

**DECREE 163
REGULATING
LOGISTICS SERVICES BUSINESS**

Dated 30 December 2017

CONTENTS

General Provisions	2
Article 1 Governing scope	2
Article 2 Applicable entities	2
Article 3 Classification of logistics services	2
CHAPTER 2	3
Business Conditions for Providing Logistics Services and Limitation on Liability of Logistics Service Providers	
Article 4 Conditions for logistics services business	3
Article 5 Limitation on liability	5
CHAPTER 3	5
Implementing Provisions	5
Article 6 Transitional provision	5
Article 7 Effectiveness	5
Article 8 Organization of implementation	5

**DECREE
REGULATING
LOGISTICS SERVICES BUSINESS**

Pursuant to the *Law on Organization of the Government* dated 19 June 2015;

Pursuant to the *Commercial Law* dated 14 June 2005;

Pursuant to the *Law on Investment* dated 26 November 2014;

On the proposal of the Minister of Industry and Trade [MOIT]¹,

The Government hereby issues a Decree regulating logistics services business.

General Provisions

Article 1 *Governing scope*

This Decree regulates the business conditions for providing logistics services and regulates the limitation on liability of logistics services business entities [logistics service providers].

Article 2 *Applicable entities*

This Decree applies to logistics service providers and to other organizations and individuals involved.

Article 3 *Classification of logistics services*

Logistics services which are permitted to be provided comprise:

1. Container handling [loading and discharging] services, except for provision of such services at airports.
2. Container warehousing services as part of maritime transport support services.
3. Warehousing services as part of support services for all modes of transport.
4. Delivery [forwarding] services.
5. Freight transport agency services [transport and freight forwarding agency services].
6. Customs brokerage services (including customs clearance services).
7. Other services including the following activities: bill of lading inspection, freight brokerage services, cargo inspection, sampling and weighing services; goods receipt and acceptance services; and services of preparation of transport documentation.

¹ Allens footnote: Square brackets contain translator's comments only.

8. Wholesaling support services and retailing support services including activities being management [handling] of goods in storage, and collection, collation and classification of goods and goods delivery.
9. Freight transport services as part of maritime transport services.
10. Freight transport services as part of inland waterway transport services.
11. Freight transport services as part of rail transport services.
12. Freight transport services as part of road transport services.
13. Air carriage services.
14. Multimodal transport services.
15. Technical analysis and testing services.
16. Other transport support services.
17. Other services provided by logistics service providers and as agreed with their clients in accordance with the basic principles of the *Commercial Law*.

CHAPTER 2

Business Conditions for Providing Logistics Services and Limitation on Liability of Logistics Service Providers

Article 4 *Conditions for logistics services business*

1. Any business entity providing a specific service within the logistics services prescribed in article 3 of this Decree must satisfy the investment and business conditions prescribed by the law applicable to such service.
2. Any business entity conducting a part of or its entire logistics business operation by electronic means connected to the internet, by a mobile telecom network or by some other open network connection must, in addition to satisfying the regulations applicable to the specific service prescribed in article 3 of this Decree, also comply with the regulations on e-commerce.
3. Conditions applicable to foreign investors engaged in logistics services business:

In addition to satisfying the conditions prescribed in clauses 1 and 2 above, any foreign investor belonging to a country or territory which is a member of the World Trade Organization is permitted to provide logistics services in accordance with the following conditions:
 - (a) In the case of freight transport services as part of maritime transport services (excluding inland transport):
 - It is permitted to establish a fleet operating company [with ships] flying the Vietnamese flag or to contribute capital to or to purchase shares or capital contribution portions in an enterprise in which the capital contribution ratio of foreign investors does not exceed 49%. The total number of foreign crew members working on ships flying the Vietnamese flag (or ships registered in Vietnam) and owned by such company in Vietnam must not be more than one-third of the total crew. The captain or his or her deputy [first officer] must be a Vietnamese citizen.
 - A foreign maritime transport company is permitted to establish an enterprise or to contribute capital to or to purchase shares or capital contribution portions in an enterprise.

- (b) In the case of container handling business as part of maritime transport support services (which may be restricted to a number of areas where such services are permitted to be provided or procedures may be conducted to be licensed for all areas)², it is permitted to establish an enterprise or to contribute capital to or to purchase shares or capital contribution portions in an enterprise in which the capital contribution ratio of foreign investors does not exceed 50%. A foreign investor is permitted to establish a commercial presence in Vietnam in the form of a business cooperation contract.
- (c) In the case of container handling business as part of support services for all modes of transport, except for provision of such services at airports, it is permitted to establish an enterprise or to contribute capital to or to purchase shares or capital contribution portions in an enterprise in which the capital contribution ratio of foreign investors does not exceed 50%.
- (d) In the case of customs clearance services as part of maritime transport support services, it is permitted to establish an enterprise or to contribute capital to or to purchase shares or capital contribution portions in an enterprise in which there is a capital contribution from a domestic investor. A foreign investor is permitted to establish a commercial presence in Vietnam in the form of a business cooperation contract.
- (dd) In the case of other services including the following activities: bill of lading inspection, freight brokerage services, cargo inspection, sampling and weighing services; goods receipt and acceptance services; and services of preparation of transport documentation, it is permitted to establish an enterprise or to contribute capital to or to purchase shares or capital contribution portions in an enterprise in which there is a capital contribution from a domestic investor.
- (e) In the case of freight transport services as part of inland waterway services, and freight transport services as part of rail transport services, it is permitted to establish an enterprise or to contribute capital to or to purchase shares or capital contribution portions in an enterprise in which the capital contribution ratio of foreign investors does not exceed 49%.
- (g) In the case of freight transport services as part of road transport services, it is permitted to conduct such business via the form of a business cooperation contract or to establish an enterprise or to contribute capital to or to purchase shares or capital contribution portions in an enterprise in which the capital contribution ratio of foreign investors does not exceed 50%. One hundred per cent (100%) of the drivers of the enterprise must be Vietnamese citizens.
- (h) The business of provision of air carriage services shall be conducted in accordance with the law on aviation.
- (i) In the case of providing technical analysis and testing services:
- Services provided in order to exercise authority of the Government are permitted to be provided in the form of an enterprise in which there is capital contribution from domestic investors after three (3) years or in the form of an enterprise in which there is no limitation on the capital contribution from foreign investors after five (5) years from the date on which [the first] private service provider is permitted to conduct business in such services.
 - It is not permitted to conduct the business of providing testing [inspection] services and/or issuing certificates to means of transport.
 - Provision of technical testing and analysis services may be restricted in certain geographical areas as determined by the competent agency for reasons of national defence and security.

² Allens footnote: This is the literal translation of the sentence in brackets, but the meaning is unclear.

4. Any foreign investor which is an applicable entity of an international treaty which has different provisions on business conditions for providing logistics services is permitted to choose the applicable investment conditions stipulated in any one of such treaties.

Article 5 *Limitation on liability*

1. *Limitation on liability* means the maximum level at which a business entity engaging in logistics services business [logistics service provider] is liable to pay compensation for loss and damage to a client for loss arising during the process of arranging provision of such logistic services in accordance with the provisions in this Decree.
2. If relevant law contains a provision on limitation on liability of logistics service providers, then the provisions of such relevant law apply.
3. If relevant law does not regulate limitation on liability, then the limitation on liability of a logistics service provider shall be as agreed by the parties. If the parties do not have any agreement, then the issue is regulated as follows:
 - (a) If the client does not provide prior notice about the value of the goods, then the maximum liability shall be 500 (five hundred) million dong applicable to each claim for compensation.
 - (b) If the client provided prior notice of the value of the goods and this was verified by the logistics service provider, then the limitation on liability shall not exceed the value of such goods.
4. In a case where the logistics service provider organizes a number of work stages which stipulate different limitations on liability, then the limitation on liability shall be the limitation of the work stage with the highest limitation.

CHAPTER 3

Implementing Provisions

Article 6 *Transitional provision*

Any logistics service provider which registered and/or was licensed to provide logistics services before the effective date of this Decree is permitted to continue such activity in accordance with the registered and/or licensed contents.

Article 7 *Effectiveness*

1. This Decree is of full force and effect as from 20 February 2018.
2. As from the effective date of this Decree, Decree 140/2007/ND-CP of the Government dated 5 September 2007 providing detailed regulations on the *Commercial Law* regarding conditions for engaging in logistics services business shall no longer be effective.

Article 8 *Organization of implementation*

1. MOIT is responsible to arrange implementation of this Decree.
2. Ministers, heads of ministerial equivalent and Government agencies, and chairmen of people's committees of provinces and cities under central authority are responsible for implementation of this Decree.

On behalf of the Government
Prime Minister
NGUYEN XUAN PHUC