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THE GOVERNMENT

No: 81/2003/ND-CP

SOCIALIST REPUBLIC OF VIET
NAM

Independence - Freedom -
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*Ha Noi , Day 17 month 07 year
2003*

DECREE No. 81/2003/ND-CP OF JULY 17, 2003 DETAILING AND GUIDING THE IMPLEMENTATION OF THE LABOR CODE REGARDING VIETNAMESE LABORERS WORKING OVERSEAS

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 23, 1994 Labor Code; the April 2, 2002 Law Amending and Supplementing a Number of Articles of the Labor Code;

At the proposal of the Minister of Labor, War Invalids and Social Affairs,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Regulation scope

This Decree prescribes the conditions for granting and withdrawing licenses for labor export activities; the registration of labor export contracts; the rights and obligations of enterprises sending Vietnamese laborers to work overseas; the rights and obligations of Vietnamese laborers working overseas; the Labor Export Support Fund; the State management over Vietnamese laborers working overseas.

Article 2.- Subjects of application

1. Enterprises allowed to send laborers to work overseas include:

- a) Enterprises having licenses for labor export activities;
- b) Vietnamese enterprises contracting to construct overseas projects and employing Vietnamese laborers;
- c) Vietnamese enterprises investing overseas and employing Vietnamese laborers.

2. Vietnamese laborers going to work overseas in the forms prescribed in Clause 2, Article 3 of this Decree, including laborers, specialists and trainees (hereinafter referred collectively to as laborers).

Article 3.- Principles for, and forms of, going to work overseas

- 1. Enterprises sending laborers to work overseas must satisfy the conditions prescribed in this Decree.
- 2. Laborers shall go to work overseas in the following forms:
 - a) Through Vietnamese enterprises licensed to supply laborers under contracts signed with foreign parties;
 - b) Through Vietnamese enterprises contracting to construct projects or making investment overseas;
 - c) Under labor contracts signed directly by individual laborers with employers overseas (hereinafter called personal contracts).

Article 4.- Registration of contracts on sending laborers to work overseas and personal contracts

- 1. The enterprises prescribed in Clause 1, Article 2 of this Decree must register their contracts on sending laborers to work overseas at the Ministry of Labor, War Invalids and Social Affairs.
- 2. Laborers going to work overseas in the forms prescribed at Point c, Clause 2, Article 3 of this Decree must register their labor contracts at the provincial/municipal Services of Labor, War Invalids and Social Affairs of the localities where they reside. In cases where laborers are working abroad, they shall make the registration thereof at foreign-based Vietnamese diplomatic missions, consulates or agencies authorized to perform the consular function (hereinafter called foreign-based Vietnamese representation offices).

Article 5.- Agencies performing the State management over Vietnamese laborers working overseas

The Ministry of Labor, War Invalids and Social Affairs shall perform the unified State management nationwide over Vietnamese laborers working overseas.

Article 6.- Law application

1. The sending of Vietnamese laborers to work overseas must comply with the provisions of this Decree and the international treaties which Vietnam has signed or acceded to.
2. In cases where an international treaty which Vietnam has signed or acceded to contains provisions different from those of this Decree, the provisions of such international treaty shall apply.

Article 7.- Prohibited acts

1. Sending Vietnamese laborers to work in areas, to do jobs or work, which are banned by Vietnamese laws and/or laws of the countries receiving laborers.
2. Sending Vietnamese laborers to work overseas in contravention of the provisions in this Decree.

Chapter II

ENTERPRISES SENDING VIETNAMESE LABORERS TO WORK OVERSEAS

Section I. ENTERPRISES CONDUCTING LABOR EXPORT ACTIVITIES

Article 8.- Subjects entitled to be licensed for labor export activities

Enterprises entitled to be considered for granting of licenses for labor export activities include:

1. State enterprises;
2. Joint-stock companies where the State holds dominant shares;
3. Enterprises of the central bodies of such organizations as Vietnam Fatherland Front, Vietnam Labor Confederation, Vietnam Women's Union, Ho Chi Minh Communist Youth Union, Vietnam War Veterans' Association, Vietnam Peasants' Association, Union of Vietnamese Cooperatives and enterprises of Vietnam Chamber of Commerce and Industry;
4. Other enterprises to be considered and decided by the Prime

Minister.

Article 9.- Conditions for being licensed for labor export activities

1. Having plans for labor export activities of the enterprises under the guidance of the Ministry of Labor, War Invalids and Social Affairs;
2. Having a charter capital of VND 5 (five) billion or more;
3. Having stable working offices, having establishments to provide oriented training and education for laborers who go to work overseas;
4. Having at least 7 (seven) full-time officials of collegial or higher degree in economics, law and/or foreign languages. These full-time officials must have clear backgrounds, good moral qualities, have no criminal records, have not been disciplined in form of caution or heavier penalties in labor export activities;
5. A deposit of VND 500,000,000 (five hundred million) as security at bank.

Article 10.- Procedures for licensing labor export activities

1. The dossiers of application for licenses shall be addressed to the Ministry of Labor, War Invalids and Social Affairs, including:
 - a) The application for the license, made according to form set by the Ministry of Labor, War Invalids and Social Affairs;
 - b) The written proposals of the ministries, branches, central bodies of the organizations mentioned at Clause 3, Article 8 of this Decree, provincial-level People's Committees which manage the enterprises;
 - c) Copies of the decisions on establishment of the enterprises and business registration certificates;
 - d) Documents evidencing the conditions prescribed in Article 9 of this Decree.

2. The licensing time limit

Within 15 working days as from the date of receiving complete and valid dossiers, the Ministry of Labor, War Invalids and Social Affairs shall grant licenses to enterprises. In cases of refusing to grant licenses, it must reply the enterprises in writing and clearly state the reasons therefor.

Article 11.- Suspending, withdrawing licenses for, labor export activities

1. Enterprises shall have their labor export activities suspended and their labor export licenses withdrawn in the following cases:

- a) Violating Clause 1, Article 7 of this Decree;
- b) Being administratively sanctioned for the third time;
- c) Failing to send over 100 laborers to work overseas within 18 months after being granted the licenses;
- d) Being dissolved or bankrupted.

2. The Ministry of Labor, War Invalids and Social Affairs shall decide on the suspension and the withdrawal of licenses as prescribed in Clause 1 of this Article.

3. When being suspended from labor export activities, the enterprises shall still have the responsibility to continue managing the laborers they have sent during the time they work overseas under contracts and fulfill the terms in the contracts they have signed with them.

4. When enterprises are dissolved or bankrupted, the agencies managing such enterprises shall have to handle matters related to the laborers they have sent to work overseas under the guidance of the Ministry of Labor, War Invalids and Social Affairs.

Article 12.- Renewing labor export licenses when enterprises change their ownership forms

Enterprises already licensed for labor export activities, when being transformed into one-member limited liability companies, or joint-stock companies where the State holds dominant shares, if conducting their labor export activities with efficiency and not violating the provisions of this Decree, shall have their licenses renewed; the special cases where the State does not hold dominant shares when enterprises are transformed into joint-stock companies shall be considered and decided by the Prime Minister.

Article 13.- Procedures for registration of labor export contracts

1. A contract registration dossier shall include:

- a) The contract registration made according to a form set by the

Ministry of Labor, War Invalids and Social Affairs;

b) The copy of the labor supply contract signed with the foreign party;

c) Copies of other documents of the laborer- receiving countries.

2. Registration time limit

Within 5 working days after receiving complete and valid dossiers, if the Ministry of Labor, War Invalids and Social Affairs deems that the contracts sent for registration fail to satisfy the prescribed conditions, it shall issue documents disallowing the performance of the contracts.

Article 14.- Rights and obligations of labor exporting enterprises

1. To take initiative in probing the labor market, directly sign and perform labor supply contracts with foreign countries strictly according to the provisions of Vietnamese laws and laws of the labor-receiving countries.

For special jobs and new markets, these shall be done under the guidance of the Ministry of Labor, War Invalids and Social Affairs.

Enterprises are given by the State favorable conditions in probing and developing markets, teaching jobs and foreign languages to laborers and fostering officials directly performing the tasks of labor export in order to raise their capabilities.

2. To register labor export contracts as provided for in Clause 1, Article 4 and Article 13 of this Decree.

3. To publicize criteria and conditions for recruitment of laborers, their rights and obligations.

4. To closely coordinate with localities, production establishments and training establishments in order to create sources of export labor and directly recruit labor; to prioritize the recruitment of policy beneficiaries, poor people; not to collect recruitment charges from laborers.

If 6 months after the recruitment, the enterprises fail to send laborers to work overseas, they must notify the laborers of the reasons therefor; if the laborers have no more demands or the enterprises cannot perform the contracts, they must fully repay them all amounts already paid to the enterprises by the laborers.

5. To organize orientation training and education for laborers before they go to work overseas as provided for by law.

6. To sign contracts with laborers for working overseas; organize the sending of laborers overseas and their return home; to liquidate the signed contracts according to law provisions.

7. To collect and remit the following amounts:

a) To collect labor export service charges from laborers as provided for in Clause 6, Article 18 of this Decree; to remit money into the Labor Export Support Fund according to the provisions in Clause 2, Article 23 of this Decree;

b) To collect the whole amount of deposits (if any) from laborers as provided for in Clause 7, Article 18 of this Decree and remit them into the enterprises' accounts opened at State-run commercial banks within 15 days afterwards; to fully repay the deposits and interests thereon to laborers upon their completion of the contracts signed with the enterprises;

In cases where they deem that the prescribed deposits are not enough to pay the compensation, the enterprises may negotiate with laborers on escrow or guarantee measures to ensure the fulfillment of the laborers' obligations under the contracts signed with the enterprises and foreign employers. The conclusion and performance of escrow or guarantee agreement shall comply with the provisions of the Civil Code.

c) To collect the social insurance premiums, income tax (if any) from the laborers and remit them to the social insurance agency and the provincial-level tax offices; to preserve and make certification in the social insurance books of laborers.

8. To have responsibility to monitor, manage and protect the legitimate interests of laborers during the time they work overseas under contracts. Depending on overseas labor markets, the enterprises must have officials to manage laborers. In cases where laborers get accidents, occupational diseases or dead, the enterprises shall have to coordinate with the concerned parties to determine in time the causes thereof and settle the regime for the laborers.

9. To pay compensations or request foreign partners to pay compensations for damage caused to laborers by the enterprises or foreign partners according to the laws of Vietnam and the host countries.

10. To initiate lawsuits at people's courts, claiming compensations for damage caused by laborers who breach the labor contracts according to law provisions.

11. To complain with competent State bodies about acts of law violation in the field of labor export.

12. To make periodical and extraordinary reports as provided for by the Ministry of Labor, War Invalids and Social Affairs.

13. To assign the tasks of labor export to no more than 2 attached units which have offices in different provinces (cities) and report thereon to the Ministry of Labor, War Invalids and Social Affairs.

Section II. ENTERPRISES CONTRACTING TO CONSTRUCT PROJECTS OR MAKING INVESTMENT OVERSEAS AND EMPLOYING VIETNAMESE LABORERS

Article 15.- Conditions for registration of contracts on sending Vietnamese laborers to work overseas

Enterprises contracting to construct projects or making investment overseas and sending Vietnamese laborers to work overseas must satisfy the following conditions:

1. Having contracts for construction of works or investment projects overseas with the employment of laborers from Vietnam;
2. Having plans for performance of contracts approved strictly according to competence.

Article 16.- Procedures for registration of contracts on sending laborers to work overseas

1. A dossier for registration of contracts shall include:

a) The written registration of contracts on sending laborers to work abroad, made according to form set by the Ministry of Labor, War Invalids and Social Affairs;

b) Papers concerning the employment of Vietnamese laborers overseas for the performance of contracts on construction of works or overseas investment projects, including:

- Copy of the provisions of the contracts for construction of works, investment projects related to the employment of Vietnamese laborers overseas;

- Copies of documents of labor-receiving countries, which are related to the reception of foreign laborers;

- Plans on sending Vietnamese laborers to work overseas, regulations related to the laborers' interests such as wages, insurance,...

2. Registration time limit

Within 7 working days after receiving complete and valid dossiers, if the Ministry of Labor, War Invalids and Social Affairs deems that the contracts sent for registration fail to satisfy the prescribed conditions, it shall issue documents disallowing the performance of contracts.

Article 17.- Rights and obligations of enterprises contracting to construct projects or making investment overseas and employing Vietnamese laborers

Enterprises having contracts for construction of works or making investment overseas shall have the rights and obligations as provided for by Vietnam's labor legislation and the rights and obligations defined in Clauses 3, 5, 6, 8, 9, 10, 11 and 12, Article 14 of this Decree.

Chapter III

VIETNAMESE LABORERS GOING TO WORK OVERSEAS

Article 18.- Rights and obligations of laborers going to work overseas through labor-exporting enterprises

1. To be provided with information on labor export policies and legislation; information on recruitment criteria and conditions, contract duration, types of jobs to be done and working places, working and living conditions, wages, extra-time work payment, other allowances (if any), insurance regime and other necessary information under the labor-supply contracts.

2. To be provided with orientation training and education and granted certificates; pay school fees according to law provisions.

3. To sign contracts on working overseas with labor exporting enterprises, to sign labor contracts with foreign employers; to strictly comply with the signed contracts and the internal regulations at work places, residence places. Not to arbitrarily abandon contracts or organize or incite other people to abandon labor contracts.

4. To be guaranteed with interests in the signed contracts according to the laws of Vietnam and the host countries. To be consularly and judicially protected by foreign-based Vietnamese representation offices.

5. To observe the laws of Vietnam and the host countries, to respect customs and practices of, and maintain good relations with, people of the host countries. To strictly observe the State's regulations on management of Vietnamese citizens overseas.

6. To pay labor export service charges to labor-exporting enterprises:

Not more than one month's contractual wages for one working year. Particularly for officers and crew members on board sea freighters, not more than one and half month's contractual wages for one working year;

7. To pay deposit (if any) and implement the escrow or guarantee agreement for labor-exporting enterprises to ensure the performance of contracts on working overseas.

8. To pay income tax according to the laws of Vietnam and the host countries.

9. To participate in the social insurance regime according to the current provisions of Vietnamese laws.

10. To transfer back home their income in foreign currencies and equipment as well as raw materials according to the provisions of Vietnamese laws.

11. To complain, denounce or initiate lawsuits with competent State bodies about violations committed by labor-exporting enterprises; to complain with competent agencies of the host countries about violations committed by employers.

12. To pay damage compensations for labor-exporting enterprises and be handled for contract breaches under the provisions of law.

13. To be compensated according to law provisions by labor-exporting enterprises which breach the contracts.

Article 19.- Rights and obligations of laborers going to work for enterprises contracting to construct works or enterprises making investment overseas

Laborers going to work for enterprises contracting to construct works

or investing overseas shall have the rights and obligations under Vietnam's labor legislation and the rights and obligations prescribed in Clauses 1, 2, 3, 4, 5, 8, 9, 10, 11, 12 and 13, Article 18 of this Decree.

Article 20.- Rights and obligations of laborers who directly sign contracts with foreign employers

The laborers who directly sign contracts with foreign employers shall have the rights and obligations prescribed in Clauses 3, 4, 5, 8, 9, 10 and 11 of Article 18 and register the contracts according to the provisions in Clause 2, Article 4 of this Decree. The procedures for contract registration shall be stipulated by the Ministry of Labor, War Invalids and Social Affairs.

Article 21.- Extension of labor contracts

1. Vietnamese laborers going to work overseas via labor-exporting enterprises, if being allowed to extend or renew their labor contracts, shall have to report thereon to the enterprises and have the rights and obligations as prescribed in this Decree.

2. The laborers directly signing contracts with foreign employers, if being allowed to extend their expired labor contracts or sign new labor contracts, shall have to report thereon to the Vietnamese representation offices in the host countries and have the rights and obligations as prescribed in this Decree.

Chapter IV

LABOR EXPORT SUPPORT FUND

Article 22.- Setting up of the Labor Export Support Fund

The Prime Minister shall decide on the setting up and prescribe the organization and operation of the Labor Export Support Fund in order to develop overseas labor markets; raise the quality and competitiveness of Vietnamese labor on the international labor market; and at the same time provide risk support for laborers and enterprises in labor export activities.

Article 23.- Sources for formation of the Labor Export Support Fund

1. State budget allocation.

2. Contributions of enterprises engaged in labor export activities:

The enterprises shall deduct 1% of the collected labor export service

charge amounts for contribution to the Labor Export Support Fund and can account such amounts into their expenditures.

3. Other sources.

Article 24.- The Labor Export Support Fund shall be used

1. To provide support for expenditures on development of new labor markets.
2. To support the training of labor sources for export.
3. To support laborers and enterprises in settling risks incurred in labor export activities.
4. To reward enterprises, agencies, organizations and individuals that record achievements in labor export activities.
5. To provide other supports decided by the Prime Minister.

Chapter V

STATE MANAGEMENT OVER LABOR EXPORT

Article 25.- Responsibilities of the Ministry of Labor, War Invalids and Social Affairs

1. To coordinate with the concerned agencies in market study and development, the elaboration of labor export strategies, plans and planning and the direction of the implementation thereof.
2. To study and elaborate normative documents, policies and mechanism on labor export and submit them to the Government for promulgation or promulgate them according to competence; to guide and organize the implementation thereof.
3. To negotiate and sign international treaties on sending Vietnamese laborers to work overseas as authorized.
4. To prescribe dossiers of laborers going to work overseas; lists of occupations and jobs banned from performance by Vietnamese laborers and areas where Vietnamese laborers are banned from working.
5. To draw up and guide the implementation of plans on training labor sources for export; prescribe the programs on oriented training and education as well as language teaching for laborers before they go to work overseas; to foster officials of labor-exporting enterprises

and officials managing laborers overseas.

6. To grant licenses as provided for in Article 10; to suspend for definite periods of time labor export activities under the provisions in Clause 2, Article 35; to suspend, withdraw permits for, labor export activities as provided for in Clause 2, Article 11 of this Decree.

7. To receive the contract registration and manage contracts of enterprises as provided for in Articles 13 and 16; temporarily suspend the contract performance as provided for in Clause 2, Article 35 of this Decree.

8. To inspect, examine agencies, organizations and enterprises involved in the sending of Vietnamese laborers to work overseas.

9. To coordinate with the ministries, ministerial-level agencies, agencies attached to the Government, central bodies of the organizations mentioned at Clause 3, Article 8 of this Decree and concerned provincial-level People's Committees in settling issues arising in the management of Vietnamese laborers working overseas; to coordinate with the Foreign Ministry and the Ministry of the Interior in organizing the Laborers Management Boards under the Vietnamese representation offices in the countries and areas where large numbers of Vietnamese laborers work in accordance with the Ordinance on Foreign-based Representation Offices of the Socialist Republic of Vietnam.

10. To annually report to the Prime Minister on the situation of Vietnamese laborers working overseas for definite periods of time.

Article 26.- Responsibilities of the concerned ministries, branches

1. The Foreign Ministry shall direct foreign-based Vietnamese representation offices to coordinate with the Ministry of Labor, War Invalids and Social Affairs in exercising the State management over Vietnamese laborers working overseas; to supply in time the Foreign Ministry, the Ministry of Labor, War Invalids and Social Affairs as well as the ministries and functional agencies with information on overseas labor markets and the situation of Vietnamese laborers in the host countries.

2. The Finance Ministry shall assume the prime responsibility and coordinate with the Ministry of Labor, War Invalids and Social Affairs in detailing the collection, use and management of the Labor Export Support Fund; licensing fees, oriented training and education charges, labor export service charge, labor export brokerage charges (charges for consultancy on contract exploitation), levels of, and

mode of managing, laborers deposits.

3. The Public Security Ministry shall grant passports to laborers as provided for by law and, within the ambit of its responsibility, coordinate with the Ministry of Labor, War Invalids and Social Affairs in preventing and combating acts of law violation in the field of labor export activities.

4. The Health Ministry shall coordinate with the Finance Ministry in setting the uniform level of health examination charge for laborers going to work overseas; direct medical establishments to organize health checks and take responsibility for the results of health checks for laborers.

5. The Ministry of Planning and Investment shall coordinate with the Ministry of Labor, War Invalids and Social Affairs in working out annual and five-year plans on labor export.

6. The Ministry of Trade and Vietnam State Bank shall study and submit to the Government for promulgation or promulgate according to competence policies to create conditions for laborers and labor-exporting enterprises to exercise their rights prescribed in Clause 10, Article 18 of this Decree. Vietnam State Bank shall assume the prime responsibility and coordinate with the Ministry of Labor, War Invalids and Social Affairs in guiding the collateral for labor export activities as provided for in Clause 5, Article 9 of this Decree.

7. The Ministry of Culture and Information shall coordinate with the concerned agencies in orientating and directing the mass media agencies to provide information and propaganda in service of the labor export strategy of the Party and the State; handle in time, strictly and justly cases of carrying unobjective and/or inaccurate reports which affect the labor export activities.

8. The Justice Ministry shall assume the prime responsibility and coordinate with the Ministry of Labor, War Invalids and Social Affairs, the Supreme People's Court and the Supreme People's Procuracy in realizing the contents prescribed in Article 32 of this Decree.

Article 27.- Responsibilities of the ministries, ministerial-level agencies, agencies attached to the Government, central bodies of the organizations defined in Clause 3, Article 8 of this Decree as well as the provincial-level People's Committees which have enterprises engaged in sending laborers to work overseas

1. To manage the labor export activities of enterprises under their respective management.

2. To direct enterprises which send laborers to work overseas under their respective management in exercising the rights and performing the obligations prescribed in Articles 14, 16 and 17; to ensure and create conditions for laborers going to work overseas to exercise their rights and perform their obligations defined in Articles 18 and 19 of this Decree.

3. To inspect and examine labor export activities at the enterprises under their respective management; to detect and handle in time acts of violation related to labor export activities.

4. To annually evaluate activities of sending laborers to work overseas under the scope of their management and report thereon to the Ministry of Labor, War Invalids and Social Affairs for sum-up report to the Government.

Article 28.- Responsibilities of the provincial-level People's Committees

1. To perform the State management over labor export within their respective localities.

2. To direct their attached professional agencies and the subordinate People's Committees:

a) To propagate and disseminate undertakings and policies on labor export;

b) To create sources and recommend laborers who have the high sense of organization and discipline and well observe the provisions of law to participate in recruitment for overseas work;

c) To coordinate with enterprises engaged in labor export activities in recruitment of local labor; to determine the responsibility of the laborers' families so that the laborers well exercise their rights and perform their obligations defined in the contracts with enterprises and the contracts for working overseas.

3. To inspect and examine labor export activities in localities; to detect and handle in time acts of violation related to labor export activities.

Article 29.- *Force majeure* cases

In *force majeure* cases where laborers can not be let to continue working in the labor-receiving countries, the agencies managing the enterprises which send laborers to work overseas shall have to direct the enterprises to organize the laborers' return home; if this falls

beyond their capabilities, they shall coordinate with the Foreign Ministry, the Ministry of Labor, War Invalids and Social Affairs and the Finance Ministry in working out plans on bringing the laborers home and submit them to the Prime Minister for decision.

Chapter VI

SETTLING DISPUTES, COMPLAINTS AND DENUNCIATIONS, COMMENDATION AND HANDLING OF VIOLATIONS

Article 30.- Principles for settling disputes

1. Conducting direct negotiations and arrangement among the disputing parties in an objective and timely manner.
2. Through conciliation and arbitration on the basis of respect for the rights and interests of the parties, respect of the common interests of the society, the observance of laws of Vietnam and of the host countries.
3. Enterprises have the responsibility to settle disputes arising from their labor export activities. In case of complicated disputes, affecting the labor relations between the two countries, they must report in time and fully thereon and submit the plans on settlement thereof to the enterprise-managing agencies and the Ministry of Labor, War Invalids and Social Affairs.

Article 31.- Law governing the dispute settlement

1. Disputes between Vietnamese laborers and enterprises sending laborers to work overseas shall be settled on the basis of the contracts on working overseas, which have been signed between the two parties and the provisions of Vietnamese laws.
2. Disputes between Vietnamese laborers and foreign employers shall be settled on the basis of the labor contracts signed between the two parties and the provisions of laws of the countries receiving laborers.
3. Disputes between Vietnamese enterprises and foreign partners which do not directly employ laborers shall be settled on the basis of the contracts signed between the two parties. In cases where contracts do not prescribe the applicable laws, the laws of the labor-receiving countries shall apply.
4. Disputes between Vietnamese enterprises and foreign employers shall be settled on the basis of the contracts signed between the two parties (if any), other relevant contracts. In cases where the

contracts do not prescribe the applicable laws, the laws of the labor-receiving countries shall apply.

5. Disputes involving many parties shall be settled in compliance with the laws which the parties agree to select; if failing to reach agreement, the laws of the labor-receiving countries shall apply.

Article 32.- Competence to settle disputes

Disputes over labor export involving Vietnamese laws shall be settled under the joint guidance of the Justice Ministry, the Ministry of Labor, War Invalids and Social Affairs, the Supreme People's Procuracy and the Supreme People's Court.

Article 33.- Settling complaints, denunciations about labor export

1. Complaints of laborers, labor-exporting enterprises shall be considered and concluded by the director of the Overseas Labor Management Department under the Ministry of Labor, War Invalids and Social Affairs, who shall also propose to the Minister of Labor, War Invalids and Social Affairs handling measures; denunciations about labor export shall be considered and concluded by the head of the Inspectorate under the Ministry of Labor, War Invalids and Social Affairs, who shall also propose to the Minister of Labor, War Invalids and Social Affairs the handling measures.

2. If disagreeing with the decisions on settlement of complaints and/or denunciations, the laborers and/or the labor-exporting enterprises may lodge their complaints with the Minister of Labor, War Invalids and Social Affairs or initiate lawsuits at the administrative courts according to law provisions.

Article 34.- Commendation

Domestic and foreign agencies, organizations and individuals that record achievements in labor export activities shall be commended and/or rewarded according to law provisions.

Article 35.- Handling of violations

1. Agencies, organizations and/or individuals that violate provisions of this Decree shall, depending on the nature and seriousness of their violations, be handled according to the provisions of Vietnamese law.

2. Enterprises sending laborers to work overseas, which violate provisions of this Decree, shall be administratively sanctioned; in addition, depending on the nature and seriousness of their violation,

they shall be subject to the application of additional sanctioning forms: damage (if any) compensation, temporary suspension of contract performance or suspension for definite periods of time of labor export activities according to the regulations of the Ministry of Labor, War Invalids and Social Affairs.

3. Laborers who violate terms of the contracts already signed with labor-exporting enterprises shall be handled as follows:

- Caution and notification to their families, residence localities and units where they previously worked;
- Compensation for damage they have caused according to the provisions of Vietnamese law.

Where laborers breach terms of the labor contracts already signed with employers, they shall be handled according to the provisions of law of the host countries.

4. While working overseas, if laborers arbitrarily abandon the contracts, they shall be handled as follows:

a) Paying compensation for damage caused to Vietnamese labor-exporting enterprises, covering:

- Expenses for recruitment, training (if any) in service of the overseas work;
- Service charge for remaining duration of the contracts;
- Amounts of pecuniary fine, compensations paid by Vietnamese enterprises to labor-receiving enterprises of the host countries;
- Other actual and reasonable damage caused to Vietnamese enterprises due to their arbitrary abandonment of contracts.

b) Being forced to return home and having to bear all costs of their returns; being not allowed to work overseas for 5 years as from the date of their return home.

c) Having their violations notified to their families, residence localities and units where they previously work.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 36.- Implementation effect

This Decree takes effect 15 days after its publication in the Official Gazette and replaces the Government's Decree No.152/1999/ND-CP of September 20, 1999 prescribing the working overseas for definite terms by Vietnamese laborers and specialists.

Enterprises which have conducted labor export activities under the Government's Decree No.152/1999/ND-CP of September 20, 1999 are entitled to continue using their licenses for 12 months as from the date this Decree takes effect. Enterprises meeting all conditions prescribed in this Decree shall be entitled to change for new licenses.

The labor export service charge levels prescribed in Clause 6, Article 18 of this Decree shall apply to laborers going to work overseas as from the date this Decree takes effect.

Article 37.- Responsibilities for guidance and implementation

The Ministry of Labor, War Invalids and Social Affairs, the concerned ministries and agencies shall have to coordinate in guiding the implementation of this Decree.

The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government, the presidents of the provincial/municipal People's Committees shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI