

Draft 2

**DECREE**

**On the Management and Utilization of Foreign Non-governmental Aid<sup>1</sup>**

*Based on the Law on Government Organization dated 19 June 2015;*

*Based on the State Budget Law dated 25 June 2015;*

*Based on the Trade Law dated 14 June 2005;*

*Based on the Law on Procurement dated 26 November 2013;*

*Based on the Law on Investment dated 26 November 2014;*

*Based on the Enterprises Law dated 26 November 2014;*

*Considering the proposal by the Minister of Planning and Investment,*

*The Government promulgates this decree on the management and utilization of foreign non-governmental aid.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of Governing**

1. This Decree stipulates the management and use of non-refundable aid from Foreign Non-Government Organizations, other foreign organizations and individuals to the recipients' organizations established legally in Vietnam for non-profit purpose including charity, humanitarian, and development.
2. Programs, projects and non-project aid of foreign governments, international organizations, intergovernmental or transnational organizations, and government organizations delegated by foreign governments and provided to the State or Government of the Socialist Republic of Vietnam through treaties or agreements signed with the Vietnamese Government are not covered under this Decree.

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<sup>1</sup> Please note this is an unofficial translation of the original Vietnamese version of the document. If there is a question or any uncertainty of language, please defer to the original text.

3. Donor: Within the context of this Decree, donors include foreign organizations and individuals who respect and comply with Vietnamese Law, have goodwill and provide direct non-refundable aid; these include:

a) Foreign NGOs (FNGOs), non-profit organizations, social funds, private funds established under foreign law;

b) Foreign individuals (including overseas Vietnamese) respecting the laws of Vietnam, willing to provide aid for humanitarian purposes and the development of Vietnam;

c) Foreign companies (including foreign invested economic entities operating in Vietnam under Clause 1 of Article 23 of the Investment Law);

d) Academia (including research institutes and cooperation organizations under foreign government);

dd) Ministries and agencies under foreign government providing aid which are not under any bilateral agreement signed between the Government of the Socialist Republic of Vietnam and foreign governments or authorized representative thereof;

e) Foreign diplomatic missions, development cooperation agencies in Vietnam directly providing, managing or entrusting other legal entities to administer and allocate aid.

4. Recipients of FNGO aid are organizations legally established in Viet Nam with functions, tasks, and activities relevant to the objectives and contents of the FNGOs aid items being received, including:

a) Political organizations, the Supreme People's Procuracy, Supreme People's Court, agencies directly subordinate to the National Assembly, the State Audit of Vietnam, the Office of the President, ministries, ministerial-level agencies , agencies directly subordinate to the Government and provincial/municipal People's Committees (hereinafter collectively referred to as "the provincial people's Committee").

b) The Central Authority of: Viet Nam Fatherland Front, Viet Nam Confederation of Labor Unions, Ho Chi Minh Communist Youth Union, Vietnam Farmers' Union, Vietnam Veteran's Association, Vietnamese Women's Union.

c) Associations, Unions specified in the Annex of Decision No. 68/2010/QĐ-TTg dated November 01, 2010 of the Prime Minister on special associations.

d) Socio organizations, professional associations and economic institutions, including:

- Societies, associations established in accordance with Decree 45/2010/ND-CP dated April 21, 2010 on formation, operation and management of Associations;

- Organizations of natural science, social science and humanities, science and technologies and that are set up in accordance with Decree 08/2014/ND-CP dated January 27, 2014 detailing the implementation of the Law on Science and Technologies.

- Vietnamese organizations established under Decree 69/2008/ND-CP dated May 30, 2008 of the Government on encouraging socialization in the field of education, vocational training, health, culture, sports, environment and Decree No. 59/2014/ND-CP dated June 16, 2014 amending and supplementing some articles of aforesaid Decree 69/2008/ND-CP;
- Social protection entities established by domestic organizations in line with Decree 68/2008/ND-CP dated May 30, 2008 of the Government specifying conditions and procedures for the establishment, organization, operation and dismissal of social protection entities;
- Organizations established under Decree 77/2008/ND-CP dated July 16, 2008 of the Government on legal counseling services;
- Organizations established under Decree 30/2012/ND-CP dated April 12, 2012 on the organization and operation of social and charity funds;
- Economic entities (including the private sector enterprises, social enterprises) receiving aid whose purpose, objectives and concept matching with public interest services/products that they provide as prescribed at Decree 130/2013/ND-CP dated October 16, 2013 of the Government on the production and supply of public interest services/products.

dd) Aid to organizations other than those specified in Point d, Clause 3 of this Article shall be considered by the Prime Minister on a case-by-case basis.

## **Article 2. Applicable Entities**

This Decree applies to organizations and individuals involved in the management and use of foreign non-refundable aid to the organizations indicated in the article 1, clause 2, counterpart fund from Vietnam.

## **Article 3. Definitions**

Within the context of this Decree, the following terms can be interpreted as follow:

1. Management Unit of foreign aid program/project (hereinafter referred to as “Project Management Unit”) is an entity established to help the project owner (implementing agency) to perform one or a number of programs/projects.
2. The program is a set of non-refundable aid-financed activities and projects which may be related to one or more sectors, geographical areas, different actors in order to achieve one or more identified objectives, within one or more stages.
3. Umbrella program/project is a program or project in which a line agency being responsible for the overall management of the program/project shall coordinate overall activities and other line agencies shall participate in the management, implementation and benefiting from the component projects.
4. Regional and global programs and projects (hereinafter collectively referred to as “regional program/project”) are programs and projects funded on a global scale or for a group of countries belonging to one or multiple regions to implement collaborative activities aimed at achieving the

objectives identified for the benefit of the parties as well as the common interests regionally or globally.

5. The competent authority to approve the reception of programs, projects or non-project aid specified in Article 19 of this Decree, including:

a) The Prime Minister

b) Central-level political organizations, the Supreme People's Procuracy, Supreme People's Court, agencies directly subordinate to the National Assembly, the State Audit of Vietnam, the Office of the President, ministries, ministerial-level agencies, agencies directly subordinate to the Government, provincial people's Committees and central-level agencies of socio political organizations, socio-political professional organisations, and socio-professional associations specified in Points b & c, Clause 3 of this Article.

c) The Central Committee of the Viet Nam Fatherland Front (in cases where emergency relief is provided without specifying recipient).

6. Line agencies include:

a) Agencies specified in Point b, Clause 5 of this Article.

b) The agencies responsible for the direct management of the organizations mentioned in point d, point dd, Clause 4, Article 1 of this Decree and authorities designated by the Prime Minister to decide on the case specified under Point e, Clause 4, Article 1.

7. Implementing agency (Aid Owner) is the agency designated by the Line Agency to manage and use non-refundable aids as approved by the competent authorities.

8. Emergency relief is the non-project aid urgently provided immediately after the occurrence of post-disaster emergencies (natural or other disasters) and is sustained up to 3 months after the emergency ends. Beyond this timing, if this type of aid continues, it shall be considered as the aid to overcome emergency consequences and the same normal approval process and procedures of FNGOs aid shall be applied.

9. Project is a set of proposed and coordinated activities to use non-refundable aid, Vietnam's counterpart funds, in order to achieve one or a number of defined goals, performed in a specific geographical area, within a defined time frame and based on identified resources. Based on their properties, projects are classified into investment projects and technical assistance projects.

10. Investment project is a project in which investment activities are conducted in a specific geographical area, within a defined time frame. Based on their nature, investment projects are classified into two categories:

a) Investment projects with construction components are investment projects to construct, expand, upgrade or renovate infrastructure for the purpose of developing, maintaining and improving the quality of the infrastructure or product, services within a certain time frame, including the purchase of assets and equipment;

b) Investment projects with without construction components are investment projects to purchase, repair and upgrade equipment, machinery and other investment projects not defined in Point a of this Clause.

11. Technical assistance project is a project with the aim of improving human resource capacity, supporting research in professional and sectoral fields.

12. Non-project aid means individual non-refundable aids for humanitarian and charity purposes, not for profit and does not constitute a specific project, which is provided in cash or in kind, goods, or experts (including volunteer experts), conferences, seminars, training, research, surveys.

13. Aid agreement is a document specifying general terms, requirements, and specific conditions legally binding on the parties related to the aid. In some cases, the Donor may request a formal signing of this document with the Recipient instead of signing the Program/project or non-project document.

14. Aid memorandum of understanding documents original intentions (not legally binding) on aid between the representatives of the donor and recipient as a basis for subsequent approval and reception procedures.

15. Program/project document is the official document that shows the commitments of the representatives of the Donor and Recipient on a specific program or project. This document presents the context, rationale, objectives, content, major activities, results, time frame and implementation plan, economic, social, environmental impacts, total capital, sources and capital structure, other resources, program/project implementation and management method, rights and duties of the stakeholders. Program/project documents are classified into: Technical assistance project document and investment project document.

16. Counterpart fund is capital contributions from Vietnam (in kind, or money) to prepare and implement the non-refundable aids under specific requirements, including:

a) Counterpart fund for programs and projects: Depending on the nature of a Program/ project, counterpart fund may consist of all or a number of elements below:

- Funding for the formulation of the FNGO aid Program/ project;
- Funding for the preparation and implementation of the FNGOs aid Program/ project;

b) Non-project counterpart fund: Depending on the nature of a Program/ project, counterpart fund may consist of all or a number of elements below:

- Funding for the reception and in-country transportation of equipment;
- Funding for the organization of bidding and auctioning processes.

17. Non-refundable aids are non-refundable, not-for-profit aid provided by foreign partners to achieve development and humanitarian objectives for Vietnam (in the form of program/project or non-project support) and do not contain the same conditions as in loans or commercial investments.

#### **Article 4. Facilities for providing Aid consist of the following:**

1. Programs;
2. Projects;
3. Non-project aid (including emergency relief).

## **Article 5. Basic principles in the Management and Use of Aid**

1. The Government shall exercise unified state management of non-refundable aids based on principles of public disclosure and transparency, delegation of authority and decentralization with linkage between authorities and accountabilities, close collaboration amongst and proactive action by various levels of government, sectoral management agencies, localities and implementing units.

2. The formulation and implementation of non-refundable aids shall abide by Vietnam's existing law and the commitments made to the Donor as approved by the competent authorities. Where there is inconsistency between the Donor's requirements or conditions and Vietnamese law, Vietnamese law shall prevail.

3. Acts prohibited under this Decree:

- Organizations and individuals are prohibited to receive and use foreign aid for the purpose of money laundering; terrorism; harming national security and social order, infringing upon the interests of the State, the legitimate rights and interests of organizations and individuals.

- Organizations and individuals are prohibited to receive and use foreign aid to disrupt the national solidarity, social ethics, traditions, customs and national cultural identity.

- Organizations and individuals are prohibited to receive and use foreign aid for the purpose of seeking profits, personal interests, not for humanitarian, charity and development purposes.

4. Corruption, loss and waste in the management and use of non-refundable aids shall be prevented and tackled in accordance with law.

5. Used goods (including materials and equipment) which are prohibited from importation as provided for by law shall not be received into Vietnam in any manner. The Prime Minister shall consider and decide on the reception if necessary.

## **Article 6. Priority areas for Aid allocation**

1. Aid is used for humanitarian purposes to improve economic, cultural, social, and environmental situation for the people, especially the poor in rural areas, mountainous and ethnicity minority areas, in each period, mainly including:

- a) Emergency relief and humanitarian activities;

- b) Agricultural and rural development (including agriculture, irrigation, forestry and fishery), with particular linkages to poverty reduction objectives.

- c) Social infrastructure development (including health care, education and training, labor, employment and population).

- d) Environmental protection and natural resources management, disaster preparedness and mitigation, and control and prevention of major diseases.

- dd) Development of institutional, managerial and technical capacities, human resources development, technology transfer, and research and application capacity.

2. Other areas as decided by the Prime Minister

## **Article 7. Aid Management and Use Process**

1. Process of management and use of foreign non-refundable aids for programs and projects includes:

- a) Mobilization of aids;
- b) Formulation, appraisal, and approval for reception of programs and projects;
- d) Signing of the non-refundable aid agreement;
- dd) Management of the program/project's implementation;
- e) Completion and transfer of programs and projects' outcomes.

2. The process of management and use of non-project aid shall comply with Clause 1 of this Article unless otherwise specified in this Decree.

## **Article 8. Non-refundable Aid mobilization**

The mobilization of aids shall be based on the following directions:

- 1. The mobilization of aids to support development objectives shall be based on specific socio-economic development needs, , orientations and plans of the State, sector, local government for the attraction and utilization of external assistance during a specific period of time, and on the absorptive capacity (including the availability of counterpart funding) of the Recipient.
- 2. The mobilization of aid to support humanitarian objectives shall be based on the social situation and actual needs of the Recipient during a specific period of time.
- 3. The mobilization of emergency relief shall be based on the degree of losses in terms of human lives, property, and infrastructure of a locality, region affected by natural or other disasters. The Ministry of Foreign Affairs shall work with Vietnam Red Cross, Vietnam Union of Friendship Organizations and other relevant agencies in preparing and submitting a recommendation to the Prime Minister on the level of need to call for emergency relief from the international community (including the Donors as referred to in this Decree).

## **Article 9. Negotiation and Signing of Aid Agreement**

The negotiation and signing of aid agreement shall be processed as follows:

- 1. The line agency shall take the lead or authorize a focal point specialized in liaising with donors and mobilizing aid to conduct the negotiation.
- 2. The signing of the Program/ project document or aid agreement shall only proceed after the Program/ project document or the draft agreement has been approved by Vietnam's competent authority notified in writing by the line agency to the Donor.

3. Organizations specified in point d, point dd, Clause 4 of Article 1, shall negotiate, sign and be accountable for the implementation and legal conformity of commitments made to the Donor.

## **Chapter II**

### **PREPARATION, APPRAISAL, APPROVAL OF FOREIGN AID**

#### **Article 10. Preparation and formulation of program/project documents or non-project aid dossiers**

1. The responsibilities of the implementing agency (“Project Owner”):

- a) Acting as the focal point for coordinating local organizations and the Donor in the preparation of the Program/ project document and/or the dossier of non-project aid dossiers, ensuring timeliness, quality, and contents of the Program/ project document and/or non-project aid dossiers;
- b) Organizing the mobilization of adequate resources for the preparation of the Program/ project document and/or non-project aid dossiers;
- c) Developing plan for the preparation of program/project document for consideration and approval by the line agency;
- d) Where necessary, recommending the line agency to set up an aid preparatory committee, drafting the organization and operation charter and other necessary documents for this committee.

2. Responsibilities of the line agency:

Where necessary, the line agency shall assign a subordinate unit to lead the preparation of the Program/ project document or non-project aid dossiers based on the recommendations of the implementing agency or shall set up a preparatory committee for the FNGOs aid and approve the organization and operation charter and other necessary documents for this committee.

#### **Article 11. Preparation, Appraisal of Aid:**

1. The procedures for preparation and appraisal of programs/projects under the authority of the Prime Minister:

- a) The implementing agency shall coordinate with the Donor to prepare program/project document and report to the line agency;
- b) The line agency shall authorize the implementing agency to complete the program/project document and apply for appraisal of program/project document;
- c) The approving agency shall submit a written request together with program/project document to the Ministry of Planning and Investment for implementation of relevant procedures;
- d) The Ministry of Planning and Investment shall send a written request to related agencies for consultation on related contents; Within the appraisal period of the programs/projects specified at



Article 17 of this Decree, MPI shall organize the appraisal of program/project via meeting or in writing with related agencies, depending of the program/project's scale, nature and contents;

dd) The Ministry of Planning and Investment shall include a Letter of Transmittal in attachment to Appraisal Report following the form in Annex ... of this Decree to submit to the Prime Minister for consideration and approval of the program/project document.

2. The procedures for preparation and appraisal of programs/projects under the authority of the Head of the aid approving agency:

a) The implementing agency shall coordinate with the Donor to prepare program/project document and report to the line agency for appraisal;

b) The line agency shall submit a document to the Ministry of Planning and Investment, the Ministry of Finance and specialized agencies for collecting relevant appraisal contents;

The line agency shall authorize the implementing agency to complete the program/project document and prepare Dossier of program/project appraisal for appraisal based on opinions from related agencies;

d) The line agency shall organize the appraisal of program/project via meeting or collecting appraisal opinions from related agencies, depending of the program/project's scale, nature and contents;

dd) Based on Appraisal Report following the form in Annex ... of this Decree, the agency tasked with activities mentioned in Points b and c, Clause 1 of Article 19 of this Decree approving program and project documents.

3. Procedures for preparation and appraisal of non-project aid:

a) For non-project aid the contents of which are under approval decision authority of the Prime Minister as stipulated in Article 19 of this Decree, the approving agency shall implement the appraisal procedures as stipulated in Clause 1 of this Article and send the appraisal results to MPI for reviewing and forwarding to the Prime Minister for approval to receive the non-project aid;

b) For other non-project aid: Depending on the scale and nature of the non-project aid, the approving agencies shall decide on consultation methods (appraisal meeting or collection of appraisal comments) with relevant agencies. The head of the approving agency shall base on the proposal of the owner or of the line agency of the aid to approve the reception of non-project aid.

## **Article 12. Funding for the formulation of FNGOs Aid Program/Project**

1. With regard to a Program/project using aid that constitutes a source of revenue for the State budget (central or local), the line agency shall prepare a budget plan for the preparation of the Program/project which shall be incorporated into the annual budget plan for the sector and locality in line with the State Budget Law.

2. With regard to a program/ project using aid that does not constitute a source of revenue for the State budget (central or local), the implementing agency of the FNGOs aid item shall cover expenses for the preparation of the program/project in line with Vietnamese law.

3. In case the Donor provides financial support for the preparation of the program/ project, the implementing agency shall mainstream technical assistance into the total aid amount.

### **Article 13. Major contents of Program/ Project document and/or non-project aid dossiers**

1. Aid program/ project document shall consist of the following major contents:

- a) The context and rationale for the Program/project within the framework of a master plan or a long-term development plan of the beneficiary agency (an agency, sectors, field or locality), particularly the issues/problems that shall be addressed by the Program/ project;
- b) The long-term (if any) and short-term objectives of the Program/ project;
- c) Major outcomes or outputs of the Program/ project and their measurement indicators;
- d) Major contents of the component programs/projects and major activities;
- e) The duration and location of the Program/ project;
- f) Commitments, pre-conditions and other conditions set by the Donor. Obligations and commitments of the Recipient to implement the program/project;
- g) The total aid value and structure by key budget lines (international and national experts, overseas and in-country training, equipment and supplies locally procured and imported from overseas, financial inputs for the establishment of operating funds during the life of the Program/ project (if any), overhead costs and other expenses);

For aid from organizations falling under Point a, Clause 2 of Article 3 of this Decree, a mechanism for managing aid (by the organizations themselves and Vietnamese partners);

- i) Counterpart funding and sources for the mobilization of this funding;
- j) Capacity of the implementing agency (as aid owner) and agencies implementing sub-component projects;
- k) Methods of organization, management, and implementation of programs and projects, including financial management responsibilities of involved parties;
- l) Overall implementation plan for the Program/ project, and detailed work plan for the first year of the Program/project, including budget allocation for each activity based on established criteria;
- m) Monitoring, evaluation and audit plans (with funding from the Program/ project or other sources of funding if any); and
- n) Effectiveness, planned use of the results and sustainability of the Program/ project following its completion.

The program/project whose implementation period is less than 1 year shall not have to elaborate content in sections l, m, n, Clause 1 of this Article.

2. Project document of investment project financed by foreign aid shall be prepared in line with Vietnamese existing law(s) on the management of investment and construction works, together with the rationale for the use of aid.

3. Accepted Program/ project documents include:

a) The letter of submission by the approving agency of the aid subject to the Prime Minister's approval; or the line agency or the implementing agency of the aid (where the aid is directly managed by the line agency).

b) The FNGOs' correspondence showing agreement with the programs' and projects' contents and notification or pledge to consider funding for programs and projects.

For organizations specified under Points a, Clause 3, Article 1 of this Decree, approval of the project shall be evidenced by an official letter signed by the authorized representative.

c) Draft Program/ project document (both in Vietnamese and foreign language).

d) Proof of legal status (not applicable to organizations specified under Points dd, e., Clause 3, Article 1 of this Decree):

- For FNGOs specified under Point a, Clause 3 of Article 1 of this Decree who have regular and direct operations in Vietnam: A copy (notarized) of registration in Vietnam of the FNGOs by the Ministry of Foreign Affairs as stipulated in Decree 12/2012/ND-CP dated March 01, 2012 of the Government on registration and management of FNGOs in Vietnam.

- For FNGOs specified under Point a, Clause 3 of Article 1 of this Decree who do not have regular and direct operations in Vietnam: Copy of valid proof of legal status of the organization (in attachment to a notarized translated version in Vietnamese).

- For individuals specified under Point b, Clause 3, Article 1 of this Decree: A copy of a valid passport (in attachment to a notarized translated version in Vietnamese).

- For organizations specified under Point c, d, Clause 3, Article 1 of this Decree: Copy of valid proof of legal status of the organization (in attachment to a notarized translated version in Vietnamese).

4. Non-project aid dossier shall consist of the following main documents:

a) The letter of submission by the approving agency of the aid subject to the Prime Minister's approval; or the line agency or the implementing agency of the aid (where the aid is directly managed by the line agency) which addresses the following key points:

- Total aid amount;

- Relevance of the non-project aid to the development orientations, long-term development plan and specific needs of the beneficiary agency;

- Management and implementation arrangements and coordination mechanisms;

- Commitment of Vietnamese contributions, especially counterpart funding for the reception and utilization of the non-project aid;

b) Donor's letter to inform or pledge to consider the provision of the non-project aid. Used goods imported into Vietnam as aid shall need to be accompanied by a document by the Donor confirming that the assessed quality of the goods is at least 80% of their original quality.

c) Memorandum of understanding signed with the Donor; the Donor's commitments, pre-conditions, and other conditions on the non-project aid item; obligations and commitments of the Recipient.

d) Proof of legal status (not applicable to organizations specified under Points dd, e, Clause 3, Article 1 of this Decree):

- For FNGOs specified under Point a, Clause 3 of Article 1 of this Decree who have regular and direct operations in Vietnam: A copy (notarized) of registration in Vietnam of the FNGOs non-refundable aided by the Ministry of Foreign Affairs as stipulated in Decree 12/2012/ND-CP dated March 01, 2012 of the Government on registration and management of FNGOs in Vietnam.

- For FNGOs specified under Point a, Clause 3 of Article 1 of this Decree who do not have regular and direct operations in Vietnam: Copy of valid proof of legal status of the organization (in attachment to a notarized translated version in Vietnamese).

- For individuals specified under Point b, Clause 3, Article 1 of this Decree: A copy of a valid passport (in attachment to a notarized translated version in Vietnamese).

- For individuals specified under Point c, d, Clause 3, Article 1 of this Decree: Copy of valid proof of legal status of the organization (in attachment to a notarized translated version in Vietnamese).

dd) For non-project aid which is used goods allowed to be imported into Vietnam: - A written certificate from a competent certification organization of the Donor's country confirming that the quality of such goods exceeds 80% of their original quality.

e) For non-project aid which is used vehicles, the following documents shall be required:

- Registration or Certificate of Ownership of the Donor;

- Registration Certificate issued by a competent authority of the Donor country. In case of a temporary import for re-export vehicle, a Registration Certificate issued by a competent authority of Vietnam shall be required;

- A written certificate from a competent certification organization of the Donor's country confirming that the remaining quality of such goods exceeds 80% of their original quality.

#### **Article 14. Appraisal of Program/Project:**

1. The aid Program/project document or agreement shall be appraised to serve as a basis for approval, signing and implementation.

2. Program/ project document of projects subject to the Prime Minister's approval as referred to in Point a, Clause 1 of Article 19 of this Decree shall be appraised by the Ministry of Planning and Investment.

3. Program/ project document of projects subject to the Head of the competent authority's approval as referred to in Point b & c, Clause 1 of Article 19 of this Decree shall be appraised by the competent authority or authorized representative thereof.

4. The lead agency responsible for appraisal may invite specialized agencies at the central and local levels, consulting entities and independent consultants to assist in the appraisal of the Program/project.

5. During the appraisal process, the lead agency shall clarify the following issues:

a) Relevance of the Program/ project objectives to the specific development objectives of the ministry, sector, locality, and entity that benefits from and implements the Program/ project;

b) Feasibility of the organizational and implementation approach; the roles and responsibilities of the implementing agency and donor agency;

c) Vietnam's commitments to make contributions to the Program/ project;

d) Suitability of the budget structure of the programs and projects for the major components (key budget lines), including the funds directly implemented and managed by FNGOs.

dd) Other commitments, pre-conditions and requirements by donors (if any). Duties and commitments by recipients to implement the program, project.

e) Appraisal of aid donated by entities mentioned in Points a, Clause 3, Article 1 of this Decree: Relevant information about the organization's in Vietnam and (or) the country where its head office/branch is based, which is directly related to Vietnam;

g) Expected impact, applicability of the results and sustainability of the Program/ project following its completion;

h) Issues agreed or pending for agreement between the relevant parties;

The lead appraising agency shall consolidate the comments from the relevant agencies and prepare an appraisal report for submission to the competent authority for approval of the Program/ project document. Where necessary, the appraisal report shall be accompanied by a draft decision to approve the Program/ project.

6. The agencies involved in appraisal process shall be held accountable before law for the appraisal contents under their mandate.

## **Article 15. Appraisal of Non-project Aid**

1. Non-project aid dossier shall be consulted with relevant agencies, localities and submitted (with consolidated comments) to the competent authority specified in Article 19 for approval to serve as the basis for the signing and reception of aid.

2. Where there is a difference in opinions among relevant parties, the non-project aid dossier shall be appraised by the competent appraisal authority to serve as the basis for approval, signing, and implementation.

a) Non-project aid subject to the Prime Minister's approval as stipulated in Point a, Clause 1, Article 19 of this Decree shall be appraised by the Ministry of Planning and Investment.

b) Non-project aid subject to the Head of the competent authority's approval as referred to in Point b & c, Clause 1 of Article 19 of this Decree shall be appraised by the competent authority or authorized representative thereof.

c) The lead agency responsible for appraisal may invite specialized agencies at the central and local levels, consulting entities and independent consultants to assist in the appraisal of the Program/project.

d) During the appraisal process, the lead agency shall clarify the following issues:

- Relevance of the non-project aid item to the long-term development direction, plan and specific need of the beneficiary agency of the FNGOs aid (agency, sector, areas of activities, locality);

- Determine whether the aid is used only for humanitarian and charity, not for profit seeking purpose;

Feasibility of the management and implementation arrangements and coordination mechanisms during the implementation process:

Capacity of the Vietnamese side to make contributions, especially counterpart funding for the reception and utilization of the non-project aid item;

- Commitments, pre-conditions and other conditions set by the Donor (if any). Obligations and commitments of the Recipient to implement the program/project;

- Approval of aid donated by entities mentioned in Point a, Clause 3, Article 1 of this Decree: Relevant information about the organization's in Vietnam and (or) the country where its head office/branch is based, which is directly related to Vietnam;

- Issues agreed or pending for agreement between the relevant parties must be reflected in the appraisal report.

The lead appraising agency shall consolidate the comments from the relevant agencies and prepare an appraisal report for submission to the competent authority for approval of the non-project aid dossier. Where necessary, the appraisal report shall be accompanied by a draft decision to approve the non-project aid dossier.

dd) The agencies that take part in the appraisal of the dossier of the non-project aid item shall be held accountable before the law for the appraisal contents that fall under their respective management responsibilities.

## **Article 16. Aid Appraisal Dossier and Report**

1. The appraisal dossier shall consist of the following components:

a) The letter of submission by:

- The approving agency of the aid subject to the Prime Minister's approval;

The line agency or implementing agency of the aid, where the aid is directly managed by the line agency.

b) Accepted application dossier indicated in the point 3, 4 Article 12<sup>2</sup> of this decree.

c) Comments of relevant agencies on the aid.

Aid contents related to a given ministry, sector or locality shall be consulted in writing with the Head of the relevant ministry, sector or locality, their written comments shall form an integral part of the appraisal dossier to serve as a basis for the consideration and approval as stipulated in Article 19 of this Decree.

2. The appraisal dossier shall be made in eight copies for aid subject to the Prime Minister's approval. Dossier written in a foreign language shall be accompanied by the Vietnamese translation.

3. The appraisal report shall consist of the following contents:

a) Relevance to the existing legal provisions governing the data, justification, calculation, conclusions and recommendations in the dossier that has been appraised;

b) Feasibility of the aid;

c) Rationale of using aid for the program/ project's activities;

d) Shortcomings, constraints, and solutions or remedial actions thereto, responsible parties and deadlines for the resolution of such problems;

e) Commitments to institutional and policy changes; differences in procedures for the reception and implementation of the aid; requirements and conditions raised by the Donor (if any);

f) Implementing agency capacities (including financial capacity) for the management and implementation of the aid;

g) Suggested lead agency for the reception and implementation of the aid;

h) Deadline for the completion of the aid dossiers;

i) Information on donors operations in Vietnam and its legal status;

The appraisal conclusion together with the above contents shall be reflected in the appraisal report.

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<sup>2</sup> Note: should be article 13

## **Article 17. Aid Appraisal Process and Timeline**

1. With regard to FNGOs aid subject to the Prime Minister's approval:

a) Lead appraisal agency:

The Ministry of Planning and Investment shall take the lead in appraising aid subject to the Prime Minister's approval.

b) Appraisal process:

- Step 1: Assess the validity of the appraisal dossiers

Assess the validity of the appraisal records on the basis of the provisions of Point 1 of Article 16 of this Decree;

- Step 2: Consult relevant stakeholders

Approval of aid donated by entities mentioned in Points a, b, c, d of Clause 3, Article 1 of this Decree.

After receiving valid copies of 08 dossiers of the approving agency, the Ministry of Planning and Investment shall send written requests for comments to the Government Office, the Ministry of Finance, Ministry of Foreign Affairs, the Ministry of Public Security and a number of agencies, units and people's committees of provinces and centrally-run cities related to the aid being appraised. Aid involving organizations specified in Point d & dd, Clause 4, Article 1 of this Decree shall also require comments from Ministry of Home Affairs and the Central Commission for External Relations.

- Approval of aid donated by entities mentioned in Points dd and e, Clause 3, Article 1 of this Decree: After receiving valid copies of 08 dossiers of the approving agency, the Ministry of Planning and Investment shall send written requests for comments to the Government Office, the Ministry of Finance, Ministry of Foreign Affairs, and a number of agencies, units and people's committees of provinces and centrally-run cities related to the aid being appraised.

- The appraisal process of non-project aid which is used goods and means of transport is required to consult in writing with sector related Ministry, Ministry of Industry and Trade, and the Ministry of Science and Technology.

- Step 3: Appraise

If the aid dossier is not complete, the Ministry of Planning and Investment shall request the approving agency to modify and complete the documents aid and retake steps mentioned above.

If the dossiers are complete and valid, MPI shall conduct the appraisal conducted in line with either of the two following processes:

+ Consolidate appraisal opinions: If the aid dossiers are complete, clear and not objected by consulted agencies, MPI shall prepare an appraisal report following templates of this Decree including agencies' comments to the Prime Minister for approval to receive FNGOs aid;



+ Hold appraisal meeting: Where the above option is not practical, MPI shall designate a chairperson, secretary and hold an appraisal meeting. Invited participants include representatives of MPI, consulted agencies, approval agency, the implementing agency and other relevant stakeholders.

If the aid dossier is approved at the appraisal meeting, MPI shall prepare appraisal report with the minutes following templates of this Decree and submit to the Prime Minister for approval to receive aid.

If the aid dossier is not approved at the appraisal meeting, MPI shall request the approving agency to modify and complete the documents aid and retake steps mentioned above.

### c) Appraisal Timeline

The aid appraisal shall be completed within no more than twenty (20) working days since the receipt of complete and valid dossiers.

Time for assessing the validity of the appraisal dossier shall not exceed 3 working days since the receipt of valid application;

Time for consulted agencies to send written comments shall not exceed 10 working days from the date of when relevant agencies receiving written request for consultation. If the relevant agencies fail to provide written comments to MPI within this Timeline, this shall be deemed agreement with the aid reception.

## 2. With regard to aid subject to the competent agency's approval:

### a) Identification of Lead Appraisal Agency:

- Provincial and municipal Department of Planning and Investment (DPI) shall take lead in appraising aid under the mandate of the Chairman of provinces and centrally-run cities' People's Committee;

- Focal Unit in the management and use of aid under Ministries, central agencies of socio-political organizations shall appraise aid other than the cases specified in Clause 1 and paragraph 1, *Point a* of Clause 2 of this Article.

The implementing agency is not allowed to appraise their technical assistance project.

### b) The appraisal process issued by the aid approving agency is described below:

- Step 1: Assess the eligibility of the appraisal dossiers

Assess the eligibility of the appraisal dossiers in compliance with Clause 1 of Article 15 of this Decree;

- Step 2: Consult relevant stakeholders

After receiving the required number of valid dossiers, the lead appraising agency shall send the dossiers with written request for consultation to relevant agencies and localities related to the aid being appraised.

Aid donated by organizations and individuals specified under Points a, b, c of Clause 3, Article 1 of this Decree shall only be approved by competent authorities with a document of no objection by the following Ministries: MPI, Ministry of Finance, Ministry of Foreign Affairs and Ministry of Public Security.

Aid involving organizations specified in Point d & e, Clause 4, Article 1 of this Decree shall also require additional notice-of-no-objection from Ministry of Home Affairs and the Central Commission for External Relations.

#### - Step 3: Appraise

If the aid dossier is not complete, the lead appraising agency shall request the line agency (in cases specified in Point b, Clause 6 of Article 3 of this Decree) or the implementing agency (in cases where the implementing agency is subordinate to a line agency as stipulated in Point a, Clause 6, Article 3 of this Decree) to modify and complete the aid documents and retake steps mentioned above.

If a dossier is complete and valid, the lead agency shall conduct the appraisal in line with either one of the two following processes:

- + Consolidate appraisal opinions: If the aid dossiers are complete, clear and not objected by consulted agencies, the lead agency shall prepare an appraisal report following templates of this Decree including the agencies' comments to the competent authority for approval to receive aid;

- + Hold appraisal meeting: Where the above option is not practical, the lead agency shall designate a chairperson, secretary and hold an appraisal meeting. Invited participants include representatives of the lead agency, consulted agencies, the implementing agency and other relevant stakeholders.

If an aid dossier is approved at the appraisal meeting, the lead agency shall prepare an appraisal report together with the minutes and the draft Decision to approve the aid following templates of this Decree to the competent authority for approval to receive FNGOs aid;

If an aid dossier is not approved at the appraisal meeting, the lead appraising agency shall request the line agency (in cases specified in Point b, Clause 6 of Article 3 of this Decree) or the implementing agency (in cases where the implementing agency is subordinate to the line agency as stipulated in Point a, Clause 7, Article 3 of this Decree) to modify and complete the documents aid and retake steps mentioned above.

#### c) Appraisal Timeline

An aid appraisal (process) shall be completed within no more than twenty (20) working days since the receipt of complete and valid dossiers.

- Step 1: Time for assessing the validity of an appraisal dossier shall not exceed 3 working days since the receipt of valid application;

- Step 2: Time for consulted agencies to send written comments shall not exceed 12 working days from the date of dispatching written request(s) for consultation. If the relevant agencies fail to provide written comments to the approving agency within this timeline, this shall be deemed agreement with the aid reception.

- Step 3: Appraisal deadline:

+ Time to prepare for the appraisal meeting shall not exceed 2 working days;

+ Time to prepare appraisal reports and appraisal meeting minutes: shall not exceed 3 working days since the appraisal meeting.

**Article 18. Process and deadline for completion of the dossier following the appraisal meeting;**

1. Once all the conditions for approving the aid are met, the lead appraising agency shall submit a recommendation to the competent authority stipulated in Article 19 of this Decree for approval of the aid.

2. In case some conditions are not met, the lead appraising agency shall submit the appraisal conclusions to the line agency and the implementing agency to explain the issues that would require clarification, additions and/or adjustments as well as to set out the deadline for the completion of the dossier. The line agency shall thereafter be responsible for guiding the implementing agency to address the above issues within the deadline stated in the appraisal report. In case the dossier cannot be completed within the deadline, the implementing agency shall report in writing to the line agency and the lead appraising agency justifying the delay and reach an agreement with the latter on necessary follow-up actions.

**Article 19. Approval of Aid:**

1. Authority for approval of aid:

a) The Prime Minister shall have the authority to approve the following:

- aid that relates to national security, defense, religious issues and aid that directly supports the formulation of normative legal documents, policy guidelines that are supposed to be issued by the Prime Minister and higher authorities, socio-economic development strategies, master plans and plans of the country, a sector or a geographical region;

- Aid which relate to the import of automobiles and other means of transport (e.g. Aircraft, ships, boats, etc...).

- Non-project aid which is used goods and banned from import (in case of emergency).

- Goods which are subject to the Prime Minister's approval on importation to Vietnam according to applicable law.

b) The Head of State agencies and organizations, the Chairpersons of the People's Committees of provinces and centrally managed cities, the Heads of Central Offices of organizations as referred to in Items a), b) and c), Article 1 of this Regulation shall have the authority of approving the following:

- Aid that is not mentioned in Point a of this Clause;

- Emergency relief items that have specified recipients.

c) Regarding aid(s) whose recipients are organizations referred to in Point d, Clause 4, and Article 1 of this Decree: - The Ministry of Home Affairs (MOHA) shall approve the aid aimed for organizations established by MOHA

- Heads of ministries, ministerial-level agencies, and other agencies of the Government shall approve the aid aimed for specified recipients to whom they issue License of Operation;

- Chairpersons of People's Committees of provinces and centrally managed cities shall approve the aid destined for specified recipients for which the People's Committees of provinces and centrally managed cities or their subordinate departments issue the decisions on their establishment or License for Operation or business licenses.

d) President of the Vietnam Fatherland Front shall have the authority of approving:

Emergency relief items that do not have specified recipients (i.e. the Donor does not specify localities or entities that shall receive such aid).

## 2. Process for Aid Approval:

a) With regard to aids subject to the Prime Minister's approval:

- The aid approving agency shall submit aid dossiers to MPI for appraisal;

- MPI shall take lead in appraising the aid in accordance with existing regulations;

- MPI shall submit the proposal to the Prime Minister's approval to receive the aid.

Once the Prime Minister has approved the reception and implementation of the aid, MPI shall notify the approving agency in writing to proceed with next steps in line with Chapter III and Chapter IV of this Decree.

b) With regard to FNGOs aid subject to Head of competent agency's approval: The approval shall comply with existing regulations.

3. The Decision (original copy) on approving the aid, together with the program/project Document and Agreement, non-project aid dossiers, all pages being stamped on the edge, as well as other related documents subject to the aid approving agency as stipulated in Point b, c and d, Clause 1 of this Article, shall be forwarded by the line agency to the Ministry of Planning and Investment, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Public Security, State Bank of Vietnam within ten (10) working days from the date the aids' approval.

## **Article 20. Sale of Aid Items**

1. Goods constituting part of FNGOs aid that the Recipient and Donor have agreed to import and sell in Vietnam in order to support the implementation of priorities specified in Article 6 of this Decree shall require a decision by the competent authority in addition to the approval of the aid, as stipulated in Article 19 of this Decree.
2. Used goods allowed to import into Vietnam are not commercial commodities and it is not permitted to sell them at auction.
3. Brand new goods shall be sold by auction in accordance with the Vietnamese existing law on the auctioning of assets.

## **Chapter III**

### **MANAGING THE IMPLEMENTATION OF AID**

## **Article 21. Specific Principles for implementing FNGOs aids**

1. The implementation of aid items, except emergency relief, shall commence only after it has been approved by the competent authority as referred to in Article 19 of this Regulation and formally communicated by the line agency to the Donor.
2. No goods (including supplies and equipment) that are mentioned in the list of items prohibited to import by the Government shall be received. If necessary, the reception of such goods shall be decided upon by the Prime Minister.
3. Apart from agreeing on the receipt of unused and 100% brand new goods, the line agency shall agree on the receipt of used commodities only if they are appraised in writing as equal to at least 80% in value of brand new ones by a competent inspection organization in the country of the donor. The line agency shall only inform the Donor to ship the goods after obtaining the approval of the Vietnamese competent authority for receiving those commodities.

The Donor shall be fully responsible for the quality of the goods that it has confirmed until their delivery and receipt.

The donated cargoes failing to comply with the above procedures when being imported into Vietnam shall be handled by the competent authority in conformity with the laws and the aid implementing agency shall bear all the handling costs.

4. Should a program/project fail to implement any activity three (3) months after being approved without any legitimate reason, the competent authority as stipulated in Article 15 of this Regulation shall withdraw the decision on the approval of the program/project. The line agency shall be responsible for informing the Donor on the withdrawal of the decision on the program/project's approval.
5. When a program/project is terminated before the completion date approved by the competent authority, the implementing agency shall make the report on the early termination of the

program/project stating the reasons and responsibility of the related parties. Such report shall be sent to the agency in charge of approving the program/project, the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Foreign Affairs and the Ministry of Public Security.

6. Programs/projects subject to the approval by the Prime Minister as prescribed in Article 19 of this Decree shall establish a Program /project Management Unit having its function, duty, and power as stipulated in Article 28 of this Decree.

**Article 22. Duties and Authorities of the Line Agency in managing the implementation of a program/project**

1. Decide the organization of the system for managing the implementation of the programs/projects, including the Steering Committee of the program/project (if needed).

2. Approve the master plan for implementing the program/project; to aggregate and approve the annual schedule for implementing the program/project.

3. Direct the Procurement procedure in conformity with the existing laws on Procurement.

4. Organize the monitoring and evaluation of the implementation, to ensure correct progress of the project, quality and achievement of the planned target according to the regulations on the monitoring and evaluation in this Decree.

5. Be responsible for the costs arising due to subjective reasons, loss, waste, corruption and violations of the management and use of aid according to its managing authority as stipulated by the law on public investment.

6. Implement other duties and authorities towards the program/project as prescribed by the laws.

**Article 23. Duties and Authorities of the Aid Implementing Agency in controlling the implementation of a program/project**

1. The implementing agency (including that of component projects, if any) shall be specified in the decision on the approval of the aid issued by the Vietnamese competent authorities.

2. Organize the system of management and implementation of the program/project based on the decision of the line agency.

3. Be responsible for the efficient management and use of aid, counterpart fund of the program/project from the steps of preparation and implementation until putting the program/project into operation.

4. Prepare a work plan for each quarter, control, supervise and evaluate the program/project.

5. Implement the Procurement procedure in conformity with the existing laws on Procurement.

6. Negotiate, sign, monitor the implementation of contracts and handle the problems arising under their mandate.

7. Coordinate with the local authorities in organizing the compensation and resettlement support in compliance with the laws applicable to the program/project (in the case of construction projects).

8. Monitor and evaluate the program/project in accordance with the laws on the monitoring and evaluation of state investments and regulations of this Decree in order to ensure that the program/project shall be implemented in accordance with the planned schedule, quality, and objectives.

9. To direct the Project Management Unit to make the report on the termination and the report on the final accounts of the program/project; to audit and hand-over the assets and output documents of the program/project and to comply with the regulations on closing the project based on the international agreement on the program/project.

10. To be responsible, based on its power to manage and carry out the program /project, for the loss, waste, corruption, and violation that cause economic, social and environmental damages and affect the target and general efficiency of the program/project.

11. Other tasks and powers in the program/project as prescribed by the applicable laws.

13. To be responsible in front of the law and line agency within its scope of rights and duties as prescribed by this Decree and other stipulations of the relevant laws.

#### **Article 24. Forms of organizational structure for managing the program/project**

Besides the programs/projects subject to the approval by the Prime Minister for which a separate Project Management Unit for each program/project is mandatory; based on the scale, nature and specific conditions for implementing the program/project, its capacity to organize the management of the program /project and its regulations on controlling the aid, the line agency shall decide to apply one among the organizational forms of managing the program/project as follows:

1. To establish a separate Management Unit for each project.

2. To use the existing Management Unit to control the new program/project.

3. The implementing agency shall use its direct professional system that has enough conditions, capacity to manage and implement the project in case of the small-scale project and project with the participation of the community.

#### **Article 25. Authority to issue the Decision on the establishment of the Management Unit for t program/project**

The head of the line agency shall issue the decision on selecting the forms of management. In case a Management Unit of a program/project (hereinafter referred to as the Project Management Unit) shall be established for managing a program/project under the form of project management according to the clause 1 Article 24 of this Decree, the Line agency shall issue the Decision on the establishment of the Project Management Unit.

4. The decision on the establishment of the Project Management Unit must be issued with the enclosed document stipulating the organizational structure, function, duty, responsibility, power and authorization, outline of the work assigned to some major titles of the Project Management Unit.

#### **Article 26. Establishment of Project Management Unit**

1. The person entitled to establish the Project Management Unit as stipulated in the clauses 1, 2 Article 32 of this Decree shall, within 30 days from the issue date of the decision approving the program/project, promulgate the decision on establishing the Project Management Unit.

2. Within 15 working days from the issue date of the decision on establishing the Project Management Unit, the implementing agency shall promulgate the rules on the organization and operation of the Project Management Unit. In case the international agreement shall stipulate the organizational structure for the management of the project, the duty and power of the Project Management Unit, such stipulations must be fully specified and set forth in the rules of the organization and operation of the Project Management Unit.

#### **Article 27. Cases where no Project Management Unit shall be set up**

1. The line agency shall decide not to set up the Project Management Unit in the following cases:

a) The technical assistance program/project using the non-refundable aid plus the counterpart fund worth in total less than USD 100,000;

b) The investment program/project using the non-refundable aid plus the counterpart fund worth less than USD 350,000;

c) Non-project

d) Program/project using the non-refundable aid of which the international donor shall control financially, organize the supply of service and goods in accordance with the regulations of the international donor on the conditions applicable to the use of such non-refundable aid to the program/project. In addition, it is agreed not to set up the Project Management Unit in the international agreement on the program/project.

#### **Article 28. Duties and Authorities of Project Management Unit**

1. A Project Management Unit shall be the representative of the implementing agency and entitled, on behalf of the implementing agency, to exercise its power and duty as assigned. The Project Management Unit shall be responsible in front of the implementing agency, the line agency, the agency approving the aid and before the law for the decisions it shall make.

2. Within fifteen (15) days from the approval date of the Program/ project by the competent authority as prescribed in Article 15, the implementing agency or the line agency (in case the program/ project shall be directly managed and implemented by the line agency) shall promulgate the decision on setting up the Management Unit of the program/project. In this decision, the implementing agency or



the line agency shall appoint the Director and the members endorsing the Co-Director of the Project Management Unit (nominated by the Donor) as well as define the duties, powers of the Project Management Unit.

4. The PMU shall be entitled to open its own account at a commercial bank duly established and operating in compliance with the Vietnamese law or at the State Treasury of Vietnam. The PMU shall also be entitled to have its own stamp in order carry out the program/ project of international non-governmental aid in conformity with the existing provisions of Vietnamese law and the signed agreements or commitments.

5. The Project Management Unit shall have its working and transaction office officially and permanently during the course of the program/ project implementation.

#### **Article 29. Organization of Project Management Unit**

1. Function, duty of Project Management Unit:

a) Developing plans

b) Managing the preparation for implementing the program/project:

The management of program/project implementation preparation shall consist of studying program/project documents, procedures and conditions to carry out the program/project (system for budget expenditures, accounting system, project audit, reporting system...);

For investment projects, (the PMU) needs to study the existing regulations on the management of investments in construction works with consideration of some particular requirements of the non-refundable aid.

c) Carrying out the Procurement activities and control of contracts:

- Carrying out the Procurement assigned by the Agency deciding the establishment of the Project Management Unit in compliance with the regulations of the Vietnamese law on Procurement.

- Managing the implementation of obligations defined in the contract signed by the competent person with the contractor; monitoring, supervising, and assessing the operation and operational outcomes of the contractor; timely addressing problems arising during the implementation of contracts in compliance with its (PMU's) authority.

d) Managing the finance, assets, and disbursement:

Managing the finance, assets and carrying out the procedure of disbursement in conformity with the regulations of the law and in line with the stipulations of the donor.

dd) Administration, coordination, and accountability:

- Organizing the office and control the personnel of the Project Management Unit

- Developing an internal information system which collects, classifies and archives all information and original documents relating to programs/projects and the PMU in accordance with applicable law;
- Preparing for the publication of program/project's content, organization, progress and budget by the implementing agency to the program/project's direct beneficiaries and relevant agencies;
- Providing accurate and true information to legal protection agencies, inspection agencies, audit agencies, donors, mass media agencies and related individuals under its assigned duties and responsibilities, except for information restricted from disclosure as provided for by law;
- Acting as the focal point of the implementing agency and the program/project implementing agencies in transacting with the Donor to deal with any issues arising during the program/project implementation;

e) Monitoring, evaluating, and reporting on program/project implementation

- Organizing the evaluation on the PMU's operations;
- Organizing the monitoring and assessment of the implementation of the program/project as prescribed in Article 37, Article 38 and Article 39 of this Decree.
- Carrying out the reporting system as prescribed Article 40 of this Decree.

g) Carrying out the commissioning, hand-over, finalization of accounts for the program/project:

Preparing to enable the implementing agency/line agency to check program/project for acceptance and hand-over completed program/project to the receiving agency according to the regulations for operation and use;

h) Other duties:

Project Management Unit shall carry out other duties within the scope of the program/project as assigned by the Agency deciding the establishment of the Project Management Unit.

## 2. The organizational structure of Project Management Unit.

a) Basic requirements towards the organization and personnel of a Project Management Unit:

- Project Management Unit shall have the appropriate organizational structure, enough personnel with qualifications and experiences suitable to ensure the efficiency and sustainability to the achieved program/project.
- In some specific cases, representatives of the donor can participate as Co-Director or member of the Project Management Unit;
- Each title, work position in the Project Management Unit shall have the Terms of Reference (TOR) made by the Director of the Project Management Unit based on the function and duty specified in the documents of the program/project and openly announced in the Project Management Unit. The TOR

shall specify the required professional capacity, scope of responsibility, power, compensation, report and assessment of the work done.

b) Organizational structure of the Project Management Unit:

- Based on the contents, scale, nature, scope of operation, method of organization, management, implementation of the program/project, the Director of the Project Management Unit shall prepare and submit to the agency, that decided the establishment of the Project Management Unit, the organizational structure of the Project Management Unit.

- The organizational structure of the Project Management Unit usually consists of the following departments:

+ Department for administration, organization and support;

+ Functional department including planning, procurement, and some necessary activities;

+ Technical and professional department according to the contents of operation in the documents of the program/project.

The organizational form of each department in the structure of the Project Management Unit can be selected among the forms such as department, division, group or cadre in charge (if the division has only one cadre).

3. Implementation arrangement

A) Establish the Project Management Unit.

- Legal basis:

The establishment of the Project Management Unit shall be based on the following legal basis:

+ Based on the function, duty, power of the line agency, implementing agency;

+ Based on the Decision on the approval of the aid program/project;

+ Based on the Aid Agreement;

+ The stipulations of this Decree.

- The establishment of a Project Management Unit is carried out in conformity with the Article 35 of this Decree.

b) Operational expenditures of Project Management Unit:

The rate of operational costs and expenditure shall follow the regulations in the documents of the program/project and comply with the applicable regulations in force.

c) Assets of Project Management Unit.

- Project Management Unit shall be provided with assets in order to serve the management of the program/project according to the law;

- The assets of the Project Management Unit shall be used for the right purpose, economically and efficiently. It is strictly forbidden to lease, lend, donate, offer and use the assets for personal purpose;

Project Management Unit shall report to the agency deciding the establishment of the PMU about the assets handed-over, offered, left to the Project Management Unit by the consulting agency, contractor, supplier. Such assets shall be controlled according to the stipulations of the laws;

- Assets of Project Management Unit after the completion of a program/project or unnecessary for use during the implementation of the program/project shall be handled right away in conformity with the existing regulations.

#### d) Program/project completion

The ending time of the aid program/project shall be stipulated in the agreements with the Donor.

Within six (6) months a program/project completion, the Project Management Unit shall complete the report on the completion and the report on the final accounts of the program/project for submitting to the Line agency (in case of direct control by the Line agency) or let the implementing agency submit the reports to the Line agency.

At the same time, the Project Management Unit shall conduct the settlement of its assets in compliance with the existing regulations.

After the report on the completion and the report on the final accounts of the program/project shall be approved by the competent agency and the settlement of the Project Management Unit's assets shall be completed, the agency that decided the establishment of the PMU shall issue the Decision on the completion of the program/project and disbandment of the Project Management Unit.

In case it is not possible to end the above mentioned works within the specified deadline, based on the written explanation of the Project Management Unit, the agency that decided the establishment of the PMU shall permit in writing the extension for 6 months more in maximum to enable the Project Management Unit continue completing the unfinished works and the expenditure needed to the Project Management Unit for maintaining its operation during the extended time.

In case the Project Management Unit shall control many programs/projects, the agency that decided the establishment of the Project Management Unit shall promulgate the Decision on terminating each specific program/project and at the same time it shall amend the function and duty of the Project Management Unit in compliance with the stipulations of this Decree.

#### 4. Compensation

The compensation to the Director and other titles of the Project Management Unit that are pluralist job or job on secondment, shall be done according to the existing regulations taking into consideration the

nature, intensity of the work, actual working time. The compensation shall encourage the qualified cadres to work for a long time and professionally with the program/project.

### **Article 30. Tax applicable to Aid**

Tax charged on the international aid shall be applied in compliance with the existing regulations of the Vietnamese law.

### **Article 31. Procurement and Auction**

The bidding and auction of aids shall be implemented according to the existing provisions of Vietnamese law governing the bidding and auction.

### **Article 32. Adjustment, amendment, supplement to program(s)/project(s) of aids during its implementation**

1. With regard to a Program/ project subject to the approval of the Prime Minister:

a) The following adjustments, amendments, and supplements shall be submitted to the Prime Minister for approval:

- Adjustments, amendments, supplements that result in the variation of the specific objectives, the organizational structure of management and implementation, main commitments and locations for implementing the approved program/ project and the adjustments of the on-going progress resulting from the extension of such progress for more than 12 months compared to the completion time approved initially;

- Adjustments and supplements leading the program/ project of aid from an FNGO to become one of the cases stipulated in point a clause 1 Article 19 of this Decree.

b) Adjustments, amendments, supplements that do not fall under the provisions in point a clause 1 of this Article shall be approved by the Head of the agency in charge of approving the FNGOs' said.

2. With regard to a program/project to be approved by the Head of the agency in charge of approving FNGOs's aids:

a) Adjustments, amendments, and supplements, making a program/ project to become one of the cases as stipulated in point a clause 1 Article 19 of this Decree, shall be submitted to the Prime Minister for consideration and approval.

b) Adjustments, amendments, and supplements, not falling under the provisions in point a clause 2 of this Article, shall be approved by the Head of the agency in charge of approving FNGOs aids.

c) The agency in charge of approving FNGOs aids shall issue specific stipulations, steps and deadlines for adjusting, amending and supplementing the programs/ projects under its authority, based on the guidance of the Ministry of Planning and Investment on the basic requirements and general procedure applied to such above adjustments, amendments and supplements.

### **Article 33. Management of construction, commissioning, hand-over and finalization of accounts**

1. The appraisal and approval of the technical design and total budget estimate, issuance of the construction permit, quality control, commissioning, hand-over, guarantee, insurance of construction works under the program/project of investment with capital from an aid shall be done in compliance with the provisions of the applicable law.
2. Regarding a program/project of technical assistance, after ending, the program/implementing agency shall organize the commissioning, assessment, review and shall conduct the measures necessary to utilize effectively the achievements from the program/project.
3. The final accounts of the aid shall abide by the existing regulations of the applicable law.

### **Article 34. Counterpart Fund for implementation preparation and program/project implementation**

1. The counterpart fund shall be enough for preparing the implementation and carrying out the program/project. The source, level of fund and the mechanism of counterpart fund shall comply with the contents of expenditure for the program/project that were approved by the line agency and the international donor and shall be set forth in the documents of the program/project that the level of authority already appraised and decided to approve such program/project.
2. The counterpart fund shall be used for the following expenditures:
  - a) Operational costs of the Project Management Unit (wage, bonus, allowance, office, working facilities, administrative expenditure);
  - b) Costs for the appraisal of designs, approval of the total cost estimates, completion of the procedures for investment, construction, and other necessary administrative procedures (in case of investment project in the construction);
  - c) Costs related to the selection of contractors;
  - d) Costs for the conference, seminar, training, coaching the managerial work and implementation of the program/project;
  - d) Costs for receiving and disseminating international technologies, experiences, and skills;
  - e) Costs for propaganda, advertising the program/project and community activities;
  - g) Payments of taxes, customs duties, insurance premiums in conformity with the existing regulations;
  - i) Costs for receiving equipment and local transport (if any);
  - k) Costs for auditing, finalizing the accounts, verifying the completion of final accounts;
  - l) Costs of compensation, land clearance, and relocation of the population;

m) Costs for carrying out some basic activities of the program/project (survey, technical design, construction; building some construction items, procurement of some equipment;

n) Costs for supervision and evaluation works; monitoring and inspection of quality, commissioning, hand-over, finalization of the accounts for the program/project;

o) Contingency costs and other reasonable costs.

3. In case the counterpart fund allocated annually from the central budget to the program/project shall not be fully spent, the line agency may mobilize and transfer the remained fund to another program/project in need once decided by the agency in charge of allocating the fund in conformity with the existing regulations.

7. The source of counterpart fund consists of the national budget and other sources of the fund belonging to the State, funds of the implementing agency (in the case of private organizations and enterprises).

### **Article 35. Procurement**

1. The selection of contractors shall be done in compliance with the provisions of the Vietnamese laws on Procurement.

2. The procedure for decentralizing the submission, appraisal, and approval of the contents of the Procurement shall be done in compliance with the provisions of the Vietnamese Law on Procurement.

### **Article 36. Settlement of Contractual Dispute**

In the case of any contract-related dispute during the implementation of the program/project, the parties shall be responsible for discussion and settlement. Should the parties fail to agree with each other, the settlement of dispute shall be done through the reconciliation, arbitration or court in conformity with the contract or the provisions of the international agreement on the program/project and the applicable laws.

## **Chapter IV**

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

#### **Article 37. Monitoring of Aid Implementation**

The monitoring of aid implementation shall be conducted regularly and information on its implementation shall be updated, classified and analyzed periodically; suggestions shall be made in a timely manner to support decision-making by relevant authorities, in order to ensure that the aid meets its stated objectives, is implemented in accordance with its planned schedule, achieves its intended quality and effectiveness, and abides by the existing provisions of Vietnamese law and within the identified resources.

### **Article 38. Evaluation of Aid Implementation**

1. The evaluation of aid implementation shall be conducted in a comprehensive, systematic and objective manner, in order to make necessary adjustments and draw useful lessons for subsequent stages of the same program/ project and/or to other programs/ projects.
2. The evaluation of aid implementation shall be conducted regularly and on an ad hoc basis (if so needed).
3. The plans, modality, and financing (from aid or from counterpart funding) shall be specified in the program/ project document being financed from aid.

### **Article 39. Responsibilities for Monitoring and Evaluation of Aid Implementation**

1. The PMU shall be responsible for the following:
  - a) Developing a detailed monitoring and evaluation (hereinafter called "M & E") plan that clearly defines the resources available, progress schedules, deadlines, quality standards and criteria for accepting the outcomes of individual M & E activities. The detailed M & E plan shall be developed by the PMU within three (03) months at the latest, from the date on which the program/ project commences its operation (or is approved, signed).
  - b) Developing working regulations, collecting and storing information, data, files, documents, books, bills/receipts/invoices from program/ project implementation as well as reports from contractors, changes in policies and laws of the State, procedures and regulations of the Donor relating to program/ project management and implementation.
  - c) Preparing progress reports as required by existing regulations, providing and sharing information through the M & E systems at the national, sectoral and local levels.
  - d) Preparing, or recruiting consultants to assist the PMU in preparing, the initial, mid-term and terminal evaluation reports in line with the contents of the program/ project document that has been approved; acting as the focal point for coordination with the Donor and the management authority in the conduct of evaluation activities.
2. The implementing agency of the aid shall be responsible for guiding, supervising, supporting the PMU and/or the beneficiary agency of non-project aid in monitoring and evaluating the program/ project being financed from aid or using non-project aid. In case the implementing agency faces difficulties or problems it is unable to overcome on its own, the implementing agency shall report such difficulties or problems in a timely manner to the competent authorities to find solutions thereto. Related agencies shall be responsible for reviewing proposals made by the PMU, the implementing agency of the aid or the beneficiary agency of non-project aid, and providing their responses within fifteen (15) working days. In case they are unable to give a response within the above deadline, they shall be responsible for notifying the delay to the PMU and the implementing agency.



Without a PMU, the implementing agency shall fulfill the responsibilities stipulated in Clause 1 of this Article.

3. The line agency shall be responsible for preparing the plan to evaluate the impact of aid, and working closely with relevant agencies to undertake, or recruiting consultants to assist the implementation of this task if needed. It shall take charge and work closely with relevant agencies and the Donor in organizing periodical (annual) and ad hoc reviews of the aid program/ project.

4. The approving agency of aid shall be responsible for taking the lead in coordination with relevant parties and the Donor in organizing periodical (annual) and ad hoc reviews of groups of programs/ projects being financed from aid as well as the reception and utilization of non-project aid, directly monitoring and evaluating the reception and implementation of aid in accordance with their mandate.

5. In line with the provisions of Chapter V of this Decree, the Ministry of Planning and Investment shall take charge and work with other relevant parties in performing its roles and responsibilities of monitoring and evaluating the reception and implementation of aid.

6. The funding for management, monitoring and evaluation of aid by State management agencies shall be provided from the State budget in accordance with the roles and responsibilities in managing, monitoring and evaluating aid as stipulated in Chapter V of this Decree.

#### **Article 40. Reports on the Management and Implementation of Aid**

1. The PMU shall be responsible for the following:

Preparing and submitting periodical progress reports to the implementing agency, the line agency, the approving agency of aid in accordance with the frequencies determined by the approving agency.

2. The implementing agency shall be responsible for the following:

a) Preparing and submitting semi-annual progress reports no later than 15 July of the reporting year and annual progress reports by 20 January of the following year, to the line agency and the approving agency of FNGOs aid, with copies to the Ministry of Planning and Investment and the Ministry of Finance.

b) Preparing and submitting completion reports no later than six months after completion of aid implementation to the following: the line agency, the approving agency, the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Public Security, the Ministry of Home Affairs.

c) The submission of reports to the Donor shall follow the provisions that have been agreed with the Donor itself.

3. The line agency shall be responsible for preparing annual consolidated reports on the mobilization of aid, the implementation of aid under its management responsibility and submit such reports to the

Ministry of Planning and Investment, at the same time, to the Ministry of Finance and the Ministry of Public Security no later than 30 July of the reporting year and 31 January of the following year.

4. The approving agency of aid shall be responsible for preparing annual consolidated reports on the results of the approval and implementation of aid that are subject to its approving authority, and submit such reports to the Ministry of Planning and Investment and, at the same time, to the Ministry of Finance and the Ministry of Public Security no later than 30 July of the reporting year and 31 January of the following year.

5. The Ministry of Planning and Investment shall be responsible for preparing and submitting to the Prime Minister annual consolidated reports on the approval and implementation of aid resources across the country.

6. Sample report of foreign aid is provided in this Decree.

7. The General Statistical Office shall take the lead in coordination with other relevant agencies in developing and consolidating periodical statistical indicators on the reception and utilization of foreign aid for inclusion into the national system of statistics on socio-economic development.

#### **Article 41. Examination, inspection and supervision of the reception, management, and utilization of foreign aid**

The inspection and supervision of the reception, management, and utilization of foreign aid shall follow the existing provisions of Vietnamese law.

### **Chapter V**

#### **STATE MANAGEMENT ON FOREIGN AID**

##### **Article 42. Contents of State Management on Foreign Aid**

1. Issuing and organizing the implementation of the legal normative document on management and utilization of foreign aid to organizations which are established under Vietnamese law.

2. Preparing and organizing the implementation of the Initiative on attracting, managing and utilizing aid in each period to support the implementation of the 5-year socio-economic development plan as well as solutions and policies for effective management and utilization of aid.

3. Providing information on management and utilization of foreign aid.

4. Monitoring, evaluating the situation and result of foreign aid management and utilization in accordance with the applicable law.

5. Handling violations, settling complaints and denunciations of organizations and individuals relating to the management and utilization of foreign aid.

6. Rewarding Vietnamese agencies, organizations and individuals and foreign donors who have outstanding achievements in the provision, management, and utilization of foreign aid.

#### **Article 43. Duties and Authorities of the Ministry of Planning and Investment**

The Ministry of Planning and Investment assists the Government in reaching agreement on State management on foreign aid with following duties and authorities:

1. Acting as the focal agency in coordinating, managing and utilizing foreign aid, making a plan on attracting, coordinating, managing and utilizing foreign aid; analyzing and evaluating the effectiveness of these aid resources.

2. Taking main responsibilities for preparing and submitting for issuance or issuing legal normative documents on the management and utilization of foreign aid in accordance with its duties and authorities.

3. Taking main responsibilities in the appraisal and consolidating the comments made by relevant agencies and submit its recommendation to the Prime Minister for his consideration and approval of aid as stipulated in Point a, Clause 1, Article 19, of this Decree and the revisions of Programs/ projects as referred to in Point a, Clause 1 and Point a, Clause 2, Article 31 of this Decree.

4. Taking main responsibilities and working closely with the Ministry of Finance in allocating counterpart fund within the annual State budget plan to those agencies which are entitled to receive State budget allocations to support the implementation of aid in line with the commitments made to the Donor and relevant provisions of the State Budget Law.

5. Examining the decisions to approve aid and regulations on the management and utilization of aid issued by approving agencies of aid.

6. Leading and coordinating with aid related state management agencies to monitor, inspect the reception, management and implementation of aid

7. Acting as the focal agency to resolve difficulties or constraints in the Program/project implementation and issues relating to multiple ministries and sectors to ensure implementation progress and accelerate aid release; making recommendations to the Prime Minister to decide on solutions to aid-related problems subject to duties and authorities of the Prime Minister.

If necessary, taking main responsibilities in establishing an inter-sectoral working team who shall work directly with the line agency, implementing agency, PMU and foreign donor to consider, evaluate and give timely responses to the difficulties in accordance with their duties and authorities.

8. Submitting annual and ad hoc consolidated reports on the mobilization, management, and utilization of foreign aid to the Prime Minister; proposing solutions to overcome difficulties encountered during the course of Program/project implementation.

10. Taking the lead in organizing the implementation of comprehensive measures to enhance the effectiveness of foreign aid management and utilization.

13. Preparing and disseminating technical guidelines on the mobilization, preparation, appraisal, management, implementation, monitoring, and evaluation of Program/project; providing support to personnel training on Program/ project management in an increasingly professional and sustainable manner.

#### **Article 44. Duties and Authorities of the Ministry of Finance**

1. The Ministry of Finance shall be responsible for performing the role of State management, from the financial perspective, of foreign aid.

2. It shall take the lead and work closely with other relevant agencies in formulating financial management regulations for foreign aid resources, in line with its management authorities.

3. It shall coordinate with the Ministry of Planning and Investment in allocating counterpart fund within the State budget plan to those agencies which are entitled to receive State budget allocations to support the implementation of foreign aid in line with the commitments made to the Donor and relevant provisions of the State Budget Law.

4. It shall synthesize periodical financial settlements of all foreign aid in line with the applicable law.

5. It shall examine the regulations on financial management with regard to the utilization of foreign aid issued by managing agencies, approving agencies of aid.

6. It shall take part in the appraisal of and give comments on foreign aid that is subject to the approving authority of the Prime Minister.

7. It shall take the lead and work closely with the Ministry of Planning and Investment, the Ministry of Public Security, the State Bank of Vietnam and relevant agencies in organizing the monitoring and examination of the financial management of foreign aid Program/project in the line agency and approving agency of aid.

8. It shall be responsible for Program/project financial management with following duties and authorities:

a) Taking main responsibilities and working closely with relevant agencies in guiding the financial management of Program/project;

b) Taking main responsibilities in guiding the implementation of duty and fee policies on foreign aid; solving problems relating to duties and fees;

c) Monitoring, examining the financial management towards the utilization of aid and organizing the record of State Budget for these aid resources;

d) Annually synthesizing the data on release and withdrawal of funds for foreign aid Program/project, reporting the same to the Prime Minister and informing the Ministry of Planning and Investment and relevant agencies;

dd) Taking main responsibilities and working closely with the Ministry of Planning and Investment in arranging counterpart fund of state administrative sources in a sufficient and timely manner to prepare the implementation and to implement the Program/project which is financed from State budget in the annual capital plan;

#### **Article 45. Duties and Authorities of the State Bank of Vietnam**

1. Take the lead and coordinate with the concerned agencies in formulating the process of managing program's/project's non-refundable aid recipient account opened at commercial banks licensed to operate in the territory of Vietnam.

2. Periodically (semi-annual/annual) synthesize and report to the Ministry of Finance, the Ministry of Planning and Investment and relevant agencies on the withdrawal and payment made via the Program's/project's bank account licensed to operate in Vietnamese territory.

#### **Article 46. Duties and Authorities of the Ministry of Foreign Affairs**

1. Working closely with relevant agencies to develop and implement guidelines and directions on foreign aid mobilization.

2. Taking main responsibilities and working closely with other relevant agencies in calling for emergency relief.

3. Taking part in the appraisal of and make comments, with a particular focus on providing information and observations on the operations of the Donor, on FNGOs aid that is subject to the approving authority of the Prime Minister.

4. Participating in the supervision of the implementation of FNGOs aid, with particular attention to aspects of ensuring aid commitments and compliance with the operations of FNGOs which have been registered with the Ministry of Foreign Affairs.

5. Participating in the evaluation of Program/project as required by the competent authorities.

6. Providing regular, full information on the issuance, extension, revision of Registration Certificate and operations of FNGOs that serve as the basis for the mobilization and appraisal of FNGOs aid in accordance with the provisions of this Decree.

#### **Article 47. Duties and Authorities of the Ministry of Justice**

Appraising document of legal cooperation Program/project with foreign donors which is subject to the approving authority of the Prime Minister in accordance with provisions of the law(s) on the management of legal international cooperation.

#### **Article 48. Duties and Authorities of the Ministry of Public Security**

1. Providing guidance and support to Vietnamese agencies, organizations during the reception and utilization of aid in strictly following the applicable law relating to national security and social order and safety.
2. Taking part in the appraisal of and giving comments to the Ministry of Planning and Investment on aid relating to national security before the Ministry of Planning and Investment submits its recommendation to the Prime Minister for his consideration and decision; guiding police departments at the provincial level in taking part in the appraisal of aid that is subject to the approving authority of the Provincial People's Committee.
3. Taking part in the supervision of the reception and utilization of aid, with particular attention to the implications of such aid on political security and social order/safety that may arise from the reception and utilization of aid.
4. Performing the tasks under its management responsibilities when it discovers indications of law violations that may arise from the reception and utilization of aid.
5. Providing relevant information to the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Home Affairs to serve as a basis for consideration during the aid appraisal process.

#### **Article 49. Duties and authorities of the Ministry of Home Affairs**

1. Participate in the appraisal and make suggestions to MPI on the aid of the organizations mentioned in Points d, e of Clause 3, Article 1 of this Decree.
2. Provide guidance and support to Vietnamese agencies, organizations in strictly implementing the State's religious principles, policy guidelines during the reception and utilization of aid.

#### **Article 50. Duties and Authorities of the Office of the Government**

1. Taking part in the appraisal of and make policy recommendations on aid that are subject to the approving authority of the Prime Minister before these are submitted to the Prime Minister for his consideration and approval.
2. Assisting the Prime Minister in examining and supervising the implementation of this Decree.

#### **Article 51. Duties and Authorities of the Approving Agency**

In addition to its duties and authorities as stipulated in Chapters I, II, III and IV of this Decree, the approving agency of aid shall be assigned with the following duties and authorities:

1. The People's Committee of provinces shall assign their respective Department of Planning and Investment to be the focal agencies for the management and utilization of foreign aid.

2. The other approving agencies of aid shall designate a subordinate unit, with relevant functions and adequate capacities in managing the use of aid and coordinating development resources, to be the focal point for contacting with FNGOs, managing and utilizing FNGOs aid in line with the approving agency's practical conditions.

The announcement on the designation of a focal point as referred to in Point 2 of this Article shall be communicated to the aid State management agencies as mentioned in this Chapter, within thirty (30) days from the date on which the Decree comes into effect.

3. Ministries, ministerial-level agencies, other agencies under the Government shall be assigned with the following duties and authorities:

a) Giving comments during the appraisal, approval of aid in their respective areas of expertise and management responsibilities as assigned by the Government;

b) In accordance with their duties and authorities as referred to in this Decree, the Heads of approving agencies of aid shall approve the revisions of Programs/ projects in line with their respective duties and authorities as referred to in Article 32 of this Regulation, and shall be held legally accountable before law for their approval decisions and for their approval, allocation and management of counterpart fund.

4. Promulgate the Regulation on internal management and use of aid on the basis of this Decree and relevant regulations.

5. Directing, guiding and examining respective subordinate units in the reception and utilization of aid in accordance with the applicable law and strict compliance with the commitments made to the Donor.

6. Monitoring and evaluating the reception and utilization of aid that is subject to the approving authority of the Head of agency; identifying and addressing, in a timely manner, constraints, difficulties and violations that may arise during the reception and utilization of aid or reporting such problems to the aid State management agencies as referred to in this Chapter so that the latter can find solutions thereto.

7. Taking accountability before the Government for the quality and effectiveness of the implementation of aid in accordance with the applicable law.

8. They shall accomplish all the reporting requirements as mentioned in Chapter IV of this Regulation.

## **Article 52. Duties and Authorities of the Line Agency**

In addition to their duties and authorities as provided for in Chapters I, II, III and IV of this Decree, the line agencies shall be assigned with the following duties and authorities:

1. Directing respective subordinate units in working closely with relevant functional agencies in learning about and contacting the Donor in order to mobilize, attract aid based on priority

sectors/fields, directions in annual development plans or in specific stages of development as well as in the State's overall foreign policies.

2. Directing, guiding and examining respective subordinate units in the reception and utilization of aid in accordance with the applicable law and strict compliance with the commitments made to the Donor.
3. Monitoring and evaluating the reception and utilization of aid under their sectors and localities; identifying and addressing, in a timely manner, the constraints, difficulties and violations that may arise during the reception and utilization of aid; or reporting such problems to aid State management agencies as mentioned in this Chapter so that they can find solutions thereto.
4. Allocating, in an adequate and timely manner, counterpart fund for the preparation and implementation of aid Programs/ projects in accordance with the Program/ project documents that have been approved by the competent authorities.
5. Taking accountability before the Government for the quality, effectiveness and progress of the aid Programs/ projects in accordance with the applicable law.
6. Accomplishing all the reporting requirements as mentioned in Chapter IV of this Decree.

#### **Article 53. Duties and authorities of the Vietnam Union of Friendship Organizations**

The Vietnam Union of Friendship Organizations shall be assigned as the focal agency for the contact with FNGOs and mobilization of FNGOs aid to Vietnamese organizations and shall be assigned the following duties and authorities:

1. Taking main responsibilities and working closely with other relevant agencies in organizing FNGOs aid mobilization activities at the national level.
2. Taking main responsibilities and working closely with the Ministry of Planning and Investment and other relevant agencies in guiding the Recipient in the mobilization of FNGOs aid.
3. Preparing and submitting an annual summary report on the aid mobilization from FNGOs to the Ministry of Planning and Investment in order for them to incorporate into a consolidated report and submit to the Prime Minister.
4. Working closely with the Ministry of Foreign Affairs in making recommendations to the Prime Minister on the directions for mobilization of emergency relief.

### **Chapter VI**

#### **REWARDS AND ACTIONS AGAINST VIOLATION**

##### **Article 54. Rewards**

Organizations, individuals who have outstanding achievements in the implementation of this Decree shall be rewarded in accordance with the applicable law on rewards and recognitions.



## **Article 55. Actions against Violation**

1. In case decisions on the approval of the reception or regulations on the management and utilization of aid taken by the approving agency are contrary to this Decree and other documents issued by higher-level State agencies, the Ministry of Planning and Investment shall submit its recommendation to the competent authority to repeal or cancel the validity of such decisions and regulations in line with the applicable law.

2. In case the regulations on the financial management of aid issued by the approving agency, and the line agency are contrary to this Decree and other documents issued by higher-level State agencies, the Ministry of Finance shall submit its recommendations to the competent authority to repeal or cancel the validity of such decisions and regulations in line with the applicable law.

3. Actions against violations of reporting requirements:

a) With regard to violations of reporting requirements, the Ministry of Planning and Investment shall apply the following disciplinary actions:

- Unsystematic breaches of reporting requirements: The Ministry of Planning and Investment shall send a written letter to the violating agency to request for their explanation and commitment to taking corrective actions;

Systematic and prolonged breaches of reporting requirements: The Ministry of Planning and Investment shall report to the Prime Minister the violations and recommend appropriate disciplinary actions including recommendations to the Prime Minister to discontinue the consideration of the violating party's new proposals for reception of aid until such time that the violating party complies with the reporting requirements.

b) The approving agency of aid shall set out appropriate disciplinary actions against violations in order to ensure full compliance with the reporting requirements by the implementing agencies and PMUs whose establishment decisions are issued by the Heads of approving agencies.

4. Should this Decree and other legal normative documents issued by relevant agencies be violated during the implementation of an aid, the aid shall be considered illegal and its implementation shall thus be canceled so that the case is reported to the competent authority for review and decision, or forwarded to a relevant Vietnamese agency to address in line with the applicable law.

5. The heads of approving agencies, line agencies, and implementing agencies shall be held personally accountable before the law for the above violations.

6. Organizations, individuals who have committed violations of this Decree shall, subject to the nature and degree of such violations, be subject to disciplinary actions, administrative fines or shall be criminally charged. Should a violation result in damages or losses, they shall be requested to make compensations in line with the applicable law.

## **Chapter VII**

### **IMPLEMENTATION**

#### **Article 56. Implementation Arrangement**

1. The Ministry of Planning and Investment shall take main responsibilities and work closely with the relevant agencies to issue legal normative documents providing specific guidance on the implementation of this Decree.
2. The Ministry of Finance shall issue guidance on the implementation of this Decree with respects to the financial management, duty and tax policies for foreign aid in accordance with their duties and authorities.
3. The State Bank of Vietnam shall issue guidance on the management of PMU bank accounts of foreign non refundable aid.

#### **Article 57. Transitional Provision**

The aids which have been submitted to the Ministry of Planning and Investment for further submitting to the Prime Minister for consideration and approval of aid reception before the effective date of this Decree shall be further implemented following the provisions of Decree No. 93/2009/ND-CP dated October 22, 2009 of the Government promulgating Regulation on the management and utilization of FNGOs aid.

#### **Article 58. Coming into Force**

1. This Decree takes effect from ..., ....2017.
2. Decree No. 93/2009/ND-CP dated October 22, 2009, of the Government promulgating Regulation on the management and utilization of FNGOs aid shall be invalid from the effective date of this Decree.

#### ***Recipients:***

- The Secretariat of the Central Committee Communist Party;
- The Prime Minister, Deputy Prime Ministers;
- Ministries, ministerial-level agencies, other agencies under the Government;
- People's Councils, People's Committees of provinces and centrally managed cities;
- The Office of the Party Central Committee and Commissions;
- The Office of the General Secretary;
- The Office of the President;
- The Ethnic Council and the Committees of the National Assembly;
- The Office of the National Assembly;
- The Supreme People's Court;
- The Supreme People's Procuracy;
- The State Audit Office;
- National Financial Supervision Commission;
- Vietnam Bank for Social Policies;
- Vietnam Development Bank;
- Vietnam Fatherland Front;
- Central Offices of Mass Organizations;
- GO; Minister, Chairman, Vice-Chairman; Assistant to the Prime Minister, GD of the Portal, Departments, Divisions, Subordinate Units, Official Gazette;
- Archived: Archives, International Corporation Dept. (3b)

**PP. THE GOVERNMENT  
THE PRIME MINISTER**

**Nguyen Xuan Phuc**