

# **LAW ON CIVIL AVIATION OF VIET NAM 2006**

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**THE STATE PRESIDENT**  
**No.: 08/2006/L-CTN**

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

*Ha Noi, 12 July 2006*

**ORDER**  
**on Promulgation of Law**

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**THE PRESIDENT**  
**OF THE SOCIALIST REPUBLIC OF VIET NAM**

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Viet Nam, which was amended and supplemented under the Resolution No.:51/2001/QH10 dated 25 December 2001 of the Xth National Assembly, at its 10<sup>th</sup> Session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 50 of the Law on Promulgation of the Legal Instruments,

**HEREBY PROMULGATES**

**Law on Civil Aviation of Viet Nam**

which was passed on 29 June 2006 by the XIth National Assembly of the Socialist Republic of Viet Nam, at its 9<sup>th</sup> Session.

**PRESIDENT**  
**OF THE SOCIALIST REPUBLIC OF VIET NAM**

**Nguyen Minh Triet**  
**(signed)**

## **FOREWORD**

The Law on Civil Aviation of Viet Nam was passed on June 29, 2006 by the XIth National Assembly, at its 9<sup>th</sup> Session.

The Civil Aviation Law is designed to institutionalize policies set by the Party and State in the course of industrialization and modernization, and policies on socialism-oriented market economy, taking account of the practical aviation activities over 20 years of the implementation of “Doi moi” (renovation) policy and the need for international integration.

The Law comprises 10 Chapters and 202 Articles (whereas the Law on Civil Aviation enacted in 1999 and its amendments in 1995 comprised only 112 Articles), of which 121 Articles are newly established. The amendments are made to 45 Articles of the 1991 Law while 31 Articles of that Law remain unchanged.

The Law contains some new provisions including those on lease of aircraft; planning, management, operation of and investments in airports and aerodromes; management of airports and aerodromes’ land areas; provision of aviation services at airports/aerodromes; supporting services for flight operations; aviation security and general aviation.

***Chapter I – General Provisions (Article 1 to 12)***, provides for the scope of application, subject of application, principles governing civil aviation activities, policies on civil aviation development, environment protection, application of laws, law application principles in case of judicial conflicts, state administration of the civil aviation, aviation inspection, prohibited acts in the civil aviation activities and aviation services charges and fees.

***Chapter II – Aircraft (Article 13 to 46)***, provides for nationality of aircraft, airworthiness, aircraft operation, rights in aircraft, lease of aircraft, suspension of flight, seizure and arrest of aircraft.

***Chapter III – Airports and Aerodromes (Article 47 to 67)***, provides in general for airport/aerodrome, airport/aerodrome planning, construction and investment, state administration of airport/aerodrome and operation of airport/aerodrome.

***Chapter IV – Aviation Personnel (Article 68 to 78)***, provides in general for the aviation personnel and aircraft crew members.

***Chapter V – Air Traffic Management (Article 79 to 108)***, provides for air traffic management; supporting services for flight operation; search and rescue and aircraft accident/incident investigation.

***Chapter VI – Air Transportation (Article 109 to 159)***, provides for air transportation enterprises; air transportation business; transportation of cargo; transportation of passengers and baggage; contractual and actual transportation and transportation of special cargo.

***Chapter VII – Civil Liability (Article 160 to 189)***, provides for the liability of carrier for compensation in case of damages to passengers, cargo, baggage; compensation liability for damages to the third party on the surface; compensation liability for damages caused by the collision of aircraft or interference with each other.

***Chapter VIII – Aviation Security (Article 190 to 197)***, provides for unlawful interference acts against the civil aviation operations; aviation security measures; aviation security personnel;

aviation security programmes and responsibilities of organizations/individuals taking part in civil aviation activities for assurance of aviation security.

**Chapter IX – General Aviation (Article 198 to 201)**, provides for the use of aircraft for search and rescue mission, medical emergency, scientific research, culture, sports, tourism, training, calibration, aerial survey and photography, private flight operation and activities in the fields of industry, agriculture, forestry, fishery, construction and in other economic aspects.

**Chapter X – Implementation Clause (Article 202)**, provides for the date on which the Civil Aviation Law will come into force and abolishment of the Law on Civil Aviation of Viet Nam dated 26 December 1991 and the Law on Amendments and Supplements to Law on Civil Aviation of Viet Nam dated 20 April 1995.

In addition, some new major points are brought into the 2006 Law on Civil Aviation of Viet Nam, as follows:

*Firstly*, the 2006 Law shows sufficiency, compatibility and suitability. It makes clear distinction between the state administration and business functions with regard to the civil aviation activities, governs the civil aviation activities in all aspects and is in conformity with fundamental provisions of other Codes and Laws which have been enacted since 1990. The provisions of the 2006 Law also reflect accurately the level of development, actual capability and requirements for development of the civil aviation industry in the course of the national industrialization and modernization.

*Secondly*, the Law acknowledges and concretizes the principles of equality among different economic sectors, encourages them to take part and invest in the civil aviation activities and prevents the protectionism in the field of civil aviation.

*Thirdly*, the Law creates favorable environments for international integration, taking the factors and regulatory tendency at both regional and international level into consideration. The Law also incorporates international norms and common practices on civil aviation in the national legislation, ensuring harmonization between national and international legislation on civil aviation.

*Fourthly*, the Law ensures openness and transparency and legislating techniques. It also concretizes the conditions for running business and issuance of required certificates, licenses. The provisions that require the legal documents guiding the implementation of the Law are reduced to a minimum.

*In brief*, the Law on Civil Aviation of Viet Nam ensures the conformity to the national Constitution and other legal documents system. It still retains some provisions of the 1991 Law and is supplemented with other ones which were not covered by that Law. The provisions that led to the protective measures or that were not suitable to the actual civil aviation activities are abolished. It may be said that the Law on Civil Aviation of Viet Nam constitutes a legal ground for the development and international integration of the Viet Nam civil aviation industry.

## **LAW ON CIVIL AVIATION OF VIET NAM**

Pursuant to the Constitution of the Socialist Republic of Viet Nam in 1992, which was amended and supplemented under Resolution No. 51/2001/QH10 of the 10th National Assembly at its 10<sup>th</sup> Session, on 25 December 2001;

This Law governs civil aviation activities.

### **Chapter I GENERAL PROVISIONS**

#### **Article 1. Scope of application**

1. This Law provides for the civil aviation activities, including provisions on aircraft, airports, aerodromes, aviation personnel, flight operations, air transport, aviation security, liabilities, general aviation and other activities relating to civil aviation.

2. This Law shall not apply to aircraft operated by the armed forces, customs and police and other State aircraft, unless such aircraft that is used for the civil purposes or otherwise provided for by the Law on Civil Aviation of Viet Nam.

#### **Article 2. Subject of application**

This Law shall apply to:

1. Vietnamese and foreign organizations and individuals engaged in civil aviation activities in Viet Nam.

2. Vietnamese organizations and individuals engaged in civil aviation activities in a State outside Viet Nam whose laws do not otherwise specify.

3. Vietnamese and foreign organizations and individuals engaged in civil aviation activities in a flight information region under the control of Viet Nam.

The Flight Information Region (FIR) is an airspace of defined dimensions within which flight information service and alerting service are provided.

#### **Article 3. Application of laws**

1. Juridical relations arising from the civil aviation activities, which are not governed by this Law, shall be regulated by appropriate provisions of the other laws of Viet Nam.

2. If there are differences between this Law and another law in the same provisions relating to the civil aviation activities, the provisions of this Law shall prevail.

3. If the international conventions to which the Socialist Republic of Viet Nam is a contracting party have provisions different from those of this Law, such international conventions shall prevail.

#### **Article 4. Law application principles in case of juridical conflicts**

1. The laws of the State of Registry shall apply to juridical relations arising from an aircraft in flight and shall be used to identify rights in such aircraft.

2. The laws of the State where a contract has been signed concerning the rights in aircraft shall be applied to determine the form of the contract.

3. The laws of State where rescue or preservation of an aircraft is carried out shall be applied in respect of remuneration for the rescue or preservation of such aircraft.

4. The laws of the State where an aircraft accident occurs as the result of the collision of aircraft or interference with each other, or caused by the aircraft in flight causing damages to the third parties on the surface shall be applied for the compensation of damages.

#### **Article 5. Principles governing civil aviation activities**

1. To respect national independence, sovereignty, unity, territorial integrity of the Socialist Republic of Viet Nam; to ensure aviation safety and security; to meet the requirements for national defense and security and effective exploitation of civil aviation potentials for socio-economic development.

2. To ensure conformity with the strategy for socio-economic development of the country and the strategy for transportation development and planning; ensure seamless development of airports, aerodromes, flight operations, transport means and other resources; to protect the environment and sustainable development.

3. To ensure a healthy and fair competition among organizations, individuals of all economic components engaged in civil aviation activities.

4. To boost international exchange and co-operation in the field of civil aviation.

#### **Article 6. Policies on civil aviation development**

1. The State shall give priority to investments for constructing and upgrading airports, aerodromes and other aviation infrastructure facilities to ensure safe, effective and synchronous development of air transport.

2. The State shall extend favourable conditions to Vietnamese organizations and individuals of different economic components, foreign organizations and individuals, Vietnamese overseas to enter into cooperation and invest in the field of civil aviation.

3. The State shall extend favourable conditions to Vietnamese airlines to provide air transport services to regions with special socio-economic difficulties and mountainous and remote areas.

4. The State shall encourage the research and application of advanced science and technology and the training of human resources in order to promote the civil aviation activities.

5. The State shall protect legitimate rights and interests of organizations, individuals of different economic components engaged in civil aviation activities.

## **Article 7. Environment protection in civil aviation activities**

1. Organizations and individuals engaged in civil aviation activities shall comply with provisions of the law on environment protection.

2. Aircraft, air navigation facilities, airport/aerodrome and other ground technical facilities and equipment shall meet the standards on environment protection and shall be tested to prevent and handle timely adverse effects to the environment.

## **Article 8. State administration of civil aviation**

1. To promulgate legal instruments, standards and procedures on civil aviation.
2. To develop and give instructions on the implementation of strategy, plans and policies on the civil aviation development.
3. To administer civil flight operations within the territory of Viet Nam and Viet Nam's Flight Information Regions, equipment and air navigation facilities.
4. To plan and administer the operation of airports, aerodromes; take the lead in coordinating activities among the state-regulatory bodies and other organizations operating at airports and aerodromes.
5. To administer air transport activities.
6. To register aircraft and rights in aircraft.
7. To administer design, manufacture, maintenance, export and import of aircraft, engines, propellers and aircraft equipment, and other equipment and materials to serve civil aviation activities.
8. To issue and recognize certificates, permissions and licenses and other papers or documents relating to civil aviation activities.
9. To administer safety and security of civil aviation activities; to ensure safety and security of VIP flights and other special flights.
10. To administer search and rescue operations and aircraft incident and accident investigations.
11. To enter into international co-operation in the field of civil aviation.
12. To administer the training and development of human resources of the civil aviation industry.
13. To administer scientific and technological activities in the field of civil aviation; to protect environment in the civil aviation activities.
14. To inspect and settle complaints and denunciations, and handle violations in civil aviation activities.

## **Article 9. Responsibilities of State administration of civil aviation**

1. The Government shall exercise state administration of civil aviation.
2. The Ministry of Transport shall be responsible before the Government for performing the functions of the state administration of civil aviation.
3. The Ministry of National Defense shall manage and protect Viet Nam's airspace and supervise civil flight operations within Viet Nam's airspace and coordinate with the Ministry of Transport in organizing and using the airspace for civil aviation activities.
4. Ministries and ministry-level agencies, within their functions, duties and authority, shall coordinate with the Ministry of Transport in exercising state administration of civil aviation in accordance with the Government's regulations.
5. People's Committees at all levels, within their functions, duties and authority, shall perform the functions of the state administration of civil aviation at their localities.

## **Article 10. Aviation inspection**

1. The aviation inspectorate belonging to the Transport Inspectorate shall perform inspection functions in civil aviation.
2. The aviation inspectorate shall have the following duties and authorities:
  - a) To inspect the compliance of regulations concerning documents, licenses, certificates related to the civil aviation activities; the compliance of standards and procedures on technical safety and conditions of aircraft and equipment and facilities serving the aircraft, airports, aerodromes, air traffic control and other areas of civil aviation activities;
  - b) To suspend activities of organizations, individuals and operation of vehicles which violate the provisions of aviation safety and security or do not satisfy the aviation safety and security standards or technical conditions;
  - c) To handle administrative violations in civil aviation activities in line with the applicable laws;
  - d) To detain aircraft;
  - e) To co-ordinate with the Transport Inspectorate, those of other ministry-level and governmental agencies and localities concerned in detecting, preventing and handling unlawful acts against civil aviation;
  - f) To propose corrective measures against violations in civil aviation activities;
3. The aviation inspectorate shall be equipped with uniform, insignia and other necessary means for its activities.
4. The organization structure and activities of the aviation inspectorate shall be regulated in conformity with the provisions of this Law and the Inspection Law.

## **Article 11. Aviation service charges and fees**

1. The aviation service charges and fees shall include:
  - a) Over-flight, concession fees and other fees in accordance with the applicable regulations on charges and fees;
  - b) Fees imposed on the issuance of certificates, permissions and licences relating to civil aviation activities;
  - c) Landing and take-off, air navigation services for arrival/departure flights, flight operations supporting services, security screening and passenger services charges;
  - d) Other aviation service charges collected at airports, aerodromes.
2. The Ministry of Finance, at the request of the Ministry of Transport, shall specify the levels of the aviation service charges and fees specified in paragraphs a), b) and c) of this Article.
3. Aviation enterprises shall specify charges set out in paragraph d) of this Article in accordance with the charges/fees scheme established by the Ministry of Finance at the request of the Ministry of Transport.

## **Article 12. Prohibited acts in civil aviation activities**

1. The prohibited acts shall include:
  - a) Use of aircraft, its engines and propellers and other equipment without appropriate authorizations;
  - b) Acting as aviation staff without appropriate certificate/licence;
  - c) Releasing devices, items or other objects in airspace, which may jeopardize the flight safety and affect adversely environment and people's life;
  - d) Unauthorized operation in prohibited or restricted areas;
  - e) Interfering with, occupying or operating the same radar and radio frequencies reserved for civil aviation activities;
  - f) Damaging signal systems, equipment, radio beacons, communication and air traffic control stations, and other facilities at airports and aerodromes or operating ground equipment which do not satisfy technical requirements at airside;
  - g) Constructing architectural buildings, installing equipment and facilities or growing trees, which may impede the operation of flights and other air traffic and airspace control equipment;
  - h) Constructing buildings or installing equipment and facilities in the areas of airports and aerodromes or adjacent areas thereto, which may produce excessive smoke, dust, fire, gas emission or installing shooting fields or other buildings or equipment and facilities which may

affect the flight safety and the operation of equipment and facilities at airports and aerodromes;

i) Installing or using lighting systems, signs, signals or other objects in the areas of airports and aerodromes or in the adjacent areas thereto which may impede take-offs and landings at airports and aerodromes or may obstruct the identification of the airports and aerodromes;

k) Raising birds, cattle and poultry in the airport and aerodrome areas;

l) Committing any acts of unlawful interference against civil aviation activities;

m) Unlawful introduction of weapons, flammable substances, explosives or other dangerous items onto aircraft, to airports, aerodromes and into other restricted areas;

n) Destroying, causing damages, deforming or removing marking devices, partitions, signs and protection objects at airports and aerodromes; damaging airport and aerodrome insignias and signs;

o) Threatening, jeopardizing the safety of flights, which endanger life, health and property of other persons on board aircraft;

p) Competing unfairly and committing any forbidden competition acts.

2. The provisions of the paragraphs c) and e) shall also apply to the State aircraft.

## **Chapter II** **AIRCRAFT**

### **Section 1** **AIRCRAFT NATIONALITY**

#### **Article 13. Registration of aircraft nationality**

1. Aircraft is any machine that can derive support in the atmosphere from the reactions of the air, which includes airplane, helicopter, glider, balloon, and/or other flying apparatus, other than from the reactions of the air against the earth's surface.

2. An aircraft wishing to be registered in Viet Nam shall satisfy the following conditions:

a) It has not been registered in any other countries or its registration in a foreign country has been canceled;

b) It has legal document of possession;

c) It meets technical standards approved or accepted by the governmental competent authority.

3. An aircraft being in production, assembling process or being tested in Viet Nam shall be entitled to temporary registration in Viet Nam if it satisfies the conditions specified in subparagraphs b) and c) of paragraph 2 of this Article.

4. An aircraft that is owned and being operated by Vietnamese nationals or organizations shall be registered in Viet Nam, and provided that such Vietnamese nationals shall have their permanent residence in Viet Nam.

5. An aircraft that is owned by foreign individuals or organizations and that has been leased by Vietnamese nationals or organizations without flight crew shall be registered in Viet Nam in accordance with regulations established by the Government of Viet Nam.

6. The aircraft Register of Viet Nam shall be open to public and in which the information on nationality registration of the aircraft shall be inserted. Individuals and organizations shall have the right to ask for copy or extracts of the Register and shall pay fees.

7. An aircraft shall bear Vietnamese nationality when it has been entered into the Aircraft Register of Viet Nam. The Ministry of Transport shall issue the Certificate of Registration.

8. The applicant having an aircraft to be registered in Viet Nam shall pay fees.

#### **Article 14. Deregistration of aircraft nationality**

A Vietnamese aircraft shall be deregistered in the following cases:

1. It has been declared missing in accordance with paragraph 3 of Article 103 of this Law;

2. It has been completely damaged and could not be neither repaired nor restored;
3. It no longer meets the conditions specified in paragraph 1) of Article 13 of this Law;
4. At the request of the applicant.

#### **Article 15. Nationality and registration marks of aircraft**

When put into operation, the aircraft shall be painted with or born nationality and registration marks in accordance with the laws of the State in which the aircraft is registered.

#### **Article 16. Detailed requirements on nationality of aircraft**

The formalities and procedures for registration, deregistration shall be stipulated by the Government of Viet Nam.

### **Section 2 AIRWORTHINESS OF AIRCRAFT**

#### **Article 17. Certificate of Airworthiness**

1. An aircraft shall only be operated within the airspace of Viet Nam when it has a valid Certificate of Airworthiness issued or validated by the Ministry of Transport.

2. The aircraft shall be granted with the Certificate of Airworthiness if it meets the following conditions:

- a) It is comparable to appropriate type certificate;
- b) It has adequate safety equipment;
- c) It has been operated and maintained in accordance with the approved schedule;
- d) It is in such a state necessary for the proposed operation purposes.

3. The applicant for the Certificate of Airworthiness shall pay fees.

4. The Certificate of Airworthiness held by foreign aircraft shall be accepted, provided that the certificate has been issued in conformity with standards approved or accepted by Viet Nam.

#### **Article 18. Type certificate**

1. An aircraft will be issued with a Type Certificate if its design, engines and propellers meet airworthiness standards approved or accepted by Viet Nam.

2. The applicant for Type Certificate shall pay fees.

3. Aircraft, engines and propellers manufactured in Viet Nam or imported to Viet Nam shall correspond to the appropriate Type Certificate issued or validated by the Ministry of Transport.

#### **Article 19. Requirements for import and export of aircraft, its engines, propellers and spare parts**

1. Aircraft, engines and propellers which are to be exported shall acquire an Export Certificate of Airworthiness issued by the Ministry of Transport. The applicant for that Certificate shall pay fees.

2. The exporting and importing of aircraft, its engines, propellers, and spare parts shall ensure aviation safety and security, national security and be in accordance with demands for business operations.

The requirements on the life of used aircraft to be imported into Viet Nam shall be determined by the Government.

3. Aircraft, its engines, propellers and spare parts which are imported as training aids or for other non-aviation purposes shall not be used for the civil aviation purposes.

#### **Article 20. Design, production, repair, maintenance and test of aircraft, engines, propellers and other aircraft equipment**

1. Design, production, maintenance or test of aircraft, engines, propellers and other aircraft equipment shall be carried out in accordance with standards established by the Governmental competent authority.

2. Organizations carrying out design, production, repair, maintenance or test of aircraft, engines and propellers or other aircraft equipment shall be granted permission by the Ministry of Transport. The applicant for that permission shall pay fees.

3. Aircraft with Vietnamese nationality and its engines, propellers and equipment shall only be maintained at the maintenance bases and according to repair and maintenance schedule which are approved by the Ministry of Transport.

#### **Article 21. Article 21. Detailed requirements on airworthiness standards of aircraft**

The Minister of Transport shall determine airworthiness standards, procedures for recognition and issuance of Certificate of Airworthiness and type certificate; standards and procedures for the issuance of permission to organizations conducting design, production, repair, maintenance or test of aircraft, engines and propellers or other aircraft equipment.

### **Section 3 AIRCRAFT OPERATION**

#### **Article 22. Aircraft operator**

1. The aircraft operator means an organization, individual engaged in the aircraft operation.

2. An organization acting as an aircraft operator shall only be entitled to operate the aircraft for **commercial** purposes with an Air Operator Certificate granted or validated by the Ministry of Transport.

An individual acting as the aircraft operator shall not be entitled to operate the aircraft for commercial purposes.

### **Article 23. Air Operator Certificate**

1. The Air Operator Certificate shall be granted to an organization to prove that such organization is qualified to conduct safe operation for the specified type of aircraft and operations.

2. An organization may be granted with the Air Operator Certificate if it meets the following conditions:

- a) It has an organization machinery appropriate for operating aircraft, managing and monitoring the aircraft operation;
  - b) It has personnel who are suitably trained and certified;
  - c) It has training programmes, aircraft maintenance schedules that are suitable to the characteristics and scopes of operation;
  - d) It acquires aircraft, equipment and facilities to ensure the safe operation of aircraft;
  - e) It possesses Operations Manuals.
3. The organization applying for the Air Operator Certificate shall pay fees.

### **Article 24. Air operator's responsibilities**

1. To maintain a management system capable of inspecting and supervising the safe operation of aircraft;
2. To comply with requirements specified in the Operations Manuals;
3. To ensure the availability of ground services and facilities for safe operations;
4. To ensure that each aircraft when operated shall have adequate flight crewmembers qualified for the various types of operations.
5. To comply with repair and maintenance requirements.
6. To observe the terms and conditions of his Air Operator Certificate, including the case when he uses services and manpower under an operation and maintenance support contract.
8. To comply with other appropriate requirements related to aircraft operations.

### **Article 25. Documents carried on board aircraft**

1. Each aircraft with Vietnamese nationality when in operation shall carry the following documents on board:
  - a) Certificate of Registration;

- b) Certificate of Airworthiness;
- c) Air Operator Certificate;
- d) Appropriate licenses, certificates of crewmembers;
- e) Journey logbook;
- f) Aircraft radio license, if installed;
- g) Flight Manual for flight crew;
- h) Manifest of passengers in case of carrying passengers;
- i) Manifest of cargo in case of carrying cargo;
- k) Liability insurance certificate;
- l) Flight Operations Manual.

2. Documents, manuals set out in paragraph 1) of this Article shall be original, except the Air Operator Certificate.

3. Documents, manuals carried on board an aircraft with foreign nationality shall be in accordance with the laws of the State in which the aircraft is registered when the aircraft operates to and from Viet Nam.

#### **Article 26. Requirements on environment protection for aircraft and engines**

An aircraft in operation shall comply with the requirements on environment protection for the aircraft and engines.

#### **Article 27. Detailed requirements on aircraft operation**

The Ministry of Transport shall establish regulations on aircraft operation, on conditions and procedures for the issuance of an Air Operator Certificate and Aircraft Radio License; requirements on environment protection for aircraft and engines.

### **Section 4 RIGHTS IN AIRCRAFT**

#### **Article 28. Rights in aircraft**

1. Rights in aircraft shall include:

- a) Ownership;
- b) Rights to possess aircraft by lease-purchase and under leases of six months or more;
- c) Mortgages and pledge in aircraft;
- d) Other rights as stipulated by the law.

2. The rights in aircraft mentioned in paragraph 1) of this Article shall include those in the airframe, engines, propellers, radio apparatus, and all other equipment intended for use in the aircraft whether installed therein or temporarily separated wherefrom.

#### **Article 29. Registration of rights in aircraft**

1. Vietnamese organizations and individuals having the rights mentioned in paragraph 1) of Article 28 of this Law shall register their rights as stipulated by the Government.

2. The applicants shall pay fees.

3. All matters relating to registered rights in the same aircraft shall be recorded in the Aircraft Register of Viet Nam.

The registration of rights in aircraft mentioned in paragraph 1 of this Article shall become valid from the date on which such rights are entered in the Aircraft Register of Viet Nam by registration authority.

4. The transfer of registration of rights in aircraft from Aircraft Register of Viet Nam to other country shall be made with the consent of the holder of such rights, except where the aircraft is put on sale to execute the judgment of court or arbitral award in force.

### **Article 30. Transfer of aircraft ownership**

1. Transfer of aircraft ownership shall be made in writing and only be valid after being recorded in the Aircraft Register of Viet Nam.

2. Transfer of aircraft ownership shall have no effect of losing priority in collecting charges for aircraft rescue services and protection, except where the aircraft is put on sale to execute the judgment of court or arbitral award in force.

### **Article 31. Assignment of aircraft to State-owned enterprises**

The State-owned enterprises, which are assigned with the responsibility for administration and operation of an aircraft owned by the State, shall have the rights and obligations as those of the aircraft owner in accordance with the provisions of this Law and the laws on enterprises.

### **Article 32. Aircraft mortgage**

1. The mortgagor shall keep original copies of the registration certificate of mortgaged aircraft.

2. The mortgage of an aircraft under general ownership shall have consents, in writing, of all co-owners, except otherwise agreed.

3. If the aircraft was mortgaged to various creditors, the order of mortgage shall be determined in line with registration time.

4. After priority debts have been settled, registered creditors shall be paid in line with registration order.

5. The ownership of the aircraft being mortgaged shall only be transferred if the consent of mortgagee is obtained.

6. The aircraft mortgage registration shall be abolished in the following cases:

a) The security obligation has been completely paid off;

b) The mortgage contract has been canceled;

c) The mortgaged aircraft has been settled;

d) The judgment of court or arbitral award is in place allowing the cancellation of aircraft mortgage or declaring aircraft mortgage was invalid;

e) At the request of mortgagee.

7. In case the mortgaged aircraft is missing or seriously damaged and that aircraft was insured, the registered mortgagee shall be entitled to such the sum of insurance.

### **Article 33. Payment of charges for the rescue and protection of aircraft**

1. Organizations and individuals providing aircraft rescue and protection services shall be given priority in collecting payments for their services and other related charges.

2. Organizations and individuals providing aircraft rescue and protection services shall register their rights in collecting payments specified in paragraph 1) of this Article in accordance with the stipulations of the Government, within 90 days from the date of the completion of such services. The organizations and individuals who request for the registration of their rights shall pay fees.

3. The priority rights in collecting payments in aircraft rescue and protection services shall be terminated after the expiry of period specified in paragraph 2) of this Article, except the following cases:

a) Organizations and individuals providing aircraft rescue and protection services have registered their priority rights in collecting payments in these services;

b) Organizations and individuals providing aircraft rescue and protection services and organizations and individuals liable to pay have agreed on the settlement amount;

c) Organizations and individuals providing aircraft rescue and protection services have taken actions on the payment of charges for rescue and preservation of aircraft.

### **Article 34. Priority debts**

1. The priority debts shall be paid in the following orders:

a) Legal costs and expenses for the execution of court judgments;

b) Charges for aircraft rescue and protection and other related expenses.

2. The debts mentioned in sub-paragraph b) of paragraph 1) of this Article shall be paid in a reverse order of the dates of the events.

## **Section 5 LEASE OF AIRCRAFT**

### **Article 35. Types of lease**

1. Vietnamese organizations or individuals shall be allowed to enter into aircraft leasing arrangements for the purpose of conducting air transportation and other civil aviation activities.

2. Lease of aircraft shall be made in the following forms:

a) Lease without crews;

b) Lease with crews.

3. Lease contracts shall be made in writing.

#### **Article 36. Lease with crews**

1. In the case of lease of an aircraft with crews, the aircraft shall be operated under the Air Operator Certificate held by the lessor.

2. The lessor shall ensure the safety standards for maintenance and operation of the aircraft.

#### **Article 37. Lease without crews**

1. In the case of lease of an aircraft without crews, the aircraft shall be operated under the Air Operator Certificate held by the lessee.

2. The lessee shall ensure the safety standards for maintenance and operation of the aircraft.

3. In the case of the lease of a foreign aircraft without crews by Vietnamese organizations, individuals, and if any special requirements on the aircraft, communication and air navigation equipment arise from the lessee, such requirements shall be approved by the Ministry of Transport.

#### **Article 38. Requirements for lease of aircraft**

When operating leased aircraft, the lessee shall not share his economic benefits with the lessor or any related parties, nor allow them to use his entitled traffic rights.

#### **Article 39. Approval of lease of aircraft between Vietnamese organizations, individuals and Foreign organizations, individuals**

1. Lease of an aircraft between Vietnamese organizations, individuals and foreign organizations, individuals shall be approved in writing by the Ministry of Transport after the followings have been taken into account:

a) Type of lease;

b) Eligibility of parties involved in the lease agreement;

c) Lease period;

d) Number and type and life of the leased aircraft;

e) Nationality of the aircraft;

f) The required certificates for the aircraft;

g) Agreement on civil liability insurance for passengers, baggage, cargo and for the third party on the surface;

h) The organizations which operate, maintain the aircraft under the terms of the appropriate Air Operator Certificate.

2. Vietnamese organizations, individuals leasing an aircraft shall provide a copy of the lease agreement and related documents for review and approval. The Ministry of Transport shall review and approve such an agreement within a period of seven working days from the date of the receipt of the required documents.

3. Approval procedures specified in paragraph 1) of this Article shall not be applied to leasing of an aircraft for not more than seven consecutive days in the following cases:

a) The aircraft is leased for replacement of an aircraft conducting special flights or being requisitioned for government services;

b) The aircraft is leased for replacement of an aircraft being in accident or technical incident;

c) The aircraft is leased for replacement of an aircraft that cannot be in operation due to force majeure.

Vietnamese organizations, individuals leasing an aircraft in line with provisions under paragraph 3) of this Article shall inform the Ministry of Transport in writing that the lessor possesses an appropriate Air Operator Certificate.

4. In the case the lease agreement terminates, related temporary import/export permission expires or upon the request of competent governmental authority, Vietnamese organizations, individuals shall liquidate the agreement, re-export or take back to Viet Nam the leased aircraft.

#### **Article 40. Transfer of functions and duties between State of Registry and State of the Operator**

1. In the case of leasing of an aircraft between Vietnamese organizations, individuals and foreign organizations, individuals, the Ministry of Transport shall come to an agreement with the competent authority of the State in which the aircraft is registered or the State of the Operator on the transfer of functions and duties of the State of registry in accordance with the laws of Viet Nam and international conventions to which the Socialist Republic of Viet Nam is a contracting party.

State of the Operator is the State in which the operator's principal office is located or, if there is no such place of business, the operator's permanent residence.

2. The agreement between the State of Registry and State of the Operator of the aircraft specified in 1) of this Article shall include the responsibilities in whole or part of:

- a) Ensuring the compliance of regulations on flight operations;
- b) Ensuring the compliance of the terms of the Certificate of Airworthiness;
- c) Ensuring the compliance of the requirements for the flight crew;
- d) Ensuring the compliance of the requirements concerning installation and use of airborne radio equipment.

## **Section 6**

### **SUSPENSION OF FLIGHT, SEIZURE AND ARREST OF AIRCRAFT**

#### **Article 41. Suspension of flights**

1. Departure of an aircraft shall be suspended in one of the following cases:

- a) Urgent situations require the protection of national sovereignty and security or it is found that the aircraft is in breach of national defense and security;
- b) Violation of regulations on airworthiness standards, aircraft operations, aviation security and safety, flight procedures, flight plan filing and implementation, and flight permit performance;
- c) It is found that the flight jeopardizes aviation security and safety;
- d) Other cases as required by the competent governmental authorities.

2. In respect of the cases set out in sub-paragraphs a), b) and c) of paragraph 1) of this Article, the Director of Airport Authority or Aviation Inspection shall make a record of such an act and order the flight to be suspended. The order to suspend the flight shall take immediate effect and shall be reported to the pilot-in-command, air traffic control units and organizations and agencies concerned.

3. Such an order given by other competent authority shall take immediate effect, and shall be reported to the Airport Authority of the airport of intended departure.

4. The pilot-in-command and aircraft operator shall comply with the order and shall have the right to request the authority or person giving the order to clarify the suspension reasons.

5. The aircraft suspended shall be allowed to resume its operation if the cases specified in paragraph 1) of this Article no longer exist and the resumption of its operation is permitted by the competent governmental authority.

#### **Article 42. Aircraft are required to land at airport, aerodrome**

1. An aircraft is in flight over Vietnamese territory may be required to land at an airport, aerodrome if it is believed that there exists a threat to the flight safety and security or in other cases as may be required by the competent governmental authorities.

2. In case it is indicated that the flight safety and security are threatened, the Director of Airport Authority shall have the right to require the aircraft to land at an airport, aerodrome with immediate effect.

3. The order given by other competent governmental authorities requesting the aircraft to land at appointed airport shall take immediate effect. Such order shall be reported without delay to air traffic control units and airport authorities concerned.

4. The air traffic control units involved shall require the aircraft to land at the airport, aerodrome in accordance with the order given by the Director of Airport Authority and other competent governmental authority. For flight safety reason, air traffic control units shall have the right not to require an aircraft in flight to land at an airport and shall report such action immediately to the ordering authorities.

5. The aircraft required to land at an airport, aerodrome shall be allowed to resume its operations if the circumstances as referred to in paragraph 1) of this Article no longer exist and the resumption of its operation is permitted by the competent governmental authority.

#### **Article 43. Temporary seizures of aircraft**

1. An aircraft may be temporarily seized in one of the following cases:

a) It is in breach of national sovereignty and security of Viet Nam;

b) No corrective actions against the violations referred to in b), paragraph 1) of Article 41 of this Law have been taken or it does not comply with the violations handling measures;

c) It has taken prohibited actions regarding flight and aircraft operations and air transportation;

d) It violates regulations on flight crews, passengers, baggage and cargo transported on board the aircraft;

e) Other cases as may be required by the competent governmental authorities.

2. In case the violations referred to in a), b), c) and d), paragraph 1) of this Article have been found, the Director of Airport Authority or Aviation Inspection shall have the right to seize the aircraft on a temporary basis. The decision on temporary seizure of aircraft shall take immediate effect and shall be reported to the pilot-in-command of the aircraft, aircraft operator and other organizations and agencies concerned.

3. Such a decision on temporary seizure of aircraft made by other competent governmental authority shall take immediate effect, which shall be reported to the Airport Authority of the airport of intended departure.

4. The temporary seizure of aircraft shall be cancelled when violations have been settled according to regulations or the competent authorities that have made a decision to seize the aircraft request to release it.

#### **Article 44. Arrest of aircraft**

1. The arrest of an aircraft is effected by a Court in favour of creditors, owners, third parties on the surface suffering damages or other persons having rights and interests in the aircraft in accordance with paragraph 2) of this Article, except in the case of arrest of an aircraft in execution in line with a Court's judgment or decision in force or enforcement by the competent governmental authority. The arrest may be applied to any aircraft of the same owner.

2. The People's Courts of provinces or cities under the central government where aircraft lands shall have the right to arrest the aircraft upon the request in writing of its owners or creditors, in the case that aircraft is the guarantee property for an indebtedness; or upon the request in writing of the third parties on the surface suffering damages caused by an aircraft in flight or of the persons having rights and interests therein as provided for by this Law.

3. The person who makes the request to arrest the aircraft shall have financial guarantee corresponding to the type and value prescribed by the courts equivalent to the damages caused by the arrest.

4. In case of arrest of an aircraft, the carrier and the aircraft operator shall continue to perform their contractual obligations.

5. The arrest of an aircraft shall be cancelled in the following cases:

- a) All debts have been completely paid off;
- b) Other guarantee measures have been taken;
- c) The person who makes the request to arrest the aircraft has requested to release it.

6. Formalities and procedures of arresting aircraft shall be undertaken in accordance with regulations stipulated by the National Assembly Standing Committee.

#### **Article 45. Search of aircraft**

1. The Director of Airport Authority and other competent governmental authorities shall have the right to search an aircraft in the following cases:

- a) It is found that the aircraft is in breach of national sovereignty and security;
- b) Crewmembers, passengers or the transport of cargo, baggage, parcels and mails, and other items are in breach of the regulations on immigration, customs and quarantine.

2. Person who gives the order to search an aircraft shall make an advance notification to the pilot-in-command of the aircraft and other organizations and agencies concerned.

3. The competent governmental authorities shall inform the Director of Airport Authority of the search for coordination purposes.

#### **Article 46. Compensation liability to the operator or the carrier**

Organizations and individuals that make a decision to suspend a flight, search an aircraft, request an aircraft to land at an airports/aerodrome, temporarily seize or arrest an

aircraft against the laws, shall be liable for compensation for damages suffered by the operator of the aircraft or the carrier.

**Chapter III**  
**AIRPORT AND AERODROME**

**Session 1**  
**GENERAL PROVISIONS**

**Article 47. Airport and aerodrome**

1. Airport is a defined area comprising aerodromes, terminals and other necessary equipment, facilities and structures for the departure and arrival of aircraft and performing air transport services.

The airport shall be divided into:

a) International airport means an airport opened for international and domestic air transport services;

b) Domestic airport means an airport opened for domestic air transport services;

2. Aerodrome is a defined area intended for the arrival and departure and surface movement of aircraft. The specialized aerodrome means an aerodrome used only for the operation of general aviation or carrying passengers, baggage, cargo, parcels and mails which is not for public transport.

**Article 48. Airport and aerodrome' vicinity Area**

1. An airport, aerodrome shall have its vicinity areas to ensure the safety of civil aviation activities and inhabitants therein.

2. The vicinity area of airport/aerodrome shall be limited to 8 kilometers from boundary of the airport and aerodrome.

3. The People's Committee at all levels shall take the lead responsibility, in co-ordination with Airport Authority and other competent authorities to ensure public order, compliance of safety and security regulations; to take measures to remove, destroy or change the structure of buildings, equipment and facilities and other obstacles in the airport/aerodrome's vicinity which may jeopardize the flight safety; to prevent unlawful acts at the airport/aerodrome's vicinity; and to take measures to protect environment at the vicinity.

**Article 49. Opening and closing of airport and aerodrome**

1. The opening and closing of an airport or aerodrome mean an act of permitting or not permitting the operation of the airport or aerodrome in accordance with the decision of competent governmental authorities.

2. The Prime Minister shall determine to open an airport or aerodrome, based on the airports and aerodromes system plans; to close an airport or aerodrome for the security or national defense reasons or for other special socio-economic reasons.

3. The Minister of Transport shall decide to close an airport or aerodrome on a temporary basis in the following cases:

a) The improvement, expansion or upgrade of the airport or aerodrome, which may jeopardize the safety of flight operations;

b) The airport and aerodrome operation certificates have been withdrawn;

c) The natural disaster, epidemic diseases, environment pollution, aircraft accidents or other sudden events, which may create threats to aviation safety and security.

4. In case of unforeseen incident and in order to ensure the aviation safety and security, the Director of Airport Authority shall decide to temporarily close an airport or aerodrome for not more than 24 hours and report such decision to the Minister of Transport without delay.

5. The airport and aerodrome shall be reopened when the reasons specified in paragraphs 2), 3) and 4) of this Article cease to exist.

#### **Article 50. Registration of airport and aerodrome**

#### **Article 51. Airport and Aerodrome Operation Certificate**

## **Article 52. Registration of airport and aerodrome under construction**

1. An airport, aerodrome under construction shall be registered on a temporary basis into the Airport and Aerodrome Register from the moment the construction commences.

2. An airport, aerodrome under construction shall be granted with Airport and Aerodrome Registration Certificate if it meets the following conditions:

- a) It possesses valid documents relating to its land use rights and its construction;
- b) Its construction is compatible with the approved airport and aerodrome planning;
- c) Its construction plans conform to the technical standards that have been specified or approved by the competent governmental authority.

## **Article 53. Slot Co-ordination at Airport and Aerodrome**

## **Article 54. Protection of Environment at Airports and Aerodromes**

standards on noise, gas emission and other environment protection standards applied to civil aviation activities.

## **Article 55. Detailed provisions on opening and closing of airports and aerodromes, and administration of activities at the airport and aerodrome and their vicinity**

aerodromes which are jointly operated by civil aviation and military forces.

standards on airports and aerodromes and their vicinity; procedures for issuance of Airport

and Aerodrome Operation Certificate; and environment protection requirements which shall be met by organizations and individuals operating at airports and aerodromes.

## **Section 2**

### **AIRPORT AND AERODROME PLANNING, CONSTRUCTION AND INVESTEMENT**

#### **Article 56. Airport and aerodrome planning**

1. Airports and aerodromes planning shall be in line with the strategy for socio-economic development, national defense, security, plans of transport industry, other branches and localities and the development trends of the international civil aviation.

2. The Ministry of Transport shall take the lead responsibility in the planning of airports and aerodromes; and shall submit to the Prime Minister the Master Plan of airports and aerodrome network and the plan of international airports for approval.

The Minister of Transport shall approve the plan of domestic airports.

3. All branches and localities shall have to acquire written consensus from the Ministry of Transport in making plans or projects of investment which may affect the airports and aerodromes planning.

#### **Article 57. Management of Airports and Aerodromes' Land**

1. Airport and aerodrome's land area shall include the land used to construct aerodrome, terminals and other buildings serving civil aviation activities at the airport and aerodrome.

2. Airport Authority shall be allocated by the People's Committees of provinces and cities under the Central Government a package of land in accordance with the land planning approved by the competent governmental authority. The land use rights certificate shall be granted to the Airport Authority.

3. Airport Authority shall assign the land without collecting any land use fees or lease it out to organizations and individuals in need for appropriate purposes and in conformity with plans approved by the competent governmental authority.

4. Tenants at airport, aerodrome shall have the following rights and responsibilities:

a) To use land for appropriate purposes and not to be entitled to transfer, assign, donate and lease their land use rights as well as mortgage, undertake guaranty and make capital contributions by their land-use rights;

b) To be entitled to use their assets on their leased land as a mortgage, guaranty at authorized credit institutions in Viet Nam; sell, rent their assets out and make capital contribution by the assets in their possession on their leased land.

The assets on their leased land intended for sales, rent or intended to be put up as mortgage or guaranty or used as capital contributions, with the approval of the Ministry of Transport, shall be used for the appropriate purposes and in conformity with the airport and aerodrome planning.

The assets buyer shall be allowed to lease land from Airport Authority and shall have to use the leased land and buildings thereon in accordance with purposes specified in airports and aerodromes planning, which do not affect or disrupt the operation of airports and aerodromes.

5. The Government shall specify the details on management and use of airports and aerodromes' land areas.

#### **Article 58. Investment in the construction of airport and aerodrome**

1. Investment in constructing new airports and aerodromes or in constructing components at existing airports and aerodromes shall be in line with the master plan of airport and aerodrome network or the plan of airports and aerodromes, which has been approved by the competent governmental authority.

2. Vietnamese and foreign organizations and individuals shall have the right to invest in the construction of airports and aerodromes in accordance with the laws on construction and investment.

### **Section 3 STATE ADMINISTRATION AT AIRPORT AND AERODROME**

#### **Article 59. Airport Authority**

1. The Airport Authority means an agency which performs the functions of state administration of civil aviation at the airport, aerodrome.

2. The head of the Airport Authority is the Director of Airport Authority.

3. The Minister of Transport shall determine the organization and activities of the Airport Authority.

#### **Article 60. Duties, authority of the Airport Authority**

1. To manage the whole airport and aerodrome land areas which has been allocated for the construction and improvement of airport, aerodrome infrastructures; to organize the implementation and management of construction carried out on ground, on water surface and under ground at airport and aerodrome in accordance with the plan and project which have been approved by the competent governmental authority.

2. To supervise and monitor the compliance of:

a) Regulations on the implementation of airports and aerodromes planning and plans of airports and aerodromes;

b) Standards on aviation security and safety at airports and aerodromes and surrounding areas;

c) Regulations on public order and environment protection at airports and aerodromes;

d) Regulations on air transport operation at airports and aerodromes;

e) Regulations on the operation of airports and aerodromes their technical equipment and facilities;

f) Regulations on the provision of air traffic control services at airports and aerodromes.

g) Regulations on the use of airports and aerodromes' land.

3. To coordinate with the airport enterprise to carry out contingency plans, search and rescue services; handle aircraft incidents and accidents occurred within airport, aerodrome and surrounding areas.

4. To make decision to close airports and aerodromes on a temporary basis.

5. To suspend the construction and renovation of facilities, installation of equipment, facilities and trees within the airports and aerodromes; make recommendations to competent governmental authorities to suspend the construction and renovation of facilities, installation of equipment, facilities and trees in the surrounding areas of airports, aerodromes which violate the master plan of the airports, aerodromes, regulations on obstacle clearance limit, jeopardizing the flight safety at airports and aerodromes.

6. To handle administrative violations within its responsibility.

7. To hand over to or to co-ordinate with competent governmental authorities to handle occurrences at airports and aerodromes.

8. To suspend flights; require aircraft to land at an airport or aerodrome; search, hold aircraft in custody; carry out the order of aircraft arrest; suspend activities of crew members who do not meet requirements on aviation security and safety.

9. To collect, manage and use airport fees and charges in conformity with the regulations on charges and fees.

10. To manage assets entrusted by the State.

11. To take the lead responsibility, in co-ordination with state management agencies frequently working at the airport and aerodrome in arranging their working spaces.

#### **Article 61. State administration activities at airports, aerodromes.**

1. The Airport Authority and state management agencies at airports, aerodromes shall perform professional activities and coordinate in solving problems based on their assigned functions and responsibilities and shall ensure the safety, security and the normal operation of airports and aerodromes.

2. The Airport Authority shall take the lead responsibility to co-ordinate the activities of the state management agencies at airports and aerodromes; convene and preside at joint meetings on monthly or ad-hoc basis between state management agencies and organizations operating at the airports and aerodromes.

3. In case the state management agencies concerned can not agree on the settlement of potential issues, the Director of Airport Authority shall have the right to make a final decision and be responsible for such a decision.

4. In case an airport or aerodrome being announced with dangerous epidemics, the Airport Authority shall coordinate with agencies and organizations operating at the airport and aerodrome in taking appropriate measures to prevent the spread of or put under control such epidemics according to the professional instructions of competent governmental agencies.

5. State management agencies frequently working at airports and aerodromes shall be provided with appropriate working spaces.

## **Section 4**

### **OPERATION OF AIPORT AND AERODROME**

#### **Article 62. Organizations, individuals operating at airports and aerodromes**

1. The organizations and individuals operating at airports and aerodromes shall include:

- a) Airport enterprises;
- b) Enterprises providing aviation services;
- c) Organizations and individual providing other services.

2. The establishment and activities of the organizations and individuals operating at airports and aerodromes shall be regulated by this Law and the laws on enterprises and commerce.

The Minister of Transport shall specify formalities and procedures for granting permits for running business and providing aviation services at airports and aerodromes.

3. Organizations and individuals operating at airports and aerodromes shall have the followings responsibilities:

- a) To comply with the regulations on aviation safety and security;
- b) To extend the favourable conditions to Airport Authority to inspect their operations and provision of services.

#### **Article 63. Airport Enterprises**

1. An airport enterprise means the enterprise which is qualified to operate at airports and aerodromes.

2. An enterprise shall be granted by the Ministry of Transport the permit for running business at airports and aerodromes if it meets the following requirements:

- a) It possesses a Business Registration Certificate;

b) It has an appropriate organizational structure and personnel who are suitably certified to meet requirements of professional knowledge and airport/aerodrome operation;

c) It has financial capability as stipulated by the Government.

d) It has a project on equipment, facilities and other required conditions to ensure aviation safety and security.

3. An enterprise applying for Airport Business Certificate shall pay fees.

#### **Article 64. Rights and duties of airport enterprises**

1. To manage and operate installations, equipment and facilities of airports and aerodromes.

2. To set up plans of development investment, reconstruction and expansion of airports and aerodromes in conformity with the master plan approved by competent governmental authority and with the needs for development and operation of airports and aerodromes.

3. To provide aviation security and safety services, aviation services and other public services at airports and aerodromes.

4. To make reports, on a regular basis or on request by the competent governmental authority, on annual and long-term plans and business results and statistical data of airports and aerodromes operation.

5. To provide suitable working spaces, at the Airport Authority's request, for state administration agencies frequently working at the airports and aerodromes.

6. Other rights and duties as provided for by the laws on enterprises.

#### **Article 65. Enterprises providing aviation services at airports and aerodromes**

1. An enterprise which provides aviation services at airports and aerodromes means the one established for the purpose of providing services directly related to aviation activities at airports and aerodromes and it shall possess a permit for providing aviation services which is issued by the Ministry of Transport, based on the airports and aerodromes planning.

2. An enterprise shall be granted the permit by the Ministry of Transport if it meets the following requirements:

a) It possesses a Business Registration Certificate;

b) It has an appropriate organizational structure capable of providing services directly related to aviation activities at airports and aerodromes and personnel who are suitably certified to meet requirements of professional knowledge and airport/aerodrome operation;

c) It has a project on equipment, facilities and other required conditions to ensure aviation safety and security.

d) It has financial capability as stipulated by the Government.

3. An enterprise applying for the permit shall pay fees.
4. List of provided services shall be specified by the Government.

**Article 66. Responsibility of aviation services enterprises**

1. To provide aviation services at airports and aerodromes under a contract signed with airport enterprise and to comply with provisions on airport and aerodrome operations.
2. To provide services to users of airports, aerodromes with quality, and in a civilized, polite and considerate manner.

**Article 67. Right to select enterprises providing aviation services at airports and aerodromes**

An air transportation enterprise shall have the right to select enterprises that provide aviation services at airport and aerodrome, unless the safety and security reasons do not permit.

**Chapter IV**  
**AVIATION PERSONNEL**

**Section 1**  
**GENEREAL PROVISIONS**

**Article 68. Aviation personnel**

1. Aviation personnel shall include persons whose duties are directly related to ensuring aviation safety and security, aircraft operation, air transport, and air navigation. They shall possess certificates which are issued or validated by the Ministry of Transport.

2. A labour contract shall be signed between the employer and each aviation personnel.

3. Aviation personnel shall have the rights and obligations to fulfill provisions set forth in the labour contract in conformity with the labour law.

**Article 69. Aviation personnel licence and certificate**

1. When carrying out his/her duties, an aviation personnel shall hold his/her appropriate license or certificate issued or validated by the Ministry of Transport.

2. Except provisions specified in paragraph 1 of this Article, crewmembers, cabin attendants and air traffic controllers shall hold health certificates issued by the competent health authority.

3. Aviation personnel shall be issued with licenses or certificates only when they have been trained at aviation training organizations, which are approved or recognized by the Ministry of Transport.

4. Applicant for aviation personnel license or certificate shall pay fees.

**Article 70. Detailed regulations on aviation personnel, aviation training organizations and aviation medical centres**

1. The Minister of Transport shall establish detailed regulations on:

a) Typical labour regimes and specific disciplines in respect of aviation personnel; and other regulations on working and rest time which shall be agreed in writing by the Ministry of Labour, War Invalids and Social Affairs;

b) Titles and duties associated with the those of aviation personnel; and standards and procedures for issuing licenses and professional certificates to aviation personnel;

c) Standards and training programmes of aviation training organizations;

2. Ministry of Public Health shall take the lead responsibility, in co-ordination with the Ministry of Transport, in specifying criterion on aviation personnel's health and required standards of aviation medical centres.

## **Section 2 CREW MEMBERS**

### **Article 71. Crewmembers**

1. The crewmembers shall include those who are designated by the aircraft operator to perform their duties during a flight.
2. The composition of crewmembers shall be flight crews, cabin crews and other aviation personnel required by the flight.

### **Article 72. Flight crews**

1. The flight crewmembers responsible for the operation of an aircraft, including pilot-in-command, co-pilot and other aviation personnel required by the aircraft.
2. An aircraft shall only be operated if it has adequate flight crews in conformity with the laws of the State of Registry or State of the Operator.

### **Article 73. Cabin crews**

1. The cabin crewmembers shall be those who perform, in the interest of safety of passengers, duties assigned by the operator or by the pilot-in-command of the aircraft, but who shall not act as the flight crewmembers.
2. The specific duties of the cabin crews, based on each type of aircraft, shall be regulated by the aircraft operator. The operator shall assign adequate and suitable cabin crews to each type of aircraft.

### **Article 74. Pilot-in-command**

1. The pilot-in-command is a flight crewmember designated for a flight by the operator or by the aircraft owner in the case of general aviation not for commercial purposes.
2. The pilot-in-command shall have the highest authority on board an aircraft and be responsible for the safety and security of the aircraft, persons and properties on board the aircraft during the flight.

An aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for its disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and persons and property on board.

### **Article 75. Rights of Pilot-in-command**

1. To make decisions and have responsibility for take-off, landing, canceling the flight, returning to the point of departure or forced landing.
2. Not to perform the flight, flight plan, not to comply with the air traffic control clearance in the case of avoiding immediate danger which directly threatens the aviation activities and inform such an action to the appropriate air traffic control unit without delay.

In the case of avoiding immediate and direct danger, which results in the deviation of the aircraft, the pilot-in-command and air traffic control units shall take all necessary measures to bring the aircraft back to the designated airway as soon as practicable after the danger no longer exists.

3. To take preventive measures to stop any person from committing one of the following acts on board an aircraft during the flight:

- a) To commit an offence;
- b) To threaten or jeopardize aviation safety and security;
- c) To make an assault on or threaten the flight crews and passengers;
- d) Non-compliance with the instructions by the pilot-in-command or the member of the flight crew acting on behalf of the pilot-in-command in ensuring the flight safety, maintaining order and discipline on board the aircraft;
- e) To destroy equipment and property on board an aircraft;
- f) To use drugs;
- g) To smoke in the lavatory or in prohibited places, which may jeopardize the flight safety;
- h) To use portable electronic devices, mobile phones or other electronic equipment during take-off, landing or when prohibited for the flight safety reason;
- i) Other offenses against the national mores and other public order.

4. To hand over such persons as referred to in paragraph 3 of this Article to competent governmental authority after the aircraft has landed at the nearest airport or aerodrome.

5. To dump fuel or throw away baggage, cargo, parcels and mails in accordance with the provisions of Article 88 of this Law.

6. To give necessary orders to persons on board the aircraft and continue to discharge duties and use his/her authority until the responsibility for the aircraft, persons and properties carried on board has been transferred to the competent governmental authority in the case of a forced landing.

7. To take the following actions when he/she has not received any instructions from the operator or the instructions are not clear; and report the actions taken thereof to the operator:

- a) To pay necessary expenses so as to complete the flight to ensure the safety of persons and properties on board the aircraft;
- b) To take necessary actions so as to continue the flight;
- c) To hire laborers on a short-term basis as required by specific tasks of the flight.

## **Article 76. Obligations of the Pilot-in-command**

1. To comply with instructions of the aircraft operator.
2. To take all necessary measures to safeguard aircraft, persons and properties on board the aircraft in distress, and he/she shall be the last to leave the aircraft.
3. To inform immediately the appropriate air traffic control units and give assistance, to the possible extent, and without causing danger to the aircraft or persons and properties thereon to persons or means of transport and properties in accident outside the aircraft.
4. To take all necessary measures to immediately bring the aircraft back to the designated airway in case the aircraft deviates from such airway.

## **Article 77. Interests of crew members**

1. The interests of crewmembers performing duties on an aircraft operated by Vietnamese organizations or individuals shall be determined on their labour contract and regulated by the labour laws of Viet Nam.
2. Crewmembers shall be insured against accident when performing their duties and their employer shall pay the insurance premium.
3. In the case a crewmember is no longer capable of performing his/her duties, he or she shall be brought to the place previously agreed on the labour contract or the place where he or she has been accepted for the flight at the operator's expenses.
4. The decision of the pilot-in-command to suspend the duties of the crewmembers due to aviation safety or security reasons shall not affect the labour contract. The operator shall pay all expenses arising from such suspension.
5. The labour contract shall be terminated at the date agreed on the contract; in case the contract validity has expired while a crewmember is implementing his/her mission, the validity will be extended until the mission has been completed.
6. In case of notification by the aircraft operator of unilateral termination of the labour contract while a crewmember is implementing his/her mission, the date on which the notification is released shall be construed the date of the completion of his or her mission.

## **Article 78. Obligations of crew members**

1. To obey orders of the pilot-in-command of the aircraft.
2. Not to leave the aircraft without the order from the pilot-in-command.

**Chapter V**  
**AIR TRAFFIC MANAGEMENT**

**Section 1**  
**AIR TRAFFIC MANAGEMENT**

**Article 79.    Airspace organization and utilization**

1. The organization and utilization of airspace shall be in line with the requirements of the national defense, the security and safety for aircraft, the rationality, efficiency and facilitation for the civil aviation activities.

2. The establishment and operation of airways shall be approved by the Prime Minister.

Airway means a controlled airspace of defined limitations to altitude and width.

3. The Ministry of Transport shall organize the implementation of airways, aerodrome traffic zones, flight areas serving the general aviation within the airspace of Viet Nam and the Flight Information Regions managed by Viet Nam. The operation of aerodrome traffic zones being jointly utilized by the military forces and civil aviation shall be agreed in writing by the Ministry of National Defense.

4. The provisions of paragraph 1 of this Article shall also apply to the State aircraft.

**Article 80.    Air traffic management at airport and aerodrome**

1. Aircraft are permitted to take off and land at authorized airports and aerodromes, except for the case of forced landing.

2. Vietnamese and foreign aircraft operating international flights shall be permitted only to take off and land at the international airports. In case of take-off and landing at domestic airports and aerodromes, they shall acquire approval from the Prime Minister.

International flight as referred to in this Law means a flight operated in the territory of more than one State.

**Article 81.    Issuance of flight permission**

1. Flight permission is a written form or clearance which shall be granted by the competent governmental authority and contain the conditions and limitations within which the operation of an aircraft will be permitted.

2. Aircraft operating within the territory of Viet Nam shall be granted with flight permission by the following governmental authorities of Viet Nam:

a) The Ministry of Foreign Affairs shall grant flight permission to foreign VIP flights carrying the guests of the Party and State and escorting flights or other flights associated with the VIP flight.

VIP flight means the flight, which is used separately or in combination with commercial air transport and is certified or notified by the competent governmental authorities in accordance with VIP flight regulations;

b) The Ministry of National Defense shall grant flight permission to Vietnamese and foreign military aircraft operating civil flights in Viet Nam and to unmanned aircraft;

c) The Ministry of Transport shall grant flight permission to civil flights operated in Viet Nam, including those operated by Vietnamese and foreign aircraft for civil purposes; Vietnamese VIP flights, escorting flights or other related flights; foreign VIP flights which falls outside of the provisions of the sub-paragraph a) of this paragraph or escorting flights or other flights associated with these VIP flights; flights operated by the State aircraft of Viet Nam and foreign countries, which fall outside the scope of the sub-paragraphs a) and b) of this paragraph.

#### **Article 82. Requirements for the issuance of flight permission**

1. The issuance of flight permission shall meet the requirements of national defense, aviation safety and security, regularity and public interests; and shall be subject to the capabilities of the air traffic control system and the airports and aerodromes.

2. The issuance of flight permission to scheduled commercial flights shall meet the provisions of paragraph 1 of this Article and be in line with the granted freedom traffic rights.

#### **Article 83. Pre-flight preparation, flight and post-flight operations**

1. The pilot-in-command, organizations and individuals involved in the preparation for the flight shall strictly comply with the provisions on pre-flight preparation, flight and post-flight operations.

2. An aircraft shall be cleared for take-off upon the receipt of clearance from an air traffic control unit.

3. The provisions of paragraph 2 of this Article shall also apply to the State aircraft.

#### **Article 84. Requirements for aircraft and crew when operating in the territory of Viet Nam**

1. Aircraft operating in the territory of Viet Nam shall observe the following regulations:

a) To fly on the specified airway, traffic zone, and entry/exit points;

b) To maintain continuous contact with civil air traffic control unit; and to comply with the clearance and instructions of such unit;

c) To land at, depart from aerodrome specified in the flight permission except in case of a forced or emergency landing;

d) To comply with the flight procedures and regulations on air traffic services;

2. The pilot-in-command shall report to air traffic control unit without delay in the following cases:

a) Due to the objective reasons, the aircraft is unable to fly on the specified airway, traffic zone and entry/exit points or land at the airport specified in the flight permission;

b) Emergency situations require the aircraft to make a forced landing or other critical situations.

3. The civil air traffic services units and the airspace control units of the Ministry of National Defense shall promptly notify each other and co-ordinate in taking priority measures to give necessary assistance and instructions in the following cases:

a) As specified in paragraph 2 of this Article;

b) In case the aircraft has lost radio communications or the flight crews have been unable to control the aircraft.

#### **Article 85. Prohibited and restricted areas**

1. The prohibited area means an airspace of defined dimensions within which aircraft operation is not permitted, except for a State aircraft of Viet Nam which is carrying out its mission.

The restricted area means an airspace of defined dimensions within which aircraft operation is permitted, provided that the aircraft meets the specified requirements.

2. The Prime Minister shall decide to establish the prohibited and restricted areas in the territory of Viet Nam in order to ensure the national defense, security, and social safety.

In special cases due to national defense and security reasons, the Ministry of National Defense shall decide to restrict or prohibit flight, on a temporary basis and with immediate effect, within one or some areas in the territory of Viet Nam.

3. The Ministry of National Defense shall specify the management of prohibited and restricted areas.

#### **Article 86. Danger areas**

1. The danger area means an airspace of defined dimensions within which the operation of flight may be in danger at specified times.

2. The Ministry of National Defense shall determine the danger areas and the operational procedures and the Ministry of Transport shall be kept informed.

#### **Article 87. Flying over a densely populated area**

1. While flying over the densely populated areas, the aircraft shall fly at the altitudes specified in the Regulations on Air Traffic Services of Viet Nam.

2. The aircraft shall not be flown for the demonstration and training purposes over the densely populated areas, unless otherwise permitted by the competent governmental authority.

#### **Article 88. Fuel dumping, dropping of baggage, cargo or other objects from aircraft**

An aircraft in flight shall not dump fuel or drop baggage, cargo or other objects from the aircraft. When it is indispensable for the flight safety or for performing a rescue mission in emergency case or other overriding missions for the public interests, the aircraft may dump fuel or drop baggage, cargo or other objects therefrom in the areas specified by the Ministry of Transport with the consent by the Ministry of Natural Resources and Environment.

#### **Article 89. Publication of aeronautical information**

The Ministry of Transport shall publish aeronautical information concerning airways, prohibited and restricted areas, danger areas, air traffic control areas and areas in which fuel shall be dumped or baggage, cargo or other objects be dropped from an aircraft.

#### **Article 90. Coercion of violating aircraft**

Aircraft violating the prohibited and restricted areas or other provisions of Regulations on Air Traffic Services, regulations on the management of civil flight operations, management and utilization of airspace and in case of not complying with the instructions of air traffic control unit, the measures of forced control and forced landing at airports and aerodromes or other coercive measures shall be applied to those aircraft. This provision shall also apply to the State aircraft.

#### **Article 91. Civil and military air traffic management co-ordination**

1. The principles for civil and military air traffic management co-ordination are as follows:

a) Ensuring the requirements for national defense, security, safety and effectiveness of the civil aviation activities;

b) Complying with the provisions of this Law while conducting flights on airways, over civil aerodrome traffic areas and flight zones serving general aviation within the airspace of Viet Nam and Viet Nam's FIRs;

c) Performing professional duties and handling issues in accordance with their responsibility and authority.

2. The co-ordination shall include:

a) Organization of airspace, establishment of airways and development of operational procedures;

b) Utilization of airspace, management of civil aviation activities outside airways and aerodrome traffic zones;

c) Issuance of flight permission, development of flight plans and notification of flight activities;

d) Use of services provided for flight operations;

e) Search and Rescue; and

f) Management of special flight operations, including those for aerial photography, geological survey, film shooting, demonstration, training, testing, using radio communication devices other than the aircraft equipment and flying into restricted areas.

#### **Article 92. Control of obstacles**

1. The control of obstacles is to control, mark, publish, manage, grant permission for use of airspace and handle the natural or man-made obstacles which may affect the safety of flight operations.

2. The Ministry of Transport shall publicize obstacle limit surfaces in the aerodrome area; limit areas for normal use of aeronautical radio stations; obstacle clearance limits of the vicinity area of airport/aerodrome and list of man-made and natural obstacles which may affect the safety of flight operations.

3. Organizations and individuals constructing, managing, using buildings, equipment, technical facilities, electric grids, technical radio equipment and other installations that may affect flight safety shall make them marked and identified in accordance with provisions of this Law and shall bear the related expenses.

4. The construction of shooting range shall not affect the flight safety and the shooting direction of shooting range shall not intersect an air route.

#### **Article 93. Control of radio frequencies**

1. The control of radio frequencies used for aeronautical radio stations and communication, navigation and surveillance systems shall be carried out in conformity with the provisions of the Law on Post and Telecommunication.

2. No communication stations and other devices used by organizations or individuals shall hinder or affect the normal use of aeronautical radio stations; the use of the communication stations or devices hindering or affecting the normal use of aeronautical radio stations shall be stopped promptly and such communication stations or devices shall be displaced.

#### **Article 94. Detailed regulations on air traffic management**

1. The Government shall specify regulations on the organization and utilization of airspace; issuance of flight permission; civil and military air traffic management co-ordination; management of special flight operations and control of obstacles.

2. The Ministry of National Defense shall take the lead responsibility, in co-ordination with the Ministry of Transport, in specifying procedures of forced control, forced landing at airports and aerodromes and other coercive procedures applied to an aircraft.

3. The Ministry of Post and Telecommunication shall take the lead responsibility, in co-ordination with the Ministry of Transport, in specifying regulations on control and use of aeronautical radio frequencies.

## **Section 2**

### **FLIGHT OPERATIONS SUPPORTING SERVICES**

#### **Article 95. Supporting services for flight operations**

1. The supporting services for flight operations are services necessary for ensuring safety, regularity, continuity and effectiveness of the flight operations, which consist of air traffic services; communication, navigation and surveillance services; aeronautical meteorological services; aeronautical information services and search and rescue services.

2. The supporting services for flight operations are public interest services.

3. Organizations, individuals conducting flight operations within the Flight Information Regions, which are managed by Viet Nam, shall be provided with supporting services for their flight operations.

4. An enterprise providing supporting services shall set up the units being responsible for the services and shall be equipped with technical equipment systems. The enterprise shall be granted by the Ministry of Transport permission for providing the supporting services and shall pay fees when applying for that permission.

#### **Article 96. Air traffic services**

1. The air traffic services shall include air traffic control services, flight information services, and air traffic advisory and alerting services.

2. An aircraft operating within a defined airspace shall be controlled by an air traffic control unit.

3. Air traffic control unit shall coordinate with other organizations concerned in managing and controlling the civil flight operations.

#### **Article 97. Enterprise providing air traffic services**

1. The air traffic services shall be provided by State-owned enterprises.

The establishment of an enterprise responsible for air traffic services shall comply with the provisions of this Law and those of the laws on enterprises. The Minister of Transport shall decide the establishment of an enterprise providing air traffic services.

2. An enterprise providing air traffic services shall be established if it meets the following conditions:

a) It is compatible with the planning and strategy for the development of civil aviation industry;

b) It has an appropriate organization structure;

c) It has project on suitable installations, technical systems, equipment and other facilities;

d) It has personnel who are issued with appropriate licence/certificate in order to operate technical systems, equipment and facilities and study related guidance manuals.

#### **Article 98. Rights and obligations of enterprises providing air traffic services**

1. To provide adequate and uninterrupted air traffic services.
2. To provide other supporting services for flight operations in accordance with duties assigned by the Ministry of Transport.
3. To maintain close contact and coordination with air traffic control units of the adjacent States in order to provide air traffic services to and ensure the safety, regularity, continuity and efficiency of aircraft operating on the airways and within the Flight Information Regions managed by Viet Nam.
4. To comply with regulations on the management, utilization and defense of the airspace, Rules of the Air, and related guidance manuals on air traffic services.
5. To closely coordinate with airspace control and air traffic control units of the Ministry of National Defense to ensure the safety of civil flight operations.
6. To coordinate with organizations/units concerned in handling emergency situations, unlawful interference against civil flight operations and air defense operation.
7. Other rights and obligations as specified by the laws on enterprises.

#### **Article 99. Rights and obligations of enterprises providing communication, navigation and surveillance services; aeronautical meteorological services; aeronautical information services; and search and rescue services**

1. To provide communication, navigation and surveillance services; aeronautical meteorological services; aeronautical information services; and search and rescue services which are required by the Ministry of Transport or under a contract.
2. Other rights and obligations provided for by the laws on enterprises.

#### **Article 100. Detailed regulations on assurance of flight operations**

The Minister of Transport shall establish detailed regulations on organization and management of flight operations; procedures and conditions of issuing certificates for air traffic control units and technical systems, air traffic management facilities and equipment.

### **Section 3 SEARCH AND RESCUE**

## **Article 101. Notification of aircraft in distress or in accident**

1. An aircraft is considered to be in distress when the aircraft or persons therein are in danger that the crewmembers are unable to control or when the aircraft has lost radio communication and its position has not been identified.

An aircraft is considered to be in accident when the aircraft has sustained serious damage during taxiing, take-off, flight and landing periods or it has been destroyed completely and when the aircraft has made emergency landing outside an aerodrome.

2. An aircraft in distress and in accident shall send signals and report to air traffic control unit to request assistance; in case of an aircraft in distress or in accident on the sea shall also send signals to vessels and maritime search and rescue centers.

3. Air traffic control units shall notify immediately search and rescue centers upon receiving signals, report or other information on an aircraft in distress or in accident.

4. The provisions of paragraph 3 of this Article shall also apply to the State aircraft.

## **Article 102. Search and rescue co-ordination**

1. Air traffic control units shall co-ordinate with search and rescue centers to take any appropriate measures on a timely basis to give assistance to an aircraft in distress or in accident, passengers, crewmembers and properties on board the aircraft.

2. In case an aircraft has been in distress or in accident within airport and aerodrome and their vicinity areas, the Airport Authority shall coordinate with search and rescue units and the People's Committees at all levels to conduct search and rescue of the aircraft, persons and properties.

3. In case an aircraft has been in distress or in accident outside the areas specified in paragraph 2 of this Article, search and rescue units shall co-ordinate with the People's Committees at all levels and other organizations/agencies to conduct search and rescue of the aircraft, persons and properties.

4. The search and rescue of an aircraft of Vietnamese nationality in distress or in accident in foreign country shall be conducted in accordance with the laws of the State where the aircraft has been in distress or in accident.

5. The coordinated assistance in participating search and rescue operation between Viet Nam and other adjacent countries shall be conducted in accordance with the international conventions to which the Socialist Republic of Viet Nam is a contracting party.

6. The People's Committees of all levels shall participate in civil aviation search and rescue operation; preserve aircraft and properties on board the aircraft which has been in distress or in accident in their localities outside airports or aerodromes areas.

7. The air transport enterprises shall participate in search and rescue operation at the request of search and rescue units.

## **Article 103. Search and rescue responsibilities**

1. Air traffic control and search and rescue units shall conduct without delay the search and rescue of an aircraft in distress or in accident.

2. In case the search of an aircraft in accident, its passengers and crewmembers has been without result, although all necessary measures have been taken, the Ministry of Transport shall decide to terminate the search operation.

3. An aircraft shall be considered to be missing since the date on which a decision to terminate the search operation has been taken.

4. Aircraft operator shall remove aircraft from accident site upon the request of competent governmental authority and shall bear all related expenses.

## **Section 4**

### **AIRCRAFT INCIDENT AND ACCIDENT INVESTIGATION**

#### **Article 104. Aircraft incident and accident**

1. An aircraft incident means an occurrence, other than an aircraft accident, associated with the operation of an aircraft, which affects or could affect the safety of flight operations.

2. An aircraft accident means an occurrence associated with the operation of an aircraft, which takes place between the times any person, boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which:

a) A person is fatal or seriously injured as result of being in the aircraft or direct contact with any part of the aircraft, including parts which have become detached from the aircraft or direct exposure to jet blast except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew;

b) The aircraft sustains damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft and which would require major repair or replacement of the affected components, except for engine failure or damage which is limited to the aircraft engine, its cowlings or accessories or which is limited to propellers, wing tips, antennas, tires, brakes, fairings, small dents or puncture holes in the aircraft skin;

c) The aircraft is missing or is completely inaccessible.

#### **Article 105. Objectives and procedures for aircraft incident and accident investigation**

1. Aircraft incidents or accidents occurred within the territory of Viet Nam shall be investigated. The incident or accident associated with an aircraft of Vietnamese nationality or operated by Vietnamese organizations or individuals, which have occurred outside the territory of Viet Nam shall be investigated in accordance with international conventions to which the Socialist Republic of Viet Nam is a contracting party.

2. The aircraft incidents or accidents investigation shall be conducted to identify the causes of such incidents or accidents and to take measures to prevent potential incidents or accidents in the future.

3. The Government shall specify procedures for aircraft incidents or accidents investigation.

#### **Article 106. Responsibilities for aircraft incidents and accidents investigation**

1. In case an aircraft incident occurred within the territory of Viet Nam or within the Flight Information Regions managed by Viet Nam, depending on the extent of damages caused by the incident, the Ministry of Transport shall make a report in accordance with the regulations of international conventions to which the Socialist Republic of Viet Nam is a contracting party.

2. In case an aircraft accident occurred within the territory of Viet Nam or within the Flight Information Regions managed by Viet Nam, the Ministry of Transport shall report to the International Civil Aviation Organization (ICAO) and notify the State of Registry, State of the Operator, State of Manufacture, State of Design and other related States in accordance with the regulations of international conventions to which the Socialist Republic of Viet Nam is a contracting party.

3. Responsibilities for aircraft incidents and accidents investigation shall be determined as follows:

a) The Ministry of Transport shall conduct aircraft incidents or accidents investigation as specified in paragraphs 1 and 2(b) of Article 104 of this Law and coordinate with the aircraft-managing agency to investigate the accident related to a State aircraft;

b) The Aircraft Accident Investigation Committee established by the Prime Minister shall conduct aircraft accidents investigation as specified in paragraph 2 (a) and (c) of Article 104 of this Law.

4. In case an aircraft accident occurred, the agency conducting the aircraft accident investigation shall have the following responsibilities:

a) To conduct an investigation to make it clear the occurrence, conditions, circumstances, causes and the extent of damage caused by the accident;

b) To take appropriate measures to reduce the possible damages to a minimum;

c) To make public the information and documents relating to the aircraft accident on a timely basis;

d) To co-ordinate with organizations and agencies concerned and local authorities in investigating the aircraft accident and giving instructions on the prevention of aircraft accidents in the future.

5. In case a foreign aircraft has an accident in the territory of Viet Nam, the Prime Minister may accept accredited representatives from the State of Registry, the State of the Operator with the intention to participate in the investigation process as observers.

#### **Article 107. Rights of aircraft incident and accident investigation agency**

1. When conducting an investigation, the agency conducting aircraft incidents and accidents investigation shall have the following rights:

- a) To access the aircraft involved to clarify the details of the incident or accident;
  - b) To check and examine the aircraft, its equipment, materials or properties carried on board the aircraft in accident or in incident and properties on other aircraft involved;
  - c) To delegate to an organization or agency having capability of carrying out research or conducting related activities concerning the aircraft incidents or accidents investigation;
  - d) To mobilize competent and qualified persons to verify the issues related to aircraft incidents or accidents;
  - e) To do research on issues covering incident or accident aircraft; training of aviation staff; conduct of the flight; psychology and habitus of crew members and related aviation staff;
  - f) To require organizations, agencies and individuals involved in an aircraft incident or accident to provide, receive and study related information and documents.
2. In case an accident causes fatalities, the aircraft accident investigation agency shall have the right to retain the corpses for the accident investigation purposes.

**Article 108. Responsibilities for notification and evidences protection**

1. Organizations, agencies and individuals shall have responsibility to notify, on a timely basis, nearest local authority, search and rescue units or aviation organizations/units of an aircraft incident or accident; assist in the search and rescue of persons and properties; and protect aircraft in accident.

The local people's committee who has been informed of an aircraft incident or accident shall immediately notify the Ministry of Transport.

2. The organizations, agencies and individuals concerned shall protect aircraft in incident or accident, its equipment, materials or properties carried on the aircraft in accident to serve the investigation and hand over evidences to accident, incident investigation agency and the nearest local people's committee.

3. Those who intentionally hide or do not notify the incident or accident aircraft; make information to be incorrect; and damage or destroy equipment and other evidences concerning the aircraft incident or accident, depending on the extent of seriousness nature, shall be charged with administrative penalties or criminal responsibility.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall also apply to the State aircraft.

**Chapter VI**  
**AIR TRANSPORTATION**

**Section 1**  
**AIR TRANSPORTATION ENTERPRISES**

**Article 109. Air transportation business**

1. Air transportation means the transportation of passengers, baggage, cargo, parcels and mail by air. The air transportation shall include non-scheduled and scheduled services.

Scheduled air services mean the flights which are scheduled and performed on a regular basis according to a published timetable and are open to direct booking by members of public.

Non-scheduled services mean the flights, which are performed without the factors adherent to the scheduled air services.

2. Air transportation business is a conditional business, which shall be done by air transportation enterprises (hereinafter referred to as air carriers).

**Article 110. Conditions for granting air transportation business permission**

1. An enterprise shall be granted with air transportation business permission if it meets the following conditions:

a) It has a Business Registration Certificate indicating that its main scope of business is air transportation;

b) It has a plan of acquiring aircraft;

c) It has an appropriate organizational structure and personnel who are suitably certified to ensure the operation of aircraft and air transportation business;

d) It has sufficient capital as specified by the Government;

e) It has a business plan and strategy for the development of air transport products in line with the market's demands and the civil aviation industry planning;

f) It has a principal office and place of business in Viet Nam;

2. In addition to the conditions set out in paragraph 1 of this Article, a foreign-invested enterprise shall be granted with air transportation business permission if it meets the following conditions:

a) The ratio of foreign-invested capital is in conformity with the stipulations by the Government;

b) Legal representative of the foreign-invested enterprise shall be a Vietnamese national and foreign nationals shall not account for more than one third of the management machinery.

3. The air transportation business permission shall be granted by the Minister of Transport upon the approval of the Prime Minister.

4. An enterprise applying for air transportation business permission shall pay fees.

5. The Government shall specify specific conditions, procedures, and formalities for granting the air transportation business permission.

#### **Article 111. Conditions of Carriage**

1. The Conditions of carriage shall be an integral part of an air transportation contract, providing for conditions met by air carriers for the transportation of passengers, baggage, cargo, parcels and mail by air.

2. The Conditions of carriage shall not be contrary to the provisions of this Law and those of international conventions to which the Socialist Republic of Viet Nam is a contracting party.

3. Air carriers shall establish their Conditions of carriage and register them with the Ministry of Transport.

### **Section 2 AIR TRANSPORTATION OPERATION**

#### **Article 112. Air traffic rights**

1. Air traffic rights means the rights to conduct commercial air transportation with terms and conditions as to air carriers, routes, aircraft and flights, and who and what may be transported.

2. Air carriers shall operate within the scope of the air traffic rights which are granted by the Ministry of Transport. It is not allowed to trade the air traffic rights or undertake any prohibited competition acts or unfair competition.

3. Air carriers shall be allowed to conduct commercial promotion and commercial air transportation activities only after being granted air traffic rights by the Ministry of Transport.

#### **Article 113. Procedures for granting air traffic rights**

1. Vietnamese air carriers applying for air traffic rights for scheduled services shall submit a set of documents to the Ministry of Transport. The documents shall include:

- a) The application letter for air traffic rights;
- b) The Air Operator Certificate (AOC);
- c) The route schedule report and tentative operation plan;
- d) The documents indicating their legal status and Charter of the air carrier.

2. Foreign air carriers applying for air traffic rights for scheduled services shall submit a set of documents to the Ministry of Transport. The document shall include:

- a) As provided for in paragraph 1 of this Article;

b) Their State letter designating or confirming the designation of these air carriers to perform air transportation under international conventions to which the Socialist Republic of Viet Nam is a contracting party.

3. The Ministry of Transport shall consider whether or not to grant air traffic rights for scheduled services within 10 working days from the date of receipt of the required documents.

4. Air traffic rights for scheduled services granted to an air carrier shall be revoked in the following cases:

a) It violates seriously the provisions of laws on aviation safety and security and air transportation operation;

b) It does not operate with granted air traffic rights within twelve months from the date on which such air traffic rights have been granted to it;

c) It suspends the use of granted air traffic rights for 12 consecutive months;

d) As provided for by international conventions to which the Socialist Republic of Viet Nam is a contracting party.

5. Air traffic rights for scheduled services shall be granted together with flight permission.

6. Vietnamese air carriers shall submit a copy of cooperative agreement directly relating to air traffic rights and other relevant documents to the Ministry of Transport for approval. Approval of such agreement shall be considered and granted within seven working days from the date of the receipt of the required documents.

#### **Article 114. International air traffic rights**

1. International air transportation means the transportation by air, which is conducted over the territory of more than one State.

The exchange of air traffic rights between Viet Nam and other States shall ensure fair and equal operation opportunity, interests and obligations between Vietnamese air carriers and foreign ones.

2. International air traffic rights for scheduled services to and from Viet Nam shall be granted on the basis of market demand and capability of air carriers, harmonized development of air route network; on the basis of and in conformity with the provisions of international conventions on air services to which the Socialist Republic of Viet Nam is a contracting party. In the case Viet Nam is not contracting party of the international conventions on air services, the Minister of Transport may allow air carriers to operate their international scheduled services to and from Viet Nam on a temporary basis.

3. International air traffic rights for non-scheduled services to and from Viet Nam shall be granted on the basis of market demand and not affecting adversely scheduled services.

#### **Article 115. Domestic air traffic rights**

1. Domestic air transportation means the transportation by air conducted within the territory of one State.

2. Domestic air traffic rights shall be granted to Vietnamese air carriers on the basis of market demand, capability of the air carriers, harmonized development of air route network and the objectives of socio-economic development of the country.

3. The Ministry of Transport shall designate Vietnamese air carriers being the state enterprises to operate air routes to areas with special difficult socio-economic conditions, mountainous and remote areas which are in special need of public air transportation.

4. Foreign air carriers shall be allowed to engage in domestic air transportation when the approval by the Minister of Transport has been granted in the following cases:

- a) Preventing and relieving natural calamity and epidemics;
- b) Providing emergency humanitarian aids.

#### **Article 116. Air transportation tariff**

1. Air carriers shall report to the Ministry of Transport on air transportation tariff applied to international routes to and from Viet Nam, unless otherwise provided for by the international conventions to which the Socialist Republic of Viet Nam is a contracting party.

2. The domestic tariff shall be decided by the air carrier within the tariff ranges established by the Ministry of Finance and at the request of the Ministry of Transport.

#### **Article 117. Intermodal transportation**

1. In the case of combined carriage performed partly by air and partly by any other mode of transport, the provisions of this Law shall apply only to the transportation by air.

2. Parties to a contract of air carriage shall be entitled to insert in the air waybills, cargo invoices and air tickets all conditions relating to the carriage performed by other modes of transport.

#### **Article 118. Successive carriage**

1. In the case the carriage is performed by different successive carriers, each carrier shall be deemed to be one of the contracting parties to the contract of carriage.

2. In the case of the carriage of passengers, the passengers or those who are entitled to compensation may take action against any successive air carriers who performed the transportation during which the accident or the delay occurred, except in the case where the first air carrier has assumed liability for the whole journey.

3. In the case of the carriage of baggage, cargo, the passengers or consignors shall have the right to take action against the first air carrier; the passengers or consignees shall have the right to take action against the last air carrier; and each may take action against the carrier who performed the transportation during which the destruction, loss, damage or delay took place. These air carriers shall be jointly liable to the passengers or to the consignors or consignees.

### **Article 119. Air transportation facilitation**

1. Aircraft, crew, passengers, baggage, cargo, parcels and mail to and from Viet Nam shall be given favorable conditions on the formalities of immigration, customs, quarantine and other inspection procedures.

2. The organizations and individuals concerned shall ensure the availability of necessary equipment, facilities and services to facilitate air transport, immigration, customs and quarantine and other inspection formalities for the aircraft, crews, passengers, baggage, cargo, parcels and mail at airports and aerodromes.

3. Transit passengers, baggage, cargo, parcels and mail that do not leave the transit area shall be exempted from the immigration, customs formalities.

### **Article 120. International transportation with co-terminals in Viet Nam**

1. International transportation with co-terminals in Viet Nam is the international transportation by air, which is performed to at least two points of destination or from at least two points of departure in the territory of Viet Nam.

2. In the case of transportation of this nature, the transportation, immigration, customs and quarantine procedures shall be applicable to aircraft, crew, passengers, baggage, cargo, parcels and mail at the first destination point and at the last departure point as done at international transit point, unless otherwise provided for by laws.

### **Article 121. Reporting and provision of statistics**

1. Vietnamese air carriers shall report to the Ministry of Transport, on a regular basis or at request, their annual, long-term plans and results of business activities and provide air transportation statistics.

2. Foreign air carriers operating to/from Viet Nam shall provide air transportation statistics at the request of the Ministry of Transport.

3. The air transportation statistics shall include the statistics on transported passengers, baggage, cargo, parcels and mail and on fleet, crewmembers and financial situation.

### **Article 122. Selling of air transportation services**

1. Vietnamese air carriers, foreign air carriers shall be allowed to sell or issue passenger air tickets, air waybills directly at their booking offices and sales agents on the basis of sales agent appointment contracts or through electronic transactions.

Booking office is the branch of an airline, which is responsible for selling the airline's tickets.

2. Foreign air carriers performing sales of air transportation services in Viet Nam shall be allowed to make payments, convert currencies and transfer foreign currencies to foreign countries in accordance with the laws of Viet Nam and international conventions to which the Socialist Republic of Viet Nam is a contracting party.

### **Article 123. Conditions, formalities for establishing representative offices, booking offices of foreign air carriers**

1. A foreign air carrier shall be allowed to establish its representative office and booking office when it meets the following conditions:

a) It is established and operates in conformity with the laws of State where it has its principal office.

b) The effective control is vested in the State where the air carrier has its principal office.

2. A foreign air carrier establishing its representative office and booking office shall submit to the Ministry of Transport a set of documents, which includes:

a) The application letter for setting up representative office, booking office;

b) The document indicating its legal status and Charter of the air carrier;

c) The document certifying the conditions specified in paragraph 1 of this Article, which is issued by the competent authority of the State where the air carrier has its principal office, except for the case it has been granted air traffic rights for scheduled services to Viet Nam;

d) The document certifying rights to use premises as its representative office, booking office;

e) The ticket's specimen intended for sale or issuance in Viet Nam.

3. The Ministry of Transport shall decide whether or not to grant the permission for setting up representative office, booking office to the foreign air carrier within seven working days from the date of receipt of the required documents specified in paragraph 2 of this Article.

4. Foreign air carrier who applies for the permission for setting up representative office, booking office shall pay fees.

5. The permission granted to a foreign air carrier shall be withdrawn in the following cases:

a) That air carrier fails to meet the conditions specified in paragraph 1 of this Article;

b) The selling of air tickets is not performed within twelve months from the date on which the permission has been issued;

c) The selling of air tickets has been suspended for twelve consecutive months;

d) The operation of the representative office and booking office is not for the right purpose and is not in conformity with the permission;

e) The defrauding acts towards clients have been found;

f) The air carrier seriously violates the regulations on air transportation business or operation of the computerized reservation system;

g) In the cases when it is deemed necessary to ensure the right to set up a similar representative office, booking office by Vietnamese air carriers in the State of the foreign air carrier.

**Article 124. Rights and obligations of foreign air carrier representative office, booking office**

1. To operate for the right purpose, within the scope and validity period specified in the permission for setting up representative office, booking office.

2. To lease head office and hire and purchase vehicles and facilities necessary for the operation of the office.

3. To employ national, non-national personnel to work in the office in accordance with the laws of Viet Nam on labour.

4. To open foreign currency account, Vietnamese Dong account at banks operating in Viet Nam and that account shall only be used for the office's activities.

5. To use a stamp with the registered office's name in accordance with the laws of Viet Nam on enterprises.

6. The representative office shall not be allowed to conduct direct profit-generated activities in Viet Nam; enter into a contract, except the cases specified in paragraphs 2, 3 and 4 of this Article; amend and supplement the contract concluded by the air carrier, unless that contract which is concluded by the representative office or by its manager duly authorized in writing by that air carrier.

7. To pay taxes, charges and fees and comply with financial obligations, accounting regime provided for by the laws of Viet Nam.

8. To report on the office's activities on a regular basis or upon request to the Ministry of Transport.

**Article 125. Conditions, formalities and registration of sales agent contracts of foreign air carriers**

1. A foreign air carrier who wishes to appoint its sales agent in Viet Nam shall meet the conditions specified in paragraph 1 of the Article 123 of this Law.

2. The sales agent for foreign air carrier shall only perform the sale of air tickets after its sales agent contract has been registered with the Ministry of Transport.

3. The registration documents shall include:

a) The application letter for the registration of sales agent contract;

b) The documents indicating legal status and Charter of the foreign air carrier;

- c) The certified copy of the sales agent contract;
- d) The Business Registration Certificate granted to the sales agent.

4. The Ministry of Transport shall decide whether or not to grant the certificate of the registration of sales agent contract within the period of seven working days from the date of receipt of the required documents specified in paragraph 3 of this Article.

5. The sales agent for foreign air carrier shall pay fees.

#### **Article 126. Computerized reservation systems**

1. Computerized reservation systems are the system, which provide information on flight schedules, availability of seats and air tariffs, and through which seat reservation on a flight can be made.

2. An enterprise using the computerised reservation systems shall observe the following principles of:

- a) Equality, non-discrimination among service users;
- b) Users shall not be compelled to use only the services or equipment provided by the enterprise;
- c) The display of information on flight schedules, availability of seats and air tariffs shall be in a comprehensive, equal and non-discriminatory manner;
- d) User charges shall be established based on appropriate costs, which shall be applied to all users without discrimination;
- e) Customers' personal details shall be kept confidential unless otherwise required by the governmental competent authority.

#### **Article 127. Inspection, supervision of air transportation operation**

Vietnamese and foreign air carriers operating in Viet Nam shall be subject to inspection, supervision of the Ministry of Transport on their compliance with regulations on air transportation operation, aviation safety and security.

### **Section 3 CARGO TRANSPORTATION**

#### **Article 128. Cargo transportation contract**

1. Cargo transportation contract is an agreement between the carrier and consignor, according to which the carrier shall carry the cargo to the place of destination and deliver the cargo to the consignee entitled to the cargo; the consignor shall pay for air tariffs and rates.

The carrier is an organization that engages in providing commercial transportation services by air.

2. Air waybills, other written agreements, the conditions of carriage, table of tariffs are documentation of the cargo transportation contract.

#### **Article 129. Air waybills and cargo receipts**

1. An air waybill is a document of cargo carriage by air and an evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of the contract.

2. An air waybill shall be delivered for the carriage of cargo by air. In the case where means of preserving information on the carriage of cargo are used as substitutes for an air waybill, at the request of the consignor, the carrier shall issue to the consignor a cargo receipt for identification of the cargo.

3. The carrier shall indemnify the consignor against damage caused by fault of the carrier, his servant or his agent by reason of the incorrectness or incompleteness or irregularity of the information provided by the consignor inserted in the means of preserving information specified in paragraph 2 of this Article.

4. The conclusion of a cargo transportation contract which does not contain one or all the particulars set out in Articles 130, 131, 132 and 133 of this Law shall not have the effect of prejudicing the existence and the legal validity of the contract.

#### **Article 130. Contents of air waybill or cargo receipt**

1. The place of departure and of destination;

2. The agreed stopping places in the case the carriage involves places of departure and destination in the territory of one State and one or more agreed stopping places in the territory of another State;

4. The weight and type of the cargo.

#### **Article 131. Making out an air waybill**

1. The air waybill shall be made out by the consignor in three original copies.

2. The first such copy shall be marked "for the carrier" and signed by the consignor. The second such copy shall be marked "for the consignee" and signed by the consignor and by the carrier. The third such copy shall be signed by the carrier and shall be handed to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.

4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

#### **Article 132. Documents on the nature of the cargo**

The consignor shall, if required, produce documents specifying the nature of cargo at the request by the customs, police or other relevant authorities. This provision shall not constitute any further liabilities or obligations of the carrier.

### **Article 133. Air waybill or cargo receipt for multiple consignments**

When there are two or more consignments, the carrier has the right to require the consignor to make out separate air waybills for each of the consignments. In the case where the means of preserving information are used as substitutes for an air waybill as provided for in paragraph 2 of Article 129 of this Law, the consignor has the right to require the carrier to deliver separate cargo receipts for each of the consignments.

### **Article 134. Refusal of cargo carriage**

1. Cargo to be carried is not the cargo as agreed in the contract;
2. The consignor does not comply with conditions and instructions of the carrier as to wrapping, packaging, marking, code of cargo.

### **Article 135. Responsibility of the consignor for furnishing information**

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted in the air waybill or furnished for insertion in the record preserved by the other means provided for in paragraph 2 of Article 129 of this Law.
2. The consignor shall furnish such information and such documents upon the request of customs, police and any other relevant competent authorities before the cargo can be delivered to the consignee. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.
3. The consignor shall indemnify the carrier against damage suffered by it, or damage for which the carrier is liable, by reason of the incorrectness, incompleteness or irregularity of the information furnished by the consignor.

### **Article 136. Delivery of the cargo**

1. Unless otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
2. Except in the circumstances set out in Article 139 of this Law, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due in complying with the conditions of carriage.
3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee or the consignor is entitled to exercise the rights of claim or action against the carrier under Article 170 of this Law.

### **Article 137. Relations of consignor and consignee or mutual relations of third parties**

1. The consignor and the consignee can exercise all their rights provided for in Article 139 of this Law regardless such rights are for the interest of the consignor or the consignee, provided that obligations under the contract of carriage are performed.
2. The provisions in paragraph 1 of this Article, Articles 136 and 139 of this Law do not affect either the relations of the consignor and the consignee with each other or the mutual

relations of third parties whose rights are derived either from the consignor or from the consignee.

3. The provisions in paragraph 1 of this Article, Articles 136 and 139 of this Law can be varied by common consent by express provision in the air waybill or the cargo receipt.

#### **Article 138. Evidentiary value of air waybill and cargo receipt**

1. Data recorded in the air waybill or the cargo receipt relating to weight, dimension, packing of cargo and number of cargo packages are prima facie evidence with which a claim or action is taken against the carrier.

2. Data recorded in the air waybill or the cargo receipt relating to the weight, volume and condition of the cargo do not constitute evidence for bringing a claim or action against the carrier except so far as they have been and are stated in the air waybill or the cargo receipt to have been checked in the presence of the consignor, or those data can be obviously seen from outside the cargo.

#### **Article 139. Right of disposition of cargo**

1. The consignor shall have the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure.

The consignor shall not exercise this right of disposition if the exercise of this right may cause difficulties to normal operation of the carrier or other consignors. The consignor shall reimburse any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the orders of the consignor, the carrier shall so inform the consignor forthwith.

3. If the carrier carries out the orders of the consignor for the disposition of the cargo without requiring the production of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable for any damage which may be caused thereby to any person who lawfully has the right to such air waybill or cargo receipt.

4. The right of the consignor shall cease at the moment when the consignee requests the carrier to deliver the cargo to him. In the case the consignee declines to accept the cargo or it is impossible to deliver the cargo to the consignee, the consignor resumes its right of disposition of cargo.

#### **Article 140. Refusal to accept the cargo or no consignee**

In the case when the consignee declines to accept the cargo or there is no consignee, the air carrier shall be under obligation to keep the cargo in storage and so inform the consignor. The consignor shall pay for all charges arising from the storage of the cargo.

#### **Article 141. House air waybill**

1. A house air waybill is an evidence of the conclusion of the contract for the carriage of cargo by air between the consignor and the freight forwarder, of the acceptance of the cargo and of the conditions of the contract.

2. The freight forwarder shall register the house air waybill with the Ministry of Transport. The registration document includes:

a) The application letter for the registration of the house air waybill;

b) The Business Registration Certificate;

c) The house air waybill specimen which is in conformity with the contents of the air waybill set out in Article 130 of this Law.

d) The Business Registration Certificate granted to foreign enterprise in the case the latter acts as the house air waybill issuing agent for the foreign freight forwarder.

3. The Ministry of Transport shall decide whether or not to issue the Certificate of the registration of house air waybill within the period of seven working days from the date of receipt of the required documents specified in paragraph 2 of this Article.

4. The freight forwarder who applies for the Certificate of Registration shall pay fees.

#### **Article 142. Liquidation of the cargo**

1. The cargo shall be liquidated in the case the consignee refuses to take delivery of the cargo or the cargo could not be delivered to the consignee when the consignor declines to take it back or does not communicate for the purpose of taking back the cargo within the period of sixty days from the date on which a notice has been given by the carrier to the consignor. The cargo, which is subject to rapid deterioration, may be liquidated before such period.

2. The proceeds of liquidation, after being subtracted from the related expenses of transporting, preserving and liquidating the cargo, shall be returned to the eligible person. Within the period of one hundred and eighty days from the date of liquidating the cargo and that person does not show up, the remainder of proceeds of liquidation shall be contributed to the State budget.

3. The Ministry of Finance shall take the lead responsibility, in coordination with the Ministry of Transport, in specifying the procedures for cargo liquidation.

### **Section 4 TRANSPORTATION OF PASSENGERS, BAGGAGE**

#### **Article 143. Contract of passenger, baggage transportation**

1. The contract of passenger, baggage transportation is an agreement between the carrier and passenger under which the carrier transports the passenger, his baggage to the agreed place of destination and the passenger shall pay for the transportation charges.

2. Passenger ticket, the Charter of the carrier, its table of tariff and other written agreements between the two sides are documents of the contract of passenger, baggage transportation.

#### **Article 144. Passenger ticket, baggage tag**

1. Passenger ticket is a document for passenger transportation by air and evidence of conclusion of the contract, of conditions of the contract. Passenger ticket is issued to an individual or a group of people, which contains the followings particulars:

a) The place of departure and destination;

b) The indication of at least one agreed stopping place in the case the transportation involves the places of departure and destination in the territory of one State and one or more agreed stopping places in the territory of another State.

2. Any means for preserving information indicated in paragraph 1 of this Article may substitute the issuance of passenger ticket. In the case when such means are used, it shall be the duty of the carrier to deliver to the passenger a written statement of the information so preserved.

3. The carrier shall deliver to the passenger a separate baggage tag for each piece of checked baggage.

4. Non-compliance with the provisions in paragraphs 1, 2, 3 of this Article shall not affect the existence of or validity of the contract.

#### **Article 145. Obligations of the carriers in passenger transportation**

1. To transport the passenger and his baggage to the agreed place of destination and deliver the checked baggage to the one who is entitled to receive it.

2. To provide the passenger in due time with information relating to the flight; to care for and look after the passenger, especially the disabled passenger or the passenger who needs care during the course of transportation.

3. In the case the passenger has reserved a seat on the flight and if there is disruption or delay in the transportation which is not due to fault of the passenger, the carrier shall inform the passenger in due time, apologize to him, care for the living condition and travel of the passenger and bear all other expenses related directly to his waiting time at the airport in conformity with the conditions of carriage.

4. In the case the passenger has reserved a seat on the flight and if there is disruption or delay in the transportation due to fault of the carrier, the carrier shall be under obligation, apart from his obligations set out in paragraph 3 of this Article, to arrange the appropriate departure for the passenger in conformity with the charter of carriage and to refund an air fare equivalent to the unused portion of the ticket at the request of the passenger without collecting any related fees.

5. In the case the passenger has reserved a seat on the flight, but due to the fault of the carrier, he/she is denied boarding or the flight is cancelled without prior notice, it shall be the duty of the carrier to carry out its obligations as provided for in paragraphs 3 and 4 of this

Article and to pay an amount of advanced non-refundable compensation to the passenger. The Minister of Transport shall, with the consent of the Minister of Finance, specify the period during which the notice shall be given and the amount of compensation. In the case the carrier shall compensate damage under his civil liability, the compensation shall be deducted from the amount of compensation already paid.

**Article 146. Right to refuse the carriage of passenger who has got an air ticket and reserved a seat on the flight or in the course of the passenger's journey.**

1) From condition of the passenger's health the carrier obviously realizes that the transport of the passenger or continuing transport of the passenger shall be dangerous or harmful to the passenger, other persons on the aircraft or the flight;

2) For the prevention of infectious disease spread;

3) The passenger does not observe regulations on aviation safety and security and air transportation;

4) The passenger has an act affecting public order, jeopardizing the flight's safety or affecting others' life and health or properties;

5) The passenger is in influence of alcohol, beer and other stimulants that he/she does not control his/her behaviour;

6) For the security reasons;

7) At the request of competent governmental authority.

**Article 147. Rights of passenger**

1. Be informed in writing of the limits of liability for damage compensation of the carrier applied to death or injury of the passenger, damage, loss or delay in the transportation of baggage.

2. In the case where the passenger is denied boarding due to fault of the carrier, the passenger shall be entitled to require the carrier to arrange the appropriate itinerary for the passenger or to refund an airfare equivalent to the unused portion of the ticket.

3. In the cases specified in Article 146 of this Law, the passenger is entitled to get back the airfare or the equivalent sum the unused portion of the ticket after having the deduction of charges or a fine as provided for in the conditions of carriage.

4. To refuse the flight; in the course of the journey the passenger is entitled to refuse continuation of the journey at any airport, aerodrome or at the place where the aircraft had to make forced landing, and shall have the right to get back the fare or the equivalent sum of the unused portion of the ticket, after having the deduction of charges or a fine as provided for in the conditions of carriage.

5. Be entitled to baggage allowance free of charge at the minimum level as provided for in the conditions of carriage.

6. Children under the age of twelve are exempted, reduced from the airfare at the levels as provided for in the conditions of carriage.

Children from the age of two to under the age of twelve shall have their own seats; children under the age of two do not have their own seats and shall be accompanied by adults.

#### **Article 148. Obligations of passenger**

1. To observe the regulations on aviation safety and security.
2. To observe the instructions of the carrier during the flight.
3. To indemnify the carrier/aircraft operator against all damages caused to it due to the fault of the passengers.

#### **Article 149. Baggage transportation**

1. The baggage includes checked baggage and carry-on baggage.

The checked baggage means baggage of passengers, which is transported on aircraft and is taken care of by the carrier during the flight.

The carry-on baggage means baggage that is taken care of by passengers and is brought along with them onto aircraft during the flight.

2. Baggage of each passenger shall be transported in the same flight with the passenger, except the following cases:

- a) The carriage of mishandled baggage;
- b) The baggage that is not transported for the safety reasons;
- c) The carriage of diplomatic pouches or consular bags;
- d) In the case of death of the passenger on board aircraft and his remains has been removed from the aircraft;
- e) The baggage is transported as cargo;
- f) In the cases of force majeure.

#### **Article 150. Liquidation of baggage**

1. The baggage shall be liquidated in the case it is not claimed by any persons within the period of thirty days from the date on which the baggage has been transported to the place of destination; the baggage that is subject to the rapid deterioration may be liquidated before such period.

2. The procedures for liquidation of the baggage shall be in conformity with the provisions of paragraphs 2 and 3 of Article 142 of this Law.

**Section 5**  
**AIR TRANSPORT PERFORMED BY CONTRACTING CARRIER AND ACTUAL CARRIER**

**Article 151. Contracting carrier and actual carrier**

1. Contracting carrier means any person who has concluded a contract of transport by air with a passenger or a shipper, with the agent of a passenger or of a shipper.
2. Actual carrier means any person to whom the contracting carrier has authorized the performance of the whole or part of the transportation and who is not the successive carrier as provided for in Article 118 of this Law.

**Article 152. Liability of contracting carrier and actual carrier**

1. The contracting carrier shall be responsible for the whole transportation agreed in the contract. The actual carrier shall be responsible for the part of transportation that he performs.
2. The acts of the contracting carrier and of his servants and agents acting within the scope of their employment shall be deemed to be those of the actual carrier in relation to the part of transportation performed by the actual carrier. Nevertheless, no such act shall subject the actual carrier to liability exceeding the limits applicable under Section 1, Chapter VII of this Law.
3. The acts of the actual carrier and of his servants and agents acting within the scope of their duties shall, in relation to the transport performed by the actual carrier, be deemed to be also those of the contracting carrier.
4. Any agreements by the contracting carrier concerned not covered by this Chapter or agreements to refuse the rights provided for by this Chapter or any agreements on the declaration of value of cargo, checked baggage as provided for in paragraph 1(b) of the Article 162 shall not affect the liabilities of the actual carrier unless agreed to by him.

**Article 153. Addressee of complaints and instructions**

1. Any complaint to be made or instruction to be given shall be addressed to the contracting carrier or the actual carrier, unless it is provided for in paragraph 2 of this Article.
2. Instructions referred to in Article 139 of this Law on the right of disposition of cargo shall only be effective if addressed to the contracting carrier.

**Article 154. Limits of liability of servants or agents**

In relation to the transportation performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if he proves that he acted within the scope of his employment, be entitled to avail himself of the limits of liability under the provisions of Section 1, Chapter VII of this Law.

#### **Article 155. Aggregation of damages**

In relation to the transportation performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier. None of the persons mentioned shall be liable for a sum in excess of the limit of liability applicable to him.

#### **Article 156. Addressee of claims**

In relation to the transportation performed by the actual carrier, an action may be brought against that carrier or the contracting carrier separately, or against both together. If the action is brought against only one of those carriers, that carrier shall have the right to require, by submitting the request to a court, the other carrier to join in the proceedings.

### **Section 6 TRANSPORTATION OF SPECIAL CARGO**

#### **Article 157. Carriage of couriers, parcels and mails**

The carriage of couriers, parcels and mails shall be in conformity with the provisions of this Law and the laws on post.

#### **Article 158. Carriage of dangerous goods**

1. The dangerous goods mean articles or substances, which are capable of posing a risk to human health and life, safety of flight, property or the environment.

2. The carriage of dangerous goods by air shall be in compliance with provisions of this Law and other applicable regulations.

3. A carrier shall be allowed to transport dangerous goods by air when it has an appropriate Certificate of competency for the carriage of dangerous goods by air issued or validated by the Ministry of Transport.

4. The Ministry of Transport shall specify conditions, procedures and formalities for issuing or validating the Certificate of competency of carriage of dangerous goods by air. The applicant for the Certificate of competency of carriage of dangerous goods by air shall pay fees.

#### **Article 159. Carriage of weapons, war devices and radioactive waste**

It is strictly prohibited to transport weapons, war devices, radioactive waste by air into or overflying Viet Nam's territory, except otherwise permitted by the governmental competent authority. This provision shall also apply to State aircraft.

## **Chapter VII CIVIL LIABILITY**

### **Section 1 RIGHTS AND CIVIL LIABILITY OF THE CARRIER**

#### **Article 160. Liability for damage to the passenger**

The carrier shall be liable for damage in case of death or bodily injury of a passenger if the accident took place on board the aircraft or in the course of operation of embarking or disembarking by the air carrier.

#### **Article 161. Liability for damage to cargo, baggage**

1. The carrier is liable for damage in case of destruction or loss of, or damage to cargo, checked baggage of the passenger due to the event took place within a period from the moment the consignor, passengers hand over cargo, checked baggage to the carrier until the moment it delivers the cargo, checked baggage to legitimate receivers; in the case of cargo, the period of the carriage by air does not extend to any carriage by sea, by land, by rail or by inland waterway performed outside an airport or aerodrome.

2. In the case of destruction or loss of, or damage to carry-on baggage, the carrier shall be liable only if the damage resulted from his fault.

In the case where the compensation has been made, if the cargo, baggage have been transported to the point of destination, the consignee shall have the right to receive the cargo, baggage and reimburse the sum of compensation for the loss of cargo, baggage to the carrier.

3. In the case the cargo has been accepted by the carrier for carriage by air, any damage shall be deemed to be the result of an event which took place during the carriage by air without taking account of the actual mode of transport, except if the carrier proves that the damage occurred in the course of carriage by sea, by land, by rail or by inland waterway. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage, such carriage by another mode of transport is deemed to be within the period of carriage by air.

4. The carrier shall reimburse to the consignor, passenger the fees for the carriage of damaged cargo, baggage.

#### **Article 162. Levels of Compensation for damage to cargo and baggage**

1. The level of compensation for the destruction, or loss of, or damage to cargo or baggage shall be calculated as follows:

a) Under agreement between the parties concerned, but not exceeding the actual damage;

b) According to the declaration of value for cargo, checked baggage made at destination. In case the carrier proves that the declared value is higher than the actual value, the level of compensation shall be calculated in accordance with the actual value of damage;

c) According to the actual value of damage for goods, checked baggage which have not been declared in value;

d) According to the actual value of damage for carry-on baggage.

2. In the case of destruction, loss of, or damage to the cargo, baggage which have not been declared in value and the actual damage can not be determined, the level of compensation is to be made according to the limits of liability of the carrier in accordance with the provisions of Article 166 of this Law.

### **Article 163. Compulsory insurance by the carrier in respect of its liability for damage**

The carrier shall effect compulsory insurance covering its liability for the death or injury of passenger, destruction, loss of, damage to goods, baggage or delay or shall take other measures of security up to the limits of liability of the carrier under Article 166 of this Law.

### **Article 164. Liability for damage occasioned by delay in the transport**

1. The carrier shall be liable for compensation for the damage occasioned by delay, unless he proves that he or his agent or servant have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

2. The compensation for damage occasioned by delay may not exceed the limits of liability of the carrier under Article 166 of this Law.

### **Article 165. Exoneration from liability for damage**

1. If the carrier proves that the damage caused by the fault of the claimant, the carrier shall be wholly or partly exonerated from his liability for the damage to the extent to which such fault contributed to the damage.

2. If the carrier proves that the damage in respect of death or injury of passenger caused by the fault of the passenger, the carrier shall be wholly or partly exonerated from his liability for the damage to the extent the fault contributed to the damage; the carrier shall not be liable for the death or injury of the passenger in the case where such damage was solely due to the state of health of the passenger.

3. The carrier shall be wholly or partly exonerated from his liability if the damage caused to cargo and checked baggage has been resulted from one or more of the followings:

a) Inherent defect, quality or vice of that cargo, checked baggage;

b) Judgment rendered by a court or decision given by the governmental competent authority relating to the cargo, checked baggage;

c) An act of war or an armed conflict;

d) The fault of the consignor or consignee of the cargo or checked baggage, or the fault of the escort assigned by the consignor or consignee to take care the cargo.

### **Article 166. The limits of liability of the carrier for damage**

1. The carrier is entitled to limits of liability for damage as follows:

a) For the carriage of passenger, the liability for damage to death, injury of each passenger is limited to 100,000 Special Drawing Rights (SDR) for each passenger;

b) For the carriage of passenger, the liability for damage caused by delay is limited to 4,150 SRD for each passenger;

c) For the carriage of baggage, including checked and unchecked baggage the liability in case of destruction, loss, damage or delay is limited to 1,000 SDR for each passenger; in the case where the passenger has made a declaration of interest in delivery at destination and has paid a supplementary sum, the carrier shall be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination;

d) For the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 17 SDR per kilogramme; in the case where the consignor has made a declaration of interest in delivery at destination and has paid a supplementary sum, the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

2. Special Drawing Right (SDR) is the unit of account defined by the International Monetary Fund. The conversion of SDR into Vietnamese Dong shall be made according to official exchange rate announced by the State Bank of Viet Nam at the time of payment.

3. In the carriage of cargo, the weight the cargo lost, damaged or delayed shall be used to determine the liability of the carrier. If a portion of the cargo lost, damaged or delayed in arrival that affects the value of other cargo in the same receipt or the air waybill, the weight of all packages shall be used to determine the limits of liability of the carrier.

4. The carrier is only entitled to the limits of liability under the sub-paragraph (a) of paragraph 1) of this Article if he proves that the damage is not due to his fault but due to the fault of third party.

5. The carrier shall not be entitled to avail himself of the provisions of sub-paragraphs b), c), d) of paragraph 1) of this Article concerning the limits of liability if the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result. In the case of such act or omission of a servant or agent of the carrier, it shall be proved that such servant or agent was acting within the scope of its employment.

6. If necessary, the Government shall decide to increase the limits of liability for damage specified in paragraph 1 of this Article.

#### **Article 167. Agreement on the limits of liability for damage**

1. Any agreement by the carrier with the passenger, the consignor and consignee on exoneration of the limits of liability referred to in paragraph 1 of Article 166 shall be null and void.

2. The carrier may come to an agreement with the passenger, the consignor and consignee on limits of liability higher than those referred to in Article 166 of this Law.

#### **Article 168. Compensation for carrier**

The passenger, consignor and consignee shall indemnify the carrier against the damage caused to him or to the third party to whom the carrier is liable for damage.

#### **Article 169. Advance payments**

1. In the case the aircraft accident resulting in death or injury to passenger, the carrier shall make advance payments without delay to the passenger or persons who are entitled to claim compensation.

Such advance payments shall be decided by the carrier and be recorded in the conditions of carriage.

2. The advance payments referred to in paragraph 1 of this Article shall not be deemed to be an evidence of the liability of the carrier and shall be included in the compensation amount the carrier is to pay.

#### **Article 170. Claims and actions against the carrier**

1. Passenger, consignor and consignee or their delegated representative shall have the right to make a claim and take actions against the carrier in order to protect their legitimate rights and interests.

2. Before taking actions for destruction, loss, damage or delay of cargo, checked baggage, persons who are entitled to make a claim and bring lawsuit as referred to in paragraph 1 of this Article shall make a claim in writing to the carrier in the following period:

a) Seven days from the date the baggage has been received in the case of destruction, loss or damage to baggage.

b) Fourteen days from the date the cargo has been received in the case of inadequacy of or damage to cargo; twenty-one days from the date the cargo has been delivered in the case of loss of cargo.

c) Twenty-one days from the date the person entitled to delivery has received the checked baggage or cargo in the case of delay in carriage.

3. The carrier shall notify the claimant whether the claim is accepted or not within a period of thirty days from the date the carrier has received the claim. If the claim is not accepted or no reply has been received within the above period, the claimant shall be entitled to take an action against the carrier.

4. All actions on liability of the carrier for damages caused shall be conducted in accordance with conditions and limits of liability provided for in this Law.

5. If no claim is made within the period specified in paragraph 2 of this Article, no action shall lie against the carrier, save in the case of fraud on its part or proper reasons given by the claimant.

### **Article 171. Rights of servants and agents of the carrier when they are claimed**

1. In the case servants or agents of the carrier are claimed for compensation, they shall be entitled to limits of liability of the carrier in accordance with the provisions of Section 1 of this Law if such servants or agents were acting within the scope of their employment.

2. The total sum of compensation paid by the carrier, its servants or agents shall not exceed the limits of liability specified in this Law.

### **Article 172. Competence of Vietnamese court over international air transportation disputes**

1. The disputes arising out of international contract of carriage of passengers, baggage, cargo, at the option of the plaintiff, may be submitted to the Court of Viet Nam in the following cases:

- a) The carrier has its principal office or its principal place of business in Viet Nam;
- b) The carrier has its place of business and the contract of carriage has been concluded in Viet Nam;
- c) Viet Nam is the point of destination.

2. The international contract of carriage referred to in paragraph 1 of this Article means a contract of carriage, according to the agreement between the parties, the point of departure and the point of destination are situated either within the territories of two States or within the territory of a single State if there is an agreed stopping place within the territory of another State, whether or not there is a break in the carriage or a transfer.

3. In respect of disputes resulting from the death or injury of passenger, in addition to the provisions of paragraph 1 of this Article, the disputes may be submitted to the court of Viet Nam if the passenger has his or her principal and permanent residence in Viet Nam at the time of accident, provided that:

- a) The carrier operates services for the carriage of passengers, either on its own aircraft, or on another carrier's aircraft pursuant to an agreement made between carriers and relating to their joint services for carriage of passengers;
- b) The carrier uses its principal place of business or another carrier's place of business pursuant to the agreement in order to operate services for carriage of passenger by air in Viet Nam.

4. The dispute settlement procedures shall be governed by this Law and the laws on civil procedures of Viet Nam.

### **Article 173. Arbitration**

1. Parties to the contract for the carriage of cargo may agree that any disputes arising therefrom shall be settled by arbitration. Such agreement shall be made in writing.

2. With regard to disputes relating to the liability of carrier for damage, the arbitration shall only be conducted in Viet Nam for settling the disputes arose under the terms of paragraphs 1 and 2 of Article 172 of this Law.

3. The provisions of paragraph 2 of this Article shall be deemed to be part of every arbitration clause or agreement. Any terms of such clause or agreement which is inconsistent therewith shall be null and void.

#### **Article 174. Time limit for actions against carrier for liability on compensation**

The time limit for actions against carrier for liability on compensation with respect to damages caused to the passenger, baggage, cargo shall be two years from date of aircraft arrived at the destination or from the date on which the aircraft ought to have arrived at the place of destination or from the date on which the carriage stopped, whichever comes later.

### **Section 2**

#### **COMPENSATION LIABILITIES TO THIRD PARTIES ON THE SURFACE**

#### **Article 175. Rights to require compensation liabilities**

1. Organizations, persons suffering damages on the surface caused by an aircraft in flight or by any person or objects therein (hereinafter called third parties on the surface) shall be entitled to compensation, if it is proved that those damages were directly caused by the aircraft in flight or by any person or object falling therefrom.

2. For the purpose of this Section, an aircraft is considered to be in flight from the moment when power is applied for the purpose of actual take-off until the moment when its engine shutdown after landing. In case of balloons and similar apparatus, it is considered to be in flight from the moment when it becomes detached from the surface until it becomes again attached thereto.

#### **Article 176. Compulsory insurance for operator's liabilities**

The operator of an aircraft shall effect compulsory insurance in respect of his liability for damage caused to the third parties on the surface or take other measures of security for his liability up to the limits of liability according to the provisions of Article 180 of this Law.

#### **Article 177. Liability for damage**

1. The operator of an aircraft shall be liable for damages caused to third parties on the surface.

2. Any person who unlawfully making use of an aircraft causes damages to the third party on the surface shall be liable for compensation. The person who possesses the aircraft shall be jointly liable with the unlawful user of aircraft causing the damages, unless he proves that he took all necessary measures to prevent such unlawful use.

3. The operator of an aircraft as provided for in this Chapter, shall mean the person who was directly making use or his personnel making use of the aircraft in their duty at the time the damage was caused.

## **Article 178. Liability Exoneration and Reduction**

1. If damage was caused by the fault of person who suffers damage, the compensation shall be reduced to the extent to fault of the person who suffers damage; if damage was caused solely by fault of the person who suffers the damage, the person causing the damage shall not be liable for damage.

2. The operator of an aircraft shall be exonerated from compensation if the damage is the direct consequence of war, armed conflict or the aircraft has been requisitioned by governmental competent authorities.

## **Article 179. The right of recourse against person liable for damage**

The person who is liable for damage shall have the right of recourse against any organizations or individuals involved.

## **Article 180. Limits of liability**

1. The liability of an aircraft operator for damage specified in this Section, for each aircraft and incident, shall not exceed 1,000 SDR per kilogram of the aircraft weight.

The aircraft weight is the maximum weight of the aircraft authorized under the Certificate of Airworthiness for take-off, excluding the effect of lifting air or gas when used.

2. Liability in respect of loss of life or personal injury or health damage shall not exceed 150,000 SDR per person killed or injured.

3. When two or more aircraft have jointly caused damage by collision or interference with each other, the third parties on the surface who suffer damage shall be entitled to be compensated up to aggregate of limits applicable to each of the aircraft involved; each operator shall be liable only for damage up to limits as provided for in paragraphs 1) and 2) this Article.

4. The Government shall decide to increase the limits of liability, if necessary.

## **Article 181. The cases where the operator of an aircraft shall not be entitled to his limits of liability**

1. The damage was caused by fault of the operator or his servants or agents;

2. The damage was caused by unlawful use of the aircraft.

## **Article 182. Settlement of damage compensation which exceeds the limits of liability**

1. If the claims are exclusively in respect of loss of life or personal injury or exclusively in respect of damage to property, such claims shall be reduced in proportion to their respective amounts;

2. If the claims are both in respect of loss of life or personal injury and in respect of damage to property, the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life or personal injury, if insufficient, it shall be distributed

proportionately between the claims concerned. The remainder of the total sum shall be distributed to meet the claims in respect of damage to property.

#### **Article 183. Liability exoneration for insurer or guarantee**

1. The liability for damage of the insurer, guarantee shall be exonerated, reduced in accordance with the provisions of Article 178 of this Law.

2. The insurer, guarantee shall be exonerated from compensation in the following cases:

a) The damage occurred after the insurance contract or security ceased to be effective. If the insurance policy or security expire during aircraft is in flight, it shall be continued in force until the next landing of the aircraft specified in the flight plan, but no longer than twenty-four hours from the time which security or insurance policy ceased to be valid. The extending the validity of security or insurance policy shall only be applied for the benefit of the person suffering damage.

b) The damage occurred outside of the limits in geographical area covered by security or insurance policy, except in emergency or force majeure.

#### **Article 184. Exemption from seizure of security or insurance royalties**

The security or insurance royalties provided for in Article 176 of this Law shall not be seized to meet requirements from creditors of the operator until claims of third parties on surface has been satisfied.

#### **Article 185. Jurisdiction**

The claims of third parties on the surface for compensation shall be brought before the court of the State where the damage occurred, unless otherwise provided for by the international conventions to which the Socialist Republic of Viet Nam is a contracting party.

#### **Article 186. Time limit for Actions claiming for compensation**

The time limit for actions claiming for compensation for damage caused to third parties on the surface shall be two years, from the date on which the event causing the damage occurred.

#### **Article 187. Applications of provisions on compensation**

The provisions in this Section shall also apply to the aircraft in flight which caused damage to ships, craft, constructions of Viet Nam in Vietnamese inland and in the territorial waters under the sovereignty, sovereign right, national jurisdiction of Viet Nam, in sea areas, land areas and waters not belonging to the sovereignty and the jurisdiction of any nation.

## **Section 2 COMPENSATION LIABILITY FOR DAMAGE CAUSED BY AIRCRAFT COLLISION OR INTERFERENCE WITH EACH OTHER**

**Article 188. Compensation liability for damage caused by aircraft collision or interference with each other**

1. In case the damage was caused by aircraft collision or interference with each other, the liability of aircraft operator shall be determined as follows:

a) Damage was caused by fault of one party, that party shall be liable for damage;

b) Damage was caused by fault of two or more parties, the liability of each party shall be based on the fault contributing to damage. In the case fault of each party may not be determined, liabilities of parties are shared equally.

2. Provisions of this Article shall not prejudice the question of requiring a carrier to compensate. The carrier shall have the right to require the aircraft operators who are liable for damage specified in paragraph 1) of this Article to fulfill the obligation to reimburse the sums of money compensated.

**Article 189. Joint liability**

In the case the damage was caused by collision of two or more aircraft or interference with each other to the third parties on the surface, the operator of each aircraft shall be jointly liable for damage to the extent their fault contributed to that damage.

## **Chapter VIII**

### **CIVIL AVIATION SECURITY**

#### **Article 190. Civil aviation security**

1. Civil aviation security is to use, in combination, measures, human resources, equipment and facilities with a view to preventing, suppressing and coping with acts of unlawful interference against civil aviation activities in order to safeguard passengers, crew and persons on the ground.

2. Acts of unlawful interference against civil aviation activities are acts that may threaten the safety of civil aviation activities, including:

- a) Unlawful seizure of aircraft in flight;
- b) Unlawful seizure of aircraft on the ground;
- c) Use of aircraft as the weapon;
- d) Hostage-taking on board aircraft or on airports and aerodromes;
- e) Forcible intrusion on board an aircraft, at an airport/aerodrome or on premises of a civil aviation facility;
- e) Illegal introduction on board aircraft, at an airport/aerodrome and other restricted areas of dangerous items.

The dangerous items include weapons, ammunition, flammable substances, explosives, radioactive items and other dangerous articles that are capable of posing a risk or may be used for posing a risk to people's health and life or safety of aircraft in flight.

f) Communication of false information such as to jeopardize the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or general public at an airport, or on premises of a civil aviation facility.

#### **Article 191. Security measures to protect civil aviation activities**

1. Civil aviation security shall be ensured by the following measures:

- a) To establish restricted areas at airports, aerodromes and locations of buildings and aviation facilities to safeguard the aircraft, buildings and facilities therein;
- b) To conduct pre-flight security checks and screening;
- c) To eliminate possibility of transporting by air dangerous items and to take special preventive measures when allowing transport of those items;
- d) To cope with acts of unlawful interference against the civil aviation activities.

2. The civil aviation security programme referred to in Article 196 of this Law shall apply to aircraft protection, establishment and protection of restricted areas at airports,

aerodromes, locations of civil aviation constructions, facilities and equipment, and pre-flight security checks, screening and supervision.

#### **Article 192. Establishment and protection of restricted areas**

1. Restricted areas are areas at airports, aerodromes and locations of aviation buildings and facilities into which access is controlled, screened and supervised in accordance with the regulations of competent authorities.

2. The establishment of restricted areas at airports, aerodromes or aviation buildings and facilities shall comply with aims of ensuring the aviation security and characteristics of civil aviation activities.

#### **Article 193. Pre-flight Security Check, Screening and Supervision**

1. Aircraft security checks and supervision of originating aircraft engaged in commercial air transport movements shall be performed.

2. Passengers, crew members, personnel who provide services to aircraft and other concerned personnel, baggage, cargo, parcels, mail and other items shall undergo security check and screening before boarding or loading into aircraft.

#### **Article 194. Coping with acts of unlawful interference against civil aviation activities**

1. All measures taken to cope with acts of unlawful interference against civil aviation activities shall take into account the safety for aircraft and human life as the first priority.

2. Aircraft in flight subject to an act of unlawful interference shall be given the first priority in terms of air traffic services and other necessary assistance.

3. The Ministry of Transport shall take the lead responsibility in coordinating with the Ministry of Public Security, National Defense and other Ministries and agencies concerned to develop contingency plans in order to cope with acts of unlawful interference against civil aviation activities and submit them to the Prime Minister for approval.

4. The Ministry of Public Security shall take the command of forces in the conduct of the contingency plans.

5. The Ministry of National Defense shall cope with the act of unlawful interference set out in paragraph 2 (c) of Article 190 of this Law; direct its airspace and air traffic control units to give air traffic control priority to aircraft subjected to an act of unlawful interference while flying over the airspace of Viet Nam; coordinate with air traffic control units to give instructions to crew for appropriate responses to acts of unlawful interference against the aircraft in flight and for other appropriate measures.

6. In special cases beyond the power of Ministries concerned, the Prime Minister shall decide to solve problems in regard of ensuring safety for aircraft, crew, passengers, baggage and cargo on board aircraft.

7. Air carriers shall bear all expenses concerning responses which have been undertaken to acts of unlawful interference against their aircraft.

#### **Article 195. Aviation security personnel**

1. Aviation Security personnel shall be provided with weapons and other supporting tools to fulfill their tasks of ensuring security for civil aviation activities.

2. The provision of weapons and other supporting tools and the use of such weapons and supporting tools by aviation security personnel shall be in conformity with regulations established by the Government.

#### **Article 196. Civil aviation security programmes**

1. Civil Aviation Security Programmes shall provide for the responsibilities of organizations, individuals for the implementation of aviation security procedures, formalities and measures.

2. The system of civil aviation security programmes shall include:

a) The Civil Aviation Security Programme of Viet Nam;

b) The Airport Security Programmes;

c) The Airlines Security Programmes;

d) Air traffic control emergency plans to respond to acts of unlawful interference against aircraft.

3. The Civil Aviation Security Programmes shall be developed in conformity with Viet Nam's laws and regulations on assurance of aviation security and with international conventions to which the Socialist Republic of Viet Nam is a contracting party.

4. The Minister of Transport shall promulgate the Civil Aviation Security Programme of Viet Nam; approve the Airport Security Programmes and the Security Programmes of Vietnamese air carriers; approve the Air traffic control emergency plans; and validate Aviation Security Programmes of foreign carriers.

#### **Article 197. Responsibilities of organizations, individuals involved in civil aviation activities**

1. Airport enterprises shall ensure aviation security at airports, aerodromes and develop their airport security programmes.

2. Vietnamese air carriers shall ensure aviation security within their scope of activities and develop their airlines security programmes.

3. Air traffic management centers shall establish their air traffic control emergency plans to respond to acts of unlawful interference against aircraft;

4. Foreign air carriers providing scheduled air services from/to Viet Nam shall submit to the Ministry of Transport their aviation security programmes which have been approved by

their respective appropriate authorities of the State where the carrier has its principal office or principal place of business.

5. Other organizations and individuals taking part in civil aviation activities shall comply with regulations on assurance of aviation security.

6. The Ministry of Transport shall inspect, make assessments of the implementation of security measures in accordance with provisions of the laws of Viet Nam and other international conventions to which the Socialist Republic of Viet Nam is a contracting party.

## **Chapter IX** **GENERAL AVIATION**

### **Article 198. Conditions of general aviation activities**

1. General aviation operation means activities in which an aircraft is used not for the purpose of public transportation of passengers, baggage, cargo, parcels and mail but for the purpose of search and rescue, medical emergency, scientific research, culture, sports, tourism, training, calibration, aerial survey and photography, private flight operations and activities in the fields of industry, agriculture, forestry, fishery, construction and in other economic aspects.

2. The operation of general aviation shall satisfy the following conditions:

a) Aircraft, crew shall have all appropriate licenses, certificates as stipulated by this Law corresponding to the approved operation type.

b) Compliance with requirements of aviation safety, security, environment protection and other provisions of applicable laws.

3. An organization engaged in general aviation operation for commercial purposes shall have an appropriate Air Operator Certificate (AOC) as stipulated in Article 23 of this Law.

### **Article 199. Management of general aviation operation**

1. Organizations and individuals engaged in general aviation operation shall register with the Ministry of Transport their types of operation.

2. Enterprises established and engaged in general aviation operation for commercial purposes under the laws of Viet Nam shall be granted by the Ministry of Transport with a license for general aviation operation.

3. The Government shall establish regulations on procedures of issuance and revocation of the license for general aviation operation, and procedures of registration for general aviation operation.

4. Applicant for general aviation operation license and for registration of general aviation operation shall pay fees.

### **Article 200. Contract for general aviation services**

Enterprises providing general aviation services for commercial purposes shall sign a contract with an organization or individual using such services in conformity with applicable laws, except search and rescue services in emergency cases.

### **Article 201. Insurance of liability for damages**

Organizations and individuals engaged in general aviation operation shall cover insurance against liability for damages in accordance with this Law.

**Chapter X**  
**IMPLEMENTATION CLAUSE**

**Article 202. Entry into force**

1. This Law shall come into force as of 01 January 2007.

2. This Law shall supersede the Law on Civil Aviation of Viet Nam dated 26 December 1991 and the Law on Amendments and Supplements to the Law on Civil Aviation of Viet Nam dated 20 April 1995.

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*This Law was adopted on June 29, 2006, by the 11<sup>th</sup> National Assembly of the Socialist Republic of Viet Nam, at its 9<sup>th</sup> session.*

**Chairman  
of the National Assembly**

**Nguyen Phu Trong**

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