on foreign investments, tourism, national security or national defense, giving rise to these being taken into account by the government when considering the issuance of a declaration of emergency, as well as when making a request for external assistance.<sup>114</sup>

Additionally, in the case of a communicable disease emergency, the law does not have specific provisions concerning the state's support of WHO-coordinated response activities in case the WHO requests this. The WHO is only mentioned in the circumstance in which the Health Prevention Department of the Ministry of Health may use all the information on communicable diseases according to WHO's notifications, the internet and other possible channels.<sup>115</sup>

Despite the absence of a specific legal framework, in practice, the Government has been very responsive of WHO-coordinated activities by supporting the WHO if any suggestions are made by the latter. For example, if the WHO makes recommendations on inviting experts to Viet Nam for disaster relief activities or if the WHO requests the government's support for at the customs, Viet Nam will actively respond to these requests.<sup>116</sup>

Indeed, Viet Nam has, on various occasions, made requests for external assistance in times of disasters or epidemics. For example, in a meeting with the representatives of more than 70 NGOs and other partners on 21 November 2005, the President of the Viet Nam's Union of Friendship Organizations requested international emergency assistance of at least USD 50 million to prevent flu epidemics during 2006-2007.

On 15 October 2007 PACCOM requested foreign NGOs in Viet Nam to supply food, medicine to prevent diseases, to restore clean water systems and hygiene for Ha Tinh, Nghe An and Thanh Hoa provinces which had been affected by floods and storms. In response, several international NGOs such as CARE, CHIA and IVI pledged to provide affected areas with aid of USD 103,300.

In November 2008, the Viet Nam Red Cross issued an emergency

### Cooperation with WHO during a communicable disease emergency

- *At the request of a State Party, WHO shall collaborate in the response to public health risks...including the mobilization of international teams of experts when necessary.*
- *WHO may offer further collaboration including:*
  - *Assessment of the severity of the risk and adequacy of control measures*
  - *Mobilization of international assistance in conducting assessments*

See IHR (2005), Article (13)

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appeal for international assistance following a series of natural disasters that struck Viet Nam earlier that year 2008, most recent of which concerned the serious flooding in the northern provinces of Viet Nam in late October 2008. The appeal received response from many donors such as the IFRC and the Red Cross Societies of the US, Finland, Switzerland, Canada, the UK, the Netherlands and Japan.

### 8.5 Regional requests for assistance

At regional level, Viet Nam is a member of ASEAN and the ASEAN Committee on Disaster Management (ACDM), established in early 2003. This is the main body responsible for disaster response activities and encouraging regional cooperation on disaster management, together with the ASEAN AHA Centre, which is responsible for cooperation and coordination among the ASEAN states and with relevant UN and international organizations, in promoting regional collaboration on disaster management and emergency response.<sup>117</sup>

Although Viet Nam has signed and ratified the AADMER, specific provisions about contacting these bodies are absent in relevant national laws and regulations. However, at the time of writing, this agreement has yet to come into force as it has not been ratified by all ASEAN Member Countries.

### 8.6 Recommendations

**The new Disaster Risk Management Law should:**

- Describe the criteria for determining when national capacities have been exceeded in the event of a disaster.
- Describe the general principles and mechanisms for offering and requesting international assistance in the event of a disaster which exceeds national coping capacities, including a reference to the AADMER procedures where appropriate.

**New regulations to supplement the existing Law on Communicable Disease Prevention and Control should:**

- Describe the general principles and mechanisms for offering and requesting international assistance in the event of a communicable disease emergency, including a reference to the role of WHO as described in the IHR.





## **Legal status of foreign entities providing assistance**

## Chapter 9

### Legal status of foreign entities providing assistance

#### Key findings:

- For diplomatic missions and international organizations already present in Viet Nam legal status, privileges and immunities are provided under existing legislation and through bilateral agreements.
- For other foreign organizations and NGOs, a general system for registration and obtaining legal status is in place, but it is designed for organizations with a long term presence in Viet Nam and is not suitable for the rapid entry of new organizations during an emergency.
- The law also provides for the receipt of international assistance from the private sector and individual sources although there are few details on the process.

### 9.1 Privileges and immunities

#### Diplomatic and consular officials

Viet Nam acceded to the Vienna Convention on Diplomatic Relations in 1980 and to the Vienna Convention on Consular Relations in 1992. The privileges and immunities provided in Viet Nam's domestic laws match those of the Vienna Conventions. The wording of the applicable Ordinances follows closely the Vienna Convention on Diplomatic Relations of 1961 and Vienna Convention on Consular Relations of 1963 with the same categories of privileges and immunities, as described below.

Viet Nam's legal texts provide specific procedures for recognizing the international privileges and immunities of diplomatic and consular officials. The Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam dated 23 August 1993 and Decree dated 30th July 1994 by the Government on the Implementation of Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Representative Offices of International Organizations in Viet Nam dated 23 August 1993 state the procedures and timeframes for diplomatic and consular officials to receive privileges and immunities as follows:

- Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs.<sup>118</sup>
- In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave Viet Nam.<sup>119</sup>
- When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.<sup>120</sup>
- The diplomatic missions and consular posts in Viet Nam have the obligation to notify the Ministry of Foreign Affairs of the time their officials leave the country when their functions have come to an end.<sup>121</sup>
- The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity may be waived by the sending State.<sup>122</sup> Such waiver must be notified in writing.<sup>123</sup>

Key privileges and immunities accorded to diplomatic and consular officials are:

- They shall be inviolable, not liable to any form of arrest or detention.
- They shall be treated with respect.
- Their private residence shall enjoy inviolability and protection.
- They shall enjoy exemptions from all custom duties.

- They shall enjoy immunity from criminal, civil and administrative actions.<sup>124</sup>
- They shall enjoy the freedom of movement<sup>125</sup> within the territory of Viet Nam except for prohibited areas. However, the prohibited areas will be accessible for foreigners upon prior approval of the Ministry of Foreign Affairs in accordance with Article 13.4 of Decree 73-CP.

### International organizations and relevant regional organizations

Unlike the case of diplomatic and consular officials, Vietnamese law does not provide specific procedures for recognizing the international privileges and immunities of international organizations and relevant regional organizations. These facilities are covered instead by agreements on privileges and immunities signed between Viet Nam and the individual international organization concerned.

International organizations belonging to the United Nations system are defined as the United Nations, its affiliates and specialized organizations, and the international nuclear energy agency.<sup>126</sup> The privileges and immunities of the UN are determined in accordance with:

- The 1946 Convention of the United Nations on privileges and immunity;
- The 1947 Convention on the privileges and immunities of the specialized agencies; and,
- The 1959 Agreement on the privileges and immunity of the international nuclear energy agency;

These provisions apply to officials and personnel of these offices and members of their families living together with them in the same house, as well as the officials and personnel who visit or work in Viet Nam or pass through Viet Nam with a transit visa.

For international and regional organizations not belonging to the United Nations system, the international treaties on privileges and immunities applicable to their personnel are:

- The Charter (or regulations, statute, founding agreement) of each inter-governmental organization to which Viet Nam is a participant. For example, the ASEAN Charter, the Agreement on Establishing the World Trade Organization.
- The agreement between the Vietnamese Government and each inter-governmental organization in which privileges and immunity are stipulated.<sup>127</sup>

Some of the key privileges and immunities granted to such organizations include:

- Inviolability and immunity of premises, property and assets from search, requisition and confiscation;
- Assets, income and other property for official use are exempt from all direct tax, customs duties, prohibition or restrictions of import or export;
- Freedom of communication not less than for diplomatic missions; and,
- Immunity of personnel from arrest or detention and from seizure of their property.

### Liability protection for foreign governmental personnel in disaster and communicable disease emergencies

Viet Nam's domestic law and treaties provide liability protection only for limited groups of foreign governmental personnel who are qualified for privileges and immunities. In particular,

- There are no specific rules on liability protection for foreign governmental personnel in disaster and communicable disease emergencies in Viet Nam's legal texts.
- The Law on Red Cross Activities, no. 11/2008/QH12 promulgated by the National Assembly on 3 June 2008 provides that when participating in Red Cross activities, organizations and individuals shall be compensated in accordance with the law if their belongings are damaged or their health or lives are impaired.<sup>128</sup>
- Diplomatic and consular officials are entitled to protection by all appropriate steps from any attack on his person, freedom or dignity.<sup>129</sup> The Penal Code 1999 provides that liability of persons eligible for privileges and immunities shall be settled via diplomatic channels in accordance with its Article 5.2.
- Although officials and experts on mission for the United Nations and its specialized agencies are entitled to privileges and immunities<sup>130</sup> there are no specific provisions within these instruments on the duty to protect them.

## 9.2 Eligibility and registration

Vietnamese laws set out a system for the registration of international NGOs which also cover those providing international disaster relief. Pursuant to the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam, issued together with Decision no. 340-TTg, dated 24 May 1996, of the Prime Minister promulgating the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam, foreign NGOs must have the permission of the Vietnamese Government in order to conduct non-profit activities in development support and humanitarian aid in Viet Nam or other purposes. This permission must take the form of either an Operating Permit, a Permit to establish a Project Office, or a Permit to establish a Representative Office.<sup>131</sup>

### Eligibility for legal facilities

- *It is recommended that States establish criteria for assisting humanitarian organizations seeking eligibility for legal facilities.*
- *These criteria should include a showing by the organization of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of the IDRL Guidelines.*

### Temporary legal status

- *Affected States should grant relevant entities of assisting States and eligible assisting humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorisation to legally operate on their territory.*

See IDRL Guidelines (2007), Articles 14(1)-(2) and 20(1)

As described previously, a foreign NGO is eligible for an Operating Permit when it meets the following conditions:

1. It has the legal status under the law of its country or the law of the country where it is allowed to set up its head office;
2. It has well defined statutes, guiding principles and objectives;
3. It has developed or at least conceived a plan for the programmes and projects of development and humanitarian aid in Viet Nam in line with the policy of the Vietnamese State on socio-economic development;
4. It is committed to strictly abiding by the Vietnamese law and the traditional customs and habits of Viet Nam.<sup>132</sup>

A foreign NGO is eligible for a permit to set up a Project Office when it meets the following conditions:

1. The requirements prescribed in Article 2 of the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam, issued together with Decision no.340-TTg (see above); and,
2. Its programme or project has been ratified by a competent level of Viet Nam and the scale and character of this program or project receives permanent and immediate direction and supervision.<sup>133</sup>

A foreign NGO is eligible for a Permit to set up a Representative Office in Hanoi if it meets the following conditions:

1. The requirements prescribed in Article 2 of the Regulation on the activities of foreign Non-Governmental Organizations in Viet Nam, issued together with Decision no.340-TTg (see above);
2. It has been conducting an efficient aid program or project in Viet Nam for at least two years;
3. If, in the process of its operation in Viet Nam, it has always respected Viet Nam's law and traditional customs and habits;
4. It is conducting long-term aid programmes or projects in Viet Nam of 2 years or more which have been ratified by the authorized level of the Viet Nam government.<sup>134</sup>

The agency which has the competence to issue, extend, modify, amend or withdraw these permits is the Committee for Foreign Non-governmental Organization Affairs (COMINGO). The standing agency of this Committee is the Viet Nam Union of Friendship Organizations.<sup>135</sup>

Within no more than 30 days after receiving the full valid dossier applying for an Operating Permit, no more than 60 days for a permit to set up the Project Office, and no more than 90 days for a permit to establish the Representative Office, COMINGO is required to inform the concerned NGO of the result of their application.

However, this system does not provide for special procedures in case of emergency – all the usual rules apply as described above.<sup>136</sup>

Pursuant to Articles 6 and 7 of the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam,

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issued together with Decision no.340-TTg, specific requirements for the issuance of permits are as follows:

#### Permit for Operation

- Application letter signed by the head of the NGO in Vietnamese and English or French addressed to the Committee, mentioning the following main points:
  - Full name of the organization, address of its headquarters
  - Mandate and objectives
  - Background of the organization
  - Financial sources and budget (for international programmes in general and for the Viet Nam programme in particular)
  - Programmes, projects and plan of activities in Viet Nam.
  - A profile of the person appointed person to be in charge of the programme in Viet Nam (including name, nationality, date of birth etc.).
- Statutes of the NGO
- Document certifying the NGO's legal status issued by a competent authority of the country where the organization was established or is headquartered, or a notarized copy.

#### Permit for the Establishment of a Project Office

- Apart from the documentation required for a permit for operation, documents in application of Permit for the Establishment of Project Office must include the following:
  - A justification for the Project Office; intended location of the Project Office; and the number of expatriates and Vietnamese staff needed for the operation of the Office.
  - Programme and/or project documents which have been approved by competent authorities of Viet Nam.
  - Curriculum vitae of the person intended to be the Chief of the Project Office.

#### Permit for the Establishment of Representative Office

- Apart from the documentation as required for permit for operation and permit for the establishment of project office, documents in application of Permit for the Establishment of Representative Office must include the following:
  - A justification for the Representative Office; intended location of the Representative Office; and the number of expatriates and Vietnamese staff needed for the operation of the Office.
  - Annual reports of activities in Viet Nam of at least the last two years.
  - Programme and / or project documents which have been approved by competent authorities of Viet Nam.
  - Curriculum vitae of the person intended to be the Representative and introduction to the post by the head of the NGO.

Until now, the Government of Viet Nam has not adopted any fees for the issuance, extension, amendment and change of permits. All applications for issuance, extension, amendment and change of permits should be sent to COMINGO via the PACCOM. After receiving all required documents, the time limit for COMINGO to formally respond to applications is 30 days for Permit for Operation, 60 days for Permit for the Establishment of Project Office and 90 days for Permit for the Establishment of Representative Office as described above.<sup>137</sup>

After receiving the Permit to set up a Project or Representative Office, the NGO is allowed to rent offices and residential houses, and hire Vietnamese personnel to work for the office according to provisions of Vietnamese law. The number of foreign and Vietnamese staff working at the office may not exceed the number stated in the Permit. If there is an obvious need for more staff, it should be permitted by COMINGO.<sup>138</sup>

The official representative and foreign personnel of the NGO shall be allowed to open bank accounts, in foreign currencies or Viet Nam Dong from foreign currency sources, at the banks established and operating according to Vietnamese law. The import of office equipment, transportation and spare parts, and personal effects necessary for the work and life of the

Representative Office and foreign employees must conform to the current regulations of Viet Nam.<sup>139</sup>

### 9.3 Foreign assistance from the private sector and individuals

As described previously, a number of national laws and regulations specifically provide for the means to facilitate and regulate foreign assistance from the private sector or individual sources. A number of entities are responsible for appealing for help and mobilizing voluntary relief contributions including: the Presidium of the Viet Nam Fatherland Front Central Committee; the Viet Nam Fatherland Front Provincial Committee's Chairman; and the Viet Nam Fatherland Front Central Committee's Chairman. The Viet Nam Red Cross may appeals for support from the International Red Cross and Red Crescent Movement. Social and charity funds, mass media organizations (newspapers, radios and televisions) are permitted to appeal for relief for damages from fire, natural disasters and serious incidents in accordance with the law.<sup>140</sup> In addition, Vietnamese law also provides for the procedures to receive humanitarian aid including foreign sources such as establishing a Committee on Mobilization and Reception of Relief Money and Goods,<sup>141</sup> prescribing timelines for relief mobilization, reception and distribution<sup>142</sup> and opening accounts for relief reception, storage and places. The relevant Decree also stipulates the methods of receiving and managing humanitarian aids in kind, coordination with local authorities<sup>143</sup> and methods of using relief goods and funds<sup>144</sup> as well as financial management and responsibility for reporting relief goods and funds used and mobilized for specific purposes (such as social security relief and environment management). It also designates responsibility for the use remaining money and goods<sup>145</sup> and to publish the amount of relief goods and funds.<sup>146</sup>

### 9.4 Recommendations

The current procedures of registration are not very responsive to the needs of international relief providers and do not create an environment in which international assistance can supplement and support national disaster response systems and structures.

#### Option 1: Revision of the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam

At present, the Prime Minister of Viet Nam has tasked COMINGO to draft a decree which will replace the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam, issued together with Decision no.340-TTg 1996.<sup>147</sup> This draft should have some amendments and supplements to the current law so as to successfully facilitate and regulate international disaster relief and recovery efforts.

The current draft Decree shortens the amount of time for COMINGO to formally respond to applications from NGOs to 45 days, however it should ideally provide for fast-track procedures for humanitarian organizations to operate in Viet Nam in times of emergency.

One such measure is to issue a Permit for Emergency Operations for organizations not already present in Vietnam to within a week from the date of receipt of valid and complete application documents. The duration of the first issue of a Permit for Emergency Operation should be no more than 45 days but should be renewable for another 30 days with following an application sent 7 days before the expiry of the Permit. This timeline is suggested based on Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminal diseases, accordingly under Article 7. This Decree requires that the time limit for mobilization and receipt of donations shall not exceed 60 days at central level, 30 days at district level and distribution shall not exceed 20 days after each period.

#### Option 2: A new comprehensive regulation on the arrangements for receiving international assistance, to supplement the new Law on Disaster Risk Management, which could:

- Include fast-track procedures for humanitarian organizations to receive temporary legal status to operate in Viet Nam in times of disaster or communicable disease emergencies.
- Establish a register of foreign entities considered eligible to provide relief and initial recovery assistance in Viet Nam to be managed and maintained by (the Committee for Foreign Non-Governmental Organizations and/or) the designated focal ministry, department or agency. This should include the following:



- Eligibility should be dependent upon an entity's ability to comply with the responsibilities described in Articles 4(1) and (2) of the IDRL Guidelines and a commitment to adhere to the responsibilities of Article 4(3) to the greatest practical extent. In the case of a communicable disease emergency, also demonstrate sufficient measures are in place to prevent or limit the spread of that particular disease.
- Eligibility should ideally be determined by the submission of documentation on the mandate, experience, capacity and key policies of the entity. All submissions should be treated equally and fairly and registration should not be unreasonably withheld.
- All such entities which consider themselves likely to offer international assistance to Viet Nam should apply for registration, regardless of whether they have existing legal status in Viet Nam. Registration should not affect any existing legal status or activities of an organization already present in Viet Nam.
- Additionally, the relevant focal government point should actively identify and request entities to register if they are considered likely to offer or be requested to provide international assistance.
- Once relief and initial recovery operations have commenced, the relevant authority should actively monitor ongoing compliance with eligibility requirements.
- The effect of registration should be that, when a registered entity is requested or accepted to provide international relief or initial recovery assistance, it will:
  - Retain its existing legal status within Viet Nam, or where there is no pre-existing legal status, will be granted immediate temporary legal status on arrival for the duration of its operations.
  - Will receive, as a minimum, the legal facilities described in Part V of the IDRL Guidelines (see further specific recommendations on this throughout this report). Such measures would be in addition to any facilities, privileges and immunities which are already required under domestic and international law.
- Entities which have not been pre-registered prior to an emergency and wish to offer international assistance should send a request to the identified government focal point and provide the necessary documentation to be included on the register prior to their arrival and commencement of activities. Such requests should be assessed and decisions communicated promptly without undue delay.
- COMINGO should be responsible for deciding cases of special registration or without registration in times of emergency.
- COMINGO should compile the data of humanitarian organizations or verify the dossiers of those organizations operating in Viet Nam before to prepare for the fast-track procedures.

This regulation could be developed during the process of developing the new disaster management law which is currently planned in the National Strategy on Natural Disaster Prevention, Response and Mitigation by 2020 to be completed by 2012.

Option 3: Existing laws, regulations and procedures could be amended as follows:

- Amend the Decree No. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminal diseases to include fast-track procedures for humanitarian organizations to receive temporary legal status to operate in Viet Nam in times of disaster or communicable disease emergencies as described in option 2 above.

Additional to options 1, 2 or 3:

- Viet Nam should take steps to implement the AADMER, in particular the provisions which facilitate international and regional cooperation in times of disaster and emergency.

# Chapter 10



## **Customs arrangements for the arrival of relief goods in disasters**

## Chapter 10

### Customs arrangements for the arrival of relief goods in disasters

#### Key findings:

- Customs laws of Viet Nam generally facilitate the arrival of relief goods in disaster and are compatible with the IDRL Guidelines.
- Humanitarian relief goods are classified by customs laws as non-commercial goods, and thus enjoy simplified customs procedures including priority customs clearance before the submission of their customs dossier documents and are exempted from actual inspection.
- Humanitarian relief goods are not subject to import and export tax, fees and customs duties.
- Humanitarian food is exempted from controls at entry ports.
- Current laws and regulations contain provisions to allow the import of medications which are not registered for use in Viet Nam, in order to meet the urgent need of prevention and control communicable diseases and emergency relief. These medications are still required to meet quality standards, expiry dates and circulation permits from the exporting country.

### 10.1 General customs arrangements

First In general, the laws and regulations most applicable to disaster management do not make any specific for customs arrangements during emergencies.<sup>148</sup> Rather, customs arrangements in disaster are generally covered by legal documents primarily concerning customs and taxes.

Customs laws stipulate specific procedures for the import and export of non-commercial goods including goods for emergency service requirements.<sup>149</sup> In addition to general documents as required for other non-commercial goods, customs laws require heads of agencies to issue written certifications for goods imported or exported for emergency service requirements and to take responsibility before the law.<sup>150</sup> The Ministry of Finance provides no further simplification of the procedure for non-commercial goods, even those for emergencies.<sup>151</sup>

For conveyances such as ambulances, fire rescue vehicles and humanitarian aid imported to Viet Nam without prior permission from authorities, customs officials at the border-gates may still proceed with customs clearance based on the declarations of the conveyance owners as well as the provision of relevant documents and inspection. A report is then provided to the relevant agencies to coordinate the management and supervision of the conveyances.<sup>152</sup>

Regarding duties and tariffs, existing laws and regulations stipulate a number of tax exemptions for goods imported for emergency services. Article 2(2) of the Decree No.149/2005/NĐ-CP of the Government dated 08 December 2005, detailing the implementation of import and export tax law, provides exemptions for the following:

- humanitarian goods
- non-refundable goods of foreign governments
- goods imported by United Nations organizations, inter-

#### Goods and Equipment

*With regard to disaster relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States and eligible assisting humanitarian organizations, originating, transit and affected States should:*

- Exempt them from all customs duties, taxes, tariffs and governmental fees;
- Exempt them from all export, transit, and import restrictions;
- Simplify and minimize documentation requirements for export, transit and import;
- Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.

See IDRL Guidelines (2007), Article 17(1)

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governmental organizations, international organizations, foreign non-governmental organizations (NGOs), foreign economic organizations, or foreigners in Viet Nam, for socio-economic development or other humanitarian purposes (provided there are official documents between the two parties approved by competent authorities)

- humanitarian aid and emergency relief to remedy consequences of wars, natural disasters and epidemics.<sup>153</sup>

The Ministry of Finance is the responsible agency for considering tax exemptions for these types of goods.<sup>154</sup> Existing instruments also provide that humanitarian goods and non-refundable goods are not subject to customs and other fees.<sup>155</sup>

Existing commercial regulations do not provide for the reduction of import, transit or export restrictions, although the Prime Minister is authorized to suspend exports and imports in special situations.<sup>156</sup> However, customs laws do provide priority clearance for relief goods and equipment.

Imports and exports for emergency services will be cleared from customs procedures before the submission of their customs dossier documents (these documents can be submitted within 30 days after the customs clearance for goods)<sup>157</sup> and will be exempted from actual inspection.<sup>158</sup> Customs laws also provide for clearance outside normal business hours but under the condition of prior registration of the customs declarations and based on the capacities of the customs offices.<sup>159</sup> Humanitarian goods may also enjoy customs clearance outside of customs offices, at customs clearance points at inland ports and outside border gates, upon on decision of the Minister of Finance.<sup>160</sup>

Customs laws do not provide any specific regulations for the re-exportation of equipment and unused goods imported for emergency services, although there are re-exportation procedures for commercial goods. Nor do current laws stipulate any measures for the disposal of unused humanitarian goods. Thus, it may be implied that humanitarian goods can be re-exported without restriction.

Additionally, although there is no specific mention of such arrangements in legal texts, Viet Nam Red Cross has had a positive experience of effective cooperation with the customs department.

## 10.2 Communications equipment

Disaster management and telecommunications laws and regulations do not provide any exceptions for import or export restrictions for equipment for emergency services.

The legal basis for the import and export of telecommunications equipment is provided under a number of instruments, in particular:

### **Use of telecommunications equipment for disaster relief and recovery**

*Affected States should:*

- *Waive or expedite the granting of any applicable licences and reduce any other barriers to the use, import or export of telecommunications and information technology equipment*
- *Grant access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations.*

See IDRL Guidelines (2007), Article 18(2)

- Article 45 of the Ordinance on Post and Telecommunications No. dated 25 May 2002, Decree No. 160/2004/NĐ-CP of the government dated 3 September 2004 detailing implementation of some provisions of Ordinance on Post and Telecommunications
- List of goods subjected to import/export management of the Ministry of Information and Telecommunications of Decree No. 12/2006/NĐ-CP dated 23 January 2006 detailing implementation of Commercial Law on international trade and activities of agents, sale, purchase, processing and transit goods with foreign partners.

These instruments do not provide for speedy licensing or waiver of license requirements in disasters. However, there are general obligations for state owned communications services to carry news in a state of emergency<sup>161</sup> and granting priority information for emergency services and epidemic prevention.<sup>162</sup>

The monitoring and applying of special management measures towards

mass media are permitted during a state of emergency concerning national security and social safety.<sup>163</sup>

Additionally, the law on state of emergency provides for establishing communications lines to ensure the operation of Steering Committee round the clock and authorizes Steering Committee to deal with specific matters, such as:<sup>164</sup>

- (i) Establishing a hot line between the Prime Minister and the Steering Committee;
- (ii) Setting up communication stations and lines to ensure operations of the Steering Committee's communication from its office to the disaster-hit areas;
- (iii) Using with priority telecommunication facilities at the Steering Committee's office free of charge in service of activities of overcoming the disaster's or epidemic's consequences.
- (iv) Mobilizing officials and employees of the post and telecommunications agencies to work round the clock so as to ensure the smooth communication on the whole line and are ready to promptly handle information incidents;
- (v) Other special regulations on information and communication as well as the use of communication means in the state of emergency.

### 10.3 Food

Legal instruments concerning food safety do not provide for any special procedures in disaster settings regarding food imports.<sup>165</sup> However, they do provide that humanitarian food is not the subject of control at entry port.<sup>166</sup>

#### **Importing food for disaster relief**

*Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports can be modified or reduced.*

See IDRL Guidelines (2007), Article 18(4)

### 10.4 Medication

Current regulations on the import and export of medication specifically facilitate the import of medication for emergency purposes. Normally foreign medicines are only permitted for import into Viet Nam when they are registered. However, in order to meet urgent needs, such as the prevention and control of communicable diseases, humanitarian aid and emergency relief for natural disasters and epidemics, Viet Nam allows the import of a limited number of unregistered medicines.<sup>167</sup> Medicines imported in such situations are still required to meet quality standards, expiry dates, and have circulation permits from the export countries.<sup>168</sup>

Among these regulations, the Circular No. 01/2002/TT-BYT, which provides guidance on medication for humanitarian purposes, is specifically applicable to the Viet Nam Red Cross.

#### **Importing medication for disaster relief**

- *Originating, transit and affected States should reduce legal and administrative barriers to the exportation, transit, importation and re-exportation of medications and medical equipment to the extent consistent with public safety and international law.*
- *Assisting States and eligible assisting humanitarian organizations should take all reasonable steps to ensure the quality, appropriateness and safety of any such medications and equipment*

See IDRL Guidelines (2007), Article 18(3)

### 10.5 Vehicles

Current motor vehicle regulations do not include any special provisions for the import and registration of foreign vehicles for relief and recovery work in Viet Nam. The procedures for importation and registration depend on the status of the individuals and organizations involved as well as the type of vehicle, but are not specific as to the purposes of user.<sup>169</sup> The only exception is provided for vehicles used by experts working for ODA projects. These vehicles are exempt from tax and registration fees.<sup>170</sup>

### 10.6 Animals

Under existing regulations, the quarantine procedure for the import of animals and animal products is as follows:

- Upon arrival of animals at border gates, the quarantine offices shall examine documents, health conditions of the animals
- If the documents are valid and animals do not show clinical signs of dangerous diseases, certification shall be issued for the owners to continue with customs procedures and take the animals to the quarantine areas for quarantine observation
- The time for monitoring the quarantine isolation shall depend on each kind of disease, each species of animal, but not exceed 45 days
- The owners will be guided on applying hygiene measures to persons in contact with the animals, environmental sanitation, rearing tools, unloading equipment, transport, containers and related objects subject to veterinary hygiene inspection.

The animal quarantine law does not contain any exceptional provisions for rescue dogs.

### 10.7 Assessment and recommendations

The review of legal documents reveals that in general customs law does facilitate the arrival of goods in disasters, and thus is generally compatible with the IDRL Guidelines. The interviews with international organizations, NGOs and governmental agencies working in the field of humanitarian relief also show that at the moment there are no difficulties concerning customs arrangements for relief goods in Viet Nam. However, this may be the result of the procedures not being tested fully during major disasters and epidemics.

Indeed, all the special treatment for relief goods related to customs procedures are not automatic. International organizations and NGOs can only be granted simplified customs procedures once there has been official correspondence between the respective government agencies and the Customs Department, which may delay the actual application of the regulations during an emergency.

Therefore, it is important to ensure that all customs facilities and exemptions for relief goods are facilitated as quickly as possible in order to meet the demand of major disaster and epidemic.

#### Recommendations

Consideration should be given to the following recommendations from the IDRL Guidelines:

- Simplification of required customs documents specifically for goods for emergency services.
- Reducing or removing any import, transit or export restrictions during disasters
- Allowing the re-exportation of equipment and unused goods imported in service of emergency requirements.
- Removing restrictions or clarifying the process on the disposal of any unused humanitarian goods.
- Ensuring clear and rapid procedures for importation and registration of foreign vehicles for relief and recovery work in Viet Nam.
- Developing exceptional quarantine procedures to enable the rapid entry of rescue dogs.
- Developing a fast track process for facilitating the import of both registered and un-registered medicines in the shortest time possible during emergencies.

These measures may be achieved through two different options:

Option 1: A new comprehensive regulation on the arrangements for receiving international assistance, to supplement the new Law on Disaster Risk Management, which could:

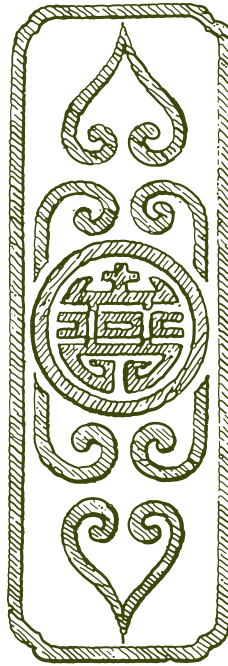
- Include all facilitation measures for the import, use and export of relief goods and equipment, including customs facilitation.
- This regulation could be developed during the process of developing the new disaster management law which is currently planned in the National Strategy on Natural Disaster Prevention, Response and Mitigation by 2020 to be completed by 2012.

Option 2: Review and amend current legislation and regulations.

- This option would include the review and amendment of all legislation and regulations applicable to customs, taxes, transport and medicines, with a view to integrating the above recommended measures. This option can be achieved in a shorter period of time as customs procedures in Viet Nam are frequently amended by the Customs Department and Ministry of Finance to meet the demands of economic development. The Customs Department may take these recommendations into consideration and promulgate these procedures and measures in the coming year by issuing a guiding circular.

For both options, the above facilitation measures should also be accorded to Viet Nam Red Cross Society in its capacity as auxiliary to the public authorities in the humanitarian

# Chapter 11



## Special measures for communicable disease control



## Chapter 11

### Special measures for communicable disease control

#### **Key findings:**

- Quarantine laws of Viet Nam designate competent authorities responsible for monitoring baggage, cargo, containers, conveyances, goods, postal parcels and human remains departing and arriving from affected areas. They also provide for supervision of decontamination and sanitary measures; ensuring that facilities used by travelers at points of entry are maintained free of sources of infection; and conducting inspections and medical examinations.
- With regard to affected conveyances, quarantine laws provide for the competent authority to disinfect the affected conveyances and supervise disinfection measures. Affected conveyances are not allowed to continue their journey unless certain conditions are met.
- Generally, the above measures are consistent with the IHR, but do not provide for any fast track procedures for emergency relief goods and equipment.

#### 11.1 Responsibilities for prevention and monitoring

During communicable disease emergencies special measures for monitoring and prevention are required for animals, plants, people and conveyances in order to prevent or limit the transmission of communicable diseases. Such measures are promulgated in the various laws and regulations of Viet Nam including the Law on Communicable Disease Prevention and Control as well as laws relating to animal health, plant quarantine and transport.

In general, the Law on Communicable Disease Prevention and Control stipulates that mobile ‘anti-epidemic teams’ shall take specific sanitation, disinfection and sterilization measures upon the request of anti-epidemic steering committees. Agencies, organizations and individuals are also required to take sanitation, disinfection and sterilization measures according to instructions of competent health agencies; if they refuse to voluntarily take these measures, health agencies may make them compulsory.<sup>171</sup>

In the event of a state of emergency, ‘emergency anti-epidemic working teams’ may also be set up.<sup>172</sup> The teams include medical and quarantine agencies as well as other relevant personnel such as physicians and medical personnel in the fields of prophylactic medicine, medical examination, treatment and testing. The teams are tasked to deploy urgent anti-epidemic measures ensuring deratting, disinfection and disinsection. They are also tasked with decontamination of epidemic sources through measures such as cleansing, disinfection and decontamination of nests; organizing the isolation and treatment of infected persons; destroying goods and objects carrying pathogenic agents; and other tasks assigned by the Steering Committee.

The relevant laws and regulations of Viet Nam also designate a number of specific responsibilities to competent authorities responsible for monitoring sources of infectious disease, according to various subjects such as people, animals, waters sources and plants and plants.

#### Animals and plants

With regard to animals, plants and their products, responsibilities apply to all conveyances in and out of ‘epidemic zones’. Accordingly, the heads of Anti-epidemic Steering Committees are required to establish quarantine posts and stations for monitoring at road junctions leading to epidemic zones.<sup>173</sup> In the case of conveyances transporting animals and animal products through epidemic zones, permits must be obtained from the Presidents of provincial level People’s Committees and the transport routes must be determined by the Anti-epidemic Steering Committees.<sup>174</sup>

**The competent authorities shall:**

(a) be responsible for monitoring baggage, cargo, containers, conveyances, goods, postal parcels and human remains departing and arriving from affected areas, so that they are maintained in such a condition that they are free of sources of infection or contamination, including vectors and reservoirs;

(b) ensure, as far as practicable, that facilities used by travellers at points of entry are maintained in a sanitary condition and are kept free of sources of infection or contamination, including vectors and reservoirs;

(c) be responsible for the supervision of any deratting, disinfection, disinsection or decontamination of baggage, cargo, containers, conveyances, goods, postal parcels and human remains or sanitary measures for persons, as appropriate under these Regulations;

(d) advise conveyance operators, as far in advance as possible, of their intent to apply control measures to a conveyance, and shall provide, where available, written information concerning the methods to be employed;

(e) be responsible for the supervision of the removal and safe disposal of any contaminated water or food, human or animal dejecta, wastewater and any other contaminated matter from a conveyance;

(f) take all practicable measures consistent with these Regulations to monitor and control the discharge by ships of sewage, refuse, ballast water and other potentially disease-causing matter which might contaminate the waters of a port, river, canal, strait, lake or other international waterway;

(g) be responsible for supervision of service providers for services concerning travellers, baggage, cargo, containers, conveyances, goods, postal parcels and human remains at points of entry, including the conduct of inspections and medical examinations as necessary;

(h) have effective contingency arrangements to deal with an unexpected public health event; and

(i) communicate with the National IHR Focal Point on the relevant public health measures taken pursuant to these Regulations.

See IHR (2005), Article 22(1)

Regarding infectious sources from plants, plant owners have the responsibility to inform the nearest agencies in charge of plant protection and quarantine and to implement any protection and quarantine measures in accordance with relevant legal provisions.<sup>175</sup> Competent agencies in charge of plant protection and quarantine must also undertake disinfection measures and dispose of any infected plants and related products.<sup>176</sup> In addition, Presidents of the People's Committees of areas affected by plant contamination are responsible for directing the implementation of all measures to prevent the contamination spreading to other areas.<sup>177</sup>

With regard to infectious sources from animals and animal products, the Presidents of the provincial level People's Committees are in charge of organizing and directing agriculture and fisheries agencies, concerned organizations, and individuals to apply vaccines or other compulsory disease prevention measures for susceptible animals in epidemic zones and epidemic-threatened zones. They are also responsible for the treatment or disposal of diseased animals and contaminated animal products under the guidance of competent veterinary authorities, as well as strengthening the monitoring and surveillance of animals in buffer zones.<sup>178</sup>

The Agriculture and Rural Development Department consults the Presidents of People's Committees in making decisions relating to the disposal of diseased animals and contaminated products of animal origin, upon reports from the competent veterinary authorities at provincial level.<sup>179</sup> All disposals must follow a technical process by the competent state agencies in charge of natural resources and environment.<sup>180</sup>

## People

Concerning the supervision of sanitary measures for persons, the Law on Communicable Disease Prevention and Control provides for various measures including: sanitation prevention of education establishments within the national education system; sanitation of clean water supplies; sanitation of water sources for daily use; sanitation of the management of cattle and poultry and other animals (including raising, transport, slaughter and culling); food hygiene and safety; sanitation in construction; sanitation of corpses and remains (including lying in state, embalment, burial, and transportation); and other sanitation activities for preventing infectious diseases.<sup>181</sup>

Inspections and medical examinations are the responsibility of border quarantine bodies in coordination with functional agencies based in border-gates.<sup>182</sup>

With regard to human remains, the preservation, lying of corpses in state, embalming, burial, and transportation of corpses and remains must comply with regulations of the Ministry of Health.<sup>183</sup> If sources of contamination are detected, there is the need to derat, disinfect, disinsect or decontaminate those sources. The quarantine laws also provide competent authorities responsible for supervising the measures

conducted for such decontamination.

### Education establishments

With regard to education establishments, the establishments themselves are responsible for providing students with education about sanitation for the prevention and control of infectious diseases, including personal hygiene, sanitation in daily-life and working activities, and environmental sanitation. Healthcare units of education establishments are responsible for providing public information on sanitation for diseases prevention; examining and supervising environmental sanitation and food safety and hygiene; and applying measures for preventing and controlling infectious diseases. The Ministry of Health is also required to issue national technical standards of sanitation for disease prevention in education establishments.<sup>184</sup>

### Water sources

Regarding water sources, clean water-supplying establishments are required to apply technical measures to ensure environmental sanitation and to conduct self-examination to ensure the quality of clean water. Competent state agencies in charge of health are required to regularly examine the quality of clean water supplied by establishments and to supervise the organization of regular medical checks-up of labourers working at these establishments. The People's Committees at all levels are responsible for organizing the protection and preservation of sanitation, the prevention of contamination of water sources used for daily life; and the creation of conditions for the supply of clean water. Agencies, organizations and individual are also required to protect, keep clean and prevent contamination of water sources used for daily life.<sup>185</sup>

### Food

Organizations and individuals engaged in the food industry (including cultivation, animal raising, gathering, fishing, preliminary processing, processing, packaging, preservation, transportation and trading) are responsible for ensuring that food is not contaminated with agents of infectious disease and must comply with other provision of law on food hygiene and safety. Consumers are also responsible for maintaining food safety and hygiene and must fully observe guidelines on food hygiene and safety and report cases of food poisoning and food-borne diseases.

Competent state agencies in charge of good hygiene and safety are responsible for guiding organizations and individuals to take measures to ensure food hygiene and safety for preventing and controlling infectious diseases.<sup>186</sup>

### Construction

Agencies, organizations and individuals are responsible for ensuring sanitation in construction by observing all national technical standards of sanitation in construction according to regulations of the Minister of Health. They must also follow health impact assessment reports for construction projects appraised by competent health agencies.<sup>187</sup> Agencies, organizations and individuals are also responsible for taking measures to maintain the cleanliness of their places of residence, public places, places of production and business and means of transport and treat industrial waste and garbage and other means to ensure sanitation to minimize the risks of the emergence and spread of infectious diseases.<sup>188</sup>

## 11.2 Border quarantine

The quarantine laws of Viet Nam clearly designate border quarantine bodies in charge of organizing the implementation of quarantine measures specified in the Law on Communicable Disease Prevention and Control and for issuing medical disposal certificates. Functional agencies based in border gates are responsible for coordinating with border quarantine bodies in conducting border quarantine. Competent state agencies are required to coordinate with concerned agencies of foreign countries and international organizations in the prevention and control of infectious diseases in border areas.<sup>189</sup>

*Health measures recommended by WHO for travellers, baggage, cargo, containers, conveyances, goods, postal parcels and human remains arriving from an affected area may be reapplied on arrival, if there are verifiable indications and/or evidence that the measures applied on departure from the affected area were unsuccessful.*

See IHR (2005), Article 22(2)

Government veterinary services carry out quarantine for animals and animal products along land roads, railways and inland waterways as well as at marine, airport and border gates and post offices. Travellers bringing animals and animal products must make a prior declaration to competent animal quarantine officers which will grant quarantine certificates at the border gates.<sup>191</sup>

Similarly, organizations and individuals who export or import certain plants and plant products are required to make a prior declaration with competent state agencies in charge of plant protection and quarantine of Viet Nam at relevant checkpoints, which will carry out any necessary quarantine measures and grant quarantine certificates.<sup>192</sup>

Regarding advice to conveyance operators of their intent to apply control measures to a conveyance in accordance with the IHR, the laws on veterinary and plant quarantine stipulate that competent animal quarantine offices and competence state agencies in charge of plant protection and quarantine are responsible to inform owners (rather than conveyance operators) on animal and plant quarantine, if necessary. Before taking quarantine measures, the laws do not require these agencies to provide information 'as far in advance as possible', but provide a specific time of one working day from the date of receiving declarations from the owners.<sup>193</sup> The exception of five working days is provided for animals and/or animal products.<sup>194</sup> However, the quarantine laws do not require the competent authorities to provide written information to the owners but only on confirmation of receiving declarations, and on the time and places for quarantine.<sup>195</sup>

Current quarantine measures designate competent agencies in charge of removal and safe disposal of any contaminated matter from a conveyance. However, the competent agencies supervising the implementation of such measures are not clearly specified. It is implied that there is no distinction between competent agencies in implementing and supervising.<sup>196</sup>

Concerning monitoring and controlling discharge from ships of potentially disease-causing matter which might contaminate waterways, the quarantine laws do not provide provisions directly controlling this. There is only a requirement of monitoring and controlling pollution to marine environments and river basins by business entities and residential areas.<sup>197</sup>

*If clinical signs or symptoms and information based on fact or evidence of a public health risk, including sources of infection and contamination, are found on board a conveyance, the competent authority shall consider the conveyance as affected and may:*

- (a) *disinfect, decontaminate, disinsect or derat the conveyance, as appropriate, or cause these measures to be carried out under its supervision; and*
- (b) *decide in each case the technique employed to secure an adequate level of control of the public health risk as provided in these Regulations. Where there are methods or materials advised by WHO for these procedures, these should be employed, unless the competent authority determines that other methods are as safe and reliable. The competent authority may implement additional health measures, including isolation of the conveyances, as necessary, to prevent the spread of disease. Such additional measures should be reported to the National IHR Focal Point.*

See IHR (2005), Article 22(1)

The quarantine laws do not specify the competent agencies in charge of making effective contingency arrangements to deal with an unexpected public health events. The only exception is provided for plants subjected to quarantine. Accordingly, the treatment of articles adrift, dropped or leaked into Viet Nam from overseas falls under the jurisdiction of plant quarantine bodies in coordination with local administrations and relevant agencies.<sup>198</sup>

In addition, the General Department of Preventive Medicine and Environmental Health of the Ministry of Health is developing regulations concerning communicating with the National IHR Focal Point on public health measures taken pursuant to the IHR. It is expected that the Quarantine Division will be the focal point.<sup>199</sup>

Finally, in the course of implementing disinsection, deratting, disinfection, decontamination and other sanitary procedures, the quarantine laws require that medical handling measures should be applied so as not to cause any harm to people's health on board the relevant transport.<sup>200</sup> There is also a requirement that medical handling measures should be applied so as not to damage machine parts and architecture of the transport. Such measures must also not cause damage to luggage and goods or deform packages or change trademark colours.<sup>201</sup> These regulations, however, are contained in the Decree No.41/1998/ND-CP of 11 June 1998 Promulgating the Socialist Republic of Viet Nam's Border Medical Quarantine Regulation, which

is due expire. It will be replaced by a new Border Medical Quarantine Regulation but the current draft of this document does not contain these provisions. Neither the old regulation nor the new draft require that disinsection, deratting, disinfection, decontamination and other sanitary procedures should be carried out so as to avoid causing damage to the environment in a way which impacts on public health.

### 11.3 Affected conveyances

With regard to affected conveyances, the quarantine regulations do not specify when a conveyance is considered to be affected by a public health risk as provided for in the IHR. The Law on Communicable Disease Prevention and Control considers that all means of transport entering or leaving or transiting Viet Nam are objects of border quarantine.<sup>202</sup>

Medical inspection includes inspection of health-related papers and physical inspection. Physical inspection will be conducted on objects originating from or passing through epidemic zones or on goods suspected of carrying an infectious disease or carrying agents of an infectious disease. If, after medical inspection, agents of a class-A infectious disease are detected, medical disposal will be conducted. If a person or cargo carries agents of a class-A infectious disease, the means of transport, person or cargo will be isolated for medical inspection before being allowed to carry enter, depart or transit through Viet Nam. Isolation measures will be taken if there is a failure to comply with such a request by the border quarantine body.<sup>203</sup>

If competent authorities identify conveyances without required quarantine certificates, measures will be applied to conveyance operators as prescribed by law. In this regard, specific quarantine standards for animals and plants are promulgated and applied by quarantine agencies (such as Decision 4096/QD-BNN-KHCN of 29 December 2006 promulgating branch standards issued by the Ministry of Agriculture and Rural Development.)

Border quarantine bodies are in charge of organizing the implementation of quarantine measures specified in the Law on Communicable Disease Prevention and Control, including the issuing of medical disposal certificates for conveyances.<sup>204</sup> Functional agencies based in border gates are responsible for coordinating with border quarantine bodies in conducting border quarantine. Competent state agencies are required to coordinate with concerned agencies of foreign countries and international organizations in the prevention and control of infectious diseases in border areas.<sup>205</sup>

MARD has the responsibility to stipulate methods for processing of animals, products of animal origin, transport means, animal or product of animal origin containers, which do not meet the veterinary hygiene standards.<sup>206</sup> In some cases, the WHO advises various government departments on the methods or materials for quarantine<sup>207</sup>, however current quarantine regulations do not make specific provision for this.

All health measures prescribed by quarantine regulations in Viet Nam include the disinfection of agents causing quarantine diseases as well as intermediary objects causing infectious diseases found on conveyances. Regulations also include the removal and disposal of solid wastes and discharges of human and animals as well as disposal of discharged water, water at the ships' bottom and foods carrying agents causing quarantine diseases.<sup>208</sup> These measures are consistent with the IHR.

Where the competent authority for the point of entry is not able to carry out the control measures required, current quarantine regulations do not specifically provide that the affected conveyance may still be allowed to depart, as provided by the IHR.

In cases where there is no choice but to allow transport across epidemic-affected zones, the permission of the provincial-level People's

*If the competent authority for the point of entry is not able to carry out the control measures required under this Article, the affected conveyance may nevertheless be allowed to depart, subject to the following conditions:*

- (a) *the competent authority shall, at the time of departure, inform the competent authority for the next known point of entry of the type of information referred to under subparagraph (b); and*
- (b) *in the case of a ship, the evidence found and the control measures required shall be noted in the Ship Sanitation Control Certificate. Any such conveyance shall be permitted to take on, under the supervision of the competent authority, fuel, water, food and supplies.*

See IHR (2005), Article 27(2)

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Committee is required and the route determined by the provincial-level Steering Committee for Prevention and Control of Animal Epidemics must be followed. Immediately after passing through such areas, the means of transport must be disinfected.<sup>209</sup>

Normally, conveyances are required to pass all control measures and received medical and quarantine certificates before departure.<sup>210</sup> There are no provisions allows requiring the reporting of any evidence of disease or control measures applied to the competent authority of the next known point of entry at the time of departure. Nor are there such provisions or notes contained in Ship Sanitation Control Certificates.

Current regulations do not provide for affected conveyances to take on fuel, water, food and supplies under the supervision of the competent authority, nor when a conveyance ceases to be regarded as affected.

### **Container and container loading areas**

*1. States Parties shall ensure, as far as practicable, that container shippers use international traffic containers that are kept free from sources of infection or contamination, including vectors and reservoirs, particularly during the course of packing.*

*2. States Parties shall ensure, as far as practicable, that container loading areas are kept free from sources of infection or contamination, including vectors and reservoirs.*

*3. Whenever, in the opinion of a State Party, the volume of international container traffic is sufficiently large, the competent authorities shall take all practicable measures consistent with these Regulations, including carrying out inspections, to assess the sanitary condition of container loading areas and containers in order to ensure that the obligations contained in these Regulations are implemented.*

*4. Facilities for the inspection and isolation of containers shall, as far as practicable, be available at container loading areas.*

*5. Container consignees and consignors shall make every effort to avoid cross-contamination when multiple-use loading of containers is employed. A conveyance that has been considered as affected shall cease to be regarded as such when the competent authority is satisfied that:*

*(a) the measures provided in paragraph 1 of this Article have been effectively carried out; and*

*(b) there are no conditions on board that could constitute a public health risk.*

See IHR (2005), Article 34

## **11.4 Containers and loading areas**

The laws concerning quarantine of containers have not been developed in detail. Both the Law on Communicable Disease Prevention and Control and the draft of Decree on Border Medical Quarantine only make general provisions for goods in quarantine. The only provision which includes provisions specific to containers is found in the Ordinance No.18/2004/PL-UBTVQH11 concerning veterinary measures.<sup>211</sup>

There is no provision that container shippers must, as far as is practical, use international traffic containers that are kept free from sources of infection or contamination (particularly during packing). Nor do quarantine regulations provide that container loading areas must be kept free from sources of infection or contamination.

Current regulations do not contain any legal provisions regarding assessments of the sanitary condition of container loading areas and containers as provided under the IHR. The quarantine laws also do not provide for the availability of inspection and isolation facilities for containers at loading area.

There are also no provisions to ensure that container consignees and consignors take measures to avoid cross-contamination when multiple-use loading of containers is employed.

## **11.5 Biological substances**

Legal provisions on the transport, entry, exit, processing and disposal of biological substances and diagnostic specimens are designed to ensure safety and sanitary conditions on the one hand and facilitate public health verifications on the other. Accordingly, there are specific requirements for the collection, transportation, preservation, storage, study, exchange and destruction of medical swabs related to agents of class-A infectious diseases, which may only be carried out by qualified establishments. The Ministry of Health is responsible for specifying the management of medical swabs and the conditions of qualified establishments.<sup>212</sup>

Concerning hospitals and other medical establishments, the law on environmental protection requires that such organizations conduct various environmental protection measures. These include the following:

- Having a system or measures to collect and treat medical waste water, which operates on a routine basis and meets environmental standards
- Arranging specialized equipment to sort, at source, pathological materials and medical garbage
- Taking measures to treat and incinerate pathological materials, medical garbage and expired medicines, ensuring environmental sanitation and standards
- Having plans, facilities and equipment to prevent and respond to environmental incidents caused by medical waste
- Ensuring that solid wastes and waste water discharged from patients' daily life is pre-treated to eliminate contagious germs before transfer to concentrated treatment and incineration establishments.
- Hospitals and other medical establishments treating transmissible diseases must be isolated from residential areas and water sources.
- New hospitals and other medical establishments treating transmissible diseases must not be built within residential areas.<sup>213</sup>

In addition, with regard to pathological materials, these may be imported into Viet Nam or sent abroad only if it is agreed in writing by the Animal Health Department or the Department for Management of Quality, Safety, Hygiene and Health of Aquatic Animals. Pathological materials must be preserved and packed according to specific regulations to ensure veterinary hygiene and environmental sanitation. Pathological materials brought into Viet Nam without permission will be destroyed.<sup>214</sup>

### 11.6 Documents for international goods or cargo

Concerning goods or cargo for international trade, national laws require several health documents on arrival and departure. Pursuant to Article 11(2)(e)(2) of Circular 79/2009/TT-BTC dated 20/4/2009 issued by Ministry of Finance guiding customs procedures, inspecting and monitoring customs, import and export duties and tax management of import and export goods, some goods will require the submission of an examination registration paper, and examination exemption notice or evidence of examination issued by a competent body.

Specific goods which are subject to plant or animal quarantine are indicated in:

- Circular No.17/2003/TTLT/BTC-BNN&PTNT-BTS dated 14/3/2003 on guiding the examination, inspection of import, export goods subject to animal, plant and agricultural quarantine
- Decision No. 72/2005/QĐ-BNN dated 14/11/2005 issued by Ministry of Agriculture and Rural Development
- Decision No. 45/2005/QĐ-BNN dated 25/7/2005 issued by Minister of Ministry of Agriculture and Rural Development.

In particular, relating to goods and cargo carried by ships, Article 27(2) (d) of Decree No. 71/2006/NĐ-CP dated 25/7/2006 issued by the Government authority for seaports and maritime channels, requires that ship owners submit declarations on health quarantine, plant quarantine and animal quarantine (if any) on arrival.

The draft Decree on Border Medical Quarantine further clarifies the health documents required for international traffic concerning passengers, goods and cargo. Article 6 of this draft Decree provides that transport owners shall submit general health declarations for aircraft; maritime declarations of health and ship sanitation control exemption certificates/ship sanitation control certificates; and/or health declarations for conveyances, cargo and food for road users. Article 12(1) of this draft Decree further requires owners of goods to notify

#### **Transport and handling of biological substances, reagents and materials for diagnostic purposes**

*States Parties shall, subject to national law and taking into account relevant international guidelines, facilitate the transport, entry, exit, processing and disposal of biological substances and diagnostic specimens, reagents and other diagnostic materials for verification and public health response purposes under these Regulations.*

See IHR (2005), Article 46

competent bodies about their condition by completing health declarations for conveyances, cargo and food. Exemptions from these requirements are granted to any transit commodities which are not loaded at marine and aviation ports.

The above declarations and certificates are based on models provided by the WHO and are therefore consistent with those indicated under Article 39 of the IHR (2005).

### 11.7 Assessment and recommendations

The law on customs arrangements and other measures for communicable disease control in Viet Nam is relatively well developed and compatible with the IHR, particularly in the designation of competent agencies for implementing different measures. In reality however, quarantine measures at land border entry points are not effectively implemented due to the lack of technical equipment and personnel.<sup>215</sup> Therefore, the priority should be to focus on designating competent agencies responsible for supervising the implementation of quarantine measures. There are also a number of other specific provisions, mechanisms and measures worthy of considering to ensure the existing regulations are effective.

#### Recommendations

Existing and new laws and regulations on quarantine and other measures should be amended as follows:

- Clearly designate competent authorities responsible for supervising the removal and safe disposal of any contaminated matter from a conveyance; monitoring and controlling the discharge by ships of potentially disease-causing matter by waterways; and making effective contingency arrangements to deal with unexpected public health events.
- Provide clarification as to when is a conveyance deemed 'affected' or constitutes by a public health risk and indicate conditions for affected conveyances to take on fuel, water, food and supplies under the supervision of the competent authority and provide quarantine measures applied for containers and loading areas.
- Ensure that competent authorities follow the "do no harm" principle so as not to cause any harm to persons, luggage, goods and damage to the environment.
- Complete procedures for communication by the National IHR Focal Point on public health measures pursuant to the IHR.
- Provide conditions to ensure that affected conveyances may still be allowed to depart where the competent authority at the point of entry is not able to carry out the control measures required.
- Provide provisions on reporting evidence found and control measures required to the competent authority at the next known point of entry at the time of departure, and also noting this in the Ship Sanitation Control Certificate as required by the IHR.
- Provide for affected conveyances to take on fuel, water, food and supplies under the supervision of the competent authority.
- Develop the laws concerning quarantine of containers in detail as provided for under Article 34 of the IHR.





## **Management of foreign personnel during a disaster**

# Chapter 12

## Chapter 12

### Management of foreign personnel during a disaster

#### **Key findings:**

- Although there are some fast-track procedures and exemptions from visas requirements and work permits for international disaster relief personnel, these are generally limited to personnel from organisations already based in Viet Nam or applicable to personnel of certain nationalities.
- There are also some special provisions to waive the requirements of work permits for foreign experts entering the country for less than three months, or in the event of technological accidents.
- There are no specific rules for the rapid or temporary recognition of foreign medical qualifications in emergency situations – there are standard procedures designed for non-emergency situations.

### 12.1 Entry of relief personnel

#### Visas

Vietnamese visas include the following types:

- The single visa which is valid for use only once during the period of not more than 12 months;
- The multiple visa which is valid for use more than once during the period of not more than 12 months; and,
- The non-extendable visa.<sup>216</sup>

Foreigners applying for entry may be granted visas at Viet Nam's international border gates when they enter to provide urgent technical support for programmes, projects, to give first aid to seriously ill persons or accident victims, or to provide rescue for people affected by natural disasters and epidemics in Viet Nam.<sup>217</sup>

This procedure is quicker than normal for agencies or organizations already based in Viet Nam. Written requests must be sent to the Immigration Department of the Ministry of Public Security at least 12 hours before the arrival of personnel at the border gates.<sup>218</sup> The personnel are required to lodge their applications and photos with immigration authorities at the border gate.<sup>219</sup>

Personnel not associated with any agency based in Viet Nam must lodge their visa applications and photos (which shall be valid for 15 days) with Vietnamese diplomatic missions or consular offices in foreign countries. The consideration of applications and granting of visas must be carried out within no more than 3 working days.<sup>220</sup>

Additionally, foreigners of Vietnamese organizations entering Viet Nam for humanitarian relief purposes shall be exempted from visa fees.<sup>221</sup>

Concerning the granting or renewal of temporary residence certificates or visas, foreigners must complete the procedures through their inviting or guaranteeing agencies or organizations. Agencies, organizations or individuals inviting or guaranteeing foreigners must send written requests together with their guests' passports to the Exit and Entry Management Department or exit and entry management sections. In cases where foreigners apply for granting or renewal of temporary residence certificates for purpose of settling their own business, they may file their applications directly with the Exit and Entry Management Department or exit and entry management sections.<sup>222</sup>

In addition, through bilateral or multilateral agreements or unilateral decisions, Viet Nam has waived certain visa requirements for other countries' nationals. So far, the following categories of foreigners are exempted from visa requirement:

- Vietnamese people holding foreign passports and foreigners who are their husbands, wives and children are exempt from visa requirements to enter Viet Nam and are allowed to stay not more than 90 days. In order to be granted a visa exemption certificate at Vietnamese representative offices abroad, they must provide a foreign-issued permanent residence certificate with the validity of at least six months since the date of entrance. Those who expect to stay more than 90 days must apply for visa according to current stipulations before their entrance.
- Citizens of Thailand, Malaysia, Singapore, Indonesia and Laos holding valid ordinary passports are exempt from visa requirements and are allowed to stay for not more than 30 days; citizens of the Philippines are allowed to stay for not more than 21 days.
- Citizens of China, Bulgaria, Kyrgyzstan, North Korea, and Rumania holding valid ordinary passports for official mission and citizens of 52 countries holding valid diplomatic or official passports are exempt from visa requirements. The duration of staying is stipulated in certain cases.
- Visa with 30-day validity is exempted for officials from the ASEAN secretariat holding different kinds of passports as provided in Decree 21/2002/ND-CP and the Inter-ministerial Circular 04/2002/TTLT/BCA-BNG.
- Citizens of Sweden, Norway, Denmark, Finland,<sup>223</sup> Japan and South Korea<sup>224</sup> holding different kinds of passports are exempt from visa requirements and are allowed to stay for not more than 15 days.

However, when a particular relief worker falls outside one of these categories, there is some uncertainty as to how they will be received.

### Work permits

Vietnamese legal documents on work permits provide for two different categories of foreign workers, though there are no specific rules for foreign relief personnel. The Labour Code provides that foreigners working on a permanent basis for a Vietnamese business, organization or individual or for a business with foreign investment in Viet Nam must have a labour permit issued by the Vietnamese Ministry of Labour, War Invalids and Social Welfare.<sup>225</sup>

If foreign relief personnel are working in Viet Nam for more than 3 months, they must have work permits. Employers must take responsibility for preparing a dossier for submission to the Department of Labour, War Invalids and Social Affairs. Within 15 working days from the date of receipt of a valid dossier, the competent authority shall grant the work permit.

The duration of a work permit coincides with the term of the labour contract or as requested by the employer, but must not exceed 36 months. The extension of a work permit depends on the duration for which the foreigner continues to work for the employer, but must not exceed 36 months.<sup>226</sup> In addition, Article 3.2 of Decree 105/2003/ND-CP dated 17 September 2003 provides that all employers in need of foreign workers must obtain approval from the President of the Provincial People's Committee for such recruitment.

Exemptions from work permits are available for personnel entering Viet Nam to work for less than three months or to handle emergency cases. Emergency cases are defined as complicated technical or technological incidents which affect or threaten to affect production or business activities and cannot be handled by Vietnamese experts or foreign experts currently working in Viet Nam.<sup>227</sup>

Anecdotal evidence suggests there have been no cases of foreign relief personnel being permitted to operate without visas and/or work permits so far.

*For international relief personnel, Affected States should:*

- Grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities;
- In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;
- Facilitate freedom of access to and freedom of movement in and from the disaster affected area, bearing in mind the safety of disaster relief and initial recovery personnel.

See IDRL Guidelines (2007), Article 16(1)

## 12.2 Recognition of professional qualifications of foreign personnel

There are no specific rules for the recognition of medical qualifications for disaster relief or communicable disease emergencies. In general, Vietnamese law stipulates some requirements for domestic and foreign organizations as well as individuals to be entitled to engage in private medical and pharmaceutical practice provided they meet the following conditions:

- Having diplomas compatible with the organizational forms and scope of professional practice;
- Having practiced for a given period of time at medical or pharmaceutical establishments;
- Having professional ethics; and,
- Having good health for professional practice.<sup>228</sup>

Foreigners directly involved in the examination and treatment of patients must be fluent in Vietnamese or have interpreters. Their prescriptions must be written in Vietnamese and the language of the foreigner providing the medical examination and prescriptions.<sup>229</sup>

Persons who are considered fully qualified are granted certificates of private medical and pharmaceutical practice by the Health Ministry or the Health Services of the provinces or centrally-run cities.<sup>230</sup> The certificates are granted regardless of the household registration place of the applicant. However for Hanoi, Ho Chi Minh City, Hai Phong and Da Nang cities, the certificates of private medical and pharmaceutical practice are granted only to persons who have permanent household registration in such localities for some forms of professional practice according to the Health Ministry's guidance.<sup>231</sup> The certificates of private medical and pharmaceutical practices include:

- Private medical practice certificates.
- Certificates of consultation and treatment practice.
- Certificates of medical service provision.
- Certificates of private practice of traditional medicine and pharmacy.
- Certificates of consultation and treatment practice with traditional medicine.
- Certificates of traditional pharmacy practice.
- Certificates of private pharmaceutical practice.
- Certificates of vaccine and medical bio-product practice.<sup>232</sup>

Procedures for foreigners to practice at private medical, pharmaceutical and traditional medical establishments are provided under Vietnamese regulations as follows:<sup>233</sup>

- Within 30 working days after receiving all required dossiers, the Health Services of the provinces or centrally-run cities shall examine the professional expertise of foreigners and grant certificates.
- If the Health Services refuse to grant certificates of private medical and traditional medical practice, they shall have to reply and explain the reasons to foreigners in writing.

Fees for appraising the criteria and conditions of private medical and pharmaceutical practice are stipulated in the Decision no. 59/2008/QĐ-BTC of the Ministry of Finance dated 21 July 2008 on the amendments and supplements to the Decision no. 44/2005/QĐ-BTC of the Minister of Finance dated 12 July 2005. This instrument provides for the regime of collection, remittance, management and use of charges for appraising conditional commercial operations in the health sector as well as charges for appraising criteria and conditions for medical and pharmaceutical practice, and fees for granting import/export permits and certificates of medical and pharmaceutical practice.

*Affected States should establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers and other types of license or certificate necessary for disaster assistance.*

*The humanitarian organization must certify that such licences are genuine.*

See IDRL Guidelines (2007), Article 21

Concerning the registration of humanitarian health services and volunteers to serve patients at medical establishments, the legal requirements are:

- Submission of the dossiers of the team to the Health Services of the provinces or centrally-run cities to verify and permit to conduct examination and treatment activities.
- The dossiers shall include:
  - List of personnel and their résumés, certified copies of medical diplomas and certificates.

- List of medical equipment and instruments.
  - List of free of charge medicines.
  - Permits granted by the Health Services for foreigners to conduct professional services.
- Within 15 days after receiving all required dossiers, the Health Services may authorize the conducting of humanitarian examination and treatment activities at private or public medical establishments. If they refuse to grant such permit, they shall explain the reasons in writing.
  - No later than 15 days after the completion of the humanitarian examination and treatment, reports of the outcomes must be filed to the Health Services which authorize those activities.

In emergency cases, the government may mobilize private medical examination and treatment establishments to take part in first-aid provision to, as well as medical examination and treatment of, the infected persons and persons prone to be infected or apply other necessary measures.<sup>234</sup>

In light of the above, it is clear that the law provides no specific procedures and rules on the mobilization of foreign medical personnel during emergencies. However, according to an interview with the Department of Examination and Treatment Management of the Ministry of Health the granting of certificates may be unnecessary. Foreign medical personnel can conduct relief activities when they submit required diplomas and other dossiers to the Health Services in the area in which they work, although this has not been tested in practice.

### Recent Developments

The Vietnamese National Assembly is discussing a new Law on Examination and Treatment which cover these issues. The Draft Law (Draft 14 dated 8 February 2009) stipulates in Article 21 that recognition of medical qualifications will be achieved in accordance with relevant international treaties to which Viet Nam is a party. Recently, Viet Nam signed, together with other ASEAN countries, the ASEAN Mutual Recognition Arrangement on Medical Practitioners. The Arrangement provides that:

- A Foreign Medical Practitioner may apply for registration in the Host Country to be recognized as qualified to practice medicine in the Host Country in accordance with its domestic regulations and provided that the practitioner:<sup>235</sup>
  - is in possession of a medical qualification recognized by the Professional Medical Regulatory Authority (PMRA) of the Country of Origin and Host Country;
  - is in possession of a valid professional registration and current practising certificate to practise medicine issued by the PMRA of the Country of Origin;
  - has been in active practice as a general Medical Practitioner or specialist, as the case may be, for not less than five (5) continuous years in the Country of Origin;
  - is in compliance with CPD at satisfactory level in accordance with the policy on CPD mandated by the PMRA of the Country of Origin;
  - has been certified by the PMRA of the Country of Origin of not having violated any professional or ethical standards, local and international, in relation to the practice of medicine in the Country of Origin and in other countries as far as the PMRA is aware;
  - has declared that there is no investigation or legal proceeding pending against him/her in the Country of Origin or another country; and
  - is in compliance with any other assessment or requirement as may be imposed on any such applicant for registration as deemed fit by the PMRA or other relevant authorities of the Host Country.

### 12.3 Recommendations

Option 1: A new comprehensive regulation on the arrangements for receiving international assistance, to supplement the new Law on Disaster Risk Management (proposed above), which could:

- Provide for the waiver or rapid processing of entry and exit visas for humanitarian personnel of recognized

entities without cost.

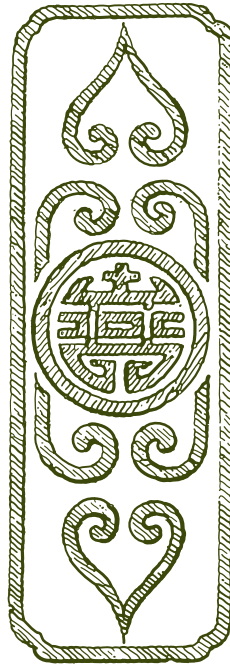
- Enable the provision of visas at points of entry which are valid for the duration of relief and initial recovery operations.

Option 2: Existing laws, regulations and procedures should be amended as follows:

- Immigration laws and regulations should be amended to provide for the waiver or rapid processing of entry and exit visas for humanitarian personnel of recognized entities without cost and enable the provision of visas at points of entry which are valid for the duration of relief and initial recovery operations.

Additionally:

- The Draft Law on Examination and Treatment should include procedures and requirements for urgent recognition and governmental approval for the exercise of certain professions pertinent to disaster response operations, such as doctors, nurses, and pharmacists including expedited review and recognition of the foreign qualifications of medical and other professional relief personnel from assisting states and approved humanitarian organizations, as well as necessary licenses and permits in cases without international treaties.
- Viet Nam should also consider signing bilateral arrangements with international humanitarian organizations which cover the issue of urgent recognition and approval of professional qualifications of their personnel.



## **Management of foreign personnel during a communicable disease emergency**

## Chapter 13

### Management of foreign personnel during a communicable disease emergency

#### Key findings:

- Viet Nam's laws on the management of travellers during a communicable disease emergency are generally consistent with international regulations in the following ways :
  - Fundamental human rights and freedoms of travellers indicated in relevant international conventions are protected.
  - No additional health documents are required on arrival/departure of travellers and travellers holding valid health certificates shall not be denied entry.
  - Affected and suspect travellers shall receive medical examinations and treatment.
- Vietnamese laws and regulations on border medical quarantine, however, should include obligations to consult with affected or suspect travellers and to obtain their consent for medical examinations and treatment.

#### 13.1 Rights and freedoms

Viet Nam's laws and regulations do respect and protect travellers' dignity, human rights and fundamental freedoms. Ordinance No. 24-2000-PL-UBTVQH10 dated 28/4/2000 issued by Standing Committee of National Assembly on Entry, Exit and Residence of Foreigners in Viet Nam clearly indicate in Article 1, paragraph 1, that: "The State of Socialist Republic of Viet Nam shall create favourable conditions for the entry, exit, and the transit of foreigners; shall protect the lives, possessions and other legitimate interests of foreigners residing in Viet Nam on the basis of the laws of Viet Nam and international treaties to which the Socialist Republic of Viet Nam is a signatory or participant". Article 1, paragraph 3 of this law also provides that "where an international treaty to which the Socialist Republic of Viet Nam is a signatory or participant contains provisions on the entry, exit or residence of foreigners in Viet Nam which are inconsistent with the provisions of this Ordinance, the provisions of the international treaty shall apply".

Although this Ordinance does not specify refer to fundamental human rights, Viet Nam acceded to the International Covenant on Civil and Political Rights on 24 September 1982 which could therefore be applied to ensure the dignity, human rights and fundamental freedoms of travellers.

Viet Nam's laws, however, do not provide any details about minimizing that discomfort or distress associated with health measures. Article 49 of the Law Communicable Disease Prevention and Control stipulates that travellers (as an affected group under this law)<sup>236</sup> maybe quarantined and isolated for public health purposes. However the law gives no detail on specific aspects concerning courtesy or respectful treatment; gender, socio-cultural, ethnic or religious considerations; adequate food, water, accommodation and clothing arrangements; or other appropriate assistance.

As described above, the Ministry of Health has submitted to the Government a draft Decree on Border Medical Quarantine Regulation<sup>237</sup> detailing the Law No. 03/2007 on Communicable disease prevention and control. Under Article 5(1), travellers affected by or suspect of carrying a class-A diseases shall undergo medical examination isolation, vaccination or other prevention measures as well as first-aid and curative treatment. However, this includes no detailed provisions on respecting dignity or fundamental rights, or the provision of other assistance to travellers.

Under Article 8(5) of this draft Decree however, it is provided that acts including discrimination and disseminating negative information against affected people are prohibited. This provision may serve as an indicator of the intention to include obligations for respecting dignity of affected travellers.

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Quarantine measures and other health procedures are described separately in:

- Guidelines for Diagnosis, Treatment and Prevention of the Spread of H1N1 Among People (Attached to Decision No. 1440/QĐ-BYT dated 29/ 4/ 2009, issued by Minister of Health on the Issuance of the Guideline for Diagnosis, Treatment and Prevention the Spread of H1N1); and
- Guidelines for Controlling the Spread of H5N1 in Healthcare Centres (Attached to Decision No. 44/2006/QĐ-BYT dated 29/12/2006 issued by Minister of Health on the Issuance of the Guideline for Diagnosis, Treatment and Prevention the Spread of H5N1 Among People).

These instruments provide that suspect travellers will be isolated in separate wards<sup>238</sup>, but neither refer to the protection of rights or dignity of travellers.

However, Decision No. 38/2005/QĐ-BYT dated 24/11/2005 issued by Minister of Health on Publishing the Plan on Prevention and Control of Flu Epidemic Among People in Viet Nam, provides that the health of every foreigner working in Viet Nam (at the time the epidemic occurs) shall be protected, including diagnosis and treatment equal to Vietnamese citizens.<sup>239</sup>

## 13.2 Documentation

In normal circumstances, travellers seeking temporary or permanent residence in Viet Nam are required to submit health documents, but must have legitimate passports and visas.<sup>240</sup> Nor are health documents required in order to obtain a visa.<sup>241</sup> Vietnamese citizens are also not required to submit health documents to obtain passports.<sup>242</sup>

However, upon the international arrival or departure of transport carrying passengers, Article 10 of Decree No. 41/1998/NĐ-CP dated 11/6/1998 issued by the Government promulgating the Regulation on Border Medical Quarantine of the Socialist Republic of Viet Nam, required the transport owner or their representative to provide health quarantine bodies at border gates with information on their itinerary and health declarations of passengers.

This requirement was then replaced in 2006 by Decision 42/2006/QĐ-BTC dated 18/8/2006 issued by Minister of Finance on supplementing article 1 of Decision No. 29/2006/QĐ-BTC dated 08/05/2006 on regulations on sample, usage directions, printing and managing of Arrival/Departure Declarations. Under this Decision, the Customs Declaration was amended to include questions concerning contact information (their proposed address in Viet Nam) and the health situation of passengers (symptoms of fever, cough, dyspnoea, diarrhoea, nausea and jaundice).

According to the draft Decree on Border Medical Quarantine travellers will not be required to carry specific health documents unless they have originated or transited through affected areas or fall into a suspect category, in which case they may be asked to present an International Certificate of Vaccination or Prophylaxis, issued by the WHO.<sup>234</sup>

Additionally, in accordance with the Procedure attached to the Decision No. 2331/2004/QĐ-BYT dated 06/7/2004 issued by Minister of Health on Promulgation of procedures for border medical quarantine of the Socialist Republic of Viet Nam, if quarantine officers they suspect one or more passengers from a particular transport has symptoms of being ill, they must establish a list of all travellers on board, including information relating to their names, ages, nationalities, itineraries, address of destination and phone numbers.<sup>244</sup> For public

### Protected rights and freedoms for travellers:

- *The implementation of these Regulations shall be with full respect for the dignity, human rights and fundamental freedoms of persons.*

See IHR, Article 3(1)

- *Travellers shall be treated with “courtesy and respect”; taking into consideration their “gender, sociocultural, ethnic or religious concerns”.*
- *If they are “quarantined, isolated or subject to medical examinations or other procedures for public health purposes” , “adequate food and water, appropriate accommodation, clothing, protection for baggage and other possessions, appropriate medical treatment... and other appropriate assistance” should be provided or arranged*

See IHR, Article 32.

health purposes, Decree No. 41/1998/NĐ-CP, Article 45 also allows health quarantine bodies at border gates to demand travellers notify competent authorities about their health situations, show their vaccination or health certificates at necessary circumstances. This decision also allows inspections of baggage, cargo, containers, conveyances, goods, postal parcels and human remains of travellers if suspected of carrying disease.<sup>245</sup>

### 13.3 Treatment of suspect and affected travellers

Decree No. 41/1998/NĐ-CP provides in Article 27 that suspect or affected travellers shall be isolated and treated at designated centres until they recover or are no longer infectious. This article also stipulates that health officers must retain medical examination results of suspect travellers within the incubation period.

More importantly, the Procedure attached to the Decision No.2331/2004/QĐ-BYT dated 06/7/2004 issued by Minister of Health on Promulgation of procedures for border medical quarantine of the Socialist Republic of Viet Nam, requires that suspect travellers must be immediately isolated for medical examinations. If the traveller is determined to be affected, they shall be transferred to hospitals for observation and treatment.<sup>246</sup>

Treatment for travellers during the isolation is proscribed in Decision No. 38/2005/QĐ-BYT dated 24/11/2005 issued by Minister of Health on Publishing the Plan on Prevention and Control of Flu Epidemic Among People in Viet Nam, Annex 5. Suspect travellers may continue their voyage, however, they are obliged to have their health conditions checked at healthcare centres at the times indicated in the health observation paper provided by health quarantine bodies at border gates. At the same time, the quarantine bodies must promptly inform the competent authority at the point of destination about this traveller. Further, Article 52 of Decree 41/1998/ND-CP stipulates that border medical staff must notify the Ministry of Health within 24 hours when a sign of disease is identified. Thereafter, they are required to produce report every 24 hours until the termination of the disease. These additional regulations appear to be in conformity with IHR Article 30.<sup>247</sup>

Regulations consistent with the above are also included in the draft Decree on Border Medical Quarantine. It provides, in articles 3 and 4, that travellers must submit information concerning their destination and itinerary for public health purposes. It also allows the review of the traveller's health documents, though it does not mention the inspection of baggage, cargo, containers, conveyances, goods, postal parcels and human remains. This draft Decree also provides for the isolation, vaccination and treatment of travellers suspected or found to be carrying diseases.<sup>248</sup> These measures shall be determined on a case-by-case bases. However, it does not provide any provisions relating to suspected travellers being allowed to continue their voyage or any relevant measures applicable to this group.

Viet Nam's regulations on the isolation of affected travellers are in themselves not contrary to the IHR, to the extent that states are free to "legislate and implement legislation in pursuant of their health policies".<sup>249</sup> However, this principle must be read with obligations of states with regard to ensuring "full respect for the dignity, human rights and fundamental freedoms of persons".<sup>250</sup> Thus Viet Nam's law lacks clear regulations regarding these obligations during the isolation and treatment of affected travellers.

### 13.4 Treatment with prior consent

In the event of the emergence or spread of communicable or quarantine disease at Viet Nam's border gates, health quarantine bodies at border gates are under obligations to provide vaccinations and prophylaxis for travellers upon their request. Concerning suspect or affected travellers, there are no regulations which clearly indicate any prohibitions about conducting medical examinations, vaccinations, prophylaxis or application of other health measures without prior express, informed consent of the traveller or his/her parents or guardians. A government official from the Ministry of Health however, confirmed that all of these medical measures may, in practice, only be applied with consent. Additionally, travellers must be informed about the effect of vaccines as well as advantages and possible side-effects before administering the vaccination.<sup>251</sup>

### 13.5 Vaccinations

Obligatory isolation and treatment is required for suspect and affected travellers from areas known to be contaminated with specific diseases (such as bubonic plague, cholera and yellow fever) in accordance Chapter 4 of Decree No. 41/1998/NĐ-CP dated 11/6/1998 issued by the Government promulgating the regulation on health quarantining at border gates of the Socialist Republic of Viet Nam.<sup>252</sup> Additionally, Article 39 requires that “every traveller from yellow fever affected areas entering Viet Nam must hold a valid vaccination certificate.” Travellers without, “shall be under observation for within 6 days after their departure date from affected areas”.

Vaccination is one of medical treatments prescribed by law which may be applied to foreigners at their request in accordance with Article 41 of Decree 41 above and border medical authorities may request the presentation of vaccination documents in accordance with Article 45.

The draft Decree on Border Medical Quarantine also specifies the validity of vaccination certificates, which must be International Certificates of Vaccination and Prophylaxis, based on those issued by the WHO.<sup>253</sup> Generally, these requirements are in conformity with regulations under IHR, Annex 7.

### 13.6 Denial of vaccination and prophylaxis certificates

The law does not specifically ensure that travellers in possession of such certificates shall not be denied entry as a consequence of the disease to which the certificate refers. It also does not provide conditions for the denial of access on grounds of the disease noted in a vaccination certificate.

### 13.7 Medical examinations

If quarantine officers at border gates identify signs of travellers being ill, the law provides for medical examination to determine any risk of disease transmission, however it does not specify the measures to be conducted during the examination.<sup>254</sup> As mentioned above, if found affected, the travellers are required to be isolated and transferred to a healthcare centre. Suspected travellers are allowed to continue their voyages after incubation period of the concerned disease.

These measures are provided in Decree No. 41/1998/NĐ-CP dated 11/6/1998 issued by Government promulgating regulation on border medical quarantine of the Socialist Republic of Viet Nam and Procedure attached to the Decision No. 2331/2004/QĐ-BYT dated 06/7/2004 issued by Minister of Health on Promulgation of procedures for border medical quarantine at border gates of the Socialist Republic of Viet Nam. These instruments are considered to reflect Viet Nam’s safety guidelines and standards.

The draft Decree on Border Medical Quarantine furthers Decision No. 41/1998/NĐ-CP by providing that quarantine officers at borders gates are allowed to review travellers’ international certificates of vaccination and prophylaxis if the travellers come from or transit through affected areas or are suspected of carrying disease. Those without such certificates shall receive vaccinations and certificates of vaccination or other prophylaxis measures by the border medical quarantine body.<sup>255</sup> Other prophylaxis measures, however, are not clarified in the Decree. Moreover, as described above, the regulations under this draft Decree, do not provide detail on the possibility of suspect travellers continuing their voyage or of any follow-up measures to ensure these travellers do not further spread disease.

**For public health purposes, State party may require for following information on travellers’ arrival/ departure:**

- Information concerning traveller’s destination, itinerary.
- Inspection of baggage, cargo, containers, conveyances, goods, postal parcels and human remains.
- Additional health measures.
- Health documents provided in the Regulation including, amongst others, International certificate of Vaccination or Prophylaxis, Maritime Declaration of Health, Health part of the Aircraft General Declaration and those issued by the World Health Organization.

See IHR, Article 23, 35

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### 13.8 Assessment and recommendations

Medical requirements and measures stipulated by Viet Nam's laws and regulations are generally consistent with international safety standards indicated in the IHR to minimize the risk of the further spread of communicable disease. However, there are some provisions which could be further elaborated to provide addition safeguards and to guarantee the rights and fundamental freedoms of travellers. It is also interesting to note that none of the above provisions provide any exceptions or fast track procedures for humanitarian personnel entering Viet Nam to respond to a disaster or communicable disease emergency.

#### Recommendations

Existing laws and regulations should be amended or supplemented to:

- Clearly address the rights and freedoms to be guaranteed for international travellers during the application of any health measures to prevent and control communicable diseases in accordance with the IHR. This will serve as evidence of Viet Nam's compliance with international treaties will encourage foreigners to be more willing to provide information about their health conditions and to comply with requirements.
- Ensure the draft Decree on Border Medical Quarantine and any other legal documents regulating prophylaxis measures include provisions relating to the ability of suspect travellers to continue their voyage as well as follow up measures to ensure those travellers not to further the spread of diseases, as required by the IHR.
- Provide conditions under which medical examinations, prophylaxis and treatment offered for suspect and affected travellers may be conducted, including the necessity of prior consent and the circumstances under which this may be waived in accordance with the IHR.
- In the case of humanitarian personnel, ensure that any required health measures (which must be conducted in accordance with the provisions of the IHRs) will be carried out with the utmost urgency and priority for both entry and exit.





## Transport during disasters

# Chapter 14

## Chapter 14

### Transport during disasters

#### Key findings:

- There are numerous legal instruments providing exceptions and exemptions for vehicles bearing relief goods during disaster such as priority rights and the waiver of traffic tolls, service fees and other charges.
- Although these instruments do contain many provisions consistent with international standards and practices, the legal framework is dispersed and remains unclear when it comes to practical issues, for instance, procedures to allow relief vehicles to receive priority right of way and waiver of traffic tolls and other fees and charges.
- With regard to the purchase of vehicles, insurance and the exchange of driving licenses, the existing legal texts on transport already provide a comprehensive set of provisions and guidelines and have so far not generated any obstacles for foreign relief personnel; however they have yet to be applied and tested in a large-scale emergency situation.

### 14.1 Transport of relief goods

#### Aircraft

All flights into and landing in the territory of Viet Nam must be carried out in accordance with civil aviation regulations. The designated authority concerned with issuing flight permission for domestic and foreign civil flight is the Civil Aviation Administration of Viet Nam (CAAV)<sup>256</sup>. However, permission for some of the flights may only be granted after obtaining the agreement from the Military Operation Department of the Ministry of Defense.<sup>257</sup>

With regard to flights for humanitarian purposes, application for flight permits must be made within at least 3 working days before the intended date of making a flight (as compared to 30 days for normal flights) and flight permits must be granted no later than 2 working days from the date of submission (compared to 15 days in the case of normal flights). In particular, there is no time limit for emergency situations. Moreover, agencies must consider and notify applicants about flight permits within 2 working days from the date of receipt of the application.

#### International transport arrangements for disaster response

- *Originating, transit and affected States should grant, without undue delay, permission for the speedy passage of land, marine and air vehicles operated by an assisting State or eligible assisting humanitarian organization, or on its behalf, for the purpose of transporting disaster relief or initial recovery assistance and, ideally, waive applicable fees.*
- *In particular, permission should be granted for overflight, landing and departure of aircraft. Such aircraft should also be authorized to operate within the territory of the affected State as required for the delivery of assistance.*

See IDRL Guidelines (2007), Article 19

Flights for humanitarian purposes are also subject to special provisions in terms of fees. Article 4 (1c and 3) of Decision No. 13/2006/QĐ-BTC<sup>258</sup>, provides that search-and-rescue flights, flights delivering humanitarian aid, flood aid and natural disaster relief or performing other humanitarian tasks certified by the CAAV are exempted from aviation service fees and charges.

#### Road vehicles

Existing law provides a number of exceptions for carriage and other requirements for trucks bearing relief goods as follow:

- **Priority right:** First priority is given to fire-fighting vehicles, military vehicles and ambulances on their way to perform urgent tasks. Vehicles performing the task of transporting supplies and goods to the disaster-hit places are granted second priority before other vehicles when passing

cross-roads from any direction. These vehicles must give signals by horn, banner and lights as prescribed. They are not subject to speed restrictions. They may also enter one-way roads from the opposite direction and use other passable roads even through red lights and must only follow the instructions of traffic conductors.<sup>259</sup>

- Exceptions for carrying people on car trunks: Carrying people on car trunks is generally prohibited, except for cars carrying people during natural disaster or other urgent tasks.<sup>260</sup>
- Waiver of traffic tolls: These apply for all kinds of vehicles performing the task of transporting supplies, equipment, medicaments and goods to disaster-hit places or epidemic-hit areas.<sup>261</sup>

### Sea vessels

Although the law does not explicitly provide for speedy clearance of relief vessels, the procedures for vessels arriving and departing from seaports do generally facilitate fast as clearance of vessels.<sup>262</sup> Additionally, the General Department of Customs is presently making improvements to clearance procedures for all vessels departing from, arriving and transiting in Viet Nam by introducing and testing new electronic customs procedures.<sup>263</sup> The trial phase is expected to be completed later in 2009 and it is hoped to have all inland ports using the new procedure after the new system has been officially activated.

In relation to fees, as mentioned above, all kinds of vehicles, including sea vessels, carrying relief goods or performing tasks in an emergency situation are exempted from all kinds of traffic tolls. This principle is well incorporated in various legal texts issued by the Ministry of Finance in relation to maritime charges and fees.<sup>264</sup>

## 14.2 Insurance of vehicles

Under Vietnamese regulations, foreign relief organizations are treated the same as other foreign organizations for insurance purposes and bound by all applicable regulations for foreign entities in Viet Nam. In this regard, it is compulsory that all vehicle owners, regardless of their nationality, must obtain insurance for their vehicles travelling within the territory of Viet Nam<sup>265</sup>. Such insurance is easily available on the domestic market. The validity of foreign temporarily-imported car insurance is 1 year.<sup>266</sup>

## 14.3 Driving licenses

Pursuant to Article 20 of the Regulation on management of the testing and grant of road motor vehicle driver licenses 2007<sup>267</sup>, foreign or Vietnamese overseas residents staying and working in Viet Nam must apply to exchange their foreign driving license for a Vietnamese license, except where otherwise provided for by international treaties on driving licences of which Viet Nam is a party.<sup>268</sup>

The process for exchanging foreign licenses is provided in Official Letter No. 1084/CĐBVN-QPLTNL.<sup>269</sup> Such applications may be made in accordance with one of the following:

- Exchange of driving license granted by a foreign country to its nationals who are staying, working or studying for a long-term in Viet Nam; or
- Exchange of driving license for a foreign tourist driving a car registered in another country into Viet Nam.

The Official Letter also provides detailed instructions on the formalities and application procedures, which have been well applied in practice.

### **Driving licences and registration**

- *Affected States should establish expedited procedures for temporary recognition of driving licences that are:*
  - *necessary for the performance of disaster relief or initial recovery functions; and*
  - *that have been certified as genuine by the concerned entity.*
- *Affected States should grant temporary recognition to foreign registration and plates for imported vehicles by or on behalf of eligible assisting entities.*

See IDRL Guidelines (2007), Article 16(1)(c)

## 14.4 Recommendations

Regarding the legal facilities for transport during disaster, there are two recommended options:

Option 1: The new comprehensive regulation on the arrangements for receiving international assistance should provide:

- Speedy passage for relief vehicles. The permission granting authority should also be specified for each level of operation (national or local).
- Automatic waiver of tolls, services fees and other charges for relief vehicles bearing proper distinctive signs / paperwork.
- Expedited procedures for the temporary recognition of foreign driving licenses for humanitarian personnel.

Option 2: Existing laws, regulations and procedures should be amended as follows:

Existing transport laws should include a chapter on transport arrangements for emergency relief, which cover the above issues.







# Transport during communicable disease emergencies

# Chapter 15

## Chapter 15

### Transport during communicable disease emergencies

#### Key findings:

- *The law on transportation facilitates the arrival of ships and aircraft at points of entry during a communicable disease emergency in general. It only places some restrictions on exiting and entering where dangerous epidemics emerge and such restriction does not refer to international air transportation.*
- *The law on transportation provides for special provisions for aircraft such as the submission of information by the pilot on health conditions of passengers and all crew members to border medical quarantine agency before landing; the completion and delivery of the Health Part of the Aircraft General Declaration; and one of the conditions to release Notice To Airmen (NOTAM) concerning the appearance of epidemics in order to vaccinate or isolate for quarantine. Aircraft operators are responsible for receiving full information which affects flight safety and timely notifications to crew.*
- *Laws on transportation also provide some special provisions for sea vessels, such as the requirement that the master of a ship or doctor on board must supply information on the health conditions of passengers and all crew members on board to the border medical quarantine agency before landing. They must also fill and submit the Maritime Declaration of Health and Ship Sanitation Control Certificates or Exemptions to fully conform to the model in Annex 3 of IHR.*
- *General obligations exist for conveyance operators to make medical declarations to the border quarantine bodies when they enter, exist or transit Viet Nam and to comply with medical monitoring, inspection and disposal measures as prescribed by law.*
- *There are no specific measures applicable to humanitarian transport.*

#### 15.1 Arrival of ships and aircraft at points of entry during communicable disease emergencies

The laws of Viet Nam relating to states of emergency and the control of communicable diseases do not prohibit ships or aircraft from calling at any point of civilian entry in case of communicable disease emergencies or for public health reasons. Nor do they prohibit aircraft arriving at points of entry due to public health reasons.<sup>270</sup> There are only measures for restriction as mentioned above. Such restriction does not refer to international air transportation and is only applied when a state of emergency concerning infectious diseases. Therefore, the restriction complies with Article 43 of the IHR.

In comparison with the IHR, Viet Nam's law still lacks a number of detailed regulations including the clarification of procedures for control and restrictions on the entrance of persons and conveyances coming from disease affected areas.

Current laws also lack provisions on free pratique for ships and aircraft including its communication by radio or other communication prior to arrival at the border-gates. There is also a lack of provisions on the immediate relay of information from port/airport control to the competent authorities regarding information received from arriving ships/aircraft about infectious diseases or evidence of a public health risk on board.

Where a suspect or affected aircraft or ship, for reasons beyond the control of the pilot/officer in command, does not land at the port/airport where it was due, there are no provisions for the application of any health measures or arrangements for the ship/aircraft to proceed to its original destination.

Maritime and aviation regulations do, however, permit the officer/pilot in command of a ship to take emergency measures necessary for the safety of travellers on board, but not specifically for the health of travellers. The law on civil aviation also

provides that authorized officials may request the suspension of a flight or an emergency landing for aviation safety.<sup>271</sup> The maritime laws also provide similar responsibilities for the master of a ship.<sup>272</sup>

### 15.2 Special provisions for aircraft

The aviation law does not provide in detail information which the pilot in command of an aircraft or the pilot's agent to supply as to health conditions on board during an international voyage or as to any health measures applied to the aircraft. Only obligation of crew provided by the law is "collect information which may affect the flight and supply that information right after landing."<sup>273</sup>

However, current draft of Decree on border medical quarantine which is now on the table of the Prime Minister and ready for signing does provide for general obligations for vehicle owners to supply vehicle's medical report to border medical quarantine agency when transport means are imported, exported or transited Viet Nam. With regard to aircraft, pilot in command must supply information on health conditions of passengers and all crew members to border medical quarantine agency before landing.<sup>274</sup>

With regard to aeronautical information notification, there is a term called NOTAM – Notice To Airmen. NOTAM refers to notification by telecommunication on information relating to the setting up, status or the change of navigator, services, method of exploration or the danger which crew and people relating to flight operation should recognize timely to deal with. The aviation law provides for 24 cases to release NOTAM, one of which is the appearance of epidemics need to inform in order to vaccinate or isolate for quarantine.<sup>275</sup> The aircraft operator is responsible for receiving fully information which affect flight safety and timely notify to crew.<sup>276</sup>

The aviation law does not provide for the fact that the pilot or his/ her agent must complete and deliver the Health Part of the Aircraft General Declaration. In model report after the flight does not have separate part on health of passengers.<sup>277</sup> However, current draft of Decree on border medical quarantine does provide for this kind of obligations as above mentioned.

### 15.3 Special provisions for sea vessels

Maritime laws and regulations do not require the master of a ship to ascertain the state of health on board before arrival at its first port of calling in Viet Nam. The Maritime Law contains only general provisions on obligations of the master of a ship to ensure that the ship meets marine safety requirements for the ship and people on board, before and during the voyage.<sup>278</sup>

Maritime law does not specifically require the master of a ship, or the ship's surgeon to supply any information as to health conditions on

#### ***Ships and aircraft at points of entry***

2. Subject to Article 43 or as provided in applicable international agreements, ships or aircraft shall not be refused free pratique by States Parties for public health reasons; in particular they shall not be prevented from embarking or disembarking, discharging or loading cargo or stores, or taking on fuel, water, food and supplies. States Parties may subject the granting of free pratique to inspection and, if a source of infection or contamination is found on board, the carrying out of necessary disinfection, decontamination, disinsection or deratting, or other measures necessary to prevent the spread of the infection or contamination.

3. Whenever practicable and subject to the previous paragraph, a State Party shall authorize the granting of free pratique by radio or other communication means to a ship or an aircraft when, on the basis of information received from it prior to its arrival, the State Party is of the opinion that the arrival of the ship or aircraft will not result in the introduction or spread of disease.

See IHR (2005), Article 28(2, 3)

#### ***Ships and aircraft at points of entry***

6. Notwithstanding the provisions contained in this Article, the officer in command of a ship or pilot in command of an aircraft may take such emergency measures as may be necessary for the health and safety of travellers on board. He or she shall inform the competent authority as early as possible concerning any measures taken pursuant to this paragraph.

See IHR (2005), Article 28(6)

#### ***Airports and ports***

2. States Parties shall ensure that Ship Sanitation Control Exemption Certificates and Ship Sanitation Control Certificates are issued in accordance with the requirements in Article 39 and the model provided in Annex 3.

See IHR (2005), Article 20(2)

board during an international voyage. Regulations on supplying, receiving, transmitting and dealing with information concerning maritime safety<sup>279</sup> do not mention information on the health condition of people on board, however, current draft of Decree on Border Medical Quarantine does contain such a provision. According to the draft Decree, the master of a ship or doctor on board must supply information on health conditions of passengers and all crew members on board to border medical quarantine agency before landing.<sup>280</sup>

### **Ship sanitation certificates**

*1. Ship Sanitation Control Exemption Certificates and Ship Sanitation Control Certificates shall be valid for a maximum period of six months. This period may be extended by one month if the inspection or control measures required cannot be accomplished at the port.*

*2. If a valid Ship Sanitation Control Exemption Certificate or Ship Sanitation Control Certificate is not produced or evidence of a public health risk is found on board a ship, the State Party may proceed as provided in paragraph 1 of Article 27.*

*3. The certificates referred to in this Article shall conform to the model in Annex 3.*

*4. Whenever possible, control measures shall be carried out when the ship and holds are empty. In the case of a ship in ballast, they shall be carried out before loading.*

*5. When control measures are required and have been satisfactorily completed, the competent authority shall issue a Ship Sanitation Control Certificate, noting the evidence found and the control measures taken.*

*6. The competent authority may issue a Ship Sanitation Control Exemption Certificate at any port specified under Article 20 if it is satisfied that the ship is free of infection and contamination, including vectors and reservoirs. Such a certificate shall normally be issued only if the inspection of the ship has been carried out when the ship and holds are empty or when they contain only ballast or other material, of such a nature or so disposed as to make a thorough inspection of the holds possible.*

*7. If the conditions under which control measures are carried out are such that, in the opinion of the competent authority for the port where the operation was performed, a satisfactory result cannot be obtained, the competent authority shall make a note to that effect on the Ship Sanitation Control Certificate.*

See IHR (2005), Article 39

The Maritime Law does not require the submission of a Maritime Declaration of Health (conforming to the model in Annex 8) from ships arriving from affected areas. However, the draft Decree on Border Medical Quarantine does provide for obligation of master of a ship to fill and submit a Maritime Declaration of Health.<sup>281</sup> The provisions in the draft Decree on this matter are in conformity with WHO guidelines<sup>282</sup> however, there are no provisions requiring shipping operators or their agents to be informed of any measures which may be applied upon arrival.<sup>283</sup>

In respect of Ship Sanitation Control Exemption Certificates and Ship Sanitation Control Certificates, neither the Maritime Law nor regulations on border medical quarantine provide that these certificates shall be valid for a maximum period of six months (extendable by one month if the inspection or control measures required cannot be accomplished at the port).

If a valid certificate is not produced or evidence of a public health risk is found on board a ship, current regulations allow for measures to be taken such as: disinfection of agents causing quarantine diseases or intermediary objects causing infectious diseases on conveyances; removal and disposal of solid wastes and discharges of humans and animals; and disposal of discharged water, water at the ships' bottom and food carrying agents causing quarantine diseases<sup>284</sup> - in accordance with Article 27(1) of the IHR.

The regulations do not, however, provide that such measure, whenever possible, should be carried out when the ship and holds are empty (or before loading in the case of a ship in ballast).

Upon the satisfactory completion of required control measures, the draft Decree on Border Medical Quarantine required the competent authority to issue:

- A Medical Control Certificate for aircraft, railway and transportation means.
- Ship Sanitation Control Exemption Certificates/ Ship Sanitation Control Certificates for ship.<sup>285</sup>

The law does not require the government to send a list of ports authorized to issue Ship Sanitation Control Exemption Certificates as specified under Article 20 of the IHR. Nor are there provisions to ensure that control measures which cannot be completed satisfactorily are noted on the Ship Sanitation Control Certificate.

## 15.4 Special provisions for conveyance operators

The Draft of Decree on Border Medical Quarantine provides a general obligation for conveyance operators to comply with medical monitoring, inspection and disposal measures as prescribed by law and to make a medical declaration to the border quarantine bodies when they enter, exit or transit through Viet Nam.<sup>286</sup>

The laws on quarantine and transportation do not require the border quarantine bodies to inform travellers of those measures to be applied on board. Nor do they require conveyance operators to permanently keep conveyances free of sources of infection or contamination.

There are not specific regulations requiring border quarantine bodies to follow the technical requirements in Annex 4 Section A of the IHR and or for the State's application of the specific measures in Annex 4 Section B and Annex 5 of the IHR.

## 15.5 Assessment and recommendations

The law on transport during communicable disease emergency of Viet Nam is found scattered in three major laws on land, sea and aviation transport. In general, these laws are relatively compatible with international standards for communicable disease control. In particular, some provisions of the draft Decree on Border Medical Quarantine have been developed directly from the IHR.

However, there are still gaps and areas need to be clarified by amending the existing laws and regulations or develop a section on transport during disaster emergency.

### Recommendations

Amend existing laws and regulations or develop a section on transport during disaster emergency in conformity with the IHR as follows:

- Clarify the control and restrictions on the entrance of persons and conveyances coming from epidemic zones. In particular ensure there are provisions to facilitate the timely flow of humanitarian relief personnel and goods, subjects to the requirements of public health and safety.
- Provide details for communication by radio or other means on the status of conveyances before their arrival at the border-gates.
- Ensure the application of any health measures by the competent authorities or permit ship/aircraft to proceed to the port/airport where it was due (or if technical reasons prevent this, to the nearest convenient port/airport) on completion of required health measures in case a suspect or affected aircraft or ship, for reasons beyond the control of the pilot/officer in command, does not land at the port/airport where it was due.
- Require the officer/pilot in command of a ship to take emergency measures necessary for the health of travellers.
- Provide further details the special provisions for aircraft in providing detailed information on health conditions on board during an international voyage and to communicate any health measures applied to the aircraft.
- Provide that the master of a ship, before arrival at its first port of calling in the territory of a State Party, must ascertain the

### Maritime Declaration of Health

1. *The master of a ship, before arrival at its first port of call in the territory of a State Party, shall ascertain the state of health on board, and, except when that State Party does not require it, the master shall, on arrival, or in advance of the vessel's arrival if the vessel is so equipped and the State Party requires such advance delivery, complete and deliver to the competent authority for that port a Maritime Declaration of Health which shall be countersigned by the ship's surgeon, if one is carried.*
2. *The master of a ship, or the ship's surgeon if one is carried, shall supply any information required by the competent authority as to health conditions on board during an international voyage.*
3. *A Maritime Declaration of Health shall conform to the model provided in Annex 8.*
4. *A State Party may decide:*
  - (a) *to dispense with the submission of the Maritime Declaration of Health by all arriving ships; or*
  - (b) *to require the submission of the Maritime Declaration of Health under a recommendation concerning ships arriving from affected areas or to require it from ships which might otherwise carry infection or contamination. The State Party shall inform shipping operators or their agents of these requirements.*

See IHR (2005), Article 37

- state of health on board and that shipping operators or their agents are informed of would-be-applied measures.
- Provide that Ship Sanitation Control Exemption Certificates and Ship Sanitation Control Certificates will be valid for a maximum period of six months (extendable by one month if the inspection or control measures required cannot be accomplished at the port)
  - Provide that whenever possible, control measures shall be carried out when the ship and holds are empty (or before loading in the case of a ship in ballast) and require the operators to permanently keep conveyances for which they are responsible free of sources of infection/ contamination.
  - Require that border quarantine bodies inform travellers of those measures to be applied on board and to follow the technical requirements in Annex 4 and Annex 5 of the IHR.
  - Provide provisions to review the implemented measures as well as the coordination with the WHO.

### **Conveyance operators**

*1. States Parties shall take all practicable measures consistent with these Regulations to ensure that conveyance operators:*

*(a) comply with the health measures recommended by WHO and adopted by the State Party;*

*(b) inform travellers of the health measures recommended by WHO and adopted by the State Party for application on board; and*

*(c) permanently keep conveyances for which they are responsible free of sources of infection or contamination, including vectors and reservoirs. The application of measures to control sources of infection or contamination may be required if evidence is found.*

*2. Specific provisions pertaining to conveyances and conveyance operators under this Article are provided in Annex 4. Specific measures applicable to conveyances and conveyance operators with regard to vector-borne diseases are provided in Annex 5.*

See IHR (2005), Article 24



## **Taxes, currency exchange and charges**

# Chapter 16

## Chapter 16

### Taxes, currency exchange and charges

#### Key findings:

- There are numerous legal instruments providing tax exemptions or tax rebates for goods and services used for humanitarian activities as well as for humanitarian organizations and personnel providing disaster relief. However, some procedural issues need to be improved in order to create more favourable conditions for relief providers operating in Viet Nam.
- With regards to currency exchange, all entities including humanitarian organizations are able to freely bring currencies in and out of the country for conducting their transactions. They are also entitled to access reasonable and preferential exchange rates.
- In cases where foreign personnel are subject to health protection measures, they are required to pay for border medical quarantine. During the recent SARS, H5N1 and H1N1 epidemics, persons who were suspected of being infected and placed into isolation were required to pay fees for their medical tests.

### 16.1 Tax exemption for disaster relief activities

#### Goods and services used for humanitarian activities

The Law on Red Cross Activities explicitly provides that goods and services used for Red Cross activities shall be exempted or reduced from taxes under the provisions of existing tax law<sup>287</sup>. This principle has also been incorporated into other relevant legal texts for a wider range of organizations, as follows:

- **Special consumption tax:** Imported goods for humanitarian aid or non-refundable aid are not subject to excise tax.<sup>288</sup> The term “goods for humanitarian aid or non-refundable aid” includes imported goods using non-refundable funds which have been approved by competent authorities, as well as humanitarian relief goods and emergency relief goods which helping to alleviate the consequences of war, natural disasters and epidemics.<sup>289</sup>
- **Value added tax:** Goods imported as humanitarian aid or non-refundable aid, goods and services sold to foreign organizations, individuals or international organizations for use as humanitarian aid, and non-refundable aid to Viet Nam, are classified as non-taxable objects under Viet Nam’s VAT law.<sup>290</sup> It is worth noting that the above-mentioned imported goods require approval from the Ministry of Finance to be exempted from VAT obligations.<sup>291</sup> As for goods and services purchased in Viet Nam for humanitarian use, foreign organizations and individuals must send a written order to the sellers, specifying the purchasers’ name, purchasing purposes, the quantity or value of purchased goods, and approval from the Ministry of Finance. The sellers must specify in the invoice that the goods or services sold to the purchasers are for humanitarian purposes and therefore exempted from VAT.<sup>292</sup>

- **Import/Export tax:** Goods which are humanitarian aid or non-refundable aid are non-taxable objects under applicable import/export tax law. These include “humanitarian goods, non-refundable goods of foreign governments, United Nations organizations, inter-governmental organizations, international organizations, foreign non-governmental organizations (NGOs), foreign economic organizations, or foreigners for Viet Nam and vice versa for socio-economic development or other humanitarian purposes under official documents between the two parties approved by competent authorities; humanitarian aid and emergency relief to remedy consequences of wars, natural disasters and epidemics.”<sup>293</sup>

#### Tax exemptions for disaster relief

Affected States should provide exemptions to assisting States and eligible assisting humanitarian organizations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.

See IDRL Guidelines (2007), Article 21

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## Humanitarian organizations and personnel providing disaster relief

Humanitarian organizations do not fall within the scope of the law on corporate income tax because of their not-for-profit status. Moreover, the new law provides that aid funds receivable for use in charitable, humanitarian and other social activities in Viet Nam shall be exempted from corporate income tax.<sup>294</sup> Nonetheless, it is worth noting that, aid beneficiaries that improperly use the aid shall pay corporate income tax at 25% of the improperly used aid amount.<sup>295</sup>

The Law on Personal Income Tax clearly states that “income received from charitable funds<sup>296</sup> licensed or recognized by competent state authorities, operating for charity, humanitarian and non-profit purposes” and “incomes received from governmental or non-governmental foreign aid<sup>297</sup> for charity or humanitarian purposes approved by competent state agencies” are tax-exempt incomes<sup>298</sup>.

Additionally, the law also provides number of tax exemptions for individuals participating in providing disaster relief. For example, Vietnamese staff of representative offices of United Nations organizations in Viet Nam are exempted from personal income tax.<sup>299</sup> Foreign experts working for ODA projects in Viet Nam are also exempted from import, export and/or special consumption tax, income tax and vehicle registration fees<sup>300</sup>.

## 16.2 Currency exchange

Both residents and non-residents are allowed to freely bring currencies (foreign and Vietnamese dong cash) in and out of Viet Nam to conduct their transactions.<sup>301</sup> If the currencies exceed the amount of VND 15,000,000 (approximately USD 7,000) or its equivalent in other foreign currencies<sup>302</sup>, they must declare the excess amount with the border customs office on entry or exit and present documents<sup>303</sup> in accordance with regulations of the State Bank of Viet Nam on exit<sup>304</sup>.

Thus, humanitarian organizations may freely bring currencies in and out of the country for operations. They are also able access to reasonable and preferential exchange rates, although depending on the bank where they conduct their transactions, the exchange rate may slightly vary from one bank to another. In Viet Nam, the spot exchange rate is determined by the credit institutions authorized to engage in foreign exchange activity under the following principles:

- For US dollars: the maximum exchange rate shall not exceed +5% (five per cent) of the average exchange rate in the inter-bank foreign currency market applicable to the transaction date, announced by the State Bank.
- For other foreign currencies: The exchange rate shall be determined by the General Directors (Directors) of credit institutions authorized to engage in foreign exchange activity.
- The General Directors (Directors) of credit institutions authorized to engage in foreign exchange activity shall determine the difference between the buying rate and selling rate.<sup>305</sup>

The exchange rate of Vietnamese Dong is determined on the basis of the supply and demand for the foreign currency in the market under the State regulation. The regime on the exchange rate of Vietnamese Dong is a floating regime under the management of the State Bank of Viet Nam<sup>306</sup>.

### Goods and Equipment

*With regard to disaster relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States and eligible assisting humanitarian organizations, originating, transit and affected States should:*

- Exempt them from all customs duties, taxes, tariffs and governmental fees
- Exempt them from all export, transit, and import restrictions;
- Simplify and minimize documentation requirements for export, transit and import;
- Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.

See IDRL Guidelines (2007), Article 17(1)

### Bringing in currency for disaster relief

*Assisting States and organizations should be granted the right to freely bring the necessary funds and currencies in or out of the country through legal means and to obtain legal exchange rates in connection with their disaster relief or initial recovery assistance.*

See IDRL Guidelines (2007), Article 20(2)

### 16.3 Charges for health protection measures

Existing laws do not exempt travellers from the payment of health protection measures required by border medical quarantine. The most relevant texts in this regard are:

- Law on Communicable Disease Prevention and Control, No. 03/2007/QH12 of 21 November 2007 (Article 37).
- Decision No. 63/2007/QĐ-BTC of 18 July 2007, providing for the rates, and the regime of collection, remittance, management and use of preventive medicine charges and border medical quarantine charges (Article 2).
- (Draft) Decision on Border Medical Quarantine (Article 35), which has been submitted to the Prime Minister for approval, and as a consequence, will replace the Border Medical Quarantine Regulation (issued together with Decree No. 41/19989/ND-CP of June 11, 1998 of the Government).

Although the law does not designate any charges for isolation and medical treatment, a representative from General Department of Preventive Medicine and Environmental Health reported that, in practice, due to financial deficiency, many suspected infected persons who had been isolated were required to pay fees for their medical tests during SARS, H5N1 and H1N1 epidemics.

### 16.4 Charges for other health measures

Where charges are made for applying other health measures under the IHR, Vietnamese regulations impose only one nationwide tariff<sup>307</sup>, in respect of both travellers, vehicles and goods, and without distinction as to nationality.<sup>308</sup>

### 16.5 Recommendations

Regarding the legal facilities for tax, currency exchange and charges, there are two recommended options:

Option 1: The new comprehensive regulation on the arrangements for receiving international assistance (proposed above):

- Should include a chapter on facilities regarding tax, currency and charges for international humanitarian relief, which covers all the facilities provided in existing tax and foreign exchange law as described above. In addition, this chapter should include new provisions on charges for health protection measures in compliance with Articles 40(1) and (2) of the IHR.

#### **Charges for health measures**

*No charges shall be made by a State Party for the following measures for the protection of public health:*

- *Medical examinations to ascertain the health status of the traveller.*
- *Vaccinations or prophylaxis that is an unpublished or new (less than 10 days) requirement.*
- *Isolation or quarantine requirements*
- *Certificate specifying the date and health measures applied*
- *Health measures applied to accompanying baggage.*

*Exceptions:*

- *Travellers seeking temporary or permanent residence.*
- *Other health measures not included above.*

See IHR (2005), Articles 40(1) and (2)

Option 2: Existing laws, regulations and procedures should:

- Amend the provisions in existing law on fees and charges relating to charges for health measures to comply with the requirements of Articles 40(1) and (2) of the IHR.



## Freedom of access and security

# Chapter 17

## Chapter 17

### Freedom of access and security

#### **Key findings:**

##### Freedom of movement during disaster

- Approved international disaster relief providers have freedom of access to disaster-affected persons
- No rules interfere with the ability of aid providers to assist affected migrants (e.g. undocumented workers) or any other group, but neither is there specific provision for this in the law.
- There are no rules which impede humanitarian organizations from distributing their own relief according to humanitarian principles. Any acts of impeding humanitarian aids of organizations or individuals, and Red Cross activities, are banned.
- A timeline for appealing for help, receiving and distributing relief goods and funds in place is to ensure speedy relief but these timelines are not flexible to meet the needs of different scales of disaster.

##### Freedom of movement during a communicable disease emergency

- Quarantine laws place only the necessary limitations on freedom of movement and liberty of the person.
- There is no specific legal recourse for persons whose dignity or human rights are infringed by application of health measures under the IHR.

##### Safety and security of assistance

- Approved international disaster relief providers have freedom of access to disaster-affected persons.
- There are no clear rules (e.g. in immigration or penal law) that would interfere with the ability of aid providers to assist affected migrants (e.g. undocumented workers) or any other group, but nor is there provision for this in the law.
- There are no specific provisions on ensuring the safety of relief personnel, premises, transport, equipment and goods.

### 17.1 General rights and freedoms

The Vietnamese Constitution recognizes a number of rights and freedoms of individuals, including:

- Freedom of Movement:<sup>309</sup> The citizen shall enjoy freedom of movement and of residence within the country; he can freely travel abroad and return home from abroad in accordance with the provisions of the law.
- Freedom of Opinion, Press, Information, Assembly, Association, Demonstration<sup>310</sup>. The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed, and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law.
- Freedom of Religion:<sup>311</sup> (1) The citizen shall enjoy freedom of belief and of religion; he can follow any religion or follow none. All religions are equal before the law. (2) The places of worship of all faiths and religions are protected by the law. (3) No one has the right to infringe on the freedom of faith and religion or to take advantage of the latter to violate State laws and policies.
- Inviolability of the Person; Legal Guaranties to Protect Liberty; Ban on Torture:<sup>312</sup> (1) The citizen shall enjoy inviolability of the person and the protection of the law with regard to his life, health, honour and dignity. (2) No one can be arrested in the absence of a ruling by the People's Court, a ruling or sanction of the People's Office of Supervision and Control except in case of flagrant offences. Taking a person into, or holding him in, custody must be done with full observance of the law. (3) It is strictly forbidden to use all forms of harassment

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- and coercion, torture, violation of his honour and dignity, against a citizen.
- Presumption of Innocence, Compensation and Rehabilitation:<sup>313</sup> (1) No one shall be regarded as guilty and be subjected to punishment before the sentence of the Court has acquired full legal effect. (2) Any person who has been arrested, held in custody, prosecuted, brought to trial in violation of the law shall be entitled to damages for any material harm suffered and his reputation shall be rehabilitated. Anybody who contravenes the law in arresting, holding in custody, prosecuting, bringing to trial another person thereby causing him damage shall be dealt with severely.
  - Inviolability of Domicile and Secrecy of Correspondence:<sup>314</sup> (1) The citizen is entitled to the inviolability of his domicile. (2) No one is allowed to enter the domicile of another person without his consent, except in cases authorized by the law. (3) Safety and secrecy are guaranteed to the citizen correspondence, telephone conversations and telegrams. (4) Domiciliary searches and the opening, control, and confiscation of a citizen's correspondence and telegrams can only be done by a competent authority in accordance with the provisions of the law.

However, restricted access for persons 'not on duty' are applied for dangerous places such as: houses or construction works prone to collapse; places experiencing large fires, storms, floods, whirlpools or the danger of landslides; places with uncontrolled hazardous chemical agents; areas of dangerous epidemics and areas experiencing other factors detrimental to human life and health.<sup>315</sup>

In particular, the law on State of Emergency provides detailed restrictions on entry and exit from areas affected by dangerous epidemics, such as:

- (i) Prohibiting or restricting people and means not on duty to exit or enter epidemic areas; in cases where it is necessary to exit from, or enter the epidemic areas, the compulsory medical quarantine measures must be applied;
- (ii) Setting up inter-branch guard stations and quarantine stations or posting emergency anti-epidemic working teams at traffic junctions leading into or from epidemic areas in order to check, supervise and medically treat the exiting and entering people and means;
- (iii) Organizing patrols and control along the boundaries of areas under the state of emergency, promptly preventing illegal exits from, and entries into, the epidemic areas and taking initiative in preventing and controlling the epidemic spread;
- (iv) Effecting compulsory quarantine for goods, objects, animals, plants, foodstuffs and beverages brought into or out of the epidemic areas;
- (v) Inspecting and medically treating all means exiting the epidemic areas; permitting only those means which have been granted medical quarantine certificates to exit the epidemic areas.<sup>316</sup>

Two points are noteworthy in relation to this provision. First, the term "on duty" is applied not only to governmental officials, but also to humanitarian workers, thus it is thought not to impede freedom of access for disaster and communicable disease related activities.

Secondly, however, the above limitations and restrictions on the grounds of national security and health do not appear to be "narrowly tailored" to ensure consistency with the humanitarian imperative of addressing needs of affected communities, as recommended in the IDRL Guidelines. For example, compulsory quarantine is required for all goods with no prioritization for urgent humanitarian goods.

## 17.2 Freedom of movement during disaster

Decree No. 64/2008/NĐ-CP of the Government dated 14 May 2008 on mobilization, reception, distribution and use of voluntary Sources for the victims of natural disasters, fire, serious incidents and terminal diseases prohibits any acts of impeding the humanitarian aid of organizations or individuals.<sup>317</sup> The Law on Red Cross Activities no. 11/2008/QH12 of the National Assembly dated 3 June 2008 also bans acts of impeding Red Cross activities by organizations or individuals.<sup>318</sup> Red Cross activities are activities conducted by Red Cross Societies or coordinated between Red Cross Societies with other organizations and individuals to provide emergency relief and humanitarian aids, health care, first aid and other

activities.<sup>319</sup> The Government of Viet Nam pursues a policy of encouraging, supporting and creating favourable conditions for organizations and individuals to engage in Red Cross activities.<sup>320</sup>

Organizations and individuals which are permitted to receive and distribute relief goods and funds are as follows:<sup>321</sup>

- Central Committee of Viet Nam Fatherland Front; Viet Nam Red Cross Society; mass media organizations at the central and provincial level; Provincial Committee of Viet Nam Fatherland Front and local Red Cross societies.<sup>322</sup> The mobilization, reception, distribution and use of relief funds and good for damages caused by fire, natural disasters and serious incidents of the central and local Red Cross Societies are carried out in accordance with their regulations.<sup>323</sup>
- Social and charity funds stipulated under Decree no. 148/2007/NĐ-CP of the Government dated 25 September 2007 on the organization and activities of social and charity funds.<sup>324</sup>
- Organizations and units at central level authorized by the Central Committee of the Viet Nam Fatherland Front; organizations and units at local level authorized by the provincial and district committees of the Viet Nam Fatherland Front.<sup>325</sup>
- In addition to the above mentioned organizations and units, no other organizations, units or individuals are permitted to receive relief goods and funds.<sup>326</sup>

There are no rules (for example under immigration or penal law) that would interfere with the ability of aid providers to assist affected migrants, undocumented workers, or any other group, but nor is there specific provision for this in the law. The Ordinance no. 24/2000/PL-UBTVQH 10 dated 28 April 2000, on entry, exit and residence of foreigners in Viet Nam does not refer to this situation. The Penal Code also contains no provisions prohibiting aid providers to gain access to criminals or vice versa. However, from other provisions of the Penal Code, criminals must comply with the punishment imposed on them for dangerous acts to society. It is not possible to use relief work an excuse for avoiding the penalties, the stated aim of which is not only to punish offenders but also to rehabilitate them into society.<sup>327</sup> The penalties under the Penal Code consist of: the principal penalties (warnings; fines; non-custodial reform; expulsion; termed imprisonment; life imprisonment; death penalty) and the additional penalties (such as bans from holding certain posts, practicing certain occupations or doing certain jobs; bans on residence; probation; deprivation of some civic rights; confiscation of property; fines when not applied as a principal penalty; and expulsion when not applied as a principal penalty).<sup>328</sup>

There are no rules that appear to directly impede humanitarian organizations from distributing their own relief according to humanitarian principles. For relief funds raised through the Viet Nam Red Cross Societies at all levels, it has the responsibility to administer, distribute and report to the respective Committees of Viet Nam Fatherland Font and to donors, as guided by the Central Committee of Viet Nam Fatherland Font. Similarly, for relief funds raised by social and charitable funds, the same responsibilities are accorded.<sup>329</sup>

The State of Viet Nam also encourages and facilitates the contributions of domestic and foreign organizations and individuals to assist the recovery from natural disasters, fire, serious incidents and terminal diseases in accordance with voluntary and charitable principles.<sup>330</sup> Government agencies and organizations may not impose any minimum contribution on donors.<sup>331</sup>

The Committee on Mobilization and Reception of Relief Money and Goods directly receives contributions in cash and in kind and bears the responsibility to distribute them in a timely manner to disaster-stricken people and localities.<sup>332</sup> The Committee also instructs organizations and individuals to follow the procedures of providing relief funds and goods to ensure transparency.<sup>333</sup> In cases where organizations and individuals directly assist affected communities, the Committee on Mobilization and Reception of Relief Money and Goods has the responsibility to instruct those organizations and individuals to directly distribute relief goods and funds in accordance with the requests of their donors.<sup>334</sup>

There are, however, a number of timelines required for the provision of assistance. Appeals for help must be announced no later than three days after the occurrence of natural disasters, fire or serious incidents.<sup>335</sup> Receiving relief goods and funds from central and provincial levels must not take more than 60 days since the announcement of the mobilization of relief. The mobilization and reception of relief goods and funds from district level or other authorized organizations or units must not take more than 30 days since the announcement of the mobilization for relief. Moreover, such assistance must end no later than 20 days from the last day of the mobilization, however relief for recovery and reconstruction from the Red Cross

can be extended for up to 1 year.<sup>336</sup>

Although these timeframes appear restrictive and may not be suitable for large scale disasters, it is clear from Decree 64/2008/NĐ-CP that the intention is not to impede humanitarian aid but to ensure the rapid delivery of relief.

### 17.3 Freedom of movement during a communicable disease emergency

The Law on Communicable Disease Prevention and Control bans harmful acts to the community such as:<sup>337</sup>

- Intentionally spreading communicable diseases.
- Infected people conducting work which allows them to easily transmit diseases to others
- Hiding or not reporting on communicable diseases in accordance with the law.
- Intentionally giving false information on communicable diseases.

It also provides for the banning of crowded gatherings, the suspension of activities and services in infected areas, and requiring that infected people be kept in quarantine at home or in examination and treatment establishments.

Similarly, Decree No. 71/2002/ND-CP of the Government dated 23 July 2002 detailing the implementation of a number of articles of the Ordinance on the state of emergency in case of great disasters or dangerous epidemics, imposes other restrictions to freedom of movement and liberty.<sup>338</sup> However, these must be carried in accordance with the Constitution.

Indeed, the Constitution of the Socialist Republic of Viet Nam 1992 provides that the citizen shall enjoy inviolability of the person and the protection of the law with regard to his life, health, honor and dignity. No one may be arrested in the absence of a ruling by the People's Court, a ruling or sanction of the People's Office of Supervision and Control except in case of flagrant offences. Taking a person into, or holding them in, custody must be done with full observance of the law. It is strictly forbidden to use all forms of harassment and coercion, torture, violation of his honor and dignity, against a citizen.<sup>339</sup>

Additionally, the Constitution provides that no one shall be regarded as guilty or be subjected to punishment before the sentence of the Court has acquired full legal effect. Any person who has been arrested, held in custody, prosecuted, brought to trial in violation of the law shall be entitled to damages for any material harm suffered and his reputation shall be rehabilitated. Anybody who contravenes the law in arresting, holding in custody, prosecuting, bringing to trial another person thereby causing him damage shall be dealt with severely.<sup>340</sup> The Penal Code also provides the same rules under Articles 6 and 9.

Despite the provisions above, there is no specific legal recourse for persons whose dignity or human rights are infringed by application of health measures, not is there specific reference to applying measures or restricting freedoms only to the extent necessary, as provided under the IHR.

### 17.4 Ensuring the safety and security of assistance

Decree no 71/2002/ND-CP of the Government dated 23 July 2002 detailing the implementation of a number of articles of the Ordinance on the state of emergency in case of great disasters or dangerous provides that those who have the responsibility to implement 'special measures' in the state of emergency are:

- the Steering Committee;<sup>341</sup>
- members of the Steering Committee;
- the agencies with representatives as members of the Steering Committee at the decision of the Prime Minister; and
- forces implementing special measures in the state of emergency including: salvage and rescue forces; health officials and employees; officials and employees of the environmental protection, agricultural and rural development agencies; the army, police, militia, public works and communication service forces; and other forces mobilized by the Steering Committee or voluntarily participating in overcoming the consequences of the disaster or epidemic.<sup>342</sup>

The special measures provided under this Decree do not expressly cover the safety and security of relief, however the list is not exhaustive and does refer to “other necessary measures”. Thus it could be understood to include the safety of relief personnel, premises, transport, equipment and goods, though there is no specific and clear obligation under law to do so.

## 17.5 Recommendations

The new Disaster Risk Management Law should:

- Establish clear responsibilities for the safety and protection of relief personnel, premises, transport, equipment and goods.
- Expressly establish the freedom of access and movement to and from disaster affected areas (bearing in mind safety considerations) and respect for the independence and impartiality of humanitarian responders.

New regulations to supplement the existing Law on Communicable Disease Prevention and Control should:

- Specifically charge the Steering Committee stipulated in Decree no. 71/2002/ND-CP, with ensuring the safety of relief personnel, premises, transport, equipment and goods.
- Ensure fast track quarantine procedures to prioritize clearance for urgent humanitarian goods and equipment.
- Include provisions which clearly indicate rights enjoyed by affected/suspect people, the obligations of authorities to respect these rights and limit them only as necessary in the interests of public health, as well as provide a legal recourse for people whose rights are violated during the application of disease control measures.







## **Additional facilities and measures**

# Chapter 18

## Chapter 18

### Additional facilities and measures

#### Key findings:

- Although there are no express provisions, the powers granted to the respective steering committees in charge of relief activities during disaster and communicable disease emergencies imply that the head of the committees can require key governmental offices/service to work extended hours if it is necessary to facilitate international relief.
- Viet Nam's law on the state of emergency provides for free or reduced price facilities for relief providers (such as reserving and priority transporting of supplies, raw materials, preventive and curative medicines, epidemic-treating chemicals, food, foodstuffs and essential goods to disaster-hit places).
- There are some variances between the IHR and existing laws and regulations concerning the application of health measures to goods in transit and the criteria for applying additional health measures, however these provisions do not appear constitute important restrictions to international traffic or cause unnecessary invasion or intrusion to persons.

### 18.1 Additional facilities for international disaster relief

#### Extended Hours

Affected States should endeavour to ensure, when necessary, that State-operated offices and services essential to the timely delivery of international disaster relief function outside of normal business hours.

#### Costs

1. The costs of providing international disaster relief or initial recovery assistance pursuant to these Guidelines should normally be borne by the assisting State or assisting humanitarian organization. However, assisting States may agree in advance with the affected State for the reimbursement of certain costs and fees, or for the temporary loan of equipment.
2. Affected States should consider, when it is in their power and to the extent possible under the circumstances, providing certain services at reduced or no. cost to assisting States and eligible assisting humanitarian organizations, which may include:
  - a. In-country transport, including by national airlines;
  - b. Use of buildings and land for office and warehouse space; and
  - c. Use of cargo handling equipment and logistic support.

See IDRL Guidelines (2007), Articles 23, 24

Current laws and regulations do not provide specific provisions for extended opening hours for key governmental offices/services necessary for international relief, with the exception of customs, as described above. However, following the establishment of government Steering Committees at central and sub-national levels, as described previously, the composition of these Steering Committees suggest they would be empowered to make decisions on the implementation of other facilities and special measures to facilitate relief.<sup>343</sup>

In addition, the heads of the Steering Committees may use government resources to implement special measures in the state of emergency including: salvage and rescue forces; health officials and employees; officials and employees of the environmental protection, agricultural and rural development agencies; the army, police, militia, public works and communication service forces; and other forces mobilized by the Steering Committee or voluntarily participating in overcoming the disaster's or epidemic's consequences. The other ministries and branches, within the scope of their functions, tasks and powers, must promptly satisfy the Steering Committee's requests including: mobilization of forces, means, supplies, facilities and equipment; guidance for the handling of professional difficulties and problems related to their management responsibilities in the course of overcoming the disaster or epidemic consequences; and promptly satisfying other requests of the Steering Committee.<sup>344</sup> Thus it is foreseeable that these Steering Committees may be able to extend the normal working hours of government services and provide other facilities, although these are not clearly stipulated.

Current regulations also include special price management facilities.

Accordingly, in areas of a declared state of emergency, the following special measures for management of prices of food, foodstuffs, preventive and curative medicines and a number of other essential goods may be applied:

- (i) Deciding on the maximum price for each kind of goods;
- (ii) Deciding on conditions or limits for the distribution of different kinds of goods;
- (iii) Issuing stamps, cards, and tickets or applying other measures to control goods distribution;
- (iv) Deciding on distribution places;
- (v) Enhancing the inspection and control of prices; and
- (vi) Strictly handling acts of speculating and buying up goods or other acts of violating the regulations on prices in areas being under the state of emergency.<sup>345</sup>

The law also provides for reserving and prioritizing the transport of supplies, raw materials, preventive and curative medicines, epidemic-treating chemicals, food, foodstuffs and essential goods to disaster affected areas.<sup>346</sup> In the case of a state of emergency, the following measures may be applied:

- (i) Taking goods and supplies from national reserves and mobilizing them from other sources to provide relief and treatment for people in the disaster affected areas;
- (ii) Organizing the reception and transportation of relief and aid goods from agencies, organizations and individuals at home and abroad to the disaster affected areas;
- (iii) Mobilizing all necessary means and prioritizing the transportation of supplies and goods to the disaster affected areas;
- (iv) Temporarily suspending scheduled freights in order to reserve means for the transportation of supplies and goods to the disaster affected areas;
- (v) Increasing the volume of freight to carry essential goods by air, land and/or waterway to the disaster affected areas;
- (vi) Effecting traffic priorities, exempting traffic tolls of all kinds for means performing task of transporting supplies and goods to the disaster-hit places; and
- (vii) Other necessary measures.<sup>347</sup>

## 18.2 Additional measures for communicable diseases control

The provisions in the Law on Communicable Disease Prevention and Control, as well as other relevant legal text on medicine quarantine at entry ports, the prevention and control of epidemics and on health, generally accord with the IHR in that they do not provide for health measures which are otherwise prohibited under Article 25, Article 26, Article 28(1) & (2), Article 30, Article 31(1)(c) and Article 33 of the IHR.

However, IHR article 33 provides that: "...goods, other than live animals, in transit without transshipment shall not be subject to health measures under these Regulation or detained for public health purposes", whereas article 9 of the Regulation on the coordination of activities of the state management agencies at civil airports and airfields 1997, stipulates that the border control offices have the authority to conduct epidemic control measures even on plants in transit.<sup>348</sup>

Additionally, article 43.2 of the IHR requires Member States to base their determinations for implementing additional health measures upon: (1) scientific principles; (2) available scientific evidence of a risk to human health, or where such evidence is insufficient, the available information including from WHO and other relevant intergovernmental organizations and international bodies; and (3) any available specific guidance or advice from WHO.

### **Additional Health Measures**

*These Regulations shall not preclude States Parties from implementing health measures, in accordance with their relevant national law and obligations under international law, in response to specific public health risks or public health emergencies of international concern, which:*

*(a) achieve the same or greater level of health protection than WHO recommendations; or  
(b) are otherwise prohibited under Article 25, Article 26, paragraphs 1 and 2 of Article 28, Article 30, paragraph 1(c) of Article 31 and Article 33, provided such measures are otherwise consistent with these Regulations. Such measures shall not be more restrictive of international traffic and not more invasive or intrusive to persons than reasonably available alternatives that would achieve the appropriate level of health protection.*

See IHR (2005), Article 43 (extract)

However, Article 25 of the Decree no. 41/1998/ND-CP dated 11 June 1998 promulgating Viet Nam's Border Medical Quarantine Regulation, authorizes the application of health measures to persons and goods: (1) Where signs of contracting quarantine diseases or dangerous contagious diseases are detected by chance on the transport means or at the border gates; (2) Where the earlier medical handling measures bring no results.

Nevertheless, these provisions do not appear constitute an important restriction to international traffic or cause unnecessary invasion or intrusion to persons.

### 18.3 Assessment and recommendations

- Although there are no express provisions, the powers granted to the respective steering committees in charge of relief activities during disaster and communicable disease emergencies imply that the head of the committees can require key governmental offices/service to work extended hours if it is necessary to facilitate international relief.
- Viet Nam's law on the state of emergency provides for free or reduced price facilities for relief providers (such as reserving and priority transporting of supplies, raw materials, preventive and curative medicines, epidemic-treating chemicals, food, foodstuffs and essential goods to disaster-hit places).
- There are some variances between the IHR and existing laws and regulations concerning the application of health measures to goods in transit and the criteria for applying additional health measures, however these provisions do not appear constitute important restrictions to international traffic or cause unnecessary invasion or intrusion to persons.

The new Disaster Risk Management Law should:

- Clarify (but not limit) the additional facilities which domestic and international relief may benefit from, such as extended operating hours of state offices and the no-cost provision of in-country transport, use of building for office and warehouse space and the use of cargo handling equipment and logistics support as recommended in the IDRL Guidelines.
- Ensure that exceptions for the granting of facilities for humanitarian relief are narrowly tailored as recommended in the IDRL Guidelines.

The new Decree on Border Medicine Quarantine should:

- Ensure consistency with the provisions of IHR in relation to the application of health measures to goods and persons in transit and the criteria for applying additional health measures.



## **Accountability and transparency**

# Chapter 19

## Chapter 19

### Accountability and transparency

#### **Key findings:**

*There are a number of laws and regulations concerning accountability and transparency of the government and assisting organizations in mobilizing and using of foreign aid including:*

- *Government obligations on receiving, disbursing and guarding against the misuse of foreign aid as well as periodic auditing and reporting.*
- *Regulations concerning the use of goods and funds in accordance with the intention of the donor.*
- *Minimum standards for assisting organizations regarding the audit and reporting on the receipt and use of foreign relief and recovery goods or funds.*
- *Responsibilities to enforce the abovementioned regulations.*

### 19.1 Accountability and transparency of the government

Measures guarding against diversion, misappropriation or fraud concerning foreign disaster relief and recovery goods and funds

There exist clear rules and provisions indicating procedures for the financial management of funds, including foreign funds and goods for disaster relief and recovery purposes. Article 7 of the Procedure attached to the Decision 10/2008/QĐ-BTC dated 12/2/2008 issued by Minister of Finance on Promulgating procedures for financial management of Social Fund and

Charity Fund clearly describes seven specific steps include accounting procedures, monitoring at all levels and publication. Additionally, part 8 of the Circular No. 72/2008/TT-BTC dated July 31, 2008 issued by Minister of Finance on guiding the implementation of the Government's Decree No. 64/2008/ND-CP of 14 May 2008 on the mobilization, receipt, distribution and use of voluntary contributions to help people overcome difficulties caused by natural disasters, fire, serious mishaps or patients suffering from fatal diseases, includes procedures for reporting and publication to guard against diversion, misappropriation or fraud concerning this type of foreign aid, as discussed further below.

#### **Responsibilities of States:**

- *Having primary responsibility to ensure disaster risk relief and recovery assistance in their territory; may seek international and/or regional assistance; have the sovereign right to coordinate, regulate and monitor disaster relief and recovery assistance.*
- *Actively encourage members of public to contribute to disaster relief and recovery assistance.*
- *Cooperate with assisting humanitarian organizations to prevent unlawful diversion, misappropriation, or fraud concerning disaster relief and recovery goods, equipment or resources.*
- *Use funds and relief goods donated in a manner consistent with the expressed intent of donors*

See IDRL Guidelines (2007), Articles 3,5 and 6

#### Monitoring institutions

A number of institutions are also in place to ensure that foreign funds and goods for humanitarian purposes are appropriately used. Part 10(1), (2) of the Circular No. 72/2008/TT-BTC dated 31 July 2008 issued by Minister of Finance on guiding the implementation of the Government's Decree No. 64/2008/ND-CP of 14 May 2008, on the mobilization, receipt, distribution and use of voluntary contributions to help people overcome difficulties caused by natural disasters, fire, serious mishaps or patients suffering from fatal diseases, requires the Ministry of Finance, in collaboration with the Central Committee of Viet Nam Fatherland Front and relevant bodies, to conduct periodic or unscheduled examinations of foreign aid receipts and distribution.

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Additionally, People's Councils at all levels are charged with directing relevant bodies to collaborate with their counterparts in Viet Nam Fatherland Front to examine the mobilization, receipt and distribution of disaster relief and recovery funds and goods within their jurisdictions.

Moreover, under chapter 6 of the Decree No. 148/2007/ND-CP dated 25/9/2007 issued by the Prime Minister on the Organization and Operation of Social Funds and Charity Funds, Ministry of Interior, Ministry of Finance, Ministries and ministerial-level bodies of relevant fields, Provincial People's Councils are also in charge of examining and guarding against fraud concerning humanitarian aid, including from foreign sources.

Circular No. 09/2008/TT-BNV dated 31/12/2008 issued by Minister of Interior on guiding for the implementation of several provisions in the Decision 148/2007/ND-CP dated 25/9/2007 issued by the Prime Minister on Organization and Operation of Social Funds and Charity Funds, part VIII also give such responsibilities to the Ministry of Interior, Ministry of Finance and Ministries and ministerial-level bodies of relevant fields as well as Provincial and Municipal People's Councils.

Furthermore, the Decision 19/2007/QĐ-BTC Promulgating the Regulation, on state budget mutual termination of the Government's foreign loans and foreign aid amounts, specifies in articles 12 to 16 the institutions with specific responsibility for managing foreign aid including government agencies and provincial departments.

For non-governmental aid, chapter III on State management over non-governmental aid of Decision no. 64/2001/QĐ-TTĐ of April 26, 2001 Promulgating the Regulation on the Management and Use of Foreign Non-Governmental Aid specifies from articles 8 to 13 the government bodies and their responsibilities involving a range of ministries and provincial authorities.

#### Audit and reporting on the use of foreign aid

Procedures for audit and reporting are described in many legal documents. Concerning foreign aid for disaster relief/recovery, article 13 of the Decree No. 64/2008/ND-CP of 14 May 2008, on the mobilization, receipt, distribution and use of voluntary contributions to help people overcome difficulties caused by natural disasters, fire, serious mishaps or patients suffering from fatal diseases, stipulates that provincial Aid Committees have the responsibility to notify and report on mobilized funds and goods including foreign aid, as well as report on its use and distribution.

Article 14 of this Decree further regulates the publication of aid funds and goods, requiring relevant bodies to publicize through mass media the received funds and goods as well as those distributed and disbursed at the local level. These regulations are reinforced by the provisions elaborating on reporting procedures for aid, including foreign aid, in part 8 of the Circular No. 72/2008/TT-BTC dated 31 July 2008 issued by Minister of Finance on guiding the implementation of the Government's Decree No. 64/2008/ND-CP of 14 May 2008, on the mobilization, receipt, distribution and use of voluntary contributions to help people overcome difficulties caused by natural disasters, fire, serious mishaps or patients suffering from fatal diseases.

Furthermore, Decree No. 148/2007/ND-CP dated 25/9/2007 issued by the Prime Minister on the Organization and Operation of Social Funds and Charity Funds, Article 22(11) states: "the fund is obliged to submit reports on its organization, operations, finance conditions yearly...[and] publicize contributed funds before the following 31 March."

Decision 10/2008/QĐ-BTC dated 12/2/2008 issued by Minister of Finance on Promulgating procedures for financial management of Social Funds and Charity Funds, Article 7(5) also stipulates that the fund's Standing Managing Council and Director hold responsibility to publicize fund's financial conditions every quarter as well as annually, about following the:

- a) amount of money, goods which have been contributed, sponsored, supported by organizations and individuals for the fund;
- b) amount of money, goods which have been distributed to organizations and individuals;
- c) fund's yearly and quarterly financial reports and balance sheets of each incoming and spending unit in accordance with the Law on Accounting and current guiding legal documents for the implementation.

Most importantly, article 7(7) of this Decision provides that the fund is obliged to publicize its yearly financial reports and balance sheets in conformity with current regulations.

Regarding aid from non-government sources, the Procedure attached to the Decision No. 64/2001/QĐ-TTg dated 26/4/2001 issued by the Prime Minister on the Issuance of Procedures for the management and allocation of foreign non-government aid indicates in Article 2 that the reporting on the use of such aid shall be conducted periodically every 6 months, yearly and at the end of the project. The ministries and other relevant bodies are charged with submitting the implementation and financial reports of non-government aid to the Ministry of Planning and Investment, the Ministry of Finance and the General Statistics Office to collect, monitor and report to the Prime Minister.

Concerning official foreign aid contributed to the state budget, there are also rules on auditing and reporting about the use of funds and goods. These regulations are clarified in Decision No. 19/2007/QĐ-BTC of 27 March 2007, promulgating the Regulation on state budget mutual termination of the Government's foreign loans and foreign aid amounts, articles 3-11.<sup>349</sup>

### Government focal point to receive and disburse international donations made to the government

Currently there are no regulations which clearly indicate which ministry/department should receive international donations for relief on behalf of the government, although national laws and regulations provide that ministries shall cooperate to mobilize and attract foreign aid and assistance.<sup>350</sup> In some instruments, it is suggested that the Ministry of Planning and Investment is considered the focal point to disburse foreign donations to the government. Article 39 of the Decree No. 131/2006/ND-CP dated 09/11/2006 issued by the Government on Issuance of Regulation on Management and Utilization of Official Development Assistance states that the Ministry of Planning and Investment should act as the focal point agency in official development assistance attraction, coordination and management. The leading role of this Ministry concerning the allocation of foreign donations is further defined in Decree No. 64/2001/QĐ-TTg dated 26/4/2001 issued by the Government on the issuance of the Regulation on the management and utilization of aid from international non-governmental organizations. Article 9 of this Decree stipulates that the Ministry of Planning and Investment shall be responsible for coordinating and managing NGO aid programmes and projects. The Ministry must undertake its responsibilities by cooperating and providing advice to related ministries and branches. The using of international donations made to the government is then subject to financial monitoring by the Ministry of Finance.<sup>351</sup>

Additionally, national regulations provide for the maintenance of donated funds in interest-bearing accounts. Article 25(5) of the Decree No. 148/2007/ND-CP dated 25/9/2007 issued by the Prime Minister on Organization and Operation of

Social Funds and Charity Funds stipulates that the fund is allowed to use idle money to purchase bonds or for deposit into interest-bearing accounts. This article also repeated in the subsequent Decision No. 10/2008/QĐ-BTC dated 12/2/2008 issued by Minister of Finance on Promulgating procedures for financial management of Social Funds and Charity Funds in article 5(1)(d).

#### **Several major responsibilities of assisting organizations include:**

- *Abide by the laws of affected states and applicable international law, coordinate with domestic authorities, and respect the human dignity of disaster-affected persons at all times.*
- *Their assistance is provided in accordance with the principles of humanity, neutrality and impartiality, and in particular: aid priorities are calculated on the basis of need alone.*
- *Their assistance should be provided in a transparent manner, sharing appropriate information on activities and funding.*

See IDRL Guidelines (2007), Article 4

### **19.2 Use of funds consistent with donor intent**

There are numerous rules providing that foreign disaster relief and recovery goods and funds must be used in a manner consistent with the expressed intent of donors. Particularly, Article 19(5) of the Procedure attached to the Decision No. 64/2001/QĐ-TTg dated 26/4/2001 issued by the Prime Minister on the issuance of procedures for management and allocation of foreign non-governmental aids, stipulates that units directly receiving and implementing non-governmental aid shall implement such aid in accordance with the agreement and commitment with the donor, as well as current regulations on financial and monetary management, capital construction and procurement. This must also



occur in strict compliance with guidance of ministries, ministerial-level agencies, agencies attached to the Government, People's Committees of the provinces and centrally-run cities and the central bodies of people's organizations.

Moreover, in accordance with Article 22(4) of the Decree No. 148/2007/ND-CP dated 25/9/2007 issued by Prime Minister on Organization and Operation of Social Funds and Charity Funds, these funds must be implemented aids in a manner consistent with donor authorizations and objectives. Article 22(6) of this Decree further specifies that all mobilized funds and goods shall be used for the right subjects and objectives.

Article 5(2)(b) of the Decision No. 10/2008/QĐ-BTC dated 12/2/2008 issued by Minister of Finance on promulgating procedures for financial management of Social Funds and Charity Funds provides that all such funds and goods mobilized shall be used in a manner consistent with its objectives and subjects economically and effectively. Concerning mobilized funds for which purposes are defined, these funds must be allocated in accordance with donors' requests.

Similarly Article 2(5) of the Decree No. 64/2008/ND-CP of 14 May 2008, on the mobilization, receipt, distribution and use of voluntary contributions to help people overcome difficulties caused by natural disasters, fire, serious mishaps or patients suffering from fatal diseases, regulates that the usage of voluntary funds and goods must be in consistent with the mobilization of relief in the event of disaster, fire or serious accident consequences. The misuse of these funds or goods in any manner is forbidden.

Specifically relating to operations of the Red Cross, Circular No. 07/2005/TT-BTC dated 18/11/2005 on financial management of the Red Cross issued by Ministry of Finance, section II, stipulates that all relief funds donated by foreign individuals and organizations which are received by Viet Nam Red Cross branches at all levels shall be distributed to affected areas and in accordance with the donor's intent. If relief goods received are not suitable for the targeted beneficiaries, Viet Nam Red Cross may submit a request to competent authorities to open a bidding process for those goods in a manner consistent with national laws. Benefits from the bidding must be used in accordance with the donor's intent.

### 19.3 Accountability of assisting organizations

To ensure consistency of operations by different agencies and organizations, national laws and regulations provide a range of minimum standards in disaster relief and recovery.

In general, the law stipulates that mobilization, distribution and use of contributions of relief and recovery goods or funds must be in accordance with relief and recovery objectives and subjects.<sup>352</sup> It is forbidden to misuse such funds for private interests and illegal activities as well infringements of legal rights and interests, national security, defence and solidarity. Damage to social morals, customs, traditions and national identity, as well as money laundering, support of terrorism and other illegal acts, are also prohibited.<sup>353</sup>

Particularly, regarding the allocation and disbursement of disaster relief and recovery funds or goods, the law provides principles which may serve as minimum standards for humanitarian activities. These include:

- That the allocation and use of mobilized funds and goods must be based on the level of damage caused by natural disasters, fires, serious incidents; contributing sources; and the consistency, adequacy among affected provinces, municipalities, villages, sectors.<sup>354</sup>
- Victims of natural disasters or epidemics shall be supplied appropriate and adequate commodities and medicines to stabilize their lives during evacuation.<sup>355</sup>

Additionally, article 3(3) of the Law No. 11/2008/QH12 dated 3/6/2008 issued by National Assembly on Operation of Red Cross reinforces the operational principles of Viet Nam Red Cross, including amongst others, non-discrimination, in accordance with the country's traditional tolerance.

To guarantee a strict compliance to mentioned standards, a mechanism of enforcement is described in chapter VI of the Decree No. 64/2008/ND-CP of 14 May 2008, on the mobilization, receipt, distribution and use of voluntary contributions to help people overcome difficulties caused by natural disasters, fire, serious mishaps or patients suffering from fatal diseases.

Not only does it describe the responsibilities of each ministry, governmental body and organization involved, but the Central Committee of Viet Nam Fatherland Front and Viet Nam Red Cross are given responsibility to organize and direct receipt of relief funds and goods in cooperation with relevant bodies, including reporting to mass media on its mobilization. The Ministry of Finance and Ministry of Labour are also responsible for supervising the receipt and utilization of relief funds or goods.

#### **19.4 Recommendations**

The new law on Disaster Risk Management as well as other supporting instruments for communicable disease control should:

- Reinforce existing accountability measures concerning the use of funds and goods for humanitarian activities.
- Establish and/or identify minimum standards for specific activities in responding to disaster and communicable disease emergencies to ensure a consistent approach by all responders.
- Reinforce the responsibilities of assisting actors and States as identified in Articles 4-6 of the IDRL Guidelines.



## **Viet Nam as a transit or sending state for international assistance**

# Chapter 20

## Chapter 20

### Viet Nam as a transit or sending state for international assistance

#### **Key findings:**

##### Transit during disaster

- In general, all foreign travellers including relief personnel are exempted from transit visas in Viet Nam.
- Relief goods and equipment in transit are automatically exempted from import/export tax, special consumption tax, customs fees and inspection of the actual conditions of goods for clearance.
- However, relief flights, trucks and ships in transit do not enjoy any special privileges, except for speedy flight permission and exemptions from transit management service fees for relief aircraft.

##### Transit during a communicable disease emergency

- According to the Law on Contagious Disease Prevention and Control 2007, and its Draft Decree, border medical quarantine shall not apply for transportation means in transit not coming from an affected area and whose passengers and goods remain on board. Similarly, goods for transshipment shall not be subject to health measures under the IHR.
- In practice, ships and aircraft in transit are permitted to take on, under the supervision of the competent customs authorities, fuel, water, food and supplies. However, this is not clearly stated in any law texts.

##### Sending international assistance from Viet Nam

- The law does not provide for situations where international relief could be sent from Viet Nam to deliver international assistance in other country, thus no restrictions or facilities for the exit of relief personnel could be found. However, exemptions of visa fees may be granted by the Ministry of Foreign Affairs, the Ministry of Public Security or the Ministry of Defence on a case-by-case basis.
- Exported relief goods and equipment are exempted from customs fees, special consumption tax and export tax, and have priority clearance prior to submitting customs declaration documents. However, in order to enjoy such exemptions, prior approval is required from the competent authorities which, in practice, might be time-consuming given the lack of detail on the procedures involved.

### 20.1 Transit of disaster relief

All foreign travellers (which include foreign relief personnel) are exempted from transit visas in Viet Nam<sup>356</sup>.

Relief goods and equipment in transit in Viet Nam are exempted from:

- *Import/Export tax*: in accordance with Article 3(1) and 3(2) of Law No. 45/2005/QH11 of 14 June 2005, on Import Tax and Export Tax.
- *Special consumption tax*: in accordance with Article 3(2a and 2b) of Law No. 27/2008/QH12 of 14 November 2008, on Special Consumption Tax; Article 3(2) of Decree 26/2009/ND-CP of March 16, 2009, providing detailed guidelines for the implementation of a number of articles of the Law on Special Consumption Tax; and Article 3(2.2) of Circular 64/2009/TT-BTC of 27 March 2009, guiding the Government's Decree No. 26/2009/ND-CP of 16 March 2009, which details a number of articles of the Law on Excise Tax.
- *Customs fees*: in accordance with Article 2 of Circular No. 43/2009/TT-BTC of 9 March 2009, providing for rates and collection, remittance, management and use of customs charges and fees.
- *Inspection of the actual conditions of goods for clearance*: in accordance with Article 30 of the Law No. 29/2001/QH10 of 29 June 2001, on Customs (as amended by the Law No. 42/2005/QH11 of 14 June 2005).

Relief flights, trucks and ships in transit are not exempted from customs fees in accordance to Article 1 of Circular 43/2009/TT-BTC of 9 March 2009, providing for rates and collection, remittance, management and use of customs charges and fees. However, relief flights in transit may apply for speedy flight permission and are exempted from transit management service fees (as described further above).

## 20.2 Transit of goods and vessels during a communicable disease emergency

According to Article 35 of the Law on Communicable Disease Prevention and Control, vehicles in transit as well as goods and person on board are subject to border medical quarantine, including medical declarations, checking health documents and examination of health status. For transportation, including people and goods on board, coming from or through affected areas and which do not exhibit any signs of infection, only medical declarations and checking of health documents are required.

In addition, the draft Decree on Border Medical Quarantine<sup>357</sup> stipulates that quarantine shall not apply for transport in transit which does not come from an affected area and whose passengers and goods remain on board (Articles 3 and 11).

In practice, ships and aircraft in transit are permitted to take on, under the supervision of the competent customs authorities, fuel, water, food and supplies. However, this is not clearly stated in any legal instruments (as described previously).

## 20.3 Sending of international assistance from Viet Nam

The law does not provide for the any specific restriction or facilities for the exit of relief personnel (both Vietnamese residents and non-residents) departing from Viet Nam to provide humanitarian assistance to a country affected by natural disaster or disease. The Ministry of Foreign Affairs or the Ministry of Public Security or the Ministry of Defense may decide on exemptions of fees on case-by-case basis<sup>358</sup>.

Exported relief goods and equipment are exempted from:

- Customs fees: in accordance with Article 2 of Circular No. 43/2009/TT-BTC of March 9, 2009, providing for rates and collection, remittance, management and use of customs charges and fees.
- Special consumption tax: in accordance with Article 3(2) of Law No. 27/2008/QH12 of 14 November 2008, on Special Consumption Tax; and Article 3(1a) of the Decree of March 16, 2009, providing detailed guidelines for the implementation of a number of articles of the Law on Special Consumption Tax.
- Export tax: in accordance with Article 2(2) of Decree No. 149/2005ND-CP of 8 December 2005, detailing the implementation of the import tax and export tax law.

In addition, outgoing relief goods and equipment for emergency have the priority clearance prior to submitting a customs declaration and other customs documents. The time limit for belated submission of customs documents must not exceed 15 days from the day of clearance of goods<sup>359</sup>.

## 20.4 Recommendations

- The Ministry of Finance should issue a new circular guiding the implementation of Article 16(1) of the Decree 149/2005/NĐ-CP, which clearly provides for the re-exportation of equipment and unused goods for relief activities belonging to assisting humanitarian organizations

*For international relief personnel, Affected States should:*

- Grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities;
- In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;
- Facilitate freedom of access to and freedom of movement in and from the disaster affected area, bearing in mind the safety of disaster relief and initial recovery personnel.

See IDRL Guidelines (2007), Article 16(1)

to be facilitated and exempted from export tax.

- The Ministry of Transport, Ministry of Public Security and Ministry of Defence should study to establish an emergency plan which allows speedy passage for land, marine and air vehicles delivering humanitarian relief in Viet Nam or in another country.
- The above-mentioned recommendations should also / alternatively be included in the new Disaster Risk Management under a specific chapter for international cooperation in disaster risk management.
- The General Department of Viet Nam Customs should issue a guiding circular which allows land road, marine and aircraft in transit to take on fuel, water, foods and supplies, as well as provides in detail the customs procedures for such supplies.



## Summary of recommendations

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# Summary of recommendations

## Overarching Recommendations: Disaster Management

- *Development of a new Law on Disaster Risk Management to replace existing legal texts, supplemented by implementing decrees on specific aspects.* This recommendation will be in line with the plan of the Vietnamese government set out in the National Strategy on Natural Disaster Prevention, Response and Mitigation by 2020, to be completed by 2012. The Law on Disaster Risk Management should include the following:
  - A definition of disaster, taking a multi-hazard approach which does not distinguish between types of disaster (but excluding armed conflict). It is recommended to consider the definition by the IDRL guidelines cited above.<sup>360</sup>
  - General objectives and principles of disaster management.
  - Government institutional responsibilities and coordination mechanisms.
  - Roles and responsibilities of communities, civil society organizations, national organizations and the international community.
  - Mobilization of human, material and financial resources.
  - Arrangements and legal facilities for requesting/receiving international assistance.
  - General quality and accountability standards.
- This Law should replace all parts relating to the preparedness and response contained in the texts separately adopted on different types of disaster prevention and response, as cited above.<sup>361</sup> A single law on disaster risk management will facilitate the management and coordination activities in being uniform and effective, and prevent the overlapping of texts. The Law on disaster management should be supplemented by implementing decrees which cover all of the relevant legal issues, such as for better financial management, and for receiving international assistance such as registration/eligibility, customs, tax, visas.

## Overarching Recommendations: Communicable Disease Emergencies

The existing Law on Communicable Diseases Prevention and Control (2007) should be supplemented with additional implementing decrees which include the following aspects:

- Details on the role and functions of the national focal point.
- Special provisions concerning the entry and exit of urgent humanitarian personnel, goods and equipment during communicable disease emergencies.
- Further detail on the application of constitutional rights and freedoms during communicable disease emergencies.

## Overarching Recommendations: International Assistance

There are two proposed options to strengthen the legal framework for international assistance, as follows:

- Option 1: Development of a comprehensive regulation (e.g. a Decree under the Law on Disaster Risk Management) on the arrangements for receiving international assistance in the event of a disaster or communicable disease emergency, which covers the full range of legal facilities and minimum standards applicable to relief and recovery operations.

This option is a long-term objective and will require extensive collaboration and agreement between different ministries and departments to ensure the most appropriate arrangements are put in place. However, once established, this will ensure that international assistance will be managed in the most streamlined and efficient manner. It can be clearly understood by domestic and international partners, and can be easily updated without requiring amendments to other instruments.



**Summary of recommendations**

- Option 2: Amendment of the various existing laws, regulations, decrees and other instruments which have a bearing on the arrival and conduct of international assistance, and the publication of a separate compilation which clearly summarizes the various rules and procedures for international assistance.

This option can be more quickly achieved, at least in part, in the shorter term and the legal recommendations can be implemented individually by the different departments and ministries concerned. The limitation of this option is that the legal system will remain dispersed and risks duplication or confusion between the different rules. Additionally, the publication of the compilation of rules will require frequent updating to ensure that all legal amendments are included.

**Institutional arrangements for disaster management**

The new Law on Disaster Risk Management should:

- Establish a National Committee for Disaster Management (NCDM) as a permanent operational entity responsible for all disaster preparedness and response. The Committee should be placed directly under the sole authority of the Prime Minister. The Committee should have as Members representatives from all existing related services from ministries or other governmental bodies, whose roles should be defined clearly, with concrete incentives or penalties for their participation in disaster preparedness and response operations. To ensure the effectiveness of the National Committee as well as the coordination with governmental ministries and agencies, it could also have a permanent secretariat that works closely with focal points placed within each Ministry responsible for carrying out activities.
- Specifically the NCDM could represent:
  - a permanent coordinating and policy making body, responsible for establishing national strategies, common policies and practices for all levels;
  - a forum to discuss regular development planning activities which have a bearing on disaster risk reduction;
  - an authority for day-to-day management and operation including the procurement of emergency supplies and equipment as necessary;
  - a focal point for the management of a central disaster database, which receives regular reports from related services and local authorities on disaster situations and which undertakes regular needs and impact assessments for disaster preparedness and response in the country;
  - an authority to ensure international cooperation, communication, contact on disaster situations, particularly with Governments and intergovernmental organizations.
- Ensure the adequate allocation of funding from the national budget, commensurate with the roles and responsibilities of the various institutions from national to community level. Consideration should be given to allocating a minimum percentage of the annual national budget for this purpose.
- Amend existing texts on the activities of non-government organizations (NGOs) in Viet Nam, in order to establish a clear mechanism for the coordination of non-government assistance for disaster response, including international assistance, as well as procedures for communication and consultation with non-state actors including Viet Nam Red Cross, NGOs and communities in all disaster management activities at all levels (see discussion below on the role of civil society organizations).

**Institutional arrangements for communicable disease emergencies**

- Establish a single National Committee for communicable disease prevention and control, with the Prime Minister at the Head. Within the National Committee, different sub-committees may be charged of the management of specific diseases and placed under the permanent responsibility of the most relevant Ministry.
- Adopt a regulation (such as a Ministerial Decision) to supplement the Law on Communicable Diseases Prevention and

Control, detailing the needs and impacts assessment task and procedures.

- Adopt a Decree on Financial Management in Disease Control, to provide for the establishment of a fund for communicable diseases which is financed by the national budget and other sources (such as governmental aid and voluntary donations by individuals and organizations). Also, consideration should be given to allocating a minimum percentage of the annual national budget for this purpose.
- Regarding the formalization of coordination with international organizations in preventing and responding to communicable disease, we recommend to adopt a Ministerial Decision establishing a National Focal Point with concrete tasks and functions, as stipulated by the IHR. This entity should be independent from the Ministry of Health and comprise representatives from all related ministries and governmental bodies working in communicable disease prevention and control (such as the MARD, the Ministry of Environment, the Ministry of Information and the Ministry of Education). It should work closely with the Preventive Medicine and Environment (Ministry of Health) and local Preventive Medicine Services, to collect information and reports from communicable diseases state and evolution, ensuring the notification and communication with the WHO. This Agency could also have the authority to request assistance from foreign and intergovernmental organizations in communicable diseases preparedness and response.
- The mechanism for coordination, communication and consultation with NGOs in disease control could be integrated with that on disaster management (see the recommendations above and the discussion in the chapter on the role of civil society organizations below).
- Adopt the new Decree on Border Medical Quarantine which should contain provisions, procedures and forms in conformity with the IHR.

### **Role of civil society organizations**

- The Draft Law on Associations covers a range of associations, including organizations not working in the humanitarian sector, however it is not known when the Law will be adopted. It is recommended to also adopt a specific regulation to establish conditions and mechanisms for Vietnamese mass organizations, NGOs and civil society organizations to operate in Viet Nam during disaster or health emergencies in particular. It should contain provisions on the scope of their operations as well as procedures for consultation and coordination.
- The establishment of Committees for NGOs should include provisions on the tasks of these Committees in relation to the coordination of NGO activities, including for disaster and health emergencies.
- The Regulation on the operation of foreign NGOs in Viet Nam should be amended to include procedures for the communication and consultation with NGOs during disaster and health emergencies.

### **Early warning for disaster**

The new Law on Disaster Risk Management and implementing regulations should:

- Establish a uniform disaster early warning and declaration system in which the proposed National Committee for Disaster Management shall receive information and notification on potential hazards and launch early warning through clearly defined channels. The proposed National Committee for Disaster Management should also have the exclusive authority to determine the need for making official announcements about disaster situations based on well defined criteria, and to declare a disaster.
- Include, where possible, time indicators for communicating early warning information to ensure that it reaches communities, national and local authorities and other organizations to allow maximum time to prepare and respond.

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- Establish criteria and an expeditious process for the public declaration of different levels of disaster to trigger the appropriate level of response (provincial, national, international). This should be distinguished from a 'state of emergency' provided under the Ordinance on State of Emergency no. 20/2000/PL-UBTVQH promulgated by the Standing Committee of National Assembly on 4 April 2000.

### Surveillance and notification of communicable disease outbreaks

- The National IHR Focal Point identified in the previous chapter on institutional arrangements should ensure notification and communication to international entities on communicable diseases, particularly the WHO. The procedures of notification should therefore be provided in the Decision establishing the National Focal Point.
- The Regulation on information and reports on epidemic contagious diseases of 2002 should be amended to include the role of the National IHR Focal Point and the task of notification and communication to international organizations.
- Provisions on notification of communicable diseases by Border Quarantine Agencies should be included in the new Decree on Border Medical Quarantine.

### Requests for external assistance

The new Disaster Risk Management Law should:

- Describe the criteria for determining when national capacities have been exceeded in the event of a disaster.
- Describe the general principles and mechanisms for offering and requesting international assistance in the event of a disaster which exceeds national coping capacities, including a reference to the AADMER procedures where appropriate.

New regulations to supplement the existing Law on Communicable Disease Prevention and Control should:

- Describe the general principles and mechanisms for offering and requesting international assistance in the event of a communicable disease emergency, including a reference to the role of WHO as described in the IHR.

### Legal status of foreign entities providing assistance

Option 1: Revision of the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam

At present, the Prime Minister of Viet Nam has tasked COMINGO to draft a decree which will replace the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam, issued together with Decision no.340-TTg 1996.<sup>362</sup> This draft should have some amendments and supplements to the current law so as to successfully facilitate and regulate international disaster relief and recovery efforts.

The current draft Decree shortens the amount of time for COMINGO to formally respond to applications from NGOs to 45 days, however it should ideally provide for fast-track procedures for humanitarian organizations to operate in Viet Nam in times of emergency.

One such measure is to issue a Permit for Emergency Operations for organizations not already present in Vietnam to within a week from the date of receipt of valid and complete application documents. The duration of the first issue of a Permit for Emergency Operation should be no more than 45 days but should be renewable for another 30 days with following an application sent 7 days before the expiry of the Permit. This timeline is suggested based on Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminal diseases, accordingly under Article 7. This Decree requires that the time limit for mobilization and receipt of donations shall not

exceed 60 days at central level, 30 days at district level and distribution shall not exceed 20 days after each period.

Option 2: A new comprehensive regulation on the arrangements for receiving international assistance, to supplement the new Law on Disaster Risk Management, which could:

- Include fast-track procedures for humanitarian organizations to receive temporary legal status to operate in Viet Nam in times of disaster or communicable disease emergencies.
- Establish a register of foreign entities considered eligible to provide relief and initial recovery assistance in Viet Nam to be managed and maintained by (the Committee for Foreign Non-Governmental Organizations and/or) the designated focal ministry, department or agency. This should include the following:
  - Eligibility should be dependent upon an entity's ability to comply with the responsibilities described in Articles 4(1) and (2) of the IDRL Guidelines and a commitment to adhere to the responsibilities of Article 4(3) to the greatest practical extent. In the case of a communicable disease emergency, also demonstrate sufficient measures are in place to prevent or limit the spread of that particular disease.
  - Eligibility should ideally be determined by the submission of documentation on the mandate, experience, capacity and key policies of the entity. All submissions should be treated equally and fairly and registration should not be unreasonably withheld.
  - All such entities which consider themselves likely to offer international assistance to Viet Nam should apply for registration, regardless of whether they have existing legal status in Viet Nam. Registration should not affect any existing legal status or activities of an organization already present in Viet Nam.
  - Additionally, the relevant focal government point should actively identify and request entities to register if they are considered likely to offer or be requested to provide international assistance.
  - Once relief and initial recovery operations have commenced, the relevant authority should actively monitor ongoing compliance with eligibility requirements.
- The effect of registration should be that, when a registered entity is requested or accepted to provide international relief or initial recovery assistance, it will:
  - Retain its existing legal status within Viet Nam, or where there is no pre-existing legal status, will be granted immediate temporary legal status on arrival for the duration of its operations.
  - Will receive, as a minimum, the legal facilities described in Part V of the IDRL Guidelines (see further specific recommendations on this throughout this report). Such measures would be in addition to any facilities, privileges and immunities which are already required under domestic and international law.
- Entities which have not been pre-registered prior to an emergency and wish to offer international assistance should send a request to the identified government focal point and provide the necessary documentation to be included on the register prior to their arrival and commencement of activities. Such requests should be assessed and decisions communicated promptly without undue delay.
- COMINGO should be responsible for deciding cases of special registration or without registration in times of emergency.
- COMINGO should compile the data of humanitarian organizations or verify the dossiers of those organizations operating in Viet Nam before to prepare for the fast-track procedures.

This regulation could be developed during the process of developing the new disaster management law which is currently planned in the National Strategy on Natural Disaster Prevention, Response and Mitigation by 2020 to be completed by 2012.

Option 3: Existing laws, regulations and procedures could be amended as follows:

- Amend the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters,

fires or serious incidents and for terminal diseases to include fast-track procedures for humanitarian organizations to receive temporary legal status to operate in Viet Nam in times of disaster or communicable disease emergencies as described in option 2 above.

Additional to options 1, 2 or 3:

- Viet Nam should take steps to implement the AADMER, in particular the provisions which facilitate international and regional cooperation in times of disaster and emergency.

### **Customs arrangements for the arrival of relief goods in disaster**

Consideration should be given to the following recommendations from the IDRL Guidelines:

- Simplification of required customs documents specifically for goods for emergency services.
- Reducing or removing any import, transit or export restrictions during disasters.
- Allowing the re-exportation of equipment and unused goods imported in service of emergency requirements.
- Removing restrictions or clarifying the process on the disposal of any unused humanitarian goods.
- Ensuring clear and rapid procedures for importation and registration of foreign vehicles for relief and recovery work in Viet Nam.
- Developing exceptional quarantine procedures to enable the rapid entry of rescue dogs.
- Developing a fast track process for facilitating the import of both registered and unregistered medicines in the shortest time possible during emergencies.

These measures may be achieved through two different options:

Option 1: A new comprehensive regulation on the arrangements for receiving international assistance, to supplement the new Law on Disaster Risk Management, which could:

- Include all facilitation measures for the import, use and export of relief goods and equipment, including customs facilitation.
- This regulation could be developed during the process of developing the new disaster management law which is currently planned in the National Strategy on Natural Disaster Prevention, Response and Mitigation by 2020 to be completed by 2012.

Option 2: Review and amend current legislation and regulations.

- This option would include the review and amendment of all legislation and regulations applicable to customs, taxes, transport and medicines, with a view to integrating the above recommended measures. This option can be achieved in a shorter period of time as customs procedures in Viet Nam are frequently amended by the Customs Department and Ministry of Finance to meet the demands of economic development. The Customs Department may take these recommendations into consideration and promulgate these procedures and measures in the coming year by issuing a guiding circular.

For both options, the above facilitation measures should also be accorded to Viet Nam Red Cross Society in its capacity as auxiliary to the public authorities in the humanitarian field.

### **Special measures for communicable disease control**

Existing and new laws and regulations on quarantine and other measures should be amended as follows:

- Clearly designate competent authorities responsible for supervising the removal and safe disposal of any contaminated matter from a conveyance; monitoring and controlling the discharge by ships of potentially disease-causing matter by

## Summary of recommendations

- waterways; and making effective contingency arrangements to deal with unexpected public health events.
- Provide clarification as to when is a conveyance deemed 'affected' or constitutes by a public health risk and indicate conditions for affected conveyances to take on fuel, water, food and supplies under the supervision of the competent authority and provide quarantine measures applied for containers and loading areas.
- Ensure that competent authorities follow the “do no harm” principle so as not to cause any harm to persons, luggage, goods and damage to the environment.
- Complete procedures for communication by the National IHR Focal Point on public health measures pursuant to the IHR.
- Provide conditions to ensure that affected conveyances may still be allowed to depart where the competent authority at the point of entry is not able to carry out the control measures required.
- Provide provisions on reporting evidence found and control measures required to the competent authority at the next known point of entry at the time of departure, and also noting this in the Ship Sanitation Control Certificate as required by the IHR.
- Provide for affected conveyances to take on fuel, water, food and supplies under the supervision of the competent authority.
- Develop the laws concerning quarantine of containers in detail as provided for under Article 34 of the IHR.

### Management of foreign personnel during a disaster

Option 1: A new comprehensive regulation on the arrangements for receiving international assistance, to supplement the new Law on Disaster Risk Management which could:

- Provide for the waiver or rapid processing of entry and exit visas for humanitarian personnel of recognized entities without cost.
- Enable the provision of visas at points of entry which are valid for the duration of relief and initial recovery operations.

Option 2: Existing laws, regulations and procedures should be amended as follows:

- Immigration laws and regulations should be amended to provide for the waiver or rapid processing of entry and exit visas for humanitarian personnel of recognized entities without cost and enable the provision of visas at points of entry which are valid for the duration of relief and initial recovery operations.

Additionally:

- The Draft Law on Examination and Treatment should include procedures and requirements for urgent recognition and governmental approval for the exercise of certain professions pertinent to disaster response operations, such as doctors, nurses, and pharmacists including expedited review and recognition of the foreign qualifications of medical and other professional relief personnel from assisting states and approved humanitarian organizations, as well as necessary licenses and permits in cases without international treaties.
- Viet Nam should also consider signing bilateral arrangements with international humanitarian organizations which cover the issue of urgent recognition and approval of professional qualifications of their personnel.

### Management of foreign personnel during a communicable disease emergency

Existing laws and regulations should be amended or supplemented to:

- Clearly address the rights and freedoms to be guaranteed for international travellers during the application of any health measures to prevent and control communicable diseases in accordance with the IHR. This will serve as evidence of Viet Nam's compliance with international treaties will encourage foreigners to be more willing to provide information about

their health conditions and to comply with requirements.

- Ensure the draft Decree on Border Medical Quarantine and any other legal documents regulating prophylaxis measures include provisions relating to the ability of suspect travellers to continue their voyage as well as follow up measures to ensure those travellers not to further the spread of diseases, as required by the IHR.
- Provide conditions under which medical examinations, prophylaxis and treatment offered for suspect and affected travellers may be conducted, including the necessity of prior consent and the circumstances under which this may be waived in accordance with the IHR.
- In the case of humanitarian personnel, ensure that any required health measures (which must be conducted in accordance with the provisions of the IHRs) will be carried out with the utmost urgency and priority for both entry and exit.

## Transport during disaster

Option 1: The new comprehensive regulation on the arrangements for receiving international assistance should provide:

- Speedy passage for relief vehicles. The permission granting authority should also be specified for each level of operation (national or local).
- Automatic waiver of tolls, services fees and other charges for relief vehicles bearing proper distinctive signs /paperwork.
- Expedited procedures for the temporary recognition of foreign driving licenses for humanitarian personnel.

Option 2: Existing laws, regulations and procedures should be amended as follows:

Existing transport laws should include a chapter on transport arrangements for emergency relief, which cover the above issues.

## Transport during a communicable disease emergency

Amend existing laws and regulations or develop a section on transport during disaster emergency in conformity with the IHR as follows:

- Clarify the control and restrictions on the entrance of persons and conveyances coming from epidemic zones. In particular ensure there are provisions to facilitate the timely flow of humanitarian relief personnel and goods, subjects to the requirements of public health and safety.
- Provide details for communication by radio or other means on the status of conveyances before their arrival at the border-gates.
- Ensure the application of any health measures by the competent authorities or permit ship/aircraft to proceed to the port/airport where it was due (or if technical reasons prevent this, to the nearest convenient port/airport) on completion of required health measures in case a suspect or affected aircraft or ship, for reasons beyond the control of the pilot/officer in command, does not land at the port/airport where it was due.
- Require the officer/pilot in command of a ship to take emergency measures necessary for the health of travellers.
- Provide further details the special provisions for aircraft in providing detailed information on health conditions on board during an international voyage and to communicate any health measures applied to the aircraft.
- Provide that the master of a ship, before arrival at its first port of calling in the territory of a State Party, must ascertain

the state of health on board and that shipping operators or their agents are informed of would-be-applied measures.

- Provide that Ship Sanitation Control Exemption Certificates and Ship Sanitation Control Certificates will be valid for a maximum period of six months (extendable by one month if the inspection or control measures required cannot be accomplished at the port)
- Provide that whenever possible, control measures shall be carried out when the ship and holds are empty (or before loading in the case of a ship in ballast) and require the operators to permanently keep conveyances for which they are responsible free of sources of infection/ contamination.
- Require that border quarantine bodies inform travellers of those measures to be applied on board and to follow the technical requirements in Annex 4 and Annex 5 of the IHR.
- Provide provisions to review the implemented measures as well as the coordination with the WHO.

### **Tax, currency exchange and charges**

Regarding the legal facilities for tax, currency exchange and charges, there are two recommended options:

Option 1: The new comprehensive regulation on the arrangements for receiving international assistance (proposed above):

- Should include a chapter on facilities regarding tax, currency and charges for international humanitarian relief, which covers all the facilities provided in existing tax and foreign exchange law as described above. In addition, this chapter should include new provisions on charges for health protection measures in compliance with Articles 40(1) and (2) of the IHR.

Option 2: Existing laws, regulations and procedures should:

- Amend the provisions in existing law on fees and charges relating to charges for health measures to comply with the requirements of Articles 40(1) and (2) of the IHR.

### **Freedom of access and security**

The new Disaster Risk Management Law should:

- Establish clear responsibilities for the safety and protection of relief personnel, premises, transport, equipment and goods.
- Expressly establish the freedom of access and movement to and from disaster affected areas (bearing in mind safety considerations) and respect for the independence and impartiality of humanitarian responders.

New regulations to supplement the existing Law on Communicable Disease Prevention and Control should:

- Specifically charge the Steering Committee stipulated in Decree no. 71/2002/ND-CP, with ensuring the safety of relief personnel, premises, transport, equipment and goods.
- 
- Ensure fast track quarantine procedures to prioritize clearance for urgent humanitarian goods and equipment.
- 
- Include provisions which clearly indicate rights enjoyed by affected/suspect people, the obligations of authorities to respect these rights and limit them only as necessary in the interests of public health, as well as provide a legal recourse for people whose rights are violated during the application of disease control measures.



## Additional facilities and measures

The new Disaster Risk Management Law should:

- Clarify (but not limit) the additional facilities which domestic and international relief may benefit from, such as extended operating hours of state offices and the no-cost provision of in-country transport, use of building for office and warehouse space and the use of cargo handling equipment and logistics support as recommended in the IDRL Guidelines.
- Ensure that exceptions for the granting of facilities for humanitarian relief are narrowly tailored as recommended in the IDRL Guidelines.

The new Decree on Border Medicine Quarantine should:

- Ensure consistency with the provisions of IHR in relation to the application of health measures to goods and persons in transit and the criteria for applying additional health measures.

## Accountability and transparency

The new law on Disaster Risk Management as well as other supporting instruments for communicable disease control should:

- Reinforce existing accountability measures concerning the use of funds and goods for humanitarian activities.
- Establish and/or identify minimum standards for specific activities in responding to disaster and communicable disease emergencies to ensure a consistent approach by all responders.
- Reinforce the responsibilities of assisting actors and States as identified in Articles 4-6 of the IDRL Guidelines.

## Viet Nam as a transit or sending state for international assistance

- The Ministry of Finance should issue a new circular guiding the implementation of Article 16(1) of the Decree 149/2005/NĐ-CP, which clearly provides for the re-exportation of equipment and unused goods for relief activities belonging to assisting humanitarian organizations to be facilitated and exempted from export tax.
- The Ministry of Transport, Ministry of Public Security and Ministry of Defence should study to establish an emergency plan which allows speedy passage for land, marine and air vehicles delivering humanitarian relief in Viet Nam or in another country.
- The above-mentioned recommendations should also / alternatively be included in the new Disaster Risk Management under a specific chapter for international cooperation in disaster risk management.
- The General Department of Viet Nam Customs should issue a guiding circular which allows land road, marine and aircraft in transit to take on fuel, water, foods and supplies, as well as provides in detail the customs procedures for such supplies.

## End notes

- 1 Adopted by Resolution 4 of the 30th International Conference of the Red Cross and Red Crescent (Geneva, 2007) and since recognised by the UN General Assembly, UNECOSOC and other international and regional bodies.
- 2 Adopted by the 58th World Health Assembly in May 2005 and entered into force in Viet Nam on June 15, 2007.
- 3 A website of the Ministry of Justice provides a very comprehensive and updated legal database, with English translations of key legal texts: [http://vbqpl.moj.gov.vn/law/en/index\\_html](http://vbqpl.moj.gov.vn/law/en/index_html). Searches were also undertaken on other websites: <http://legal.khaitri.vn/>, [www.thuvienphapluat.com](http://www.thuvienphapluat.com) (texts in Vietnamese), [www.vietnamlaws.com](http://www.vietnamlaws.com), [http://www.dncustoms.gov.vn/web\\_english/law.htm](http://www.dncustoms.gov.vn/web_english/law.htm), <http://www.mof.gov.vn/DefaultE.aspx?tabid=281>, <http://www.doingbusiness.org/LawLibrary/?economyid=202>, <http://www.isgmard.org.vn/Information%20Service/Legal%20docs/Legaldoc.asp>, (texts in English). Websites of relevant Ministries and Organizations also provides relevant texts in Vietnamese in their scope of management.
- 4 Source: National Strategy for Natural Disaster Prevention, Response and Mitigation to 2020, Hanoi, Nov. 2007, Annex 2.
- 5 Data for this part largely based on “The Science and Practice of Flood Disaster Management in Urbanizing Monsoon Asia” by Nguyen Van Le, prepared for and presented at the regional workshop in Chiang Mai Thailand in April 2007.
- 6 Source: Presentation of Care International in the Training and consultation on legal preparedness for disaster response and communicable disease control on 28-29 April 2009.
- 7 Zeidler, R.B (1998), “Continental shorelines: Climate change and integrated coastal management,” *Ocean and Coastal Management* 37: 41-62.
- 8 Zeidler (1998).
- 9 Zeidler (1998).
- 10 Source: Presentation of Care International in the training and consultation on legal preparedness for disaster response and communicable disease control on 28-29 April 2009.
- 11 Ministry of Natural Resources and Environment (MoNRE), Socialist Republic of Viet Nam (2003).
- 12 MoNRE (2003).
- 13 Presentation of Care International in the Training and consultation on legal preparedness for disaster response and communicable disease control on 28-29 April 2009.
- 14 Sources: WHO Representative Office in Viet Nam ([http://www.wpro.who.int/Viet Nam](http://www.wpro.who.int/VietNam)), Viet Nam Partnership on Avian and Human Pandemic Influenza ([www.avianinfluenza.org.vn/](http://www.avianinfluenza.org.vn/)).
- 15 The following information is from: Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IFRC, Geneva 2008) available at: <http://www.ifrc.org/what/disasters/idrl/resources/guidelines.asp>
- 16 For example, United Nations General Assembly Resolutions 63/139 and 63/141 of 2009 “encourage[d] Member States and, where applicable, regional organizations to strengthen operational and legal frameworks for international disaster relief, taking into account, as appropriate, the Guidelines for Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, adopted at the thirtieth International Conference of the Red Cross and the Red Crescent held in Geneva in November 2007”.
- 17 The following information is from the International Federation IDRL website: <http://www.ifrc.org/what/disasters/idrl/research/ibr.asp>. Further information is also available from the WHO website: <http://www.who.int/csr/ibr/en/>
- 18 This information is from the IFRC IDRL Website: <http://www.ifrc.org/what/disasters/idrl/research/tampere.asp>. Further information is also available from the official Tampere Convention webpage: <http://www.reliefweb.int/telecoms/tampere/index.html>
- 19 World Conference on Disaster Reduction 18-22 January 2005, Kobe, Hyogo, Japan; Hyogo Framework For Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (2005).
- 20 World Conference on Disaster Reduction 18-22 January 2005, Kobe, Hyogo, Japan; Hyogo Framework For Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (2005), p1.
- 21 UNISDR and UNOCHA, Disaster Preparedness for Effective Response Guidance and Indicator Package for Implementing Priority Five of the Hyogo Framework (Geneva, 2008).
- 22 ASEAN Agreement on Disaster Management and Emergency Response (2005) Article 4.
- 23 Available at: [www.asean.org](http://www.asean.org)
- 24 World Health Organization Western Pacific Regional Committee, 56th Session, Noumea, New Caledonia, 19-23 September 2005, WPR/RCS6/7.
- 25 Asia Pacific Strategy for Emerging Diseases (WHO, 2005), Executive Summary.
- 26 Asia Pacific Strategy for Emerging Diseases (WHO, 2005), Objective 3, Expected Result 1, see in particular footnotes 9 and 10.
- 27 Asian Development Bank: <http://www.adb.org/GMS/agreement.asp>
- 28 ACMECS, Economic Cooperation Strategy Plan of Action (2003), <http://www.acmecs.org/>
- 29 ACMECS Leaders’ Declaration on the Partnership in Controlling Avian Influenza and Other Infectious Diseases, 2nd ACMCS Summit, Bangkok, 3 November 2005, <http://www.acmecs.org/>
- 30 ACMECS, Immediate Action Plan for Preventing and Controlling Avian Influenza Pandemic (2006), <http://www.acmecs.org/>
- 31 [http://www.mbdsoffice.com/index\\_2008.php](http://www.mbdsoffice.com/index_2008.php)
- 32 [http://www.mbdsoffice.com/index\\_2008.php](http://www.mbdsoffice.com/index_2008.php)
- 33 See the strategy at: [http://aimp.apec.org/Documents/2008/TFEP/TFEP1/08\\_tfep1\\_012.pdf](http://aimp.apec.org/Documents/2008/TFEP/TFEP1/08_tfep1_012.pdf) Also see the following IDRL news article: <http://www.ifrc.org/Docs/pubs/idrl/idrl-eneus-16-APEC.pdf>

- 34 *Article 3.1 only stipulates that: All legal documents promulgated must conform to the Constitution and ensure the uniformity and the rank of its legal effect in the legal system. In this aspect, the replaced Law on the Promulgation of Legal Documents, adopted in November 12, 1996 was clearer. Its Article 2 provides: "The Constitution is the fundamental law of the State having the highest legal effect. All legal documents promulgated must conform to the Constitution and ensure the uniformity and the rank of its legal effect in the legal system. All legal documents issued by a lower-level State agency must conform to the legal documents of the higher-level State agencies. Any legal document which is contrary to the Constitution and the legal documents of the higher-level State agencies must be annulled or suspended by a competent State agency".*
- 35 *Laws shall provide for the fundamental and important matters pertaining to external and internal relations, the country's socio-economic, defence and security tasks, the major principles on the organization and operation of the State apparatus, on social relations and the activities of citizens (Article 11.2); Resolutions are issued by the National Assembly to decide the socio-economic development plans, national fiscal and monetary policies, policies on nationalities, religion, external relations, defence, security, State budget estimates and allocations, adjustment of the State budget, approve the final State budget statement, ratify international agreements, decide the working regime of the National Assembly, the Standing Committee of the National Assembly, the Council on Nationalities, the Commissions of the National Assembly, the National Assembly deputies; and decide other issues under the jurisdiction of the National Assembly (Article 11.3).*
- 36 *Ordinances shall provide for the matters assigned by the National Assembly, which shall be submitted, after being implemented for a period of time, to the National Assembly for consideration and decision to be passed into laws (Article 12.1); Resolutions are issued by Standing Committee of the National Assembly to interpret the Constitution, laws and ordinances, to guide the work of the People's Councils, declare the state of war, the national or regional mobilization, declare the state of emergency on a general or limited scale and decide other issues under the jurisdiction of the Standing Committee of the National Assembly.*
- 37 *The orders and decisions of the State President are issued to implement tasks and powers of the State President as prescribed by the Constitution, law, resolution of the National Assembly and the Ordinance, Resolution of the Standing Committee (Article 13).*
- 38 *Decrees issued by the Government stipulate in details the implementation of the laws and resolutions of the National Assembly, the ordinances and resolutions of the Standing Committee of the National Assembly; the orders and decisions of the State President; the concrete measures to perform the tasks and exercise the powers of the Government; defining the tasks, powers and organizational apparatus of the Ministries, the ministerial-level agencies, the agencies attached to the Government and other agencies established under the jurisdiction of the Government; providing for issues which are extremely necessary but which have not gathered enough conditions for the elaboration of laws or ordinances to meet the requirements of the State management and social and economic management. The Standing Committee of the National Assembly shall have to approve the issuance of these decrees (Article 14).*
- 39 *Decisions are issued by the Prime Minister to decide policies and measures to direct and run the operation of the Government and the State administrative system from the central to grassroots level; to stipulate the working regime for the cabinet members, the Presidents of the People's Committees of the provinces and the cities directly under the Central Government and other issues under the jurisdiction of the Prime Minister (Article 15).*
- 40 *Circulars are issued by the Ministers, the Heads of the ministerial-level agencies, to guide the implementation of the provisions within the scope of the management of the branches and fields under their charge, laid down in the laws and resolutions of the National Assembly, the ordinances and resolutions of the Standing Committee of the National Assembly, the orders and decisions of the State President, the resolutions and decrees of the Government, the decisions and directives of the Prime Minister (Article 16).*
- 41 *Article 1 (I.2&4) of the Decision.*
- 42 *Article 1 (II.4) of the Decision.*
- 43 *Law on Nuclear Energy, no. 18/2008/QH12 dated 3 June 2008 by the National Assembly.*
- 44 *For example, the National Steering Committees respectively for Flood and Storm Prevention and Control, Search and Rescue, Human Influenza Pandemic Prevention and Control and HIV/AIDS Prevention and Control.*
- 45 *Decision No. 26/2008/QĐ-BNN of Ministry of Agriculture and Rural Development dated January 28, 2008, defining the functions, tasks, powers and organizational structure of the Department for Dyke Management and Flood and Storm Prevention and Control.*
- 46 *Article 1 of the Decision.*
- 47 *Such as the Local Popular Committees, the Ministry of Plan and Investment, the Ministry of Natural Resources and Environment, the Ministry of Public Security, the Ministry of Labor, the Ministry of Education, the Ministry of National Defense and civil organizations.*
- 48 *Article 3 of the Decision.*
- 49 *A draft Decree on Border Medical Quarantine has been circulated to discussion and will be soon adopted, see below chapter 5.*
- 50 *Decision No. 54/2008/QĐ-BYT of Ministry of Health, dated December 30, 2008, defining the functions, tasks, powers and organizational structure of the Preventive Medicine and Environment Department of the Ministry of Health.*
- 51 *Note that the AADMER definition is shorter than that by IDRL guidelines and does not expressly exclude armed conflict.*
- 52 *The Law will not replace all the texts, because many of them regulate also issues other than preparedness and response, such as the Law on nuclear energy, which also contains provisions on the production and use of nuclear energy, the same as many other texts.*
- 53 *According to the Decree no. 1/2008/ND-CP dated 3 January 2008 by the Government on functions, tasks, authorities and structure of the MARD, the MARD is charged with leading and guiding the implementation of the national strategies for natural disaster prevention, control and mitigation approved by the Prime Minister (Article 2.9b); leading, guiding and inspecting the implementation of concrete legal provisions on emergent situations caused by storms, flood, flash flood, inundation, drought, sea level increase, tsunami, landslides (Article 2.9k). Home page of the MARD: <http://www.agroviet.gov.vn>*

- 54 *I.e. Law on dykes no. 79/2006/QH11 dated 29th November 2006, promulgated by the National Assembly, Law on fire prevention and control no. 27/2001/QH10 dated 29th June 2001 promulgated by the National Assembly, Ordinance amending and supplementing a number of articles of the ordinance on flood and storm prevention and control, no. 27/2000/PL-UBTVQH promulgated by the Standing Committee of National Assembly on 24 August 2000, Decree no. 08/2006/ND-CP promulgated by the Prime Minister dated 16th January 2006 detailing a number of articles of the Ordinance on Flood and Storm Prevention and Control, which was amended and supplemented on 24 August 2000, Decree no. 35/2003/ND-CP dated 4 April 2003 detailing the implementation of a number of articles of the Law on fire prevention and control Decree no. 71/2002/ND-CP of 23 July 2002 issued by the Government, detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics, Decision no. 264/2006/QD-TTg dated 16th November 2006 by the Prime Minister promulgating the Regulation on Earthquake announcement and Tsunami warning, Decision no. 103/2007/QD-TTg dated 12th July 2007 by the Prime Minister promulgating the Regulation on Search and Rescue Coordination at sea, Decision no. 581/TTg dated 25th July 1997 by the Prime Minister promulgating the Regulation on Flood and Storm Warning, Decision no. 78/2007/QD-TTg dated 29th May 2007 by the Prime Minister promulgating the Regulation on Earthquake and Tsunami prevention and control.*
- 55 *According to the National Progress Report on the Implementation of Hyogo Framework for Action in 2008., The Standing Office for the CCFSC is the focal point of DRR in Viet Nam (page. 14).*
- 56 *Article 1.9 stipulates that the Committee is responsible for the implementation of the Search and Rescue Convention (SAR 79) and other international commitments of Viet Nam, for international and regional cooperation for search and rescue.*
- 57 *See for example the Decision no. 40/2006/QD-GTVT dated 7th November 2006 of the Minister of Transport promulgating the Regulation on organization and operation of the Transport Ministry's Steering Committee for Search and Rescue.*
- 58 *Article 7, Decree no. 71/2002/ND-CP of 23th July 2002 issued by the Government, detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics [hereinafter Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics].*
- 59 *Article 2.*
- 60 *Article 20, Decree no. 03/2002/ND-CP dated 7th January 2002 by the Government on the Protection of Petroleum Security and Safety, Article 39, Law on fire prevention and control no. 27/2001/QH10 promulgated by the National Assembly on 29th June 2001.*
- 61 *Article 46, Law on dykes; Article 63 Decree detailing the implementation of a number of articles of the Law on fire prevention and control (2003); Article 39 of the Ordinance on flood and storm prevention and control (1993-2000); Article 17, the Regulation on earthquakes and tsunami prevention and control (2007); Article 31 of the Regulation on search and rescue coordination at sea (2007); Article 19, the Regulation on financial management of search, rescue, salvage and response to natural disasters and catastrophe (2008).*
- 62 *Supra note 51.*
- 63 *Home page of the Ministry of Health: <http://www.moh.gov.vn/homeby/vn/portal/index.jsp>*
- 64 *Its website is <http://apm.gov.vn/>*
- 65 *Its website is [http://www.vaac.gov.vn/index.php?option=com\\_frontpage&Itemid=1](http://www.vaac.gov.vn/index.php?option=com_frontpage&Itemid=1)*
- 66 *According to a representative from the Department, such text is being constructed.*
- 67 *Established by the Decision no. 348/QD-TTg dated 21th February 2006 on setting up the National Steering Committee for Human Influenza Pandemic Prevention and Control and the Decision no. 1532/QD-TTg dated 13 November 2007 strengthening the National Steering Committee for Human Influenza Pandemic Prevention and Control.*
- 68 *Established by the Decision no. 61/2000/QD-TTg dated 5 June 2000 on setting up the National Committee for AIDS, Drug and Prostitution Prevention and Control and the Decision 50/2007/QD-TTg dated 12 April 2007 on consolidating the National Committee for AIDS, Drug Addiction and Prostitution Prevention and Control.*
- 69 *Article 1, Decision no. 1532/QD-TTg dated 13 November 2007 strengthening the National Steering Committee for Human Influenza Pandemic Prevention and Control.*
- 70 *Article 3, Decision 50/2007/QD-TTg dated 12 April 2007 on consolidating the National Committee for AIDS, Drug Addiction and Prostitution Prevention and Control.*
- 71 *Article 37.5 of the Law stipulates that the Government is responsible for providing details on the border medical quarantine provisions of this Law.*
- 72 *Article 2 of the Decision no. 340-TTg of May 24, 1996 of the Prime Minister promulgating the Regulation on the Activities of Foreign Non-Governmental Organizations in Viet Nam.*
- 73 *Article 3 of the Decree no. 148/2007/ND-CP dated 25th September 2007 by the Government on the organization and activities of Social Funds and Charity Funds.*
- 74 *Decree no. 77-NV dated 31st May 1947 by the Minister of Home Affairs authorizing the establishment and operation of the Red Cross Society of Viet Nam.*
- 75 *Humanity, Impartiality, Neutrality, Independence, Voluntary Service, Unity, Universality.*
- 76 *Article 1.*
- 77 *See further above.*
- 78 *Article 4.2 of the Decree no. 64/2008/ND-CP issued by the Government, dated 414 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients. [Hereinafter Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations].*
- 79 *Such as activities contrary to the public interest, morality, causing harm to the environment, etc.*
- 80 *Source: The Partnership Framework for the Partnership on Avian and Human Pandemic Influenza (PAHI), <http://www.avianinfluenza.org.vn/>*
- 81 *Source: [www.ngocentre.org.vn/?q=node/8872](http://www.ngocentre.org.vn/?q=node/8872)*
- 82 *Decision No.214-TTg of July 7, 1993 of the Prime Minister on establishing the Steering Commission on non-governmental organizations replaced by the Decision No.339-TTg of 24 May 1996 of the Prime Minister on establishing the Working Commission on non-governmental organizations.*

- 83 *Decision No. 59/2001/QĐ-TTg of April 24, 2001 of the Prime Minister on the establishment of the Working Committee for foreign non-governmental organizations.*
- 84 *Article 2 of the 1996 Decision.*
- 85 *See further above.*
- 86 *The Ministry has been split into the Ministry of Science and Technology and the Ministry of Natural Resources and Environment.*
- 87 *Article 12, Decree implementing the Ordinance on Flood and Storm Prevention and Control.*
- 88 *Article 2.6c, Decision No. 54/2008/QĐ-BYT of Ministry of Health, dated December 30, 2008, defining the functions, tasks, powers and organizational structure of the Preventive Medicine and Environment.*
- 89 *Article 42, Law on dykes.*
- 90 *Article 11.1, Regulation on Earthquake announcement and Tsunami warning.*
- 91 *Articles 17-18, Regulation on search and rescue coordination at sea.*
- 92 *Articles 19 & 20.*
- 93 *Article 3 of Decision no. 103/2005/QĐ-TTg dated 12th May 2005 by the Prime Minister promulgating the Regulation on the response to Oil spills.*
- 94 *International Atomic Energy Agency.*
- 95 *Agreement between Viet Nam and China on Border Medical Quarantine, signed on October 22, 2008; Agreement between Viet Nam and Cambodia on Border Medical Quarantine, signed on 2006; Agreement between Viet Nam and Laos on Border Medical Quarantine, signed on December 21, 2001.*
- 96 *Article 2(8) of Decision No. 54/2008/QĐ-BYT of Ministry of Health, dated December 30, 2008, defining the functions, tasks, powers and organizational structure of the Preventive Medicine and Environment Department of the Ministry of Health.*
- 97 *Article 2 of Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations; Article 18 of Law No. 11/2008/QH12 dated June 03, 2008 promulgated by the National Assembly on Red Cross Activities; Article 26 of Decree No.32-CP of May 20, 1996 by the Government providing details for the implementation of the Ordinance on flood and storm prevention and control; Article 4 of Regulation on the management and utilization of aid from international non-governmental organizations (Issued in conjunction with the Prime Minister's Decision No. 64/2001/QĐ-TTg dated 26 April 2001).*
- 98 *Article 56(2) of the Law No. 03/2007/QH12, promulgated by the National Assembly on 21st November 2007 on communicable disease prevention and control. [Hereinafter Law No. 03/2007/QH12 on communicable disease prevention and control.*
- 99 *Ibid., Article 56.*
- 100 *Article 2 of Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.*
- 101 *Ibid., Article 7.*
- 102 *Article 56(2) of Law No. 03/2007/QH12 on communicable disease prevention and control.*
- 103 *Ibid., Article 42(1).*
- 104 *Ibid., Article 43.*
- 105 *Ibid., Article 42(2).*
- 106 *Ibid., Article 44.*
- 107 *Ibid., Article 45.*
- 108 *Article 4(2) of the Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.*
- 109 *Law No. 11/2008/QH12 dated June 03, 2008 promulgated by the National Assembly on Red Cross Activities, Circular No. 07/2005/TT-BTC of Ministry of Finance dated 18 January 2005 on Financial Management over Red Cross Associations; Circular No. 60/2002/TT-BTC dated 10th July 2002 guiding the Financial Management of Humanitarian Medical Examination and Treatment Establishments under Viet Nam Red Cross; Decision No. 33/QĐ-BNV of the Minister of Home Affairs dated January 14, 2008 Approving the Amended Statute of the Viet Nam Red Cross Society.*
- 110 *Article 4 of the Regulation on the management and utilization of aid from international non-governmental organizations (Issued in conjunction with the Prime Minister's Decision No. 64/2001/QĐ-TTg dated 26 April 2001).*
- 111 *Id.*
- 112 *Article 4(4)(e) of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics.*
- 113 *Articles 29 & 30 of the Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics; Article 21 of the Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.*
- 114 *Interview with the representative of the Department of Health Prevention of Environment of the Ministry of Health.*
- 115 *Interview with the representative of the Department of Health Prevention of Environment of the Ministry of Health.*
- 116 *Interview with the senior staff of WHO Viet Nam.*
- 117 *Article 19 of ASEAN Agreement on Disaster Management and Emergency Response.*
- 118 *Articles 19(2) and 34(2), Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam promulgated by the Standing Committee of National Assembly on 23 August 1993.*
- 119 *Ibid.*
- 120 *Ibid., Articles 19 (3) and 34(3).*
- 121 *Article 7, Decree no. 73-CP of the Government dated 30th July 1994 on the Implementation of Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam.*
- 122 *Ibid., Articles 13 and 30.*
- 123 *Ibid., Article 6.*
- 124 *Articles 29, 30, 31 and 36, Vienna Convention on Diplomatic Relations 1961.*
- 125 *See also Article 26, Vienna Convention on Diplomatic Relations 1961.*
- 126 *Article 39, Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam and Article 8, Decree no. 73-CP of the Government dated 30th July 1994 on the Implementation of Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam.*

- 127 According to Article 40 of the Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam and Article 9 of the Decree no. 73-CP.
- 128 Article 4, Law no. 11/2008/QH12 on Red Cross Activities.
- 129 Article 29, Vienna Convention on Diplomatic Relations of 1961, Article 40, Vienna Convention on Consular Relations of 1961, Articles 10 and 27(1) Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam.
- 130 Articles V and VI, the 1946 Convention of the United Nations on privileges and immunity.
- 131 Article 1, Regulation on the activities of foreign Non-Governmental Organizations in Viet Nam, issued together with Decision no.340-TTg.
- 132 *Ibid.*, Article 2.
- 133 *Ibid.*, Article 3.
- 134 *Ibid.*, Article 3.
- 135 *Ibid.*, Article 5.
- 136 *Ibid.*, Article 1.
- 137 *Ibid.*, Article 8.
- 138 The Guidelines for the Implementation of the Regulations No. 06/UB-PA dated 7th August 1996 of the Committee for Nongovernmental Organization Affairs, Part III(2)(c).
- 139 Regulation on the activities of foreign Non-Governmental Organizations in Viet Nam, issued together with Decision no.340-TTg, Article 15.
- 140 Article 4, the Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.
- 141 *Ibid.*, Article 6.
- 142 *Ibid.*, Article 7.
- 143 *Ibid.*, Article 9.
- 144 *Ibid.*, Article 11.
- 145 *Ibid.*, Article 11.
- 146 *Ibid.*, Article 14.
- 147 See Request for Comment on Draft Decree on International NGOS, NLT May 21, 2009, available at <http://amchamvietnam.com/index.php?id=2865>
- 148 See for example the Law on Red Cross activities, no. 11/2008/QH12 promulgated by the National Assembly on 3 June 2008; Law on forest protection and development, no. 29/2004/QH11 promulgated by the National Assembly on 3 December 2004; Law on fire prevention and control no. 27/2001/QH10 promulgated by the National Assembly on 29th June 2001, Law on Dykes no. 79/2006/QH11 promulgated by the National Assembly on 29th November 2006; Ordinance amending and supplementing a number of articles of the ordinance on flood and storm prevention and control, no. 27/2000/PL-UBTVQH promulgated by the Standing Committee of National Assembly on 24 August 2000 and Ordinance on State of Emergency no. 20/2000/PL-UBTVQH promulgated by the Standing Committee of National Assembly on 4 April 2000.
- 149 Articles 70-73 of Circular No. 79/2009/TT-BTC dated 20/04/2009 of Ministry of Finance Guiding the implementation of customs procedures, inspection and supervision; import tax, export tax and administration of tax on imports and exports. [Hereinafter Circular No. 79/2009/TT-BTC on Guiding the implementation of customs procedures, inspection and supervision; import tax, export tax and administration of tax on imports and exports].
- 150 Article 37 of Decree No. 154/2005/NĐ-CP of the Government, detailing the implementation of a number of articles of the customs law regarding customs procedures, inspection and supervision.
- 151 Article 71 of Circular No. 79/2009/TT-BTC on Guiding the implementation of customs procedures, inspection and supervision; import tax, export tax and administration of tax on imports and exports.
- 152 Part A, section 4, Decision No.1635/QĐ-TCHQ on Customs Procedures applied to conveyances entering, leaving or transiting border-gates.
- 153 This provision is repeated in Part A, section II on Tax-free Objects of Circular No.59/2007/TT-BTC of Ministry of Finance Guiding the Implementation of Import Tax, Export Tax and Administration of Taxes on imports and exports, further detailing at Article 104 (4)(c2) Circular No. 79/2009/TT-BTC on Guiding the implementation of customs procedures, inspection and supervision; import tax, export tax and administration of taxes on imports and exports.
- 154 Article 107(1)(b) of Circular No. 79/2009/TT-BTC on Guiding the implementation of customs procedures, inspection and supervision; import tax, export tax and administration of taxes on imports and exports.
- 155 Article 2 of Circular No.43/2009/TT-BTC of the Ministry of Finance dated 09 March 2009 on customs fees and charges; Article 3 of Decision No.73/2006/QĐ-BTC of Ministry of Finance on the regime of collection, payment, administration and use of customs fees and charges, Article 1(3) of Decision No. 179/2000/QĐ/BTC of the Minister of Finance on collecting levels of customs and security at border-gate charges applied for foreign flights calling at aviation gates of Viet Nam.
- 156 Article 11 of Decree No.12/2006/NĐ-CP of January 23, 2006, detailing the implementation of the commercial law regarding international goods purchase and sale, and goods purchase and sale agency, processing and transit with foreign parties, for goods subject to the state bank's specialized management.
- 157 Article 37 of Decree No. 154/2005/NĐ-CP of the Government Detailing the implementation of a number of articles of the customs law regarding customs procedures, inspection and supervision and Articles 69-73 of Circular No. 79/2009/TT-BTC on Guiding the implementation of customs procedures, inspection and supervision; import tax, export tax and administration of tax on imports and exports.
- 158 Article 30 of Law No. 42/2005/QH11 dated 14/06/2005 of National Assembly on Amending and Complementing a number of articles of the Law on Customs; Article 11(2)(a2) of Decree No. 154/2005/NĐ-CP of the Government Detailing the implementation of a number of articles of the customs law regarding customs procedures, inspection and supervision.
- 159 Article 5(4) of Circular No. 79/2009/TT-BTC on Guiding the implementation of customs procedures, inspection and supervision; import tax, export tax and administration of tax on imports and exports.

- 160 *Article 4 of Decree No. 154/2005/NĐ-CP of the Government Detailing the implementation of a number of articles of the customs law regarding customs procedures, inspection and supervision.*
- 161 *Article 4 of Decree No. 154/2005/NĐ-CP of the Government Detailing the implementation of a number of articles of the customs law regarding customs procedures, inspection and supervision.*
- 162 *Article 7(1)(c) of Ordinance No.43/2002/UBTVQH10 of the Standing Committee of National Assembly dated 25 May 2002 on Posts and Telecommunications.*
- 163 *Article 8 of Ordinance No.20/2000/PL-UBTVQH10 of the Standing Committee of National Assembly dated 23 March 2000 on State of Emergency.*
- 164 *Article 17 of Decree No.71.2002/ND-CP.*
- 165 *The procedures for importing foods in general are provided for under Articles 23-27 of Ordinance No.12/2003/PL-UBTVQH11 of the Standing Committee of National Assembly dated 26/7/2003 on Hygiene and Safety of Foodstuffs, Articles 6-13 of Decree No.163/2004/NĐ-CP of the Government dated 7/9/2004 detailing numbers of articles of Ordinance on Hygiene and Safety of Foodstuffs and Regulation on quality, hygiene and safety of imported foods, promulgated jointly with the Decision No. 23/2007/QĐ-BYT dated 29/3/2007.*
- 166 *Ibid., Article 1(4)(b).*
- 167 *Article 20(2) of Medical Law No.34/2005/QH11 of National Assembly dated 14 June 2005.*
- 168 *Decision No. 151/2007/QĐ-TTg dated 12/9/2007 of Prime Minister promulgating Regulation on importing medicines unregistered in Viet Nam and Circular No.01/2002/TT-BYT guiding the organization and operation of humanitarian medical examination and treatment establishments.*
- 169 *Circular No.06/2009/TT-BCA of 11/3/2009 of Ministry of Police on grant, withdrawal and registration number boards for land transportation means.*
- 170 *Circular No. 52/2000/TT-BTC guiding the implementation of tax and fee exemption for foreign experts working for ODA projects.*
- 171 *Ibid., Articles 50(2) and (3).*
- 172 *Article 24 of Decree No. 71/2002/ND-CP of July 23, 2002 detailing the implementation of a number of articles of the ordinance on the state of emergency in case of great disasters or dangerous epidemics.*
- 173 *Article 53(2) of Law No. 03/2007/QH12 on communicable disease prevention and control. These measures are listed in paragraph 1 of the Article and will be mentioned infra.*
- 174 *Articles 19(2)(a) and 3(b) of Ordinance No.18/2004/PL-UBTVQH11 on Veterinary and Article 21(2) of Decree No. 33/2005/NĐ-CP making detailed some provisions of Ordinance on veterinary.*
- 175 *Article 20 of Ordinance No. 36/2001/PL-UBTVQH10 on plan protection and quarantine.*
- 176 *Article 17(1) of Decree No. 58/2002/NĐ-CP of the Government on the issuance of the Regulation on plan protection, Regulation on plan quarantine and Regulation on pesticide management.*
- 177 *Article 12(2) of Ordinance No. 36/2001/PL-UBTVQH10 on plan protection and quarantine, and Article 11(2) of the Decree No. 58/2002/NĐ-CP of the Government on the issuance of the Regulation on plan protection, Regulation on plan quarantine and Regulation on pesticide management. It can be implied that measures to prevent the contamination shall include the monitoring of infectious sources departing and arriving from affected areas.*
- 178 *Article 18(2)(d) of Ordinance No.18/2004/PL-UBTVQH11 on veterinary.*
- 179 *Article 25(1)(a) Decree No. 33/2005/NĐ-CP making detailed some provisions of Ordinance on veterinary.*
- 180 *Ibid., Article 26(1) Decree No. 33/2005/NĐ-CP.*
- 181 *Articles 13-19 of Law No. 03/2007/QH12 on communicable disease prevention and control.*
- 182 *Article 37 of Law No. 03/2007/QH12 on communicable disease prevention and control.*
- 183 *Article 18(2) of Law No. 03/2007/QH12 on communicable disease prevention and control.*
- 184 *Ibid., Article 3(2-4).*
- 185 *Ibid., Article 14(2-5).*
- 186 *Ibid., Article 16.*
- 187 *Ibid., Article 17.*
- 188 *Ibid., Article 19.*
- 189 *Ibid., Article 37.*
- 190 *Article 25(4) of Ordinance No.18/2004/PL-UBTVQH11 on Veterinary. The quarantine procedures are provided for in Articles 26-29 of this Ordinance.*
- 191 *Article 35(2)(a) of Decree No.33/2005/NĐ-CP making detailed some provisions of Ordinance on veterinary.*
- 192 *Article 22(1) of Ordinance No.36/2001/PL-UBTVQH10 on plan protection and quarantine.*
- 193 *Article 6(2) of Decree No. 58/2002/NĐ-CP of the Government on the issuance of the Regulation on plan protection, Regulation on plan quarantine and Regulation on pesticide management, Article 30(1), (3) and Article 31(1), (3) of Decree No.119/2008/NĐ-CP dated 28/11/2008 amending and complementing numbers of articles of Decree No. No.33/2005/NĐ-CP.*
- 194 *Article 30(2) and Article 31(2) of Decree No.119/2008/NĐ-CP.*
- 195 *Ibid., Article 30(1), (3) and Article 31(1), (3).*
- 196 *For example, Article 14(2) of the Draft Decree on Border medical quarantine.*
- 197 *Articles 57 and 60 of Law No. 52/2005/QH11 dated 29/11/2005 on environmental protection.*
- 198 *Article 17(2) of Ordinance No. 36/2001/PL-UBTVQH10 on plan protection and quarantine.*
- 199 *Interview with General Department of Preventive Medicine and Environmental Health, Ministry of Health.*
- 200 *Article 22(1) of Decree No. 41/1998/ND-CP of 11 June 1998 of Government Promulgating the Socialist Republic of Viet Nam's Border Medical Quarantine Regulation. [Hereinafter Decree No. 41/1998/ND-CP on Border Medical Quarantine].*
- 201 *Ibid., Article 22(2) and (4).*
- 202 *Article 35(1)(b) Law No. 03/2007/QH12 on communicable disease prevention and control.*

- 203 *Ibid.*, Article 35(2)(3).
- 204 *As provided for in Article 35 of Law No. 03/2007/QH12 on communicable disease prevention and control.*
- 205 *Ibid.*
- 206 Article 25(1)(d) Ordinance No.18/2004/PL-UBTVQH11 on Veterinary.
- 207 *Information obtained by interview with respective agencies.*
- 208 Article 8(2)(a)(b) Draft Decree on Border Medical Quarantine.
- 209 Article 8(2)(a)(b) Draft Decree on Border Medical Quarantine.
- 210 Article 8 và 21(4) of the Draft Decree on Border Medical Quarantine.
- 211 Article 29(4) of Ordinance No.18/2004/PL-UBTVQH11 on Veterinary stipulates that The border-gate animal quarantine offices shall check the quarantine certificates of exporting countries; containers and seal stamps shall be opened for veterinary hygiene inspection only in case of necessity according to law provisions for animals, products of animal origin in containers or means with other seal stamps for temporary import for re-export, temporary export for re-import, border-gate transshipment, transit in the Vietnamese territory. And Article 36(3)(b) of Decree No. 33/2005/NĐ-CP making detailed some provisions of Ordinance on veterinary provides that where animals or animal products are transited through Vietnamese territory in containers or in other tightly-closed means, border-gate animal quarantine agencies shall check quarantine certificates of national animal health agencies of exporting countries as well as means of transport; if all requirements are met, they shall give certification to permit the transit; if detecting that animals or animal products show abnormal signs, they may request goods owners to open containers or means of transport for re-inspection of veterinary hygiene.
- 212 Article 25 of Law No. 03/2007/QH12 on communicable disease prevention and control. Further details at Article 16 of the Draft Decree on Border Medical Quarantine.
- 213 Article 39 of Law No. 52/2005/QH11 of the National Assembly, dated 29/11/2005, on environmental protection.
- 214 Article 37 of Decree No. 33/2005/NĐ-CP making detailed some provisions of the Ordinance on veterinary.
- 215 *Interview with the Institute for Health Strategy and Policy.*
- 216 Article 7, Ordinance no. 24/2000/PL-UBTVQH 10 dated 28 April 2000, on entry, exit and residence of foreigners in Viet Nam.
- 217 *Ibid.*, Article 6(d).
- 218 Article 5(3), Decree no. 21/2001/ND-CP of the Government dated 28 May 2001 detailing the Implementation of the Ordinance on entry, exit and residences in Viet Nam.
- 219 *Ibid.*, Article 7(1).
- 220 *Ibid.*, Article 7(2).
- 221 Article 1(2)(d), Circular No. 66/2009/TT-BTC of the Ministry of Finance dated 30 March 2009, prescribing the regime on collection, remittance, management and use of fees on passports, visas and papers on entry, exit, transit and residence in Viet Nam.
- 222 Part IV(2), Joint Circular no. 04/2002/TTLT/BCA-BNG of the Ministry of Public Security and the Ministry of Foreign Affairs dated 29th January 2002 guiding the implementation of the Government's Decree no. 21/2001/ND-CP of the Government dated 28 May 2001 detailing the implementation of the Ordinance on entry, exit and residences of foreigners in Viet Nam [Hereinafter Joint Circular no. 04/2002/TTLT/BCA-BNG on guiding the implementation of the Government's Decree no. 21/2001/ND-CP detailing the implementation of the Ordinance on entry, exit and residences of foreigners in Viet Nam].
- 223 See Decision 808/2005/QĐ-BNG issued by the Ministry of Foreign Affairs.
- 224 See Decision 09/2004/QĐ-BNG by the Ministry of Foreign Affairs.
- 225 Article 133 of the Labour Code of the National Assembly dated 23 June 1994.
- 226 *Ibid.*, Article 7 and Point 3 of Item III of Joint Circular no. 04/2002/TTLT/BCA-BNG on guiding the implementation of the Government's Decree no. 21/2001/ND-CP detailing the implementation of the Ordinance on entry, exit and residences of foreigners in Viet Nam.
- 227 Article 6(1), Decree no. 105/2003/NĐ-CP of the Government dated 17th September, 2003 detailing and guiding the implementation of a number of articles of the Labour Code regarding the employment and management of foreign laborers working in Viet Nam.
- 228 Article 9, Ordinance no. 07/2003/ PL- UBTVQH11 dated 25 February 2003 on private medical and pharmaceutical practice.
- 229 Article 14 of Ordinance no. 07/2003/ PL- UBTVQH11, Article 22 of Decree no. 103/2003/ND-CP of the Government dated 12 September, 2003 detailing the implementation of the Ordinance on private medical and pharmaceutical practice and Part VII(2), Circular no. 07/2007/TT-BYT of the Ministry of Health dated 25th May 2007 guiding the private medical or pharmaceutical practice and medical equipment.
- 230 Article 2(1) of Decree no. 103/2003/ND-CP.
- 231 *Ibid.*, Article 2(2).
- 232 *Ibid.*, Article 2(3).
- 233 Part VII(2) of Circular no. 07/2007/TT-BYT.
- 234 Article 21(6) of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics.
- 235 Article III of ASEAN Mutual Recognition Arrangement on Medical Practitioners.
- 236 Law No. 03/2007/QH12 on communicable disease prevention and control, Article 2: "This law shall be applied to national and foreign bodies, organizations and individuals in Viet Nam".
- 237 This draft Decree was submitted to the Government in June 2009 and is expected to be adopted in 2009 to replace the Decree No. 41/1998/ND-CP on Border Medical Quarantine.
- 238 Guideline for Diagnosis, Treatment and Prevention the Spread of H1N1 among people, III(2); Guideline for Controlling the Spread of H5N1 in healthcare centres, Annex 2.1.
- 239 Decision No.38/2005/QĐ-BYT dated 24/11/2005 issued by Minister of Health on Publishing the plan on Prevention and Control of flu epidemic among people in Viet Nam, part 3.2.4.



- 240 Ordinance No. 24-2000-PL-UBTVQH10 dated 28/4/2000 issued by Standing Committee of National Assembly on Entry, Exit and Residence of Foreigners in Viet Nam, Article 4.1.
- 241 Joint Circular no. 04/2002/TTLT/BCA-BNG on guiding the implementation of the Government's Decree no. 21/2001/ND-CP detailing the implementation of the Ordinance on entry, exit and residences of foreigners in Viet Nam, part. II.1.
- 242 Decree No. 36/2207/ND-CP dated 11/8/2007 issued by Viet Nam's Government on Entry and Exit of Vietnamese, Article 14.
- 243 Article 3, 4 of the Draft Decree on Border medical quarantine.
- 244 Procedure attached to the Decision No.2331/2004/QĐ-BYT dated 06/7/2004 issued by Minister of Health on Promulgation of procedures for health quarantine at border gates of the Socialist Republic of Viet Nam, parts 1.2.3(b), 1.4, 2.1.1(c).
- 245 Decree No. 41/1998/ND-CP on Border Medical Quarantine, Article 23.
- 246 Note 10.
- 247 Decree No. 41/1998/ND-CP on Border Medical Quarantine, Article 28.
- 248 Article 5 of the Draft Decree on Border medical quarantine.
- 249 International Health Regulations, WHA58.3, the World Health Organization, 2005, Article 3.4.
- 250 Ibid, Article 3.1.
- 251 Decision No. 23/2008/QĐ-BYT dated 7/7/ 2008 issued by Ministry of Health promulgating the Regulation on use of vaccines and medical biologicals in prophylaxis and therapy, Article 13(1a).
- 252 Decree No. 41/1998/ND-CP on Border Medical Quarantine, Article 33.1, 36.1, 41.1.
- 253 Article 5 of the draft Decree on Border medical quarantine.
- 254 Procedure attached to the Decision No.2331/2004/QĐ-BYT , Article 1(2)(2), 1(3), 2(1)(1).
- 255 Article 5(2), (3), the draft Decree on Border medical quarantine.
- 256 Article 81(2c) of Law No. 66/2006/QH11 of June 29, 2006 on Viet Nam Civil Aviation, promulgated by the National Assembly; Article 15(3) of Decree No. 94/2007/ND-CP of June 04, 2007, on management of air navigation, promulgated by the Government.
- 257 Flights landing or taking off at military airfields; flights carrying military personnel, weapons and war instruments; flights conducted in a prohibited, restricted or dangerous zone; helicopter flights; flights made in the Vietnamese airspace but outside air routes or navigation areas in service of general aviation, or airfield airspace; flights made by foreign official-duty aircraft; international flights using domestic air routes; flights made by man-piloted airships; flights engaged in special operations (Article 15(3) of Decree No. 94/2007/ND-CP on management of air navigation).
- 258 Decision No. 13/2006/QĐ-BTC of March 03, 2006, regulating the price of some aviation services, issued by the Ministry of Finance.
- 259 Article 13(6) of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics, read with Article 22(1d and 2) of Law No. 23/2008/QH12 of November 13, 2008, on land road traffic, promulgated by the National Assembly.
- 260 Article 21 of Law No. 23/2008/QH12 on land road traffic.
- 261 Article 13(6) and Article 27(4) of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics; Article 14(2a) of Decree No. 57/2002/ND-CP of June 3, 2002 providing in detail the implementation of the Ordinance of Fees and Charges (as amended and supplemented by Decree No. 24/2006/ND-CP of March 06, 2006), issued by the Government.
- 262 Article 13(6) and Article 27(4) of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics; Article 14(2a) of Decree No. 57/2002/ND-CP of June 3, 2002 providing in detail the implementation of the Ordinance of Fees and Charges (as amended and supplemented by Decree No. 24/2006/ND-CP of March 06, 2006), issued by the Government.
- 263 Article 13(6) and Article 27(4) of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics; Article 14(2a) of Decree No. 57/2002/ND-CP of June 3, 2002 providing in detail the implementation of the Ordinance of Fees and Charges (as amended and supplemented by Decree No. 24/2006/ND-CP of March 06, 2006), issued by the Government.
- 264 Section I, point 2 (b,d) of Circular No. 101/2008/TT-BTC of 11 November, guiding the collection, remittance and use management of charges and fees applicable to inland waterway port authorities, issued by the Ministry of Finance; Chapter II, Section 2, Article 5(3.1) and Chapter III, Section 1, Article 11(4) and Section 2, Article 12(3.1) of the Regulation on maritime charges and fees and the rates of maritime charges and fees (promulgated together with Decision No. 98/2008/QĐ-BTC of November 4, 2008 of Ministry of Finance).
- 265 Article 2(1) and Article 6(1) of Decree 103/2008/ND-CP of September 16, 2008 on obligatory insurance of civil liabilities by vehicles' owners, promulgated by the Government.
- 266 Ibid., Article 10.
- 267 Regulation on management of the testing and grant of road motor vehicle driver licenses (promulgated together with Decision No. 54/2007/QĐ-BGTVT of November 7, 2007 of the Ministry of Transport).
- 268 Viet Nam has signed agreements on mutual recognition of driving licenses with ASEAN's countries.
- 269 Official Letter No. 1084/CĐBVN-QPLTNL of April 13, 2006, about the directions for exchange of driving license, issued by the Directorate of Road Transportation.
- 270 Ordinance No.20/2000/PL-UBTVQH10 of the Standing Committee of the National Assembly dated 23 March 2000 on State of Emergency, Decree No. 71/2002/ND-CP of 23 July 2002 detailing the implementation of a number of articles of the ordinance on the state of emergency in case of great disasters or dangerous epidemics, Law No. 03/2007/QH12 on communicable disease prevention and control.
- 271 Articles 41, 42, 74 and 75 of Law No.66/2006/QH11 of 29 June 2006 of the National Assembly on Civil Aviation.
- 272 Articles 49 and 50 of Law No. 40/2005/QH11 of 14 June 2005 of the National Assembly on Maritime. [Hereinafter Law No. 40/2005/QH11 on Marine].

- 273 *Article 13 of Regulation on aeronautical information notification promulgated jointly with Decision No. 21/2007/QĐ-BGTVT of 6/4/2007 of Minister of Transportation and Carriage.*
- 274 *Article 6 of Draft Decree on Border Medial Quarantine.*
- 275 *Article 19 of Regulation on aeronautical information notification promulgated jointly with Decision No. 21/2007/QĐ-BGTVT of 6/4/2007 of Minister of Transportation and Carriage.*
- 276 *Ibid., Article 13.*
- 277 *Ibid., Annex IV.*
- 278 *Article 50(2) of Law No. 40/2005/QH11 on Maritime.*
- 279 *Promulgated at Decision No.125/2004/QĐ-TTg of 9/7/2004 of Prime Minister on supplying, receiving, transmitting and dealing with information concerning maritime safety and Decision No.11/2009/QĐ-TTg of Prime Minister of 16/01/2009 amending Decision No. 25/2004/QĐ-TTg.*
- 280 *Article 6(3) of Draft Decree on Border Medial Quarantine.*
- 281 *Ibid., Article 6(3).*
- 282 *Ibid., Article 8.*
- 283 *Ibid., Article 23.*
- 284 *Ibid., Article 8(2)(a)(b).*
- 285 *Ibid., Article 8(2)(c).*
- 286 *Ibid., Article 6(1) and Article 23(1).*
- 287 *Article 20 of Law No. 11/2008/QH12 on Red Cross activities.*
- 288 *Article 3(2a) of Law No. 27/2008/QH12 of November 14, 2008 on Special Consumption Tax, promulgated by the National Assembly.*
- 289 *Article 3(1a) of Decree No. 26/2009/ND-CP of 16 March 2009 providing detailed guidance on the implementation of the Law on Special Consumption Tax, issued by the Government, and Article 3(2.1a) of Circular 64/2009/TT-BTC of March 27, 2009, providing guidance on the implementation of the Government's Decree No. 26/2009/ND-CP of March 16, 2009 providing detailed guidance on the implementation of the Law on Special Consumption Tax, issued by the Ministry of Finance.*
- 290 *Article 5(19) of Law No. 13/2008/QH12 of 3 June 2008 on Value Added Tax, promulgated by the National Assembly.*
- 291 *Article 2(10a) of Decree No. 123/2008/ND-CP of December 8, 2008, detailing and guiding the implementation of a number of articles of the Value-Added Tax Law, read with Chapter A, Section II, Article 19(a) of Circular No. 129/2008/TT-BTC of December 8, 2008, guiding the implementation of a number of articles of the Value-Added Tax Law and guiding the implementation of the Government's Decree No. 123/2008/ND-CP, detailing and guiding the implementation of a number of articles of the Value-Added Tax Law.*
- 292 *Chapter A, Section II, Article 19(e) of Circular No. 129/2008/TT-BTC guiding the implementation the Value-Added Tax Law and guiding the implementation of the Government's Decree No. 123/2008/ND-CP.*
- 293 *Article 3(2) of Law No. 45/2005/QH11 of June 14, 2005 on Import Tax and Export Tax, promulgated by the National Assembly, read with Article 2(2) of Decree No. 149/2005/ND-CP of 8 December 2005, detailing the implementation of the Import tax and Export tax law, promulgated by the Government, and Article 104(4.c.2) of Circular No. 79/2009/TT-BTC on Guiding the implementation of customs procedures, inspection and supervision; import tax, export tax and administration of tax on imports and exports.*
- 294 *Article 4(7) of Law No. 14/2008/QH12 of 3 August 2008 on Corporate Income Tax, promulgated by the Government.*
- 295 *Article 4(6) of Decree No. 124/2008/ND-CP of 11 December 2008, detailing and guiding the implementation of a number of articles of the Law on Corporate Income Tax, promulgated by the Government.*
- 296 *Charitable funds means funds established and operating pursuant to Decree 148/2007/ND-CP of 25 September 2007 on organization and operation of Social Fund and Charity Fund, promulgated by the Government. The basis for determining that an income is received from a charitable fund and therefore exempted from tax shall be the decision allocating such income by the fund, together with the relevant payment vouchers of the paid money or goods. (Section III, Article 13 of Circular No. 84/2008/TT-BTC of 30 September 2005, guiding the implementation of a number of articles of the Law on Personal Income Tax and guiding the implementation of the Government's Decree No. 100/2008/ND-CP, detailing a number of articles of the Law on Personal Income Tax, issued by the Ministry of Finance).*
- 297 *The basis for determining that income is income receivable from a foreign aid source and therefore exempted from tax shall be the document from the competent state authorities approving receipt of the aid funds (Section III, Article 14 of Circular No. 84/2008/TT-BTC, guiding the implementation of a number of articles of the Law on Personal Income Tax and guiding the implementation of the Government's Decree No. 100/2008/ND-CP, detailing a number of articles of the Law on Personal Income Tax).*
- 298 *Article 4(13 and 14) of Law No. 04/2007/QH12 of 21 November 2007 on Personal Income Tax, promulgated by the Government and Article 4(12 and 13) of Decree No. 100/2008/ND-CP of September 8, 2008, providing detailed guidelines for the implementation of the Law on Personal Income Tax, promulgated by the Government.*
- 299 *Article 1 and Article 2 of Circular No. 57/2009/TT-BTC of 24 March 2009 on guiding personal income tax exemption for Vietnamese staff of representative offices of United Nations organizations in Viet Nam, issued by the Ministry of Finance.*
- 300 *Article 7(1 and 2) of Regulation on foreign specialists (issued together with Decision No. 211/1998/QĐ-TTg of 31 October 1998 of the Prime Minister).*
- 301 *Article 6 and Article 9 of Ordinance No. 28/2005/PL-UBTVQH of December 13, 2005 on Foreign Exchange Control; Article 5 of Decree No. 160/2006/ND-CP of December 28, 2006, detailing the implementation of the Ordinance on Foreign Exchange.*
- 302 *Article 1 of Decision No. 921/2005/QĐ-NHNN of June 27, 2005, amending Clauses a and b, Article 1 of the State Bank Governor's Decision No. 337/1998/QĐ-NHNN7 of October 10, 1998, on carrying foreign currencies and Viet Nam dong in cash upon entry and exit.*

- 303 *Currency transfer permit and/or Currency bringing permit granted by the State Bank (Article 4 of Decision 1437/2001/QĐ-NHNN of November 19, 2001, issuing the Regulation on the purchase, transfer and bringing Article foreign currencies overseas by residents being Vietnamese citizens). This provision only applies to Vietnamese citizens.*
- 304 *Article 9 of Ordinance No. 28/2005/PL-UBTVQH, supra note 302.*
- 305 *Article 1 of Decision 622/QĐ-NHNN of March 23, 2009 of the Governor of the State Bank of Viet Nam on the issuance of some provisions relating to foreign currency transaction of credit institutions authorised to engage in foreign exchange activity.*
- 306 *Article 39 of Decree No. 160/2006/ND-CP, supra note 302.*
- 307 *Article 1 of Decision No. 63/2007/QĐ-BTC of July 18, 2007, providing for the rates, and the regime of collection, remittance, management and use of preventive medicine charges and border medical quarantine charges.*
- 308 *Ibid., Article 2.*
- 309 *Article 68, Constitution of the Socialist Republic of Viet Nam (1992) (amended).*
- 310 *Ibid., Article 69.*
- 311 *Ibid., Article 70.*
- 312 *Ibid., Article 71.*
- 313 *Ibid., Article 72.*
- 314 *Ibid., Article 73.*
- 315 *Article 19 of the Decree No. 71/2002/ND-CP.*
- 316 *Ibid., Article 22; Article 53 of Law No. 03/2007/QH12 on communicable disease prevention and control.*
- 317 *Article 3 of Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.*
- 318 *Article 6 of Law no. 11/2008/QH12 on Red Cross Activities.*
- 319 *Ibid., Article 2.*
- 320 *Ibid., Article 4.*
- 321 *Article 5 of Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.*
- 322 *Ibid., Article 5(1).*
- 323 *Ibid., Article 6.*
- 324 *Ibid., Article 5(2).*
- 325 *Ibid., Article 5(3).*
- 326 *Ibid., Article 5(4).*
- 327 *Article 27 of Penal Code no. 15/1999/QH10 of the National Assembly dated 21st December 1999.*
- 328 *Ibid., Article 28.*
- 329 *Article 9(3)(c) and (d) of Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.*
- 330 *Paragraph 3(1) of Circular no. 72/2008/TT-BTC of the Ministry of Finance dated 31st July 2008 guiding the implementation of Decree 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.*
- 331 *Ibid., paragraph 3(2).*
- 332 *Ibid., paragraph 5.2(b).*
- 333 *Ibid., paragraph 5.2(c).*
- 334 *Ibid., paragraph 5.2(d).*
- 335 *Ibid., Article 7(1).*
- 336 *Ibid., Article 7(2).*
- 337 *Articles 8, 49 and 52 of Law No. 03/2007/QH12 on communicable disease prevention and control.*
- 338 *See Articles 23-25 of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics.*
- 339 *Article 71 of The Constitution of the Socialist Republic of Viet Nam 1992 (amended).*
- 340 *Ibid., Article 72.*
- 341 *According to Article 4 of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics, the Steering Committee is established pursuant to the decision of the Prime Minister when the state of emergency is pronounced.*
- 342 *Ibid., Article 5.*
- 343 *Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics Article 4.*
- 344 *Ibid., Articles 5 and 6.*
- 345 *Ibid., Article 15.*
- 346 *Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics, Article 13.*
- 347 *Ibid., Article 13.*
- 348 *Article 9: The border gate animal and plant epidemics control office shall have to conduct epidemic control of the animals and plants that are exported, imported or in transit through the international civil airports and airfields, prevent the spread of dangerous epidemics through the animals and plants entering Viet Nam or departing from Viet Nam; and cooperate with the border gate customs office to handle violations of the epidemic control of animals and plants at border gates in accordance with law (the provision does not mention exception for transit without transshipment, as well as conditions to conduct epidemic control in this case).*
- 349 *The Decision No. 19/2007/QĐ-BTC of 27 March 2007, promulgating the Regulation on state budget mutual ceasing of the Government's foreign loans and foreign aid amounts, was amended by the Decision No. 2215/QĐ-BTC dated 26/6/ 2007 issued by Ministry of Finance. However, amendments focus on wording only and there has been no amendment concerning regulations.*
- 350 *Article 6 of Decree 131/2006/ND-CP dated 09/11/2006 issued by the Government on Issuance of the Regulation on Mobilization and Utilization of Official Development Assistance.*
- 351 *Ibid., Article 40(4) and Article 10 of Decree No. 64/2001/QĐ-TTg dated 26/4/2001 issued by the Government on the Issuance of the Regulation on the Management and Utilization of Aid from international non-governmental organizations.*
- 352 *Article 22 of Decree no. 148/2007/ND-CP dated 25/9/2007 issued by Prime Minister on Organization and Operation of Social Fund and Charity Fund.*
- 353 *Ibid., Article 7.*
- 354 *Article 11(1) of Decree no. 64/2008/ND-CP on Mobilization, Receipt, Distribution and Use of Sources of Voluntary Donations.*

- 355 *Articles 7(9) and 21(2) of Decree no. 71/2002/ND-CP detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics.*
- 356 *Article 10 of Ordinance 24/1999/PL-UBTVQH10 of April 28, 2000, on Entry, Exit and Residence of Foreigners in Viet Nam, adopted by the Standing Committee of the National Assembly.*
- 357 *Which has been submitted to the Prime Minister for approval and, as a consequence, will replace the Border Medical Quarantine Regulation (issued together with Decree No. 41/1998/ND-CP on Border Medical Quarantine).*
- 358 *Ibid., Article 1(2e).*
- 359 *Article 35 of Law No. 29/2001/QH10 on Customs and Article 9(5) of Decree No. 154/2005/ND-CP of December 15, 2005, detailing the implementation of a number of articles of the Customs Law regarding customs procedures, inspection and supervision, issued by the Ministry of Finance.*
- 360 *Note that the AADMER definition is shorter than that by IDRL guidelines and does not expressly exclude armed conflict.*
- 361 *The Law will not replace all the texts, because many of them regulate also issues other than preparedness and response, such as the Law on nuclear energy, which also contains provisions on the production and use of nuclear energy, the same as many other texts.*
- 362 *See Request for Comment on the Draft Decree on International NGOs, NLT May 21, 2009, available at <http://amchamvietnam.com/index.php?id=2865>*

# Annex 1

## LIST OF PERSONS CONSULTED

- UNDP Office in Viet Nam
  - Ugo Blanco (in charge of DM program)
- CARE International in VN
  - Marten Mylius (in charge of DM program)
- Oxfam HK
  - Vũ Xuân Việt (DM program officer)
- National Hospital of Infectious and Tropical Diseases of Viet Nam
  - Nguyễn Văn Kính (Director)
- WHO
  - Nguyễn Văn Hiếu, (Emergency Program Officer)
  - Nicole Smith (Epidemiology Expert)
- National Institute of Hygiene and Epidemiology
  - Nguyễn Anh Dũng (Director of the Department on Community Health and Route Direction)
- Legal Department, MARD
  - Nguyen Thi Oanh
  - Vũ Thanh Liêm
- Department for Dyke Management and Floods and Storms Prevention and Control, MARD
  - Nguyễn Thế Lương
  - Nguyễn Hiệp
  - Vũ Thanh Liêm
- Save the Children
  - Lê Thị Bích Hằng
- General Department of Preventive Medicine and Environmental Health, MoH
  - Nguyễn Văn Hiến (Deputy Director of the Quarantine Division)
- Department on Plant Protection, MARD
  - Mr. Nguyễn Văn Toàn (Deputy General Inspector)
- Office, MoH
  - Mr. Nguyễn Văn Cường (Deputy Director)
- PACOM
  - Mr. Nguyễn Văn Vinh (Expert)
- Department of Animal Health, MARD
  - Mr. Nguyễn Văn Long Epidemiology (Division)
- Institute of Health Strategy and Policy, MoH
  - Ms. Vũ Hạnh (Deputy Director)
- VNRC
  - Mr. Doan Van Thai (Vice Chair of VNRC)
- General Department of Preventive Medicine and Environmental Health, MoH
  - Ths. Nguyễn Đức Khoa (Division of Monitoring Infectious Diseases)

## Annex 2

### LIST OF REVIEWED LEGAL DOCUMENTS

#### International Legal Instruments

| No. | Title in Vietnamese   | Title in English   | Abbreviation in Vietnamese  | Abbreviation in English  | Available in English | Chapter(s)             |
|-----|---|--|---|--|----------------------|------------------------|
| 1.  |   | Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance |   | IDRL Guidelines  | X                    | All (except chapter 2) |
| 2.  |   | 2005 International Health Regulations  |   | IHR  | X                    | All (except chapter 2) |
| 3.  |   | ASEAN Agreement for Disaster Management and Emergency Response   |   | ADMER  | X                    | 1,3,4,8,9              |
| 4.  | Công ước Viên về Quan hệ Ngoại giao 1961  | Vienna Convention on Diplomatic Relations 1961   | Công ước Viên về Quan hệ Ngoại giao 1961  | Vienna Convention on Diplomatic Relations 1961   | X                    | 9                      |
| 5.  | Công ước Viên về Quan hệ Lãnh sự 1963   | Vienna Convention on Consular Relations 1963   | Công ước Viên về Quan hệ Lãnh sự 1963   | Vienna Convention on Consular Relations 1963   | X                    | 9                      |
| 6.  | Công ước của Liên Hợp Quốc về quyền ưu đãi, miễn trừ 1946                       | The 1946 Convention of the United Nations on privileges and immunity   | Công ước của Liên Hợp Quốc về quyền ưu đãi, miễn trừ 1946                       | The 1946 Convention of the United Nations on privileges and immunity                         | X                    | 9                      |
| 7.  | Công ước về quyền ưu đãi, miễn trừ của các tổ chức chuyên môn 1947              | The 1947 Convention on the privileges and immunities of the specialized agencies   | Công ước về quyền ưu đãi, miễn trừ của các tổ chức chuyên môn 1947              | The 1947 Convention on the privileges and immunities of the specialized agencies             | X                    | 9                      |
| 8.  | Công ước của về quyền ưu đãi, miễn trừ của các Tổ chức năng lượng hạt nhân 1959 | The 1959 Agreement on the privileges and immunity of the international nuclear energy agency                             | Công ước của về quyền ưu đãi, miễn trừ của các Tổ chức năng lượng hạt nhân 1959 | The 1959 Agreement on the privileges and immunity of the international nuclear energy agency | X                    | 9                      |
| 9.  | Hiến chương ASEAN   | The ASEAN Charter  | Hiến chương ASEAN   | The ASEAN Charter  | X                    | 9                      |
| 10. | Hiệp định thành lập Tổ chức thương mại thế giới                                 | The Agreement on Establishing the World Trade Organization   | Hiệp định thành lập Tổ chức thương mại thế giới                                 | The Agreement on Establishing the World Trade Organization                                   | X                    | 9                      |

#### Law and Ordinances

| No. | Title in Vietnamese  | Title in English  | Abbreviation in Vietnamese                                       | Abbreviation in English                                 | Available in English | Chapter(s) |
|-----|--|---|--|---|----------------------|------------|
| 11. | Hiến pháp nước Cộng hòa Xã hội chủ nghĩa Việt Nam 1992 (sửa đổi) | Constitution of the Socialist Republic of Viet Nam (1992) (amended) | Hiến pháp nước Cộng hòa Xã hội chủ nghĩa Việt Nam 1992 (sửa đổi) | Constitution of the Socialist Republic of Viet Nam 1992 | X                    | 17         |

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| 12. | Luật hoạt động chữ thập đỏ số 11/2008/QH12 do Quốc hội ban hành ngày 3/6/2008               | Law on Red Cross activities, no. 11/2008/QH12 promulgated by the National Assembly on 3 June 2008                                | Luật hoạt động chữ thập đỏ 2008               | Law on Red Cross activities 2008                         |                      | 6,9,16,10,17,19 |
| 13. | Luật ban hành văn bản quy phạm pháp luật số 17/2008/QH12 do Quốc hội ban hành ngày 3/6/2008 | Law on promulgation of legal acts, no. 17/2008/QH12 promulgated by the National Assembly on 3 June 2008                          | Luật ban hành văn bản quy phạm pháp luật 2008 | Law on promulgation of legal acts 2008                   |                      | 10              |
| 14. | Luật phòng chống bệnh truyền nhiễm, số 03/2007/QH12, do Quốc hội ban hành ngày 21/11/2007   | Law on Communicable Diseases prevention and control, no. 03/2007/QH12 promulgated by the National Assembly on 21st November 2008 | Luật phòng chống bệnh truyền nhiễm 2007       | Law on Communicable Diseases prevention and control 2007 |                      | 5,6,7,11,13,16  |
| 15. | Luật phòng chống HIV/AIDS, số 64/2006/QH11 do Quốc hội ban hành ngày 29 tháng 06 năm 2006   | Law on HIV/AIDS Prevention and Control, no. 64/2006/QH11 promulgated by the National Assembly on 29th June 2006                  | Luật phòng chống HIV/AIDS 2006                | Law on HIV/AIDS Prevention and Control 2006              | x                    | 4,5             |
| 16. | Luật bảo vệ và phát triển rừng, số 29/2004/QH11 do Quốc hội ban hành ngày 3/12/2004         | Law on forest protection and development, no. 29/2004/QH11 promulgated by the National Assembly on 3 December 2004               | Luật bảo vệ và phát triển rừng 2004           | Law on forest protection and development 2004            |                      | 4, 10           |
| 17. | Luật phòng cháy chữa cháy, số 27/2001/QH10 do Quốc hội ban hành ngày 29 tháng 06 năm 2001   | Law on fire prevention and control, no. 27/2001/QH10 promulgated by the National Assembly on 29th June 2001                      | Luật phòng cháy chữa cháy 2001                | Law on fire prevention and control 2001                  | x                    | 4, 10           |
| 18. | Luật đê điều số 79/2006/QH11 do Quốc hội ban hành ngày 29/11/2006                           | Law on dykes, no. 79/2006/QH11 promulgated by the National Assembly on 29th November 2006  | Luật đê điều 2006                             | Law on dykes 2006  |                      | 5,6,10          |
| 19. | Luật quốc phòng, số 39/2005/QH11 do Quốc hội ban hành ngày 14/06/2005                       | Law on National Defence, no. 39/2005/QH11 promulgated by the National Assembly on 14 June 2005                                   | Luật quốc phòng 2005                          | Law on national defence 2005                             | x                    | 4               |
| 20. | Luật bảo vệ môi trường, số 52/2005/QH11 do Quốc hội ban hành ngày 29/11/2005                | Law on Environmental Protection, no. 52/2005/QH11 promulgated by the National Assembly on 29th November 2005                     | Luật bảo vệ môi trường 2005                   | Law on Environmental Protection 2005                     | x                    | 4,11            |

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| 21. | Luật đất đai, số 13/2003/QH11 do Quốc hội ban hành ngày 26/11/2003   | Law on Land, no. 13/2003/QH11 promulgated by the National Assembly on 26th November 2003   | Luật đất đai 2003  | Law on Land 2003  | x                    | 4          |
| 22. | Luật khoáng sản, số 47/L-CTN do Quốc hội ban hành ngày 20/03/1996  | Law on Mineral Resources, no. 47-L/CTN promulgated by the National Assembly on 20th March 1996   | Luật khoáng sản 1996                                       | Law on Mineral Resources 1996   |                      | 4          |
| 23. | Luật sửa đổi bổ sung luật khoáng sản, số 46/2005/QH11 do Quốc hội ban hành ngày 14/06/2005   | Law on amending the Law on Mineral Resources, no. 46/2005/QH11 promulgated by the National Assembly on 14 June 2005  | Luật sửa đổi bổ sung luật khoáng sản 2005                  | Law on amending the Law on Mineral Resources 2005                     |                      | 4          |
| 24. | Luật thủy sản, số 17/2003/QH11 do Quốc hội ban hành ngày 26/11/2003  | Law on Fisheries, no. 17/2003/QH11 promulgated by the National Assembly on 26th November 2003  | Luật thủy sản 2003   | Law on Fisheries 2003   | x                    | 4          |
| 25. | Pháp lệnh bảo vệ và khai thác các công trình thủy lợi, số 32/2001/PL-UBTVQH10 do Ủy ban Thường vụ Quốc hội ban hành ngày 4/04/2001 | Ordinance on Exploitation and Protection of Irrigation Works, no. 32/2001/PL-UBTVQH10 promulgated by the Standing Committee of the National Assembly on 4 April 2001 | Pháp lệnh bảo vệ và khai thác các công trình thủy lợi 2001 | Ordinance on Exploitation and Protection of Irrigation Works 2001     | x                    | 4          |
| 26. | Pháp lệnh bảo vệ các công trình khí tượng thủy văn, do Ủy ban Thường vụ Quốc hội ban hành ngày 2/12/1994                           | Ordinance on Protection of Meteorological and Hydrological Works, promulgated by the Standing Committee of the National Assembly on 2nd December 1994                | Pháp lệnh bảo vệ các công trình khí tượng thủy văn 1994    | Ordinance on Protection of Meteorological and Hydrological Works 1994 |                      | 4          |
| 27. | Pháp lệnh thú y, số 18/2004/PL-UBTVQH11 do Ủy ban Thường vụ Quốc hội ban hành ngày 29 Tháng 04 năm 2004                            | Ordinance on Veterinary Medicine, no. 18/2004/PL-UBTVQH11 promulgated by the Standing Committee of National Assembly on 12th May 2004                                | Pháp lệnh thú y 2004                                       | Ordinance on Veterinary Medicine 2004                                 | x                    | 5,7,11     |
| 28. | Pháp lệnh về hành nghề y, được tư nhân, số 07/2003/PL-UBTVQH11 do Ủy ban Thường vụ Quốc hội ban hành ngày 25/02/2003               | Ordinance on private medical and pharmaceutical practice, no. 07/2003/PL-UBTVQH11 dated 25th February 2003   | Pháp lệnh về hành nghề y, được tư nhân 2003                | Ordinance on private medical and pharmaceutical practice 2003         |                      | 12         |



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| 29. | Pháp lệnh sửa đổi một số điều của Pháp lệnh Phòng chống lụt bão (20/3/1993), số 27/2000/PL-UBTVQH ngày 24/8/2000 của Ủy ban Thường vụ Quốc hội                                       | Ordinance amending and supplementing a number of articles of the Ordinance on flood and storm prevention and control (20/3/1993), no. 27/2000/PL-UBTVQH promulgated by the Standing Committee of National Assembly on 24 August 2000 | Pháp lệnh phòng chống lụt bão 1993-2000   | Ordinance on flood and storm prevention and control 1993-2000  | x                    | 5          |
| 30. | Pháp lệnh tình trạng khẩn cấp, số 20/2000/PL-UBTVQH10, do Ủy ban Thường vụ Quốc hội ban hành ngày 4/4/2000   | Ordinance on State of Emergency, no. 20/2000/PL-UBTVQH promulgated by the Standing Committee of National Assembly on 4 April 2000  | Pháp lệnh tình trạng khẩn cấp 2000  | Ordinance on State of Emergency 2000   |                      | 15         |
| 31. | Pháp lệnh về bảo vệ và kiểm dịch thực phẩm, số 36/2001/PL-UBTVQH10 do Ủy ban Thường vụ Quốc hội ban hành ngày 25/07/2001   | Ordinance on Plant Protection and Quarantine, no. 36/2001/PL-UBTVQH10 promulgated by the Standing Committee of National Assembly on 25th July 2001   | Pháp lệnh về bảo vệ và kiểm dịch thực phẩm 2001   | Ordinance on Plant Protection and Quarantine 2001  | x                    | 5,7        |
| 32. | Pháp lệnh về quyền ưu đãi và miễn trừ dành cho các cơ quan đại diện ngoại giao, cơ quan lãnh sự và tổ chức quốc tế (không số), do Ủy ban Thường vụ Quốc hội ban hành ngày 23/08/1993 | Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam (no. number), promulgated by the Standing Committee of National Assembly on 23 August 1993     | Pháp lệnh về quyền ưu đãi và miễn trừ dành cho các cơ quan đại diện ngoại giao, cơ quan lãnh sự và tổ chức quốc tế 1993 | Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam 1993 |                      | 9          |
| 33. | Pháp lệnh về an toàn kiểm soát bức xạ (không số), Ủy ban Thường vụ Quốc hội ban hành ngày 25/06/1996   | Ordinance on radiation safety and control (no. number) promulgated by the Standing Committee of National Assembly on 25 <sup>th</sup> June 1996  | Pháp lệnh về an toàn kiểm soát bức xạ 1996  | Ordinance on radiation safety and control 1996   |                      | 4, 5,7     |
| 34. | Luật năng lượng nguyên tử, số 18/2008/QH12 do Quốc hội ban hành ngày 3/6/2008  | Law on Nuclear Energy, no. 18/2008/QH12 promulgated by the National Assembly on 3 June 2008  | Luật năng lượng nguyên tử 2008  | Law on Nuclear Energy 2008   |                      | 4          |

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| 35. | Pháp lệnh về nhập cảnh, xuất cảnh, cư trú của người nước ngoài tại Việt Nam, số 24/2000/PL-UBTVQH10 do Ủy ban Thường vụ Quốc hội ban hành ngày 28 tháng 4 năm 2000 | Ordinance on entry, exit and residence of foreigners in Viet Nam, no. 24/2000/PL-UBTVQH 10, promulgated by the Standing Committee of National Assembly on 28th April 2000, | Pháp lệnh của Ủy ban thường vụ Quốc hội về nhập cảnh, xuất cảnh, cư trú của người nước ngoài tại Việt Nam 2000 | Ordinance on entry, exit and residence of foreigners in Viet Nam 2000 |                      | 12, 13, 20 |
| 36. | Bộ luật Hình sự, số 15/1999/QH10 do Quốc hội ban hành ngày 21/12/1999  | Penal Code, no. 15/1999/QH10 of the National Assembly dated 21st December 1999   | Bộ luật Hình sự 1999   | Penal Code 1999   | x                    | 17         |
| 37. | Bộ luật Lao động, (không số), do Quốc hội ban hành ngày 23/06/1994   | Labour Code (no. number), promulgated by the National Assembly on 23 June 1994   | Bộ luật Lao động 1994  | Labour Code   | x                    | 12         |
| 38. | Luật hàng không dân dụng, số 66/2006/QH11, do Quốc hội ban hành ngày 29/06/2006  | Law on Civil Aviation, no. 66/2006/QH11, promulgated by the National Assembly on 29 <sup>th</sup> June 2006  | Luật Hàng không dân dụng 2006  | Law on civil aviation 2006  | x                    | 14, 15     |
| 39. | Luật giao thông đường bộ, số 23/2008/QH12, do Quốc hội ban hành ngày 13/11/2008  | Law on land road traffic, no. 23/2008/QH12 promulgated by the National Assembly on 13 November 2008  | Luật Giao thông đường bộ 2008  | Law on land road traffic 2008   |                      | 14         |
| 40. | Luật Thuế Tiêu thụ Đặc biệt, số 27/2008/QH12 do Quốc Hội ban hành ngày 14/11/2008  | Law on Special Consumption Tax, no. 27/2008/QH12 promulgated by the National Assembly on November 14, 2008.  | Luật Thuế Tiêu thụ Đặc biệt 2008   | Law on Special Consumption Tax 2008                                   | x                    | 16, 20     |
| 41. | Luật Thuế giá trị gia tăng, số 13/2008/QH12 do Quốc hội ban hành ngày 03/06/2008   | Law on Value Added Tax, no. 13/2008/QH12, promulgated by the National Assembly on June 03, 2008  | Luật Thuế giá trị gia tăng 2008  | Law on Value Added Tax 2008   | x                    | 16, 20     |
| 42. | Luật Thuế xuất khẩu, Thuế nhập khẩu, số 45/2005/QH11, do Quốc hội ban hành ngày 14/06/2005   | Law on Import Tax and Export Tax, no. 45/2005/QH11, promulgated by the National Assembly on June 14, 2005  | Luật Thuế xuất khẩu, Thuế nhập khẩu 2005   | Law on Import Tax and Export Tax 2005                                 | x                    | 16, 20     |
| 43. | Luật Thuế thu nhập doanh nghiệp, số 14/2008/QH12 do Quốc hội ban hành ngày 03/08/2008  | Law on Corporate Income Tax, no. 14/2008/QH12, promulgated by the National Assembly on August 3, 2008  | Luật Thuế thu nhập doanh nghiệp 2008   | Law on Corporate Income Tax 2008                                      | x                    | 16         |

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| 44. | Luật Thuế thu nhập cá nhân, số 04/2007/QH12 do Quốc hội ban hành ngày 21/11/2007                  | Law on Personal Income Tax, No. 04/2007/QH12 promulgated by the National Assembly on 21 <sup>st</sup> November 2007                             | Luật Thuế thu nhập cá nhân 2007            | Law on Personal Income Tax 2007                             | x                    | 16         |
| 45. | Pháp lệnh ngoại hối, số 28/2005/PL-UBTVQH, do Ủy ban Thường vụ Quốc hội ban hành ngày 13/12/2005. | Ordinance on Foreign Exchange Control, No. 28/2005/PL-UBTVQH, adopted by the Standing Committee of the National Assembly on of December 13,2005 | Ordinance on Foreign Exchange Control 2005 | Ordinance No. 28/2005/PL-UBTVQH on Foreign Exchange Control | x                    | 16         |
| 46. | Luật Hải quan, số 29/2001/QH10 do Quốc hội ban hành ngày 29/06/2001                               | Law on Customs, No. 29/2001/QH10 promulgated by the National Assembly on 29/06/2001   | Luật Hải quan 2001                         | Law on Customs 2001   | x                    | 10, 11, 20 |

### Implementing Documents and Regulations

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| 47. | Nghị định số 50/1998/ND-CP thi hành pháp lệnh an toàn kiểm soát bức xạ, do Thủ tướng Chính phủ ban hành ngày 16/07/1998  | Decree no. 50/1998/ND-CP promulgated by the Prime Minister dated 16th July 1998 detailing the implementation of the Ordinance on radiation safety and control  | Nghị định 50/1998/ND-CP thi hành pháp lệnh an toàn kiểm soát bức xạ 1998                                      | Decree 50/1998/ND-CP detailing the implementation of the Ordinance on radiation safety and control                 | x                    | 4,5,7      |
| 48. | Nghị định số 08/2006/ND-CP quy định chi tiết việc thi hành Pháp lệnh phòng chống lụt bão, do Chính phủ ban hành ngày 20/3/1993, đã được sửa đổi, bổ sung ngày 24/8/2000, bởi Nghị định 08/2006/NĐ-CP ban hành ngày 16/1/2006 | Decree no. 08/2006/ND-CP promulgated by the Prime Minister dated 16th January 2006 detailing a number of articles of the Ordinance on Flood and Storm Prevention and Control, which was amended and supplemented on 24 August 2000 | Nghị định 08/2006/ND-CP của thủ tướng chính phủ quy định chi tiết việc thi hành Pháp lệnh phòng chống lụt bão | Decree no. 08/2006/ND-CP detailing a number of articles of the Ordinance on Flood and Storm Prevention and Control |                      | 5          |
| 49. | Nghị định số 178/2007/NĐ-CP quy định chức năng, nhiệm vụ, quyền hạn và cơ cấu tổ chức của Bộ, cơ quan ngang Bộ, do Chính phủ ban hành ngày 03 tháng 12 năm 2007  | Decree no. 178/2007/ND-CP on functions, tasks, authorities and structure of Ministries and Ministerial Bodies, by the Government on 3 December 2007  |   |  |                      |            |

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| 50. | Nghị định 1/2008/ND-CP quy định chức năng, nhiệm vụ, quyền hạn của Bộ NN&PTNT, do Chính phủ ban hành ngày 03/01/2008  | Decree no. 1/2008/ND-CP on functions, tasks, authorities and structure of the MARĐ, promulgated by the Government on 3 January 2008  | Nghị định 1/2008/ND-CP quy định chức năng, nhiệm vụ, quyền hạn của Bộ NN&PTNT   | Decree no. 1/2008/ND-CP on functions, tasks, authorities and structure of the MARĐ   |  | 5           |
| 51. | Nghị định 188/2007/ND-CP quy định chức năng, nhiệm vụ, quyền hạn của Bộ Y tế, do Chính phủ ban hành ngày 27/12/2007   | Decree no. 188/2007/ND-CP on functions, tasks, authorities and structure of the Ministry of Health, promulgated by the Government on 27th December 2007  | Nghị định 188/2007/ND-CP quy định chức năng, nhiệm vụ, quyền hạn của Bộ Y tế  | Decree no. 188/2007/ND-CP on functions, tasks, authorities and structure of the Ministry of Health   |  | 5           |
| 52. | Nghị định số 35/2003/NĐ-CP quy định chi tiết thi hành một số điều của Luật phòng cháy và chữa cháy, do Chính phủ ban hành ngày 4/4/2003   | Decree no. 35/2003/ND-CP detailing the implementation of a number of articles of the Law on fire prevention and control, promulgated by the Government on 4 April 2003   | Nghị định 35/2003/NĐ-CP quy định chi tiết thi hành một số điều của Luật phòng cháy và chữa cháy   | Decree no. 35/2003/ND-CP detailing the implementation of a number of articles of the Law on fire prevention and control  | x  | 4,5         |
| 53. | Nghị định 51/2006/ND-CP về xử phạt hành chính trong lĩnh vực an toàn và kiểm soát bức xạ, do Chính phủ ban hành ngày 19/05/2006   | Decree no. 51/2006/ND-CP on the sanctioning of administrative violations in the domain of radiation safety and control, promulgated by the Government on 19th May 2006   | Nghị định 51/2006/ND-CP về xử phạt hành chính trong lĩnh vực an toàn và kiểm soát bức xạ  | Decree no. 51/2006/ND-CP on the sanctioning of administrative violations in the domain of radiation safety and control   | x  | 4,5         |
| 54. | Nghị định số 32/CP quy định chi tiết việc thi hành Pháp lệnh phòng chống lụt bão, do Thủ tướng Chính phủ ban hành ngày 20/5/1996  | Decree no. 32/CP providing details for the implementation of the Ordinance on the prevention and control of floods and storms, promulgated by the Government on 20th May 1996  | Nghị định 32/CP của Thủ tướng Chính phủ quy định chi tiết việc thi hành Pháp lệnh phòng chống lụt bão   | Decree no. 32/CP providing details for the implementation of the Ordinance on the prevention and control of floods and storms  | x (replaced by 2006 Decree but almost content is the same) | 4           |
| 55. | Nghị định số 71/2002/NĐ-CP quy định chi tiết thi hành một số điều của Pháp lệnh Tình trạng khẩn cấp trong trường hợp có thảm họa lớn, dịch bệnh nguy hiểm, do Chính phủ ban hành ngày 23/7/2002 | Decree no. 71/2002/ND-CP, detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics, issued by the Government on 23th July 2002 | Nghị định số 71/2002/NĐ-CP quy định chi tiết thi hành một số điều của Pháp lệnh Tình trạng khẩn cấp trong trường hợp có thảm họa lớn, dịch bệnh nguy hiểm | Decree no. 71/2002/ND-CP, detailing the implementation of a number of articles of the Ordinance on the State of emergency in case of great disaster or dangerous epidemics |  | 4,5,7,11,17 |

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| 56. | Nghị định số 64/2008/ND-CP về vận động, tiếp nhận, phân phối và sử dụng các nguồn đóng góp tự nguyện hỗ trợ nhân dân khắc phục khó khăn do thiên tai, hoả hoạn, sự cố nghiêm trọng, các bệnh nhân mắc bệnh hiểm nghèo, của Chính phủ ban hành ngày 14/5/2008 | Decree no. 64/2008/ND-CP on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients, issued by the Government on 14 May 2008 | Nghị định 64/2008/ND-CP về vận động, tiếp nhận, phân phối và sử dụng các nguồn đóng góp tự nguyện hỗ trợ nhân dân khắc phục khó khăn do thiên tai, hoả hoạn, sự cố nghiêm trọng, các bệnh nhân mắc bệnh hiểm nghèo | Decree no. 64/2008/ND-CP on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients |                      | 4,5,6,9,19 |
| 57. | Nghị định số 148/20007/ND-CP về tổ chức hoạt động của Quỹ xã hội, Quỹ từ thiện, do Chính phủ ban hành ngày 25/09/2007  | Decree no. 148/20007/ND-CP on the organization and activities of Social Funds and Charity Funds, issued by the Government on 25th September 2007   | Nghị định số 148/20007/ND-CP về tổ chức hoạt động của Quỹ xã hội, Quỹ từ thiện   | Decree no. 148/20007/ND-CP on the organization and activities of Social Funds and Charity Funds   |                      | 6          |
| 58. | Nghị định số 09/2006/NĐ-CP về phòng cháy chữa cháy rừng, do Chính phủ ban hành ngày 16/01/2006   | Decree no. 09/2006/NĐ-CP on forest fire prevention, by the Government on 16th January 2006   | Nghị định số 09/2006/NĐ-CP về phòng cháy chữa cháy rừng  | Decree no. 09/2006/NĐ-CP on forest fire prevention  |                      | 4,5        |
| 59. | Nghị định 123/2005/NĐ-CP về xử phạt vi phạm hành chính trong lĩnh vực phòng cháy chữa cháy, do Chính phủ ban hành ngày 5/10/2005   | Decree no. 123/2005/NĐ-CP providing for the sanctioning of administrative violations in the domain of fire prevention and control, issued by the Government 2006 on 5th October 2005   | Nghị định 123/2005/NĐ-CP về xử phạt vi phạm hành chính trong lĩnh vực phòng cháy chữa cháy   | Decree no. 123/2005/NĐ-CP providing for the sanctioning of administrative violations in the domain of fire prevention and control   |                      | 5          |
| 60. | Nghị định số 77-NV về việc thành lập Hội hồng thập tự, do Bộ trưởng Bộ Nội vụ ban hành ngày 31/05/1947   | Decree no. 77-NV authorizing the establishment and operation of the Red Cross Society of Viet Nam, issued by the Minister of Home Affairs on 31st May 1947   | Nghị định số 77-NV (1947) về việc thành lập Hội hồng thập tự   | Decree no. 77-NV (1947) authorizing the establishment and operation of the Red Cross Society of Viet Nam  |                      | 6          |
| 61. | Quy chế phối hợp hoạt động của các cơ quan quản lý nhà nước tại cảng hàng không, sân bay dân dụng, ban hành kèm theo Nghị định của Chính phủ số 29/CP ngày 2/4/1997  | Regulation on the coordination of activities of the state management agencies at civil airport and airfields, promulgated together with Decree no. 29/CP the Government on 2 <sup>nd</sup> April 1997  | Quy chế phối hợp hoạt động của các cơ quan quản lý nhà nước tại cảng hàng không, sân bay dân dụng 1997   | Regulation on the coordination of activities of the state management agencies at civil airport and airfields 1997   | x                    | 4,7        |

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| 62. | Điều lệ kiểm dịch y tế biên giới ban hành kèm theo Nghị định chính phủ số 41/1998/NĐ-CP ngày 11/06/1998   | Regulation on border medical quarantine, promulgated together with Decree no. 41/1998/ND-CP dated 11st June 1998 promulgating   | Điều lệ kiểm dịch y tế biên giới 1998   | Regulation on border medical quarantine regulation 1998  | x                    | 5,7,11,13,18, 20 |
| 63. | Quy chế thành lập và hoạt động của Quỹ phòng chống lụt, bão của địa phương, ban hành kèm theo Nghị định số 50/CP ngày 10/5/1997 của Chính phủ                                   | Decree no. 50/CP issuing the regulation on the setting up and operation of the local fund for flood and storm prevention and control, issued by the Government on 10th May 1997                             | Quy chế thành lập và hoạt động của Quỹ phòng chống lụt, bão của địa phương 1997   | Regulation on the setting up and operation of the local fund for flood and storm prevention and control 1997                       | x                    | 4,5              |
| 64. | Nghị định số 137/2007/QĐ-TTg phê duyệt Đề án tổ chức thông tin phục vụ công tác phòng, chống thiên tai trên biển, do Thủ tướng Chính phủ ban hành ngày 21/08/2007               | Decision no. 137/2007/QĐ-TTg approving the scheme on information organization in service of disaster at sea prevention and control, promulgated by the Prime Minister on 21 <sup>st</sup> August 2007       | Nghị định số 137/2007/QĐ-TTg phê duyệt Đề án tổ chức thông tin phục vụ công tác phòng, chống thiên tai trên biển        | Decision no. 137/2007/QĐ-TTg approving the scheme on information organization in service of disaster at sea prevention and control |                      | 4                |
| 65. | Quyết định số 348/QĐ-TTg về việc thành lập Ban chỉ đạo quốc gia phòng chống đại dịch cúm ở người, do Thủ tướng Chính phủ ban hành ngày 21/2/2006 (hết hiệu lực ngày 13/11/2007) | Decision no. 348/QĐ-TTg on setting up the National Steering Committee for Human Influenza Pandemic Prevention and Control, promulgated by the Prime Minister on 21st February 2006 (expired on 13/11/2007), | Quyết định 348/QĐ-TTg về việc thành lập Ban chỉ đạo quốc gia phòng chống đại dịch cúm ở người (2006)                    | Decision no. 348/QĐ-TTg on setting up the National Steering Committee for Human Influenza Pandemic Prevention and Control (2006)   |                      | 5                |
| 66. | Quyết định số 61/2000/QĐ-TTg về việc thành lập Ủy ban Quốc gia phòng, chống AIDS và phòng, chống tệ nạn ma túy, mại dâm, do Thủ tướng Chính phủ ban hành ngày 5/06/2000         | Decision no. 61/2000/QĐ-TTg on setting up the National Committee for AIDS, Drug and Prostitution prevention and control, promulgated by the Prime Minister on 5th June 2000                                 | Quyết định số 61/2000/QĐ-TTg về việc thành lập Ủy ban Quốc gia phòng, chống AIDS và phòng, chống tệ nạn ma túy, mại dâm | Decision no. 61/2000/QĐ-TTg on setting up the National Committee for AIDS, Drug and Prostitution prevention and control            | X                    | 5                |
| 67. | Quyết định số 50/2007/QĐ-TTg về việc kiện toàn Ủy ban Quốc gia phòng, chống AIDS và phòng, chống tệ nạn ma túy, mại dâm, do Thủ tướng Chính phủ ban hành ngày 12/04/2007        | Decision 50/2007/QĐ-TTg on consolidating the National Committee for AIDS, Drug Addiction and Prostitution Prevention and Control, promulgated by the Prime Minister on 12th April 2007                      | Quyết định số 50/2007/QĐ-TTg về việc kiện toàn Ủy ban Quốc gia phòng, chống AIDS và phòng, chống tệ nạn ma túy, mại dâm | Decision 50/2007/QĐ-TTg on consolidating the National Committee for AIDS, Drug Addiction and Prostitution Prevention and Control   |                      | 5                |

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| 68. | Quyết định số 1532/QĐ-TTg về việc bổ sung và kiện toàn Ban chỉ đạo quốc gia phòng chống đại dịch cúm ở người, do Thủ tướng Chính phủ ban hành ngày 13/11/2007                          | Decision no. 1532/QĐ-TTg on strengthening the National Steering Committee for Human Influenza Pandemic Prevention and Control, promulgated by the Prime Minister on 13th November 2007                       | Quyết định số 1532/QĐ-TTg về việc bổ sung và kiện toàn Ban chỉ đạo quốc gia phòng chống đại dịch cúm ở người   | Decision no. 1532/QĐ-TTg on strengthening the National Steering Committee for Human Influenza Pandemic Prevention and Control               |                      | 5          |
| 69. | Quyết định 36/2004/QĐ-TTg về việc phê duyệt Chiến lược quốc gia phòng chống HIV/AIDS ở Việt Nam đến năm 2010, tầm nhìn 2020, do Thủ tướng chính phủ ban hành ngày 17 tháng 03 năm 2004 | Decision no. 36/2004/QĐ-TTg approving the national strategy on HIV/AIDS prevention and control in Viet Nam Till 2010 with a vision to 2020, promulgated by the Prime Minister on 17 <sup>th</sup> March 2004 | Quyết định 36/2004/QĐ-TTg về việc phê duyệt Chiến lược quốc gia phòng chống HIV/AIDS ở Việt Nam đến năm 2010, tầm nhìn 2020.                               | Decision no. 36/2004/QĐ-TTg approving the national strategy on HIV/AIDS prevention and control in Viet Nam Till 2010 with a vision to 2020  |                      |            |
| 70. | Quyết định , số 172/2007/QĐ-TTg về việc phê duyệt Chiến lược quốc gia phòng chống và giảm nhẹ thiên tai đến 2020, do Thủ tướng chính phủ ban hành ngày 16 tháng 11 năm 2007            | Decision 172/2007/QĐ-TTg approving the National strategy for natural disaster prevention, response and mitigation to 2020, promulgated by the Prime Minister on 11 <sup>th</sup> November 2007               | Quyết định của Thủ tướng chính phủ về việc phê duyệt Chiến lược quốc gia phòng chống và giảm nhẹ thiên tai đến 2020  | Decision 172/2007/QĐ-TTg approving the National strategy for natural disaster prevention, response and mitigation to 2020                   | X                    | 4,5        |
| 71. | Quyết định số 46/2006/QĐ-TTg về việc phê duyệt Đề án Quy hoạch tổng thể lĩnh vực tìm kiếm cứu nạn đến năm 2015, tầm nhìn 2020, do Thủ tướng Chính phủ ban hành ngày 28/2/2006          | Decision no. 46/2006/QĐ-TTg approving the scheme on the general planning for the search and rescue domain up to 2015, with a vision to 2020, promulgated by the Prime minister on 28th Feb 2006              | Quyết định 46/2006/QĐ-TTg về việc phê duyệt Đề án Quy hoạch tổng thể lĩnh vực tìm kiếm cứu nạn đến năm 2015  | Decision no. 46/2006/QĐ-TTg approving the scheme on the general planning for the search and rescue domain up to 2015, with a vision to 2020 |                      | 4          |
| 72. | Quyết định số 158/2008/QĐ-TTg về việc phê duyệt Chương trình mục tiêu quốc gia về biến đổi khí hậu, do Thủ tướng Chính phủ ban hành ngày 02/02/2008                                    | Decision no. 158/2008/QĐ-TTg approving the National Core Program on Climate Change, promulgated 2008 by the Prime Minister on 2 <sup>nd</sup> February   | Quyết định số 158/2008/QĐ-TTg về việc phê duyệt Chương trình mục tiêu quốc gia về biến đổi khí hậu   | Decision no. 158/2008/QĐ-TTg approving the National Core Program on Climate Change  |                      | 4          |
| 73. | Quyết định số 255/2006/QĐ-TTg về việc phê duyệt Chiến lược quốc gia y tế dự phòng Việt Nam đến năm 2010 và định hướng đến năm 2020, do Thủ tướng Chính phủ ban hành ngày 09/11/2006    | Decision no. 255/2006/QĐ-TTg approving the Viet Nam national Strategy on preventive medicine to 2010 and orientations towards 2020, promulgated by the Prime Minister on 9 <sup>th</sup> November 2006       | Quyết định số 255/2006/QĐ-TTg của Thủ tướng chính phủ về việc phê duyệt Chiến lược quốc gia y tế dự phòng Việt Nam đến năm 2010 và định hướng đến năm 2020 | Decision no. 255/2006/QĐ-TTg approving the Viet Nam national Strategy on preventive medicine to 2010 and orientations towards 2020          | x                    | 4,5        |

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| 74. | Quy chế quản lý tài chính đối với hoạt động tìm kiếm cứu nạn, cứu hộ, ứng phó thiên tai, thảm họa (Ban hành kèm theo Quyết định số 118/2008/QĐ-TTg ngày 27/8/2008 của Thủ tướng chính phủ) | Decision No. 118/2008/QĐ-TTg promulgating the Regulation on financial management of search, rescue, salvage and response to natural disasters and catastrophes, by the Prime Minister on 27 <sup>th</sup> August 2008, | Quy chế quản lý tài chính đối với hoạt động tìm kiếm cứu nạn, cứu hộ, ứng phó thiên tai, thảm họa 2008 | Regulation on financial management of search, rescue, salvage and response to natural disasters and catastrophes 2008 |                      | 4          |
| 75. | Quyết định số 103/2007/QĐ-TTg ban hành Quy chế Phối hợp tìm kiếm, cứu nạn trên biển, do Thủ tướng Chính phủ ban hành ngày 12/7/2007  | Decision no. 103/2007/QĐ-TTg promulgating the Regulation on Search and Rescue Coordination at sea, by the Prime Minister on 12 <sup>th</sup> July 2007   | Quy chế Phối hợp tìm kiếm, cứu nạn trên biển 2007  | Regulation on Search and Rescue Coordination at sea 2007  |                      | 4,5        |
| 76. | Quy chế báo tin động đất, cảnh báo sóng thần, ban hành kèm theo Quyết định số 264/2006/QĐ-TTg của Thủ tướng Chính phủ ngày 16/11/2006  | Regulation on Earthquake Announcements and Tsunami Warning, promulgated together with Decision no. 264/2006/QĐ-TTg by the Prime Minister on 16 <sup>th</sup> November 2006   | Quy chế báo tin động đất, cảnh báo sóng thần 2006  | Regulation on Earthquake announcement and Tsunami warning 2006  |                      | 4,5,7      |
| 77. | Quy chế báo áp thấp nhiệt đới, bão, lũ, ban hành kèm theo Quyết định số 245/2006/QĐ-TTg của Thủ tướng Chính phủ ngày 27/10/2006  | Regulation on announcement of tropical depressions, typhoons, hurricanes and floods, promulgated together with Decision no. 245/2006/QĐ-TTg of the Prime Minister on 27 <sup>th</sup> October 2006                     | Quy chế báo áp thấp nhiệt đới, bão, lũ 2006  | Regulation on announcement of tropical depressions, typhoons, hurricanes and floods 2006                              | x (summary)          | 5,7        |
| 78. | Quy chế thông tin, báo cáo bệnh truyền nhiễm gây dịch ban hành kèm theo Quyết định số 4880/2002/QĐ-BYT ngày 6/12/2002 của Bộ trưởng Bộ Y tế  | Regulation on information and reports on epidemic contagious diseases, promulgated together with Decision No. 4880/2002/QĐ-BYT of Ministry of Health on December 6, 2002   | Quy chế thông tin, báo cáo bệnh truyền nhiễm gây dịch 2002   | Regulation on information and reports on epidemic contagious diseases 2002  |                      | 5,7        |



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| 79. | Quyết định số 26/2008/QĐ-BNN về chức năng, nhiệm vụ, quyền hạn và cơ cấu tổ chức của Cục Quản lý đê điều và Phòng chống lụt bão, do Bộ trưởng Bộ Nông nghiệp và Phát triển Nông thôn ban hành ngày 28/1/2008 | Decision No. 26/2008/QĐ-BNN defining the functions, tasks, powers and organizational structure of the Department for Dyke Management and Flood and Storm Prevention and Control, promulgated by the Minister of Agriculture and Rural Development on 28 <sup>th</sup> January 2008 | Quyết định số 26/2008/QĐ-BNN về chức năng, nhiệm vụ, quyền hạn và cơ cấu tổ chức của Cục Quản lý đê điều và Phòng chống lụt bão 2008    | Decision No. 26/2008/QĐ-BNN defining the functions, tasks, powers and organizational structure of the Department for Dyke Management and Flood and Storm Prevention and Control |                      | 5          |
| 80. | Quyết định số 54/2008/QĐ-BYT quy định chức năng, nhiệm vụ, quyền hạn và cơ cấu tổ chức của Cục y tế dự phòng và Môi trường, do của Bộ trưởng Bộ Y tế ban hành ngày 30/12/2008                                | Decision No. 54/2008/QĐ-BYT defining the functions, tasks, powers and organizational structure of the Preventive Medicine and Environment Department, promulgated by the Minister of Health on 30 <sup>th</sup> December 2008  | Quyết định số 54/2008/QĐ-BYT quy định chức năng, nhiệm vụ, quyền hạn và cơ cấu tổ chức của Cục y tế dự phòng và Môi trường              | Decision No. 54/2008/QĐ-BYT defining the functions, tasks, powers and organizational structure of the Preventive Medicine and Environment Department                            |                      | 5          |
| 81. | Quyết định 76/2009/QĐ-TTg về việc kiện toàn ủy ban quốc gia tìm kiếm cứu nạn và hệ thống tổ chức tìm kiếm cứu nạn các bộ ngành TW và địa phương, do Thủ tướng Chính phủ ban hành ngày 11/05/2009             | Decision no. 76/2009/QĐ-TTg on strengthening the National Committee for search and rescue and organizational system of search and rescue of Ministries and Provinces, promulgated by the Prime Minister on 11 <sup>th</sup> May 2009   | Quyết định 76/2009/QĐ-TTg kiện toàn ủy ban quốc gia tìm kiếm cứu nạn và hệ thống tổ chức tìm kiếm cứu nạn các bộ ngành TW và địa phương | Decision no. 76/2009/QĐ-TTg on strengthening the National Committee for search and rescue and organizational system of search and rescue of Ministries and Provinces            |                      | 5          |
| 82. | Quyết định số 26/2007/QĐ-GTVT ban hành Quy chế tìm kiếm cứu nạn hàng không, do Bộ trưởng Bộ GTVT ban hành ngày 23/05/2007  | Decision no. 26/2007/QĐ-GTVT promulgating the Regulation on civil aviation search and rescue, issued by the Minister of Transport on 23 May 2007   | Quy chế tìm kiếm cứu nạn hàng không 2007  | Regulation on civil aviation search and rescue 2007   |                      | 4,5        |
| 83. | Quyết định số 12/2004/QĐ-BKHHCN ban hành điều lệ tổ chức hoạt động của Cục an toàn kiểm soát bức xạ hạt nhân thuộc Bộ KHHCN, do Bộ trưởng Bộ KHHCN ban hành ngày 13/05/2004                                  | Decision no. 12/2004/QĐ-BKHHCN promulgating the Organization and Operation Charter of Viet Nam Agency for Radiation and Nuclear Safety and Control, issued by the Minister of Science and Technology on 13 <sup>th</sup> May 2004  | Quyết định 12/2004/QĐ-BKHHCN ban hành điều lệ tổ chức hoạt động của Cục an toàn kiểm soát bức xạ hạt nhân thuộc Bộ KHHCN                | Decision no. 12/2004/QĐ-BKHHCN promulgating the Organization and Operation Charter of Viet Nam Agency for Radiation and Nuclear Safety and Control                              | x<br>(summary)       | 4,5        |

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| 84. | Quyết định số 08/2007/QĐ-BNN ban hành quy chế hoạt động của Ban chỉ đạo TW về các vấn đề cấp bách trong bảo vệ rừng, phòng cháy chữa cháy rừng, do BNN&PTNN ban hành ngày 26/01/2007            | Decision no. 08/2007/QĐ-BNN promulgating the Regulation on operation of the Central Steering Committee for urgent issues in forest protection and forest fire prevention and control, promulgated by the MARD on 26th January 2007   | Quyết định số 08/2007/QĐ-BNN ban hành quy chế hoạt động của Ban chỉ đạo TW về các vấn đề cấp bách trong bảo vệ rừng, phòng cháy chữa cháy rừng | Decision no. 08/2007/QĐ-BNN promulgating the Regulation on operation of the Central Steering Committee for urgent issues in forest protection and forest fire prevention and control                        |                      | 5          |
| 85. | Quyết định số 127/2000/QĐ-BNN-KL ban hành Quy định về cấp dự báo, báo động và biện pháp tổ chức thực hiện phòng cháy, chữa cháy rừng, do Bộ NN&PTNN ban hành ngày 11/12/2000                    | Decision No. 127/2000/QĐ-BNN-KL of December 11, 2000 promulgating the Regulation on grades of forest fire forecast and alarm and measures to organize forest fire prevention and control   | Quy định về cấp dự báo, báo động và biện pháp tổ chức thực hiện phòng cháy, chữa cháy rừng 2000  | Regulation on grades of forest fire forecast and alarm and measures to organize forest fire prevention and control 2000   |                      | 7          |
| 86. | Thông tư 07/2005/TT-BTC hướng dẫn quản lý tài chính đối với hoạt động của Hội chữ thập đỏ, số 07/2005/TT-BTC, do BTC ban hành ngày 18/1/2005  | Circular no. 07/2005/TT-BTC on financial management over Red Cross Associations, promulgated by the Ministry of Finance on January 18, 2005  | Thông tư 07/2005/TT-BTC hướng dẫn quản lý tài chính đối với hoạt động của Hội chữ thập đỏ  | Circular no. 07/2005/TT-BTC on financial management over Red Cross Associations   |                      | 6,19       |
| 87. | Thông tư 60/2002/TT-BTC hướng dẫn quản lý tài chính đối với các cơ sở khám chữa bệnh nhân đạo thuộc Hội chữ thập đỏ, do Bộ Tài chính ban hành ngày 10 tháng 07 năm 2002                         | Circular no. 60/2002/TT-BTC guiding the financial management of humanitarian medical examination and treatment establishments under Viet Nam Red Cross, promulgated by the Ministry of Finance on 10th July 2002   | Thông tư 60/2002/TT-BTC hướng dẫn quản lý tài chính đối với các cơ sở khám chữa bệnh nhân đạo thuộc Hội chữ thập đỏ                            | Circular no. 60/2002/TT-BTC guiding the financial management of humanitarian medical examination and treatment establishments under Viet Nam Red Cross  | x                    | 6          |
| 88. | Thông tư 12/2007/TT-BKHHCN hướng dẫn thi hành một số điều của Nghị định 51/2006/ND-CP về xử phạt hành chính trong lĩnh vực an toàn bức xạ, do Bộ Khoa học và Công nghệ ban hành ngày 12/06/2007 | Circular no. 12/2007/TT-BKHHCN guiding the implementation of a number of articles of the Decree no. 51/2006/ND-CP on sanctioning of administrative violations in the domain of radiation safety and control, promulgated by the Ministry of Science and Technology on 12th June 2007 | Thông tư 12/2007/TT-BKHHCN hướng dẫn thi hành một số điều của Nghị định 51/2006/ND-CP về xử phạt hành chính trong lĩnh vực an toàn bức xạ      | Circular no. 12/2007/TT-BKHHCN guiding the implementation of a number of articles of the Decree no. 51/2006/ND-CP on sanctioning of administrative violations in the domain of radiation safety and control |                      | 4,5        |

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| 89. | Thông tư số 72/2008/TT-BTC hướng dẫn thi hành Nghị định của Chính phủ về việc vận động, tiếp nhận, phân phối và sử dụng các nguồn đóng góp tự nguyện hỗ trợ nhân dân khắc phục khó khăn do thiên tai, hoả hoạn, sự cố nghiêm trọng, các bệnh nhân mắc bệnh hiểm nghèo, do Bộ Tài chính ban hành ngày 14/05/2008 | Circular no. 72/2008/TT-BTC of the Minister of Finance dated 31st July 2008 guiding the implementation of the Decree no. 64/2008/ND-CP issued by the Government, dated 14 May 2008 on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients | Thông tư số 72/2008/TT-BTC hướng dẫn thi hành Nghị định của Chính phủ về việc vận động, tiếp nhận, phân phối và sử dụng các nguồn đóng góp tự nguyện hỗ trợ nhân dân khắc phục khó khăn do thiên tai, hoả hoạn, sự cố nghiêm trọng, các bệnh nhân mắc bệnh hiểm nghèo | Circular no. 72/2008/TT-BTC guiding the implementation of the Decree no. 64/2008/ND-CP on mobilization, receipt, distribution and use of sources of voluntary donations for people to overcome difficulties caused by natural disasters, fires or serious incidents and for terminally ill patients |                      | 4,19       |
| 90. | Điều lệ (sửa đổi) của Hội chữ thập đỏ (được phê duyệt kèm theo Quyết định số 33/QĐ-BNV ngày 14/1/2008 của Bộ trưởng Nội vụ)   | Decision No. 33/QĐ-BNV of the Minister of Home Affairs dated January 14, 2008, approving the amended Statute of the Viet Nam Red Cross Association  | Điều lệ (sửa đổi) của Hội chữ thập đỏ 2008  | Statute (amended) of the Viet Nam Red Cross Association 2008  |                      | 6          |
| 91. | Nghị định số 03/2002/NĐ-CP ngày 7/1/2002 về bảo vệ an toàn dầu khí  | Decree no. 03/2002/ND-CP dated 7 <sup>th</sup> January 2002 by the Government on the Protection of Petroleum Security and Safety  | Nghị định số 03/2002/NĐ-CP về bảo vệ an toàn dầu khí  |   | x                    |            |
| 92. | Nghị định số 68/2005/ND-CP về an toàn hoá chất, do Chính phủ ban hành ngày 20/5/2005  | Decree no. 68/2005/ND-CP on the Chemicals Safety, promulgated by the Government dated 20 <sup>th</sup> May 2005   | Nghị định số 68/2005/ND-CP về an toàn hoá chất  | Decree no. 68/2005/ND-CP on the Chemicals Safety  |                      | 6          |
| 93. | Quyết định số 103/2005/QĐ-TTg ngày 12/5/2005 ban hành Quy chế ứng phó sự cố tràn dầu  | Decision no. 103/2005/QĐ-TTg dated 12 <sup>th</sup> May 2005 by the Prime Minister promulgating the Regulation on the response to Oil spill   | Quy chế ứng phó sự cố tràn dầu 2005   | Regulation on the response to Oil spill   |                      | 4,5,7      |
| 94. | Nghị định của Chính phủ số 73-CP ngày 30-7-1994 quy định chi tiết thi hành Pháp lệnh về quyền ưu đãi, miễn trừ dành cho cơ quan đại diện ngoại giao, cơ quan lãnh sự nước ngoài và cơ quan đại diện của tổ chức quốc tế tại Việt Nam  | Decree no. 73-CP of the Government dated 30th July 1994 on the Implementation of Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam  | Nghị định của Chính phủ quy định chi tiết thi hành Pháp lệnh về quyền ưu đãi, miễn trừ dành cho cơ quan đại diện ngoại giao, cơ quan lãnh sự nước ngoài và cơ quan đại diện của tổ chức quốc tế tại Việt Nam  | Decree no. 73-CP on the Implementation of Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Posts and Offices of International Organizations in Viet Nam   |                      | 9          |

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| 95.  | Quy chế hoạt động của các tổ chức phi chính phủ nước ngoài tại Việt Nam (Ban hành kèm theo Quyết định số 340/TTg ngày 24 tháng 5 năm 1996 của Thủ tướng Chính phủ)                    | Regulation on the activities of foreign Non-Governmental Organizations in Viet Nam, issued together with Decision no. 340-TTg  | Quy chế hoạt động của các tổ chức phi chính phủ nước ngoài tại Việt Nam 1996   | Regulation on the activities of foreign Non-Governmental Organizations in Viet Nam 1996   | x                    | 9          |
| 96.  | Hướng dẫn thực hiện Quy chế số 06/UB-PA ngày 07/08/1996 của Ủy ban Công tác về các tổ chức phi chính phủ  | The Guidelines for the Implementation of the Regulations No. 06/UB-PA dated 7th August 1996 of the Committee for Nongovernmental Organization Affairs  |  |   | x                    | 9          |
| 97.  | Nghị định số 21/2001/NĐ-CP ngày 28 tháng 5 năm 2001 của Chính phủ quy định chi tiết thi hành Pháp lệnh nhập cảnh, xuất cảnh, cư trú của người nước ngoài tại Việt Nam                 | Decree no. 21/2001/ND-CP of the Government dated 28th May 2001 detailing the Implementation of the Ordinance on entry, exit and residences in Viet Nam   | Nghị định số 21/2001/NĐ-CP quy định chi tiết thi hành Pháp lệnh nhập cảnh, xuất cảnh, cư trú của người nước ngoài tại Việt Nam                                 | Decree no. 21/2001/ND-CP detailing the Implementation of the Ordinance on entry, exit and residences in Viet Nam  |                      | 12,13      |
| 98.  | Quyết định số 2331/2004/QĐ-BYT ban hành Quy trình kiểm dịch y tế biên giới của nước Cộng hòa Xã hội Chủ nghĩa Việt Nam, do Bộ Y tế ban hành ngày 06/7/2004                            | Decision No.2331/2004/QĐ-BYT dated 06/7/2004 issued by Minister of Health on Promulgation of procedures for health quarantine at border gates of the Socialist Republic of Viet Nam  | Quyết định số 2331/2004/QĐ-BYT ban hành Quy trình kiểm dịch y tế biên giới của nước Cộng hòa Xã hội Chủ nghĩa Việt Nam   | Decision No.2331/2004/QĐ-BYT on Promulgation of procedures for health quarantine at border gates of the Socialist Republic of Viet Nam  | x                    | 13         |
| 99.  | Quyết định số 23/2008/QĐ-BYT ngày 07/7/2008 của Bộ Y tế về việc Ban hành Quy định về sử dụng vắc xin, sinh phẩm y tế trong dự phòng và điều trị                                       | Decision No. 23/2008/QĐ-BYT dated 7/7/2008 issued by Ministry of Health promulgating the Regulation on use of vaccines and medical biologicals in prophylaxis and therapy  |  |   |                      | 13         |
| 100. | Thông tư 66/2009/TT-BTC của Bộ Tài chính quy định chế độ thu, nộp, quản lý và sử dụng lệ phí cấp hộ chiếu, thị thực, giấy tờ về nhập cảnh, xuất cảnh, quá cảnh và cư trú tại Việt Nam | Circular No. 66/2009/TT-BTC of the Ministry of Finance dated March 30, 2009, prescribing the regime on collection, remittance, management and use of fees on passports, visas and papers on entry, exit, transit and residence in Viet Nam | Thông tư 66/2009/TT-BTC về chế độ thu, nộp, quản lý và sử dụng lệ phí cấp hộ chiếu, thị thực, giấy tờ về nhập cảnh, xuất cảnh, quá cảnh và cư trú tại Việt Nam | Circular No. 66/2009/TT-BTC prescribing the regime on collection, remittance, management and use of fees on passports, visas and papers on entry, exit, transit and residence in Viet Nam |                      | 12,20      |

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| 101. | Thông tư liên tịch số 04/2002/TTLT/BCA-BNG ngày 29/01/2002 hướng dẫn thực hiện Nghị định số 21/2001/NĐ-CP ngày 28/5/2001 của Chính phủ quy định chi tiết thi hành Pháp lệnh nhập cảnh, xuất cảnh, cư trú của người nước ngoài tại Việt Nam | Joint Circular no. 04/2002/TTLT/BCA-BNG of the Ministry of Public Security and the Ministry of Foreign Affairs dated 29th January 2002 guiding the implementation of the Government's Decree no. 21/2001/ND-CP of the Government dated 28th May 2001 detailing the implementation of the Ordinance on entry, exit and residences of foreigners in Viet Nam | Thông tư liên tịch số 04/2002/TTLT/BCA-BNG | Joint Circular no. 04/2002/TTLT/BCA-BNG |                      | 12,13      |
| 102. | Thông tư số 17/2003/TTLT/BTC-BNN&PTNT-BTS ngày 14/3/2003 Hướng dẫn việc kiểm tra, giám sát hàng hoá xuất khẩu, nhập khẩu thuộc diện kiểm dịch động vật, kiểm dịch thực vật, kiểm dịch thủy sản   | Circular No.17/2003/TTLT/BTC-BNN&PTNT-BTS dated 14/3/2003 on guiding the examination, inspection of import, export goods subject to animal, plant and aquacultural quarantine  |  |   |                      | 13         |
| 103. | Hướng dẫn chẩn đoán, điều trị và phòng lây nhiễm cúm lợn A (H1N1) ở người. (Ban hành kèm theo Quyết định số 1440/QĐ-BYT ngày 29 tháng 4 năm 2009 của Bộ Y tế)  | Guideline for Diagnosis, Treatment and Prevention the Spread of H1N1 among people (Attached to Decision No. 1440/QĐ-BYT dated 29/4/ 2009, issued by Minister of Health)  |  |   |                      | 13         |
| 104. | “Hướng dẫn chẩn đoán, xử trí và phòng lây nhiễm cúm A (H5N1) ở người” (ban hành kèm theo Quyết định số 44/2006/QĐ-BYT ngày 29/12/2006 của Bộ y tế)   | Guideline for Controlling the Spread of H5N1 in healthcare centres (Attached to Decision No. 44/2006/QĐ-BYT dated 29/12/2006 issued by Minister of Health on the Issuance of the Guideline for Diagnosis, Treatment and Prevention the Spread of H5N1 among people)  |  |   |                      | 13         |
| 105. | Quyết định số 38/2005/QĐ-BYT, ngày 24/11/2005 của Bộ Y tế Ban hành kế hoạch hành động phòng chống đại dịch cúm ở người tại Việt Nam  | Decision No.38/2005/QĐ-BYT dated 24/11/2005 issued by Minister of Health on Publishing the plan on Prevention and control of flu epidemic among people in Viet Nam   |  |   |                      | 13         |

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| 106. | Quyết định số 72/2005/QĐ-BNN của Bộ Nông nghiệp về việc công bố Bảng mã HS của Danh mục vật thể thuộc diện kiểm dịch thực vật của nước Cộng hòa xã hội chủ nghĩa Việt Nam  | Decision No. 72/2005/QĐ-BNN dated 14/11/2005 issued by Ministry of Agriculture and Rural Development  |                            |                         |                      | 13         |
| 107. | Quyết định số 45/2005/QĐ-BNN của Bộ trưởng Bộ Nông nghiệp ngày 25/7/2005 về việc ban hành Danh mục đối tượng kiểm dịch động vật, sản phẩm động vật; Danh mục động vật, sản phẩm động vật thuộc diện phải kiểm dịch | Decision No.45/2005/QĐ-BNN dated 25/7/2005 issued by Minister of Ministry of Agriculture and Rural Development  |                            |                         |                      | 13         |
| 108. | Thông tư số 09/2008/TT-BNV do Bộ Nội vụ ban hành để hướng dẫn thực hiện một số điều của Nghị định số 148/2007/ND-CP ngày 25/9/2007 của Thủ tướng Chính phủ về tổ chức, hoạt động của quỹ xã hội, quỹ từ thiện      | Circular No. 09/2008/TT-BNV dated 31/12/2008 issued by Minister of Interior on guiding for the implementation of several provisions in the Decision 148/2007/ND-CP dated 25/9/2007 issued by Prime Minister on Organization and Operation of Social Fund and Charity Fund |                            |                         |                      | 19         |
| 109. | Quyết định số 64/2001/QĐ-TTg ngày 26/04/2001 của Thủ tướng Chính phủ về việc ban hành Quy chế quản lý và sử dụng nguồn viện trợ phi chính phủ nước ngoài   | Decision No.64/2001/QĐ-TTg dated 26/4/2001 issued by Prime Minister on the Issuance of Procedures for Management and Allocation of foreign non-governmental aids  |                            |                         |                      | 19         |
| 110. | Quyết định số 10/2008/QĐ-BTC của Bộ Tài chính ngày 12 tháng 02 năm 2008 Về việc ban hành quy chế quản lý tài chính quỹ xã hội, quỹ từ thiện  | Decision 10/2008/QĐ-BTC dated 12/2/2008 issued by Minister of Finance on Promulgating procedures for financial management of Social Fund and Charity Fund   |                            |                         |                      | 19         |

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| 111. | Quyết định 19/2007/QĐ-BTC ban hành ngày 27 tháng 3 năm 2007 Ban hành quy chế hạch toán ghi, thu chi ngân sách nhà nước đối với các khoản vay và viện trợ   | Decision No. 19/2007/QĐ-BTC of March 27, 2007, promulgating the Regulation on state budget mutual ceasing of the Government's foreign loans and foreign aid amounts and Decision No. 2215/QĐ-BTC of June 26, 2007                          |  |  |                      | 19         |
| 112. | Nghị định của chính phủ số 105/2003/NĐ-CP ngày 17 tháng 9 năm 2003 quy định chi tiết và hướng dẫn thi hành một số điều của Bộ luật lao động về tuyển dụng và quản lý lao động nước ngoài làm việc tại Việt Nam | Decree no. 105/2003/NĐ-CP of the Government dated 17th September, 2003 detailing and guiding the implementation of a number of articles of the Labour Code regarding the employment and management of foreign laborers working in Viet Nam |  |  |                      | 12         |
| 113. | Nghị định số 94/2007/NĐ-CP về quản lý hoạt động bay, do Chính phủ ban hành ngày 04/06/2007   | Decree No. 94/2007/ND-CP, on management of air navigation, promulgated by the Government on June 04, 2007  | Nghị định số 94/2007/NĐ-CP về quản lý hoạt động bay                        | Decree No. 94/2007/ND-CP on management of air navigation       | x                    | 14         |
| 114. | Quyết định số 13/2006/QĐ-BTC về giá một số dịch vụ chuyên ngành hàng không, do Bộ Tài chính ban hành ngày 13/3/2006  | Decision No. 13/2006/QĐ-BTC of March 03, 2006, regulating the price of some aviation services, issued by the Ministry of Finance   | Quyết định số 13/2006/QĐ-BTC về giá một số dịch vụ chuyên ngành hàng không | Decision No. 13/2006/QĐ-BTC on price of some aviation services |                      | 14         |
| 115. | Nghị định số 57/2002/NĐ-CP ngày 03/06/2002 quy định chi tiết thi hành Pháp lệnh phí và lệ phí (được sửa đổi bởi Pháp lệnh số 24/2006/NĐ-CP ngày 06/03/2006), do Chính phủ ban hành                             | Decree No. 57/2002/ND-CP of June 3, 2002 providing in detail the implementation of the Ordinance of Fees and Charges (as amended and supplemented by Decree No. 24/2006/ND-CP of March 06, 2006), issued by the Government                 |  |  | x                    | 14         |
| 116. | Nghị định số 71/2006/NĐ-CP ngày 25/07/2006 về quản lý cảng biển và luồng hàng hải, do Chính phủ ban hành   | Decree No. 71/2006/ND-CP of July 25, 2006 on management of seaports and marine navigable channels, promulgated by the Government   |  |  | x                    | 14         |

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| 117. | Quy trình thủ tục hải quan điện tử đối với tàu biển nhập cảnh, xuất cảnh và quá cảnh (ban hành kèm theo Quyết định số 1699 /QĐ-TCHQ ngày 25/09/2007 của Bộ Tài chính) | E- Custom procedures for marine vessel to enter, exit, transit and transfer port (promulgated together with the Decision No. 1699 / QD-TCHQ on September 25, 2007 by the Ministry of Finance)            |                            |                         |                      | 14         |
| 118. | Thông tư số 101/2008/TT-BTC ngày 11/11/2008 hướng dẫn chế độ thu, nộp và quản lý sử dụng phí, lệ phí áp dụng tại Cảng vụ đường thủy nội địa do Bộ Tài chính ban hành  | Circular No. 101/2008/TT-BTC of 11 November, guiding the collection, remittance and use management of charges and fees applicable to inland waterway port authorities, issued by the Ministry of Finance |                            |                         |                      | 14         |
| 119. | Quy định về phí, lệ phí hàng hải và Biểu mức thu phí, lệ phí hàng hải (ban hành theo Quyết định số 98/2008/QĐ-BTC ngày 04 tháng 11 năm 2008 của Bộ Tài chính)         | Regulation on maritime charges and fees and the rates of maritime charges and fees (promulgated together with Decision No. 98/2008/QĐ-BTC of November 4, 2008 of Ministry of Finance)                    |                            |                         |                      | 14         |
| 120. | Nghị định số 103/2008/NĐ-CP ngày 16/9/ 2008 về bảo hiểm bắt buộc trách nhiệm dân sự của chủ xe cơ giới do Chính phủ ban hành  | Decree 103/2008/ND-CP of September 16, 2008 on obligatory insurance of civil liabilities by vehicles' owners, promulgated by the Government  |                            |                         |                      | 14         |
| 121. | Quy chế quản lý sát hạch, cấp giấy phép lái xe cơ giới đường bộ (ban hành kèm theo Quyết định số 54/2007/QĐ-BGTVT ngày 7/11/2007 của Bộ Giao thông Vận tải)           | Regulation on management of the testing and grant of road motor vehicle driver licenses (promulgated together with Decision No. 54/2007/QĐ-BGTVT of November 7, 2007 of the Ministry of Transport)       |                            |                         |                      | 14         |
| 122. | Công văn số 1084/CĐBVN-QPLTNL về việc hướng dẫn đổi giấy phép lái xe  | Official Letter No. 1084/CĐBVN-QPLTNL of April 13, 2006, about the directions for exchange of driving license, issued by the Directorate of Road Transportation  |                            |                         |                      | 14         |



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| 123. | Nghị định số 26/2009/NĐ-CP ngày 16/03/2009 quy định chi tiết thi hành một số điều của Luật Thuế tiêu thụ đặc biệt, do Chính phủ ban hành  | Decree No. 26/2009/ND-CP of March 16, 2009 providing detailed guidance on the implementation of the Law on Special Consumption Tax, issued by the Government   |                             |                              |                      | 16,20      |
| 124. | Thông tư số 64/2009/TT-BTC của Bộ Tài chính ngày 27/03/2009 hướng dẫn thi hành Nghị định số 26/2009/NĐ-CP ngày 16/3/2009 của Chính phủ quy định chi tiết thi hành một số điều của Luật Thuế tiêu thụ đặc biệt.  | Circular 64/2009/TT-BTC of March 27, 2009, providing guidance on the implementation of the Government's Decree No. 26/2009/ND-CP of March 16, 2009 providing detailed guidance on the implementation of the Law on Special Consumption Tax, issued by the Ministry of Finance  |                             |                              |                      | 20         |
| 125. | Nghị định số 123/2008/NĐ-CP ngày 8/12/2008 quy định chi tiết và hướng dẫn thi hành một số điều của Luật Thuế giá trị gia tăng, do Chính phủ ban hành  | Decree No. 123/2008/ND-CP of December 8, 2008, detailing and guiding the implementation of a number of articles of the Value-Added Tax Law   | Nghị định số 123/2008/NĐ-CP | Decree No. 123/2008/ND-CP    | x                    | 16         |
| 126. | Thông tư số 129/2008/TT-BTC hướng dẫn chi tiết thi hành một số điều của Luật Thuế giá trị gia tăng và hướng dẫn thi hành Nghị định 123/2008/NĐ-CP, ngày 08/12/2008 của Chính phủ quy định chi tiết và hướng dẫn thi hành một số điều của Luật Thuế giá trị gia tăng, do Bộ Tài chính ban hành | Circular No. 129/2008/TT-BTC of December 8, 2008, guiding the implementation of a number of articles of the Value-Added Tax Law and guiding the implementation of the Government's Decree No. 123/2008/ND-CP, detailing and guiding the implementation of a number of articles of the Value-Added Tax Law, issued by the Ministry of Finance | Thông tư số 129/2008/TT-BTC | Circular No. 129/2008/TT-BTC |                      | 16         |
| 127. | Nghị định số 149/2005/NĐ-CP ngày 08/12/2005 quy định chi tiết thi hành Luật Thuế xuất khẩu, Thuế nhập khẩu, do Chính phủ ban hành   | Decree No. 149/2005/ND-CP of December 8, 2005, detailing the implementation of the Import tax and Export tax law, promulgated by the Government  | Nghị định số 149/2005/NĐ-CP | Decree No. 149/2005/ND-CP    | x                    | 16,20      |

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| 128. | Thông tư 79/2009/TT-BTC ngày 20/04/2009 hướng dẫn về thủ tục hải quan, kiểm tra, giám sát hải quan, thuế xuất khẩu, thuế nhập khẩu và quản lý thuế đối với hàng hóa xuất khẩu, nhập khẩu, do Bộ Tài chính ban hành  | Circular No. 79/2009/TT-BTC of April 20, 2009, guiding customs procedures, inspecting and monitoring customs, import and export duties and tax administration with respect to exported and imported goods, issued by the Ministry of Finance  | Thông tư 79/2009/TT-BTC     | Circular No. 79/2009/TT-BTC |                      | 16,20      |
| 129. | Nghị định số 124/2008/NĐ-CP ngày 11/12/2008 quy định chi tiết và hướng dẫn thi hành một số điều của Luật Thuế thu nhập doanh nghiệp, do Chính phủ ban hành  | Decree No. 124/2008/ND-CP of December 11, 2008, detailing and guiding the implementation of a number of articles of the Law on Corporate Income Tax, promulgated by the Government  |                             |                             | x                    | 16         |
| 130. | Nghị định số 148/2007/NĐ-CP ngày 25/09/2007 về tổ chức hoạt động của quỹ xã hội, quỹ từ thiện, do Chính phủ ban hành  | Decree 148/2007/ND-CP of September 25, 2007 on organization and operation of social and charitable funds, promulgated by the Government   | Nghị định số 148/2007/NĐ-CP | Decree 148/2007-ND-CP       |                      | 16,19      |
| 131. | Nghị định số 100/2008/NĐ-CP về việc quy định chi tiết một số điều của Luật Thuế thu nhập cá nhân, do Chính phủ ban hành ngày 08/09/2008   | Decree No. 100/2008/ND-CP of September 8, 2008, providing detailed guidelines for the implementation of the Law on Personal Income Tax, promulgated by the Government   | Nghị định số 100/2008/NĐ-CP | Decree No. 100/2008/ND-CP   | x                    | 16         |
| 132. | Thông tư số 84/2008/TT-BTC ngày 30/9/2008 hướng dẫn thi hành một số điều của Luật Thuế thu nhập cá nhân và hướng dẫn thi hành Nghị định số 100/2008/NĐ-CP ngày 08/9/2008 của Chính phủ quy định chi tiết một số điều của Luật Thuế thu nhập cá nhân, do Bộ Tài chính ban hành | Circular No. 84/2008/TT-BTC of September 30, 2008, guiding the implementation of a number of articles of the Law on Personal Income Tax and guiding the implementation of the Government's Decree No. 100/2008/ND-CP, detailing a number of articles of the Law on Personal Income Tax, issued by the Ministry of Finance |                             |                             |                      | 16         |

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| 133. | Thông tư số 57/2009/TT-BTC ngày 24/03/2009 hướng dẫn miễn thuế thu nhập cá nhân đối với cá nhân Việt Nam làm việc tại văn phòng đại diện của các tổ chức Liên hợp quốc tại Việt Nam, do Bộ Tài chính ban hành   | Circular No. 57/2009/TT-BTC of March 24, 2009 on guiding personal income tax exemption for Vietnamese staff of representative offices of United Nations organizations in Viet Nam, issued by the Ministry of Finance  |                             |                           |                      | 16         |
| 134. | Quy chế chuyên gia nước ngoài (ban hành kèm theo Quyết định số 211/1998/QĐ-TTg ngày 31/10/1998 của Thủ tướng Chính phủ)   | Regulation on foreign specialists (issued together with Decision No. 211/1998/QĐ-TTg of October 31, 1998 of the Prime Minister)   |                             |                           |                      | 16         |
| 135. | Nghị định số 160/2006/NĐ-CP ngày 28/12/2006 do Chính phủ ban hành quy định chi tiết thi hành một số điều của Pháp lệnh Ngoại hối, do Chính phủ ban hành   | Decree No. 160/2006/ND-CP of December 28, 2006, detailing the implementation of the Ordinance on Foreign Exchange, promulgated by the Government  | Nghị định số 160/2006/NĐ-CP | Decree No. 160/2006/ND-CP | x                    | 16         |
| 136. | Quyết định 921/2005/QĐ-NHNN ngày 27/06/2005 về việc sửa đổi khoản a và b, Điều 1, Quyết định số 337/1998/QĐ-NHNN7 ngày 10/10/1998 của Thống đốc Ngân hàng nhà nước về việc mang ngoại tệ bằng tiền mặt và đồng Việt Nam tiền mặt khi xuất nhập cảnh, do Ngân hàng Nhà nước ban hành | Decision No. 921/2005/QĐ-NHNN of June 27, 2005, amending Clauses a and b, Article 1 of the State Bank Governor's Decision No. 337/1998/QĐ-NHNN7 of October 10, 1998, on carrying foreign currencies and Viet Nam dong in cash upon entry and exit, issued by the State Bank |                             |                           |                      | 16         |
| 137. | Quyết định số 1437/2001/QĐ-NHNN ngày 19/11/2001 về việc ban hành quy định về mua, chuyển và mang ngoại tệ ra nước ngoài của người cư trú là công dân Việt Nam, do Thống đốc Ngân hàng Nhà nước ban hành   | Decision 1437/2001/QĐ-NHNN of November 19, 2001, issuing the Regulation on the purchase, transfer and bringing foreign currencies overseas by residents being Vietnamese citizens, promulgated by the State Bank  |                             |                           |                      | 16         |

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| 138. | Quyết định số 622/QĐ-NHNN ngày 23/03/2009 về việc ban hành một số quy định liên quan đến giao dịch ngoại tệ của các tổ chức tín dụng được phép hoạt động ngoại hối, do Ngân hàng Nhà nước Việt Nam ban hành | Decision 622/QĐ-NHNN of March 23, 2009 on the issuance of some provisions relating to foreign currency transaction of credit institutions authorized to engage in foreign exchange activity, promulgated by the State Bank |                            |                         |                      | 16         |
| 139. | Quyết định 63/2007/QĐ-BTC ngày 18/07/2007 về việc quy định mức thu, chế độ thu, nộp, quản lý và sử dụng phí y tế dự phòng và phí kiểm dịch y tế biên giới, do Bộ Tài chính ban hành                         | Decision No. 63/2007/QĐ-BTC of July 18, 2007, providing for the rates, and the regime of collection, remittance, management and use of preventive medicine charges and border medical quarantine charges                   |                            |                         |                      | 16         |
| 140. | Nghị định số 154/2005/NĐ-CP về việc quy định chi tiết một số điều của Luật Hải quan về thủ tục hải quan, kiểm tra, giám sát hải quan, do Chính phủ ban hành   | Decree No. 154/2005/ND-CP of December 15, 2005, detailing the implementation of a number of articles of the Customs Law regarding customs procedures, inspection and supervision, promulgated by the Government            |                            |                         |                      | 20         |

### Draft Laws and Regulations

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| 141. | Dự thảo Luật về Hội                             | 2008 Draft Law on Associations                 |                            |                         |                      | 6                    |
| 142. | Dự thảo Nghị định kiểm dịch y tế biên giới 2009 | 2009 Draft Decree on Border Medical Quarantine |                            |                         |                      | 4,5,7,11,13,14,15,20 |



