Instruction No. 320-Cab of 28 Sept. 1949
(as amended by Ordinance No. 24 of August 4, 1954)
[T.O. 54, p. 1962]

ORGANIZATION AND JURISDICTION OF NATIONAL AND REGIONAL ADMINISTRATIONS.

Relative to the organization and jurisdiction of national and regional administrations.

INSTRUCTION

of his Majesty Bao-Dai, Chief of State

Saigon, 28 Sept. 1949

To Messrs: The Vice-President of the Council of Ministers,
The Ministers and Secretaries of State
The Governors

Establishment of unity in Vietnam pre-supposes the existence of a State whose authority extends throughout the national territory. However, existing circumstances as well as the desire to assure perfect adaptation of governmental activity to varying local situations recommends ascertain amount of decentralization (of authority) to regional governments.

To promote this double objective, Ordinance 2 of 1 July 1949 established the following principles:

1. The Governor is the representative of the Government in his region.
2. He is the head of the regional administration.

In this regard, I emphasize that the principle of strict economy set forth in my Circular No. 1-QT of 10 August 1949, published in Journal Officiel No. 2 of 14 August 1949, must be respected. It is up to you (the addressees) to utilize present administrative personnel to the fullest extent possible, either by retention, transfer, making them available for assignments, or authorizing detached service, and not to make new appointments except in case of absolute necessity. With this end in view, all arrêtés regarding personnel must have the prior approval of the Secretary of State for Finance.

5° [sic, in copy available to FOA] Remuneration of personnel. — With regard to the salaries, allowances and perquisites to be allocated to the personnel of each ministry, statutes previously promulgated by the Central Provisional Government shall remain in effect.

In regard to cases not covered by such texts, it is your responsibility to obtain the approval of the Secretary of State for Finances, who has received all instructions necessary for effecting progressive "normalization" of the salaries and allowances of public servants.

II — (Regional) Delegations

In case of necessity, Ministers may install a Delegation in each Region except that in which the headquarters of their department is located.

A. — Organisation of the Delegation

Each delegation shall be composed of:

1. A Delegate

2. A Secretariat

[Note: Now the Minister of Finance]
The Delegate shall be appointed by the Minister, by arrêté, with the agreement of the Government interested. The secretariat of the delegation must be reduced to a minimum and organized in such a manner as to be able to exercise most effectively the attributes defined later in this instruction.

The personnel of the secretariat shall be appointed by the minister concerned, by means of arrêté, approved by the Secretary of State for Finance.

The total of the expenses of the Delegation is to be charged against "est à imputer au" the national budget, within the limits of the credit provided for each ministerial department.

B. - Powers of the Delegate:

The Delegate shall represent the Minister in the region. In that capacity, he shall assure liaison between:

1) The Minister and the Governor, under conditions defined later (in this instruction);

2) The Minister and the different national services of the ministerial department functioning in the region.

III - National Services Functioning within the jurisdiction of a Region.

It is evident that, in order to exercise the authorities vested in it, each ministry will require a certain number of national services functioning within the jurisdictions of the regions. The organization and functioning of such services shall be determined in accordance with the following provisions:

1/ Now the Minister of Finance.
A. Organization

These services shall be organized by the Ministers concerned in the forms prescribed by Ordinance No. 1[by means of] ordinances, decrees, or arrêtés according to the particular cases.

B. Functions and powers

These services shall assure, within the region, the application of the legislative and regulatory provisions, as well as the ministerial instructions, which come to them through (the intermediation of) the Delegate, who shall receive them from the Minister.

It goes without saying (il va de soi), nevertheless, that this power of execution applies only to activities and authorities stemming directly from the national domain and excludes those stemming from the regional administration, whose method of functioning is provided for in Title II of the present Instruction.

Furthermore, this power of execution, even when total (tout en demeurant entier), must nevertheless permit the Governor to oversee the effective operation of said services [Article 4, Ord. No. 2] that is to say, to make sure (obtenir) that their technical activity adapts itself to the particular contingencies of the Region.

In consequence, it will be necessary to follow the following procedure:

1) Administrative aspect.

Under this heading, the functioning of the national services depends exclusively from the Minister [recruitment of personnel, promotions, disciplinary actions, establishment of the rules regarding subdivision (internal organization), installation and
functioning of the services.

2) Technical aspect.

a) The Ministers and Secretaries of State shall consult, as often as possible, with the Governors before issuing arrêtés governing the (Regional) application of (National) ordinances and decrees.

b) In that which concerns the effective (placing in) application of ministerial arrêtés and instructions, the Delegate shall obtain the agreement of the Governor before transmitting them for (possibly) inopportune effectuation; he may obtain their suspension by laying the question before the Minister. In a case where the (Minister) considers it his duty to reaffirm his initial decision, he shall assume the responsibility for such action before the Chief of State, in conformity with the provisions of Article 4 of Ordinance No. 1, of 1 July 1949, and his (the Minister's) decision will become executory immediately.

c) Ministers shall forward to the Governor of the Region concerned concurrent copies of instructions addressed to their Delegates and National Services (in that region).

The reports of the Delegates and the Chiefs of National services to the Ministers and Secretaries of State from whom they depend must also be communicated to the interested Governor.

TITLE II

Regional Administrations

In addition to the national activities and authorities administered by the administrations discussed in Title I, there exist others which are to be regarded as regional, either because
of their own nature, or because of their limited zone of incidence.

This second category of activities and authorities shall be defined by a subsequent decree (Art. 7, Ord. No. 2) and belong to the regional administrations.

In this area, Ordinance No. 2 contemplates the reservation of wide freedom of action to the Governor, which must not, however, be exercised counter to national norms as defined and reserved by the Government.

For these reasons, the powers of Ministers and Governors over the regional administrations shall be limited as follows:

I.- Authority of the Governor.

In accordance with the provisions of Article 5 of Ord. 2; the Governor is chief of the regional administration. In this capacity, he possesses regulatory power which he shall exercise by means of arrêtés, with a view to establishing the methods of applying, in his region, (national) Ordinances and Decrees regarding matters relevant to his authority.

By the same method (arrêtés) he shall organize the services peculiar to his region which shall be called Regional Services and assure their (proper) functioning.

In consequence:

1) He establishes the organization, sub division (internal organization) and the implantation of Regional Services. He determines their attributes, within the framework of regional authority which is reserved to him and recognized (as his).

2) He directs the activity of the Regional Services in conformity with general legislation imposed by (national) ordinances and decrees -- legislation for which, as stated above, he establishes by arrêté the method of application
for his region and solely for matters within his competence.

3) The personnel of the Regional Services is appointed by the Governor and is administratively responsible only to him. The agreement of the Minister concerned is required for the appointment of the Directors of the Regional Services, who shall nevertheless receive their administrative direction solely from the Governor.

4) The Governor establishes the operating regulations of the Regional Services and assures the effective operation of those services.

In exercising his powers as head of the Regional Administration, the Governor shall be responsible to the Chief of State.

II.- Competences of Ministers and Secretaries of State.

With a view to permitting Ministers and Secretaries of State to regularly follow the Governors' exercise of their regulatory powers, the latter shall provide them with the service of regional official bulletins in which the Governors' arrêtés shall be published. (The Governors) shall also provide interested Ministers and Secretaries of State with copies of Instructions addressed to their Regional Services.

In case of divergence of views between a Minister and a Governor over an arrêté of the latter, the former may lay the question before the Chief of State, to whom the Governor is responsible in his capacity of head of the regional administration. But in order to avoid such a recourse, it is recommended to the Governor that they consult as often as possible with interested Minister(s) on all projected arrêtés or instructions.
In addition, the Ministers and Secretaries of State are authorized to conduct periodic audits (contrôles) of the Regional Services in order to verify that the activities of such services are in conformity with national legislation as provided by Ordinances and Decrees.

Such audits shall be of a purely "technical" nature, not "administrative". Consequently, the Ministers and Secretaries of State are not competent to consider questions of (pour connaître de) the organisation of the services and their administrative functioning. They shall present their observations to the Governors and report the results of their audit to the Chief of State.

Title III

Miscellaneous Provisions

1) The provisions of the present circular, notably in that which concerns the Regional Delegations and their relations with the Governors, shall not apply to the following ministerial departments:

- Vice President and Ministry of National Defense
- Ministry of Justice
- " " " Foreign Affairs
- Secretariat of State to the Presidency
- " " " for Foreign Affairs
- " " " for National Defense
- Secretariat-General of the Government.

2) In the Region in which the headquarters of a Ministerial Department is located, the relations provided for by the present Instruction between local Delegations and the Governor shall be
established directly between the latter and the central administration of the department.

3) All appointments and organizations contrary to the provisions of the present Instruction must be regularized in accordance with (this Instruction).

4) The term "Regional Government" as a designation for the regional administrations, is forbidden.

The provisions of the present Instruction shall be applicable immediately. I set great value upon their being strictly observed.

Bao-Dai
28 Sept. 1949