

**THE GOVERNMENT**

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No. 93/2009/ND-CP

**SOCIALIST REPUBLIC OF VIET NAM**  
**Independence - Freedom - Happiness**

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*Hanoi, October 22, 2009*

**DECREE**

**PROMULGATING THE REGULATION ON MANAGEMENT AND USE OF FOREIGN NON-  
GOVERNMENTAL AID**

**THE GOVERNMENT**

Pursuant to the December 25, 2001 Law on Organization of the Government;  
At the proposal of the Minister of Planning and Investment,

**DECREES:**

**Article 1.**

To promulgate together with this Decree the Regulation on management and use of foreign non-governmental aid.

**Article 2.**

This Decree takes effect on January 1, 2010, and replaces the Prime Minister's Decision No. 64/2001/QĐ-TTg dated April 26, 2001, promulgating the Regulation on management and use of foreign nongovernmental aid.

**Article 3.**

The Minister of Planning and Investment and the Minister of Finance shall guide and inspect the implementation of this Decree.

**Article 4.**

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, heads of political, sociopolitical and socio-political-professional organizations, and concerned organizations and individuals shall implement this Decree.

**ON BEHALF OF THE GOVERNMENT**

**PRIME MINISTER**

*(Signed and sealed)*

**Nguyen Tan Dung**

**REGULATION**

**ON MANAGEMENT AND USE OF FOREIGN NONGOVERNMENTAL AID**

*(Promulgated together with the Government's Decree No. 93/2009/ND-CP dated October 22, 2009)*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1.**

Scope of regulation

1. This Regulation regulates the management and use of foreign non-governmental aid sources.

Foreign non-governmental (FNG) aid mentioned in this Regulation means nonrefundable aid provided for not-for-profit purposes by donors for Vietnam to achieve development and humanitarian objectives.

2. Donors referred to in this Regulation include foreign non-governmental organizations and other foreign organizations and individuals, including foreign-invested groups and companies and overseas Vietnamese community that respect and observe Vietnamese law and have goodwill and directly provide non-refundable aid to support Vietnam's socio-economic development and humanitarian objectives.

3. Forms of FNG aid provision include:

a/ Provision of aid under programs and projects.

b/ Provision of non-project aid (including emergency relief).

4. Eligible aid recipients include organizations established under Vietnamese law and having functions and tasks and operating in line with the objectives and contents of received FNG aid (below referred to as recipients), including:

a/ Party and National Assembly agencies, ministries, ministerial-level agencies, government-attached agencies, the Supreme People's Procuracy, the Supreme People's Court and provincial-level People's Committees.

b/ Organizations of central agencies of the Vietnam Fatherland Front, the Vietnam General Confederation of Labor, the Ho Chi Minh Communist Youth Union, the Vietnam Peasants' Association, the Vietnam War Veterans' Association, the Vietnam Women's Union and the Vietnam Lawyers' Association.

c/ Organizations of associations or unions established under the Prime Minister's decisions (the Union of Vietnam Friendship Organizations, the Union of Vietnam Scientific and Technical Associations, the Union of Vietnam Literature and Arts Associations, the Vietnam Cooperatives' Union and the Vietnam Chamber of Commerce and Industry).

d/ Organizations, including:

- Societies and associations established under the Government's Decree No. 88/2003/ND-CP dated July 30, 2003, on organization, operation and management of associations;

- Vietnamese science and technology organizations engaged in natural sciences, social sciences and humanities, science, technique and technology established under the Government's Decree No. 81/2002/ND-CP dated October 17, 2002, detailing a number of articles of the Law on Science and Technology;

- Vietnamese organizations established under the Government's Decree No. 53/2006/ND-CP dated May 25, 2006, on policies to encourage the development of non-public service providers;

- Social relief establishments founded by domestic organizations under the Government's Decree No. 68/2008/ND-CP dated May 30, 2008, on conditions and procedures for the establishment, organization, operation and dissolution of social relief establishments;

- Organizations established under the Government's Decree No. 77/2008/ND-CP dated July 16, 2008, on legal counseling;

- Organizations established under the Government's Decree No. 148/2007/ND-CP dated September 25, 2007, on organization and operation of social and charitable funds;

- Other not-for-profit organizations.

e/ Businesses (including private enterprises) producing and providing public products and services as defined in the Government's Decree No. 31/2005/ND-CP dated March 11, 2005, on production and provision of public products and services (that may receive only FNG aid amounts with the objectives and contents suitable to public products and services produced and provided by these businesses).

Other organizations shall submit aid receipt requests to the Prime Minister for consideration and decision.

## **Article 2.**

Basic principles of FNG aid management and use

1. The Government shall perform the unified state management of FNG aid on the basis of publicity, transparency, assignment and decentralization of tasks and combination of powers with responsibilities, ensuring close coordination and promoting autonomy of different levels, line agencies, localities, organizations and implementing units.
2. When outlined and implemented, FNG aid amounts must comply with Vietnamese law and commitments with donors which have been approved by competent authorities defined in Article 15 of this Regulation. In case donors' aid regulations or conditions differ from Vietnamese law, the latter prevails.
3. Not to receive FNG aid amounts that would affect political security and social order and safety or infringing upon interests of the State or lawful rights and benefits of organizations or individuals.

## **Article 3.**

Priority domains of FNG aid use

1. FNG aid is used to support the achievement of Vietnam's socio-economic development and humanitarian priority objectives in each period, covering:
  - a/ Development of agriculture and rural areas (including agriculture, water resources, forestry and fisheries) in combination with hunger elimination and poverty reduction.
  - b/ Development of social infrastructure (healthcare, education and training, labor, employment and population).
  - c/ Environmental protection and management of natural resources, prevention, control and mitigation of natural disaster consequences and epidemics.
  - d/ Improvement of institutional, managerial and technical capacity and development of human resources; technology transfer and improvement of research and development capacity.
  - e/ Humanitarian activities.
2. Other domains as decided by the Prime Minister.

## **Article 4.**

Interpretation of terms

In this Regulation, the terms below are construed as follows:

1. Program means a combination of interrelated activities or projects which may involve one or different branches, sectors, territories or target groups for the attainment of one or more specific objectives, which are implemented in a medium or long term or in different periods, with resources to be mobilized from various sources, at different points of time and in different forms.
2. Project means a combination of interrelated activities aimed at achieving one or more specific objectives, which is implemented in a given period with specified resources. Projects include investment projects and technical assistance projects.
3. Investment project means a project to renovate, expand or refurbish certain material foundations for achieving quantitative growth or maintaining, renovating or improving the quality of products or services in a specific period.
4. Technical assistance project means a project aiming to assist capacity and institutional building or supply technical inputs for preparing and implementing programs or projects through providing experts, training, equipment, materials and documents, or organizing survey visits or workshops.
5. Program or project document means an official document expressing the commitment between the recipient's and the donor's representatives on a specific program or project, which states the

objectives, activities, to-be-achieved outcomes, to-be-used resources, implementation duration and plan, and obligations, benefits and responsibilities of related parties.

6. Non-project aid means an aid amount other than program or project, which is provided in kind, cash or experts (including volunteer experts).

7. Emergency relief means non-project aid which is provided in the wake of an emergency event (natural disaster or other catastrophe) and lasts 3 months at most after such emergency event ends. Past this time limit, if this relief amount continues to be provided, it will be regarded as aid for remedying post-emergency consequences and shall be approved and implemented according to the general order and procedures applicable to FNG aid.

8. FNG aid amount means a program, project or non-project aid (including emergency relief).

9. FNG aid-approving agencies include:

a/ Party central agencies, National Assembly agencies, ministries, ministerial-level agencies, government-attached agencies, the Supreme People's Procuracy, the Supreme People's Court, provincial-level People's Committees, and central agencies of organizations mentioned at Points b and c, Clause 4, Article 1 of this Regulation.

b/ The Central Committee of the Vietnam Fatherland Front (in case emergency relief amounts have no specific beneficiaries).

10. Managing agencies mentioned in this Regulation include:

a/ Agencies defined at Point a, Clause 9 of this Article;

b/ Agencies responsible for directly managing organizations defined at Point d and e, Clause 4, Article 1 of this Regulation.

11. FNG aid owner means an organization assigned to directly receive, manage and implement an FNG aid amount approved by a competent authority.

12. FNG aid memorandum of understanding means a document acknowledging the initial intention (not legally binding) on an FNG aid amount, made between the recipient's and donor's representatives as a basis for carrying out procedures for the approval and receipt of subsequent aid amounts.

13. FNG aid agreement means a document specifying legally binding general terms and requirements and conditions for parties involved in a project. In some cases, the donor may request the official signing of this document with the recipient instead of signing a project or project document.

14. Domestic capital means an amount contributed by the Vietnamese party in resources (cash, kind, human resources) for the preparation and implementation of FNG aid amounts at each particular requirement, covering:

a/ Domestic capital for programs or projects: Depending on each program or project, domestic capital may comprise all or some of the following components:

- Capital for formulating an FNG aid program or project;
- Capital for preparing and implementing an FNG aid program or project.

b/ Domestic capital for non-project aid amounts: Depending on each non-project aid amount, domestic capital may comprise all or some of the following components:

- Capital for equipment receipt and domestic transport;
- Capital for organizing bidding or auction.

## **Chapter II**

### **MOBILIZATION, NEGOTIATION AND CONCLUSION OF FNG AID AMOUNTS**

## **Article 5.**

FNG aid mobilization

FNG aid shall be mobilized in accordance with the following orientations:

1. FNG aid for development objectives shall be mobilized based on specific socio-economic development needs, public investment programs, orientations and plans on attraction and use of external assistance capital of the State or each branch or locality in each period, and based on the recipient's ability to use aid (including domestic capital).
2. Humanitarian aid shall be mobilized based on the social situation and the recipient's practical needs in each period.
3. Emergency relief shall be mobilized based on the actual extent of damage in human life, property or construction works in each region or locality hit by natural disasters or other catastrophes. The Ministry of Foreign Affairs shall coordinate with concerned agencies in considering and proposing to the Prime Minister for decision the amount of emergency relief to be called from the international community (including donors defined in this Regulation).

## **Article 6.**

FNG aid negotiation and conclusion

FNG aid negotiation and conclusion shall be conducted according to the following procedures:

1. The FNG aid-approving agency shall assume the prime responsibility for negotiating, or authorize the focal point in FNG aid mobilization to negotiate, FNG aid amounts.
2. FNG aid program or project documents or agreements shall be concluded only after these documents or draft agreements for FNG aid amounts have been approved by competent Vietnamese authorities defined in Article 15 of this Regulation and officially notified in writing by managing agencies to donors.

## **Chapter III**

### **PREPARATION, EVALUATION AND APPROVAL OF FNG AID AMOUNTS**

## **Article 7.**

Preparation and formulation of program or project documents or non-project aid dossiers

1. Tasks of managing agencies:

The managing agency shall assign one of its attached units to prepare programs or projects or non-project aid dossiers on the basis of recommendations of the FNG aid owner, or establish an FNG aid preparation board and approve the organization and operation regulation and other necessary documents of this board.

2. Tasks of FNG aid owners:

a/ To act as the focal point in working with domestic organizations and donors to prepare program or project documents and/or non-project aid dossiers, ensuring the time limit for preparing these documents and dossiers and their quality and contents.

b/ To mobilize appropriate resources for preparing programs and projects and non-project aid dossiers.

c/ To work out plans for preparing programs or projects and submit them to managing agencies for consideration and approval.

d/ When necessary, to propose to managing agencies the establishment of FNG aid preparation boards and draft organization and operation regulations and other necessary documents of these boards.

## **Article 8.**

Capital for preparing FNG aid programs or projects

1. For programs or projects funded with FNG aid belonging to revenues of the state budget (central or local), managing agencies shall plan capital for preparing these programs or projects for inclusion in annual budget plans of branches or localities in accordance with the state budget law.
2. For programs or projects funded with FNG aid not belonging to revenues of the state budget (central or local), FNG aid owners shall themselves balance and allocate capital for preparing these programs or projects under current regulations.
3. In case donors provide financial assistance for preparing programs or projects, FNG aid owners shall include capital for preparing programs or projects in the total FNG aid.

#### **Article 9.**

Principal details of a program or project document or non-project aid dossier

1. An FNG aid program or project document must contain the following principal details:
  - a/ The background and necessity of the program or project within the framework of a long-term development planning or plan of the FNG aid beneficiary (agency, branch, sector or locality), indicating the issues to be settled with the program's or project's assistance.
  - b/ Long-term (if any) and short-term objectives of the program or project.
  - c/ Major outcomes of the program or project and indicators used to measure these outcomes.
  - d/ Major details of component projects or components (if any) of the program and principal activities of the program or project.
  - e/ The program or project implementation duration and place.
  - f/ Commitments, prerequisites and other conditions for the donor's aid amount. The recipient's obligations and commitments for implementing the program or project.
  - g/ The total value and structure of the aid based on major items (domestic and foreign experts, domestic and overseas training, locally procured and imported equipment and supplies, capital for setting up funds to carry out activities (if any) under the program or project, management and other expenses).
  - h/ Domestic capital and its sources.
  - i/ Capacity of the aid owner (program or project owner) and owners of component projects under the program to organize, manage and implement the program or project.
  - j/ Methods of organizing, managing and implementing the program or project.
  - k/ Master plan on the program or project implementation and detailed implementation plan for the first year, including the allocation of capital for each activity based on specified criteria.
  - l/ Plan for monitoring, evaluating and auditing the program or project (through the program or project capital or other sources, if any).
  - m/ Effectiveness and possibility to apply project outcomes to reality and sustainability of the program or project after it is completed.
2. Documents of FNG aid-funded investment projects must be elaborated under current regulations on work investment and construction management, additionally indicating the reason for FNG aid use.
3. A non-project aid dossier must comprise the following:
  - a/ A written request submitted for approval, made by the FNG aid-approving agency for non-project aid amounts falling within the Prime Minister's approving competence; by the managing agency or FNG aid owner (in case managing agencies directly manage such aid) for non-project

aid amounts falling within the approving competence of FNG aid-approving agencies, which indicates:

- The value of the non-project aid amount;
- The non-project aid amount's conformity with the long-term development orientation and plan as well as specific needs of FNG aid beneficiaries;
- Implementation method and coordination mechanism in the implementation process;
- The Vietnamese party's ability to contribute capital, especially domestic capital for receiving and using non-project aid.

b/ The donor's written notice or commitment to consider the provision of such non-project aid amount. For second-hand goods, the donor shall obtain written certification that the residual value of such goods is over 80% of that of brand-new ones.

c/ Memoranda of understanding signed with the donor; commitments, prerequisites and other conditions for the donor's aid amount; and the recipient's obligations and commitments.

#### **Article 10.**

Appraisal of FNG aid programs or projects

1. Specific FNG aid program or project documents or agreements must be appraised as a basis for aid approval, conclusion and implementation.

2. The Ministry of Planning and Investment shall appraise FNG aid programs or projects falling within the Prime Minister's approving competence as defined at Point a, Clause 1, Article 15 of this Regulation.

3. Authorities with approving competence shall appraise or assign their attached functional units to appraise FNG aid programs or projects falling within the approving competence of heads of FNG aid-approving agencies defined at Points b and c, Clause 1, Article 15 of this Regulation.

4. Appraising agencies may invite central and local specialized agencies or independent consultancy organizations and consultants to assist in appraising programs or projects.

5. In the process of appraisal, the appraising agency shall clarify:

a/ The conformity of the program's or project's objectives with specific development objectives of ministries, branches, localities, implementing units and program or project beneficiaries.

b/ The feasibility of the implementation method.

c/ The Vietnamese party's ability to contribute capital.

d/ The rationality of the structure of the program's or project's budget for major items of the program or project.

e/ Commitments, prerequisites and other conditions for the donor's aid amount (if any). The recipient's obligations and commitments for implementing the program or project.

f/ Relevant information on the donor's operation registration or legal entity status.

g/ The efficiency and ability to apply the program's or project's outcomes to reality and the sustainability of the program or project after it is completed.

h/ Agreements and disagreements of the parties.

Appraising agencies shall sum up opinions of concerned agencies, make appraisal reports and submit to competent authorities for approval details of program or project documents. When necessary, appraisal reports must be enclosed with draft decisions approving program or project details.

6. Concerned agencies participating in the appraisal shall take responsibility before law for the appraised details of FNG aid programs or projects within the scope of their management responsibilities.

#### **Article 11.**

##### Appraisal of non-project aid

1. Non-project aid dossiers must be commented by concerned agencies and localities for sum-up and submission to competent authorities defined in Article 15 of this Regulation for approval as a basis for aid conclusion and receipt.

2. In case related parties hold divergent opinions, non-project aid dossiers must be appraised by competent authorities as a basis for aid approval, aid agreement conclusion and implementation.

a/ The Ministry of Planning and Investment shall appraise non-project aid falling within the Prime Minister's approving competence as defined at Point a, Clause 1, Article 15 of this Regulation.

b/ Authorities with approving competence shall appraise or assign their attached functional units to appraise non-project aid falling within the approving competence of heads of FNG aid-approving agencies defined at Points b and c, Clause 1, Article 15 of this Regulation.

c/ Appraising agencies may invite central and local specialized agencies or independent consultancy organizations and consultants to assist them in the appraisal.

d/ In the process of appraisal, the appraising agency shall clarify:

- The conformity of the non-project aid amount with the long-term development orientation and plan and specific needs of FNG aid beneficiaries (agencies, branches, sectors or localities);
- The feasibility of the implementation method and coordination mechanism in the implementation process;
- The Vietnamese party's ability to contribute capital, especially domestic capital for receiving and using non-project aid;
- Commitments, prerequisites and other conditions for the donor's non-project aid (if any). The recipient's obligations and commitments for implementing non-project aid.
- Relevant information on the donor's operation registration or legal entity status.
- Agreements or disagreements of the parties.

The parties' agreements or disagreements must be expressed in appraisal reports.

Appraising agencies shall sum up opinions of concerned agencies, make appraisal reports and submit to competent authorities for approval details of non-project aid dossiers. When necessary, appraisal reports must be enclosed with draft decisions approving non-project aid dossiers.

e/ Concerned agencies participating in the appraisal shall take responsibility before law for the appraised details of non-project aid within the scope of their management responsibilities.

#### **Article 12.**

##### FNG aid appraisal dossiers and reports

1. An appraisal dossier comprises:

a/ The document submitted for approval, of:

- The FNG aid-approving agency, for FNG aid amounts falling within the Prime Minister's approving competence;
- The managing agency or FNG aid owner (in case managing agencies directly manage such aid), for FNG aid amounts falling within the approving competence of FNG aid-approving agencies.



- b/ The donor's written agreement with the details of an FNG aid amount and notification or commitment to consider the provision of such FNG aid amount.
- c/ Draft program or project documents and a list of non-project aid amounts (in Vietnamese and a foreign language) and a draft of the specific FNG aid agreement (if this agreement is requested to be concluded instead of the program or project document).
- d/ All written opinions of concerned agencies on the FNG aid amount.

For FNG aid amounts involving a ministry, branch or locality, written official opinions of the head of this ministry, branch or locality must be collected as part of the dossier in the process of appraisal for use as a basis for approval under Article 15 of this Regulation.

- e/ Memoranda of understanding signed with the donor and the appraisal expert team's report made at the request of the donor (if any).
- f/ Copy of the operation registration paper and/or copy of a lawful paper on the donor's legal entity status.

2. An appraisal dossier shall be made in 8 sets, for FNG aid amounts falling within the Prime Minister's approving competence, including at least one original set. Foreign-language documents must be accompanied by Vietnamese translations.

3. An appraisal report covers:

- a/ The compliance of data, grounds, calculations, conclusions and proposals mentioned in the appraised dossier with current law.
- b/ The feasibility of the FNG aid amount.
- c/ The rationality of the use of FNG aid for program or project activities.
- d/ Pressing issues and problems, solutions, handling measures, organizations responsible for handling these issues and problems, and time limit for handling.
- e/ Commitments on changes in mechanisms and policies, disparity in procedures for receiving and implementing the FNG aid amount, the donor's requirements and conditions for the FNG aid amount (if any).
- f/ Organizational and managerial (including financial) capacity of the FNG aid owner.
- g/ Proposal to the managing agency for receiving and implementing the FNG aid amount.
- h/ The time limit for completing the FNG aid dossier.
- i/ Information on registration of the donor's operation in Vietnam, and the donor's legal entity status.

The results of appraisal of the above details must be fully expressed in appraisal reports.

### **Article 13.**

Process of and time limit for appraising FNG aid amounts

1. The Ministry of Planning and Investment shall develop a specific process of appraising FNG aid amounts falling within the Prime Minister's approving competence.
2. The Ministry of Planning and Investment shall work out guidance on basic requirements for and process of appraising FNG aid amounts as a basis for FNG aid-approving agencies to guide specific contents and process of appraising FNG aid amounts which fall within its approving competence to be applicable at ministries, branches, localities and organizations defined at Points b, c, d and e, Clause 4, Article 1 of this Regulation.
3. The time limit for appraising FNG aid amounts is 20 days from the date of receipt of a complete and valid dossier.

### **Article 14.**

Process of and time limit for completing an appraised FNG aid dossier

1. When an FNG aid amount is eligible for approval, the appraising agency shall submit it to a competent authority defined in Article 15 for approval.
2. When an FNG aid amount is ineligible for approval, the appraising agency shall send the appraisal report to the managing agency and FNG aid owner, indicating issues to be supplemented, modified or explained, and specifying the time limit for completing the FNG aid dossier. The managing agency shall direct the FNG aid owner in performing the above jobs within the time limit indicated in the appraisal report. In case the FNG aid dossier cannot be completed or additional explanation cannot be made within the time limit indicated in the appraisal report, the FNG aid owner should report in writing to the managing agency and the appraising agency for clarifying the reason and reaching agreement on subsequent appropriate solutions.

**Article 15.**

Approval of FNG aid amounts

1. Competence to approve FNG aid amounts

a/ The Prime Minister may approve:

- FNG aid amounts related to security, defense or religion and aid amounts in direct support of the elaboration of legal documents, guidelines and policies falling within the promulgating competence of the Prime Minister or higher levels, and national, branch and territorial socio-economic development strategies, plans and plans;
- Lists of second-hand goods and equipment with a simple structures (which have a residual value of over 80% of that of brand-new ones) suitable to Vietnam's use needs and conditions in each period, which shall be formulated and submitted to the Prime Minister by ministers or heads of branches, as a basis for approving aid receipt as mentioned at Points b and c of this Clause;
- FNG aid amounts related to the import of automobiles and other means of transport (aircraft, ships, boats, etc.).

b/ Heads of state agencies and organizations, chairpersons of provincial-level People's Committees and heads of central agencies of organizations defined at Points a, b and c, Clause 4, Article 1 of this Regulation may approve:

- FNG aid amounts not mentioned at Point a of this Clause;
- Second-hand goods with a simple structure and a residual value of over 80% of that of brand-new ones (with the donor's written certification) on the Prime Minister-approved lists as mentioned at the second paragraph. Point a of this Clause;
- Emergency relief amounts with specific beneficiaries.

b/ For aid amounts whose recipients are organizations defined at Points d and e, Clause 4, Article 1 of this Regulation:

- Ministers or heads of ministerial-level agencies or government-attached agencies may approve aid amounts for recipients to whom they have granted operation registration papers or recipients engaged in the professional domains under their management (as indicated in their establishment decisions);
- Chairpersons of provincial-level People's Committees may approve aid amounts whose recipients are organizations which provincial-level People's Committees or their agencies have decided to establish or have granted operation or business registration papers to.

d/ The President of the Central Committee of the Vietnam Fatherland Front may approve emergency relief amounts without specific beneficiaries (the donor does not intend to provide aid to any particular locality).

2. Process of approving FNG aid amounts:

a/ For FNG aid amounts falling within the Prime Minister's competence:

- FNG aid-approving agencies shall send FNG aid dossiers to the Ministry of Planning and Investment for approval;
- The Ministry of Planning and Investment shall appraise FNG aid amounts under regulations;
- The Ministry of Planning and Investment shall submit to the Prime Minister for approval the receipt of FNG aid amounts.

After the Prime Minister approves the receipt and implementation of FNG aid amounts, the Ministry of Planning and Investment shall notify such to FNG aid-approving agencies for taking subsequent steps in accordance with Chapters III and IV of this Regulation.

b/ The process of approving FNG aid amounts falling within the competence of heads of FNG aid-approving agencies complies with current law.

3. Managing agencies shall send original decisions approving FNG aid amounts, enclosed with FNG aid program or project documents or agreements or non-project aid dossiers with every page stamped, and other relevant documents which fall within the approving competence of FNG aid-approving agencies defined at Points b, c and d, Clause 1 of this Article to the Ministry of Planning and Investment, the Ministry of Finance and the Committee for Foreign Non-Governmental Organizations within 10 working days after such FNG aid amounts are approved.

#### **Article 16.**

Sale of goods of FNG aid amounts

1. The sale of goods of FNG aid amounts which the recipient and the donor agree to bring into Vietnam in support of the priority domains specified in Article 3 of this Regulation must be decided by competent authorities simultaneously with the approval of FNG aid amounts specified in Article 15 of this Regulation.
2. The above goods must be auctioned under current regulations on property auction.

### **Chapter IV**

#### **IMPLEMENTATION OF FNG AID AMOUNTS**

#### **Article 17.**

Specific principles for implementation of FNG aid amounts

1. FNG aid amounts (except emergency relief) may be implemented only after they are approved by competent authorities defined in Article 15 of this Regulation and officially notified in writing by managing agencies to donors.
2. Not to receive goods (including supplies and equipment) on the Government-prescribed list of goods banned from import. When necessary, the receipt of those goods must be decided by the Prime Minister.
3. In addition to unused and brand-new goods, the managing agency shall agree to receive only second-hand goods if the donor gives written certification that the residual value of those goods is over 80% of that of brand-new ones (for second-hand goods with a simple structure) or a competent assessment organization of the donor's country gives written assessment that the residual value of those goods is over 80% of that of brand-new ones (for second-hand goods outside the list of second-hand goods and equipment with a simple structure). The managing agency shall notify the donor for consignment of goods only when the receipt of those goods is approved by a Vietnamese competent authority.

The donor is totally responsible for the goods quality it has certified until the goods are received.

When being imported into Vietnam as aid, goods lots which are incompliant with the above regulations shall be transferred to functional agencies for handling under regulations; the aid owner shall bear all expenses related to such handling.

4. Six months after approval, if a program or project fails to carry out any activity without plausible reasons, the competent authority defined in Article 15 of this Regulation shall decide to revoke the program- or project-approving decision it has issued. The managing agency shall notify the donor of such revocation.

**Article 18.**

FNG aid owners

FNG aid owners (including owners of component projects, if any) must be identified in competent Vietnamese authorities' decisions approving FNG aid amounts.

**Article 19.**

Management units of FNG aid programs or projects

1. Programs and projects must have their management units.
2. A program or project management unit is a representative of the FNG aid owner and may, on behalf of the FNG aid owner, perform the assigned powers and tasks. The program or project management unit is responsible before the FNG aid owner, the managing agency, the FNG aid-approving agency and law for its decisions.
3. A decision on the establishment of a program or project management unit must be issued by the FNG aid owner or the managing agency (in case the managing agency directly manages and administers that unit) within 15 days after the program or project is approved by a competent authority defined in Article 15. In this decision, the FNG aid owner or the managing agency shall appoint the director and members and approve the co-director of the program or project management unit (introduced by the donor, if any) and define the tasks and powers of the program or project management unit.
4. The program or project management unit may open accounts at banks established and operating under Vietnamese law or Vietnamese state treasuries and has its own seal for implementing FNG aid programs or projects in accordance with law and concluded agreements or commitments.
5. The program or project management unit must have its head office as an official and regular working and transaction place in the process of implementing a program or project.
6. The Ministry of Planning and Investment shall issue guidance on the organizational structure, functions and tasks of project management units.

**Article 20.**

Taxes on FNG aid amounts

Taxes on FNG aid amounts comply with current law regarding taxes on aid amounts.

**Article 21.**

Bidding and auction

Bidding or auction of FNG aid amounts complies with current law.

**Article 22.**

Modification and supplementation of FNG aid programs or projects in the process of their implementation

1. For programs and projects approved by the Prime Minister:
  - a/ The following modifications or supplementations must be submitted to the Prime Minister:
    - Modifications or supplementations that will result in changes in specific objectives, organizational structure for management and implementation, major outcomes and places of implementation, of approved programs or projects; modifications that will prolong the

implementation period for over 12 months compared to the approved project completion schedule;

- Modifications or supplementations that will make an FNG aid program or project fall into any of the cases specified at the third em rule, Point a, Clause 1, Article 15 of this Regulation.

b/ Modifications or supplementation not mentioned at Point a, Clause 1 of this Article shall be approved by heads of FNG aid-approving agencies.

c/ The Ministry of Planning and Investment shall guide the process of the time limit for modifying or supplementing programs or projects which fall within the Prime Minister's approving competence.

2. For programs or projects approved by heads of FNG aid-approving agencies:

a/ Modifications or supplementations that will make a program or project fall into any of the cases specified at the first and third em rules. Point a, Clause 1, Article 15 must be submitted to the Prime Minister for consideration and approval.

b/ Modifications or supplementations not mentioned at Point a, Clause 2 of this Article shall be approved by heads of FNG aid-approving agencies.

c/ FNG aid-approving agencies shall specify a process of and time limit for modifying or supplementing programs or projects which fall within their approving competence of FNG aid-approving agencies on the basis of the Planning and Investment Ministry's guidance on basic requirements for and process of the above modification or supplementation.

#### **Article 23.**

Construction management, takeover test, handover and finalization

1. The appraisal and approval of technical designs and total estimates, construction licensing, work quality management, take-over test, handover, warranty, and insurance of construction works under FNG aid-funded investment programs or projects comply with relevant laws.

2. After the completion of technical assistance FNG aid programs or projects, the program or project owners shall organize test before takeover, assess, hold review meetings, and take necessary measures to promote the outcomes of these programs or projects.

3. FNG aid amounts must be finalized under relevant laws.

### **Chapter V**

#### **MONITORING AND EVALUATION OF FNG AID IMPLEMENTATION**

#### **Article 24.**

Monitoring of FNG aid implementation

FNG aid implementation shall be regularly monitored and information on FNG aid implementation shall be regularly updated, classified and analyzed for proposing timely solutions for management authorities to make decisions to ensure that FNG aid amounts are implemented according to law, set objectives and schedule with quality and efficiency within the identified resources.

#### **Article 25.**

Evaluation of FNG aid implementation

1. FNG aid implementation shall be evaluated in a comprehensive, systematic and objective manner to make necessary modifications and draw experience for application in subsequent periods and/or other programs or projects.

2. Evaluation shall be conducted regularly or irregularly (when necessary).

3. Evaluation plans and methods and funds (from FNG aid or domestic capital) for must be identified in FNG aid program or project documents.

## **Article 26.**

Responsibility to monitor and evaluate FNG aid

1. Program or project management units shall:

a/ Prepare detailed plans on monitoring and evaluation of the program or project implementation, clarifying used resources, implementation progress, completion deadline, to-be-achieved quality and criteria for accepting results for each monitoring and evaluation activity, within 3 months after starting (approving or signing) a program or project.

b/ Elaborate regulations and collect and archive sufficient information, data, dossiers, documents, books and documents of FNG aid programs or projects as well as contractors' reports, changes in state policies and laws and the donor's regulations on implementation management.

c/ Make implementation reports under regulations and provide and share information via branch-, local- and national-level monitoring and evaluation systems.

d/ Make, or hire consultants to assist them in making, initial, mid-term and term-end evaluation reports according to approved FNG aid program or project documents; act as the focal point in coordinating with donors or competent management agencies to evaluate programs or projects.

2. FNG aid owners shall direct, urge and assist program or project management units and non-project aid beneficiaries in monitoring and evaluating FNG aid programs or projects or using non-project aid. If unable to settle problems by themselves, FNG aid owners shall promptly request competent authorities to settle them. Concerned agencies shall consider, handle and give replies to requests of program or project management units, FNG aid owners or non-project aid beneficiaries within 15 working days; otherwise they shall send notices thereon to program or project management units and FNG aid owners.

3. Managing agencies shall plan and coordinate with concerned agencies or hire consultants to assist in evaluating impacts of FNG aid amounts (when necessary); assume the prime responsibility for, and coordinate with concerned agencies and donors in, organizing regular (annual) and irregular meetings to review each FNG aid program or project.

4. FNG aid-approving agencies shall assume the prime responsibility for, and coordinate with concerned agencies and donors in, organizing regular (annual) and irregular meetings to review each group of FNG aid programs or projects as well as the receipt and use of non-project aid amounts; and supervise and assess the receipt and implementation of FNG aid according to their competence.

5. Based on its functions and tasks defined in Chapter VI of this Regulation, the Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with FNG aid state management agencies in, monitoring and evaluating the receipt and use of FNG aid.

6. Funds for FNG aid management, monitoring and evaluation shall be allocated from the state budget to state management agencies based on their relevant functions and tasks defined in Chapter VI of this Regulation.

## **Article 27.**

Reporting on FNG aid management and implementation

1. Program or project management units shall make and send regular reports to program or project owners, managing agencies and FNG aid-approving agencies according to specific regulations of FNG aid-approving agencies.

2. FNG aid owners shall:

a/ Make and send mid-year reports by July 15 of the reporting year and annual reports by January 20 of the subsequent year to managing agencies, FNG aid-approving agencies, the Ministry of Planning and Investment, the Ministry of Finance and the Committee for Foreign Non-Governmental Organizations.

b/ Make and send final reports within 6 months after finishing the implementation of FNG aid amounts to managing agencies, FNG aid-approving agencies, the Ministry of Planning and Investment, the Ministry of Finance and the Committee for Foreign Non-Governmental Organizations.

c/ Send reports to donors as agreed with them.

3. Managing agencies shall make mid-year and annual reports on the outcomes of FNG aid mobilization and the implementation of aid amounts under their management and send these reports to the Ministry of Planning and Investment, the Ministry of Finance and the Committee for Foreign Non-Governmental Organizations by July 30 of the reporting year and January 31 of the subsequent year, respectively.

4. FNG aid-approving agencies shall make mid-year and annual reports on the results of approval and management of aid amounts falling within their approving competence and send these reports to the Ministry of Planning and Investment, the Ministry of Finance and the Committee for Foreign Non-Governmental Organizations by July 30 of the reporting year and January 31 of the subsequent year, respectively.

5. The Ministry of Planning and Investment shall submit to the Prime Minister annual reports on the approval and implementation of FNG aid amounts nationwide.

6. The Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with concerned agencies in, guiding the form of report on FNG aid amounts.

7. The General Statistics Office shall assume the prime responsibility for, and coordinate with concerned agencies in, formulating and synthesizing periodical statistical criteria on FNG aid receipt and use for inclusion in the national statistical database on socio-economic development.

#### **Article 28.**

Examination, inspection and supervision of FNG aid receipt, management and use

The examination, inspection and supervision of FNG aid receipt, management and use comply with current law.

### **Chapter VI**

#### **STATE MANAGEMENT OF FNG AID**

#### **Article 29.**

Contents of state management of FNG aid

The Government shall perform the unified state management of FNG aid, covering:

1. Deciding on priority orientations for FNG aid mobilization and use in each period.
2. Promulgating legal documents on FNG aid management and use.
3. Conducting macro-administration of FNG aid management and use.
4. Examining, supervising and evaluating FNG management and use.

#### **Article 30.**

Tasks and powers of the Ministry of Planning and Investment

The Ministry of Planning and Investment shall act as the focal point in managing FNG aid amounts and, in addition to the tasks and powers defined in Chapters I thru V of this Regulation, has the following tasks and powers:

1. To evaluate and sum up opinions of concerned agencies and submit FNG aid amounts specified at Point a, Clause 1, Article 15 of this Regulation to the Prime Minister for consideration and approval and submit the supplementation and modification of programs or projects defined at Point a, Clause 1 and Point a, Clause 2, Article 22 of this Regulation.

2. To elaborate and submit for promulgation, or promulgate according to its competence legal documents on FNG aid management and use.
3. To assume the prime responsibility for, and coordinate with the Ministry of Finance in, allocating domestic capital in the annual state budget plan to budget beneficiaries for implementing FNG aid amounts already committed with donors in accordance with the State Budget Law.
4. To regularly urge concerned ministries, ministerial-level agencies and government-attached agencies to work out and submit to the Prime Minister lists of second-hand goods and equipment with a simple structure (which have a residual value of 80% of that of brand-new ones) under their management to suit Vietnam's use needs and conditions in each period, as a basis for competent agencies defined at the second em rule, Point b, Clause 1, Article 15 of this Regulation to approve.
5. To coordinate with the Union of Vietnam Friendship Organizations and concerned agencies in guiding ministries, branches, localities and organizations to work out program or project proposals as a basis for FNG aid mobilization.
6. To examine FNG aid-approving decisions and regulations on FNG aid management and use of FNG aid-approving agencies.
7. To assume the prime responsibility for, and coordinate with FNG aid state management agencies and concerned agencies in, supervising and examining FNG aid receipt, management and implementation; to sum up, analyze and assess FNG aid efficiency; and to handle relevant issues falling within its competence and propose to the Prime Minister for consideration and decision issues falling beyond its competence.
8. To elaborate and disseminate documents providing professional guidance on the preparation, appraisal, implementation management, monitoring and evaluation of FNG aid receipt and use; and to support the training in program or project management towards professionalism and sustainability.

#### **Article 31.**

##### Tasks and powers of the Ministry of Finance

The Ministry of Finance shall perform the financial state management of FNG aid and, in addition to the tasks and powers defined in Chapters I thru V of this Regulation, has the following tasks and powers:

1. To assume the prime responsibility for, and coordinate with concerned agencies in, formulating financial management regulations applicable to FNG aid amounts according to its competence.
2. To coordinate with the Ministry of Planning and Investment in allocating domestic capital in the annual state budget plan to budget beneficiaries for receiving and implementing FNG aid amounts already committed with donors in accordance with the State Budget Law.
3. To synthesize periodical financial finalizations of all FNG aid amounts under regulations.
4. To examine financial management regulations on FNG aid use of FNG aid-approving agencies and managing agencies.
5. To participate in the appraisal of, and giving opinions on, FNG aid amounts falling within the Prime Minister's approving competence.
6. To coordinate with the Ministry of Planning and Investment, the Committee for Foreign Non-Governmental Organizations and concerned agencies in supervising and examining FNG aid receipt, management and implementation.

#### **Article 32.**

##### Tasks and powers of the Ministry of Foreign Affairs



1. To coordinate with concerned agencies in mobilizing and attracting FNG aid.
2. To assume the prime responsibility for, and coordinate with concerned agencies in, calling for emergency relief.

**Article 33.**

Tasks and powers of the Ministry of Public Security

1. To guide and assist Vietnamese agencies and organizations in receiving and using FNG aid amounts in accordance with Vietnamese law on protection of national security and maintenance of social order and safety.
2. To participate in appraising, and give opinions on security matters to the Ministry of Planning and Investment on, FNG aid amounts involving the contents specified at the first em rule, Point a, Clause 1, Article 15 of this Regulation before submitting them to the Prime Minister for consideration and decision; to guide provincial-level Public Security Departments in appraising FNG aid amounts which fall within the approving competence of provincial-level People's Committees.
3. To supervise FNG aid receipt and use, attaching special importance to issues that affect political security and social order and safety.
4. To perform tasks according to its competence upon detecting violations in the FNG aid receipt and use.

**Article 34.**

Tasks and powers of the Ministry of Home Affairs

To guide and assist Vietnamese agencies and organizations in observing the State's religious guidelines and policies in receiving and using FNG aid amounts.

**Article 35.**

Tasks and powers of the Ministry of Justice

To evaluate the contents of FNG aid programs and projects in the legal sector which fall within the Prime Minister's approving competence.

**Article 36.**

Tasks and powers of the Government Office

1. To assist the Prime Minister in inspecting and urging the implementation of this Regulation.
2. To participate in evaluating, and giving recommendations on policies for, FNG aid amounts which fall within the Prime Minister's approving competence before submitting them to the Prime Minister.

**Article 37.**

Tasks and powers of the Committee for Foreign Non-Governmental Organizations

1. To participate in appraising, and giving comments (providing information and giving remarks on donors' activities) on, FNG aid amounts which fall within the Prime Minister's approving competence.
2. To participate in supervising the implementation of FNG aid, paying special attention to cooperation with foreign non-governmental organizations in implementing FNG aid amounts.
3. To provide regular and adequate information on the issuance, extension, modification and supplementation of licenses to, and the operation of, foreign non-governmental organizations as a basis for mobilizing and appraising FNG aid under current regulations.

**Article 38.**

### Tasks and powers of the Union of Vietnam Friendship Organizations

The Union of Vietnam Friendship Organizations shall act as the focal point in establishing relationships and mobilizing FNG aid and has the following tasks and powers:

1. To assume the prime responsibility for, and coordinate with concerned agencies in, organizing activities to mobilize FNG aid at the national level.
2. To assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment and concerned agencies in, guiding recipients to mobilize FNG aid.
3. To make and send annual reports on FNG aid mobilization to the Ministry of Planning and Investment for sum-up and reporting to the Prime Minister.
4. To coordinate with the Ministry of Foreign Affairs in proposing to the Prime Minister the policy to mobilize emergency relief.

### **Article 39.**

#### Tasks and powers of the Central Committee of the Vietnam Fatherland Front

To approve, and organize the receipt and distribution of, emergency relief amounts without specific beneficiaries and report implementation results to the Prime Minister.

### **Article 40.**

#### Tasks and powers of FNG aid-approving agencies

In addition to the tasks and powers defined in Chapters I thru V of this Regulation, FNG aid-approving agencies have the following tasks and powers:

1. Provincial-level People's Committees shall assign provincial-level Planning and Investment Departments to act as the focal points in managing and using FNG aid amounts and assign their attached units to act as the focal points in establishing relationship and mobilizing FNG aid in their localities.

Other FNG aid-approving agencies shall assign their relevant attached units capable of managing the use and coordination of resources for their development to act as the focal points in establishing relationship and managing and using FNG aid as suitable to their practical situation.

Written notices on the assignment of units to act as the focal points as defined in Clause 1 of this Article must be sent to FNG aid state management agencies defined in this Chapter within 30 days from the effective date of this Decree.

2. Ministries, ministerial-level agencies and government-attached agencies shall:

a/ Appraise and approve FNG aid amounts in the professional domains under their management as assigned by the Government.

b/ Periodically make and submit to the Prime Minister lists of second-hand goods and equipment with a simple structure (which have a residual value of 80% of that of brand-new ones) in the professional domains under their management as assigned by the Government. Initial lists must be made and submitted to the Prime Minister within 30 days from the effective date of this Decree.

3. Heads of FNG aid-approving agencies shall, within the ambit of their powers defined at Points b and c, Clause 1, Article 15 of this Regulation, approve modifications and supplementations to programs and projects according to their competence defined in Article 22 of this Regulation and take responsibility before law for their approval decisions as well as for the approval and allocation of domestic capital and the management of implementation of these aid amounts.

4. To direct, guide and inspect their attached units in receiving, managing and using FNG aid under current regulations and strictly fulfilling commitments with donors.

5. To supervise and evaluate the receipt and implementation of FNG aid amounts approved by heads of agencies; to timely detect and handle according to their competence problems and violations in receiving and using FNG aid or notify them to concerned FNG aid state management agencies defined in this Chapter for handling.
6. To take responsibility before the Government for the quality and efficiency of implementation of FNG aid amounts in accordance with law.
7. To fully observe the reporting regime specified in Article 27 of this Regulation.

#### **Article 41.**

##### Tasks and powers of managing agencies

In addition to the tasks and powers defined in Chapters I thru V of this Regulation, managing agencies have the following responsibilities and powers:

1. To direct their attached units in coordinating with functional agencies in contacting donors to mobilize and attract aid according to the priority domains and orientations in their annual plans or in each period and the State's external policies.
2. To direct, guide and inspect their attached units in receiving, managing and using FNG aid under current regulations and strictly fulfilling commitments with donors.
3. To supervise and evaluate the receipt and implementation of FNG aid amounts in their branches and localities; to timely detect and handle according to their competence problems and violations in receiving and using FNG aid or notify them to concerned FNG aid state management agencies defined in this Chapter for handling.
4. To sufficiently and timely allocate preparatory capital and domestic capital for implementing FNG aid programs and projects in accordance with approved program or project documents.
5. To take responsibility before the Government for the quality, efficiency and progress of implementation of FNG aid programs and projects in accordance with law.
6. To fully observe the reporting regime defined in Article 27 of this Regulation.

### **Chapter VII**

#### **COMMENDATION, HANDLING OF VIOLATIONS**

#### **Article 42.**

##### Commendation

Organizations and individuals that record outstanding achievements in implementing this Regulation may be commended in accordance with the law on emulation and commendation.

#### **Article 43.**

##### Handling of violations

1. In case decisions approving the receipt of FNG aid amounts or regulations on FNG aid management and use issued by FNG aid-approving agencies are contrary to this Regulation and documents of superior state agencies, the Ministry of Planning and Investment shall propose to a competent authority to suspend the implementation of, or annul, these decisions or regulations under law.
2. In case regulations on financial management of FNG aid use issued by FNG aid-approving agencies or managing agencies are contrary to this Regulation and documents of superior state agencies, the Ministry of Finance shall propose to a competent authority to suspend the implementation of, or annul, these regulations under law.
3. Handling of violations of the reporting regime:

a/ For violations of the reporting regime, the Ministry of Planning and Investment may apply the following forms of handling:

- Irregular violation of the reporting regime:

The Ministry of Planning and Investment shall request in writing violators to explain their violations and pledge to take remedies;

- Systematic and prolonged violations of the reporting regime: The Ministry of Planning and Investment shall report such violations to the Prime Minister and propose appropriate handling measures, even requesting the Prime Minister not to approve FNG aid amounts proposed by these violators until they strictly observe the reporting regime.

b/ FNG aid-approving agencies shall specify appropriate forms of handling violations to ensure the observance of reporting regulations by FNG aid owners and project management units established under decisions of heads of aid-approving agencies.

4. All FNG aid amounts will be regarded invalid and must be suspended and reported to competent authorities for consideration and decision. FNG aid amounts in violation of this Regulation and other relevant legal documents shall be transferred to Vietnamese functional agencies for handling under law.

5. Leaders of FNG aid-approving agencies, managing agencies and FNG aid owners shall take personal responsibility before law for the above violations.

6. Violators of this Regulation shall, depending on the nature and severity of their violations, be disciplined, administratively sanctioned or examined for penal liability. If causing damage, they shall pay compensation under law.

*(This translation is for reference only)*

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