



# **VIET NAM'S LEGAL ATLAS 2021**

Wildlife, trade and pandemics - Where are we now

March, 2022

WCS has worked in Viet Nam since 2006 with a focus on combating the illegal wildlife trade. WCS works to degrade, disrupt, and dismantle wildlife trafficking networks and reduce poaching pressure on wildlife populations. We facilitate collaboration and cross-agency action at domestic and international scales between key law enforcement agencies, the judiciary, natural resource regulatory agencies, and domestic and international non-governmental organizations. Our efforts have led to enhanced enforcement effectiveness through the successful arrest, prosecution, and conviction of wildlife criminals.

Website: <https://vietnam.wcs.org/>

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## VIET NAM'S LEGAL ATLAS 2021:

### WILDLIFE, TRADE AND PANDEMICS – WHERE ARE WE NOW

#### *Introduction*

The Viet Nam's Legal Atlas 2021 provides a unique, easy-to-use reference to key new regulations promulgated from January 2021 to January 2022 and legal issues related to wildlife in Viet Nam, including certain comparison with previous framework. Designed with color maps, infographics and charts, the Atlas gives vital information on how law develops on major legal topics, among them are wildlife conservation, trade, zoonosis and penalty. It seeks to produce several of the visual analytics and shed light on the legal complexities for protecting wildlife.

#### List of abbreviations

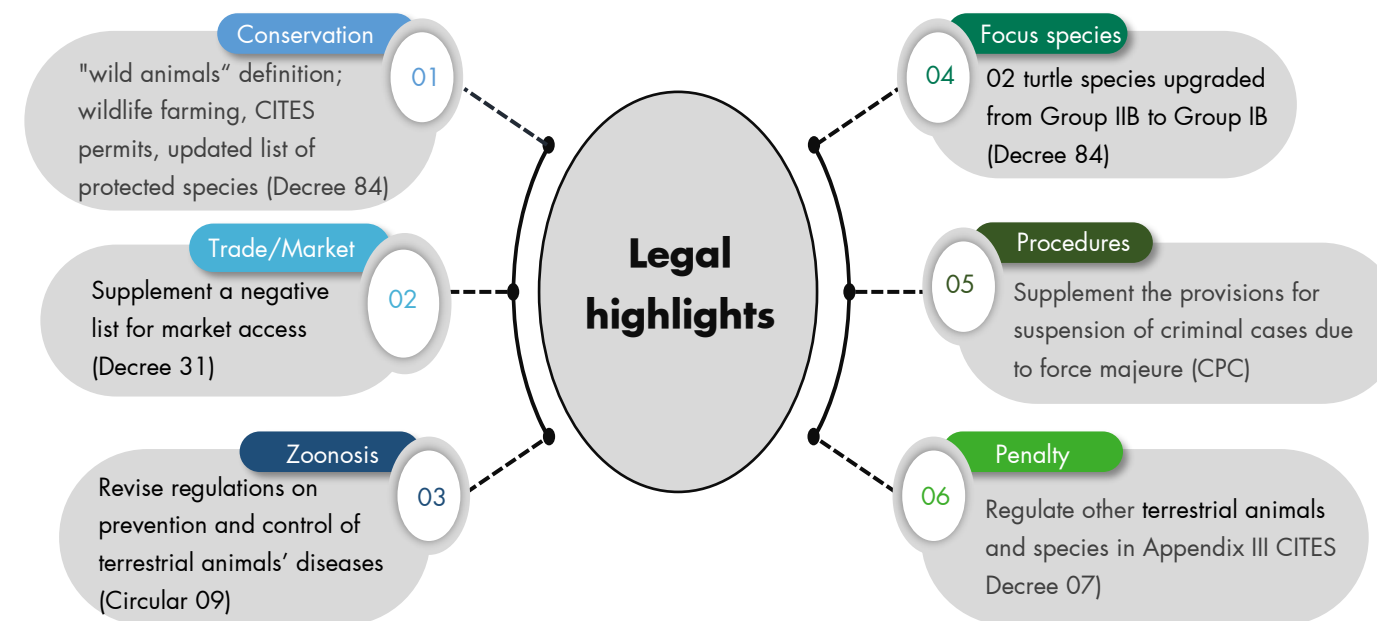
Convention on International Trade in Endangered Species of Wild Fauna and Flora	CITES
Criminal Procedure Code 2015 revised by Law No. 02/2021/QH15 dated 12 Nov. 2021 on amending and supplementing certain provisions of Criminal Procedure Code	CPC
Penal Code 2015 (revised in 2017)	PC
Decree 06/2019/ND-CP on wildlife management and CITES implementation	Decree 06
Decree 64/2019/ND-CP amending Article 7 of Decree 160/2013/ND-CP on criteria to determine species and the management regime for species under lists of rare and endangered species prioritized for protection	Decree 64
Decree 84/2021/ND-CP dated 22 Sep. 2021 amending certain provisions of Decree 06/2019/ND-CP on wildlife management and CITES implementation	Decree 84
Decree 07/2022/ND-CP dated 10 Jan. 2022 amending and supplementing certain provisions of decrees on handling administrative violations against regulations on forestry, plant protection and quarantine, veterinary medicine, animal husbandry	Decree 07
Decree 35/2019/ND-CP dated 25 Apr. 2019 penalties for administrative violations against regulations on forestry	Decree 35
Decree 31/2021/ND-CP dated 26 Mar. 2021 elaborating and guiding the implementation of certain articles of Investment Law	Decree 31
Decree 14/2021/ND-CP dated 1 Mar. 2021 on regulating penalties for administrative offenses involving animal husbandry	Decree 14

Decree 08/2022/ND-CP dated 10 Jan. 2022 guiding Environmental Law	Decree 08
Decree 38/2021/ND-CP dated 29 Mar. 2021 prescribing penalties for administrative violations involving cultural and advertising activities	Decree 38
Circular 09/2021/TT-BNNPTNT dated 12 Aug. 2021 of the Minister of Agriculture and Rural Development amending Circular 07/2016/TT-BNNPTNT regulating the prevention and control of terrestrial animal diseases	Circular 09
Joint Circular 01/2021/TTLT-VKSNDTC-BCA-BQP-BNN&PTNT-BTC dated 29 Nov. 2021 guiding certain provisions on suspension of criminal cases due to force majeure of natural disaster and pandemics	Joint Circular 01
Decision 4737/QD-BNN-TCLN dated 2 Dec. 2021 on the list of other terrestrial animals belonging to the class of birds, mammals, reptiles and amphibians not subject to management as wild animals prescribed in Clause 4, Article 1 of Decree No. 84/2021/ND-CP dated 22 Sep. 2021 amending and supplementing a number of articles of Decree No. 06/2019/ND-CP dated 22 Jan. 2019	Decision 4737
Decision 4357a/QD-BNN-TCLN dated 10 Nov. 2021 on announcement of administrative procedures for amending and supplementing the forestry sector under the management functions of the Ministry of Agriculture and Rural Development	Decision 4357a
Decision 1070/QD-BYT on the Plan for Prevention and Control of Infectious Diseases in 2021	Decision 1070
Decision 165/QD-BYT dated 21 Jan. 2022 on the Plan for Prevention and Control of Infectious Diseases in 2022	Decision 165

## I. Central level regulations

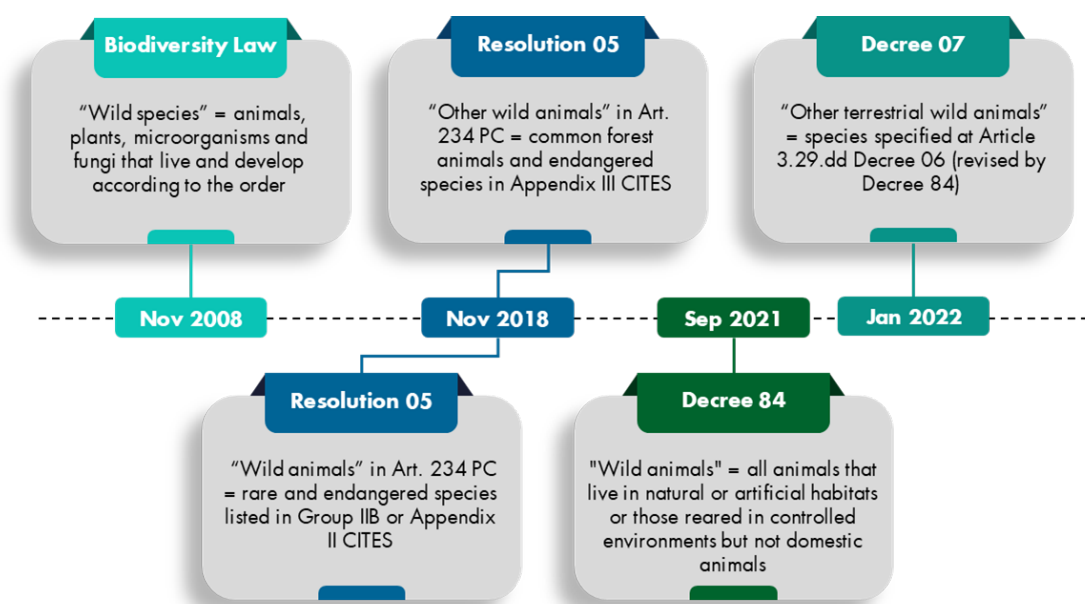
This section is designed with images and charts to highlight key new points of laws, decrees and circulars issued from January 2021 to January 2022. It compares and illustrates how wildlife-related law changes or develops before and after this period of time.

Infographic 1: Highlights on legal revision related to wildlife



## 1. Wildlife conservation and protection

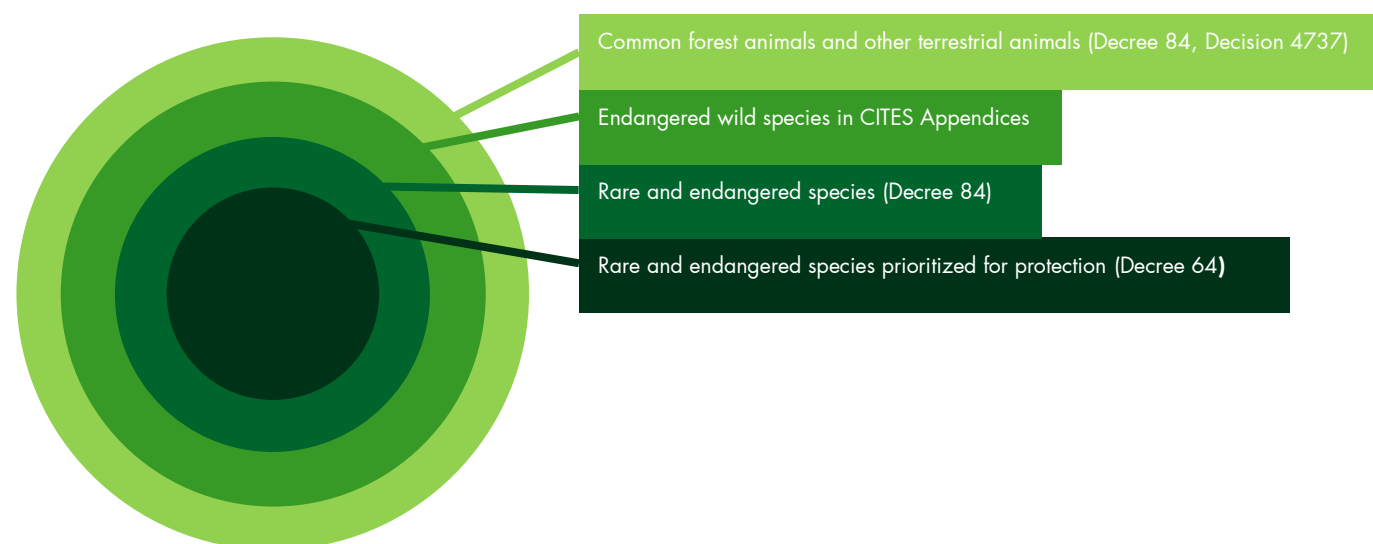
Infographic 2: How definition of wild animals develops



In 2021, for the first time, the definition of "*wild animals*" is provided in the Decree on wildlife protection and CITES implementation (clause 4, Article 1 Decree 84), which include all animals that live in natural or artificial habitats or those reared in controlled environments but they are not considered as domestic animals as defined in the Law on Husbandry, and are one of the following species:

- a) Rare and endangered species prioritized for protection;
- b) Rare and endangered species;
- c) Endangered wild species in CITES Appendices;
- d) Common forest animals;
- dd) Other terrestrial animals in the class of aves, mammalian, reptilian or amphibian, except certain species in the lists announced by the Ministry of Agriculture and Rural Development in cooperation with the Ministry of Natural Resources and Environment and relevant agencies.

Infographic 3: What is "wild animals"



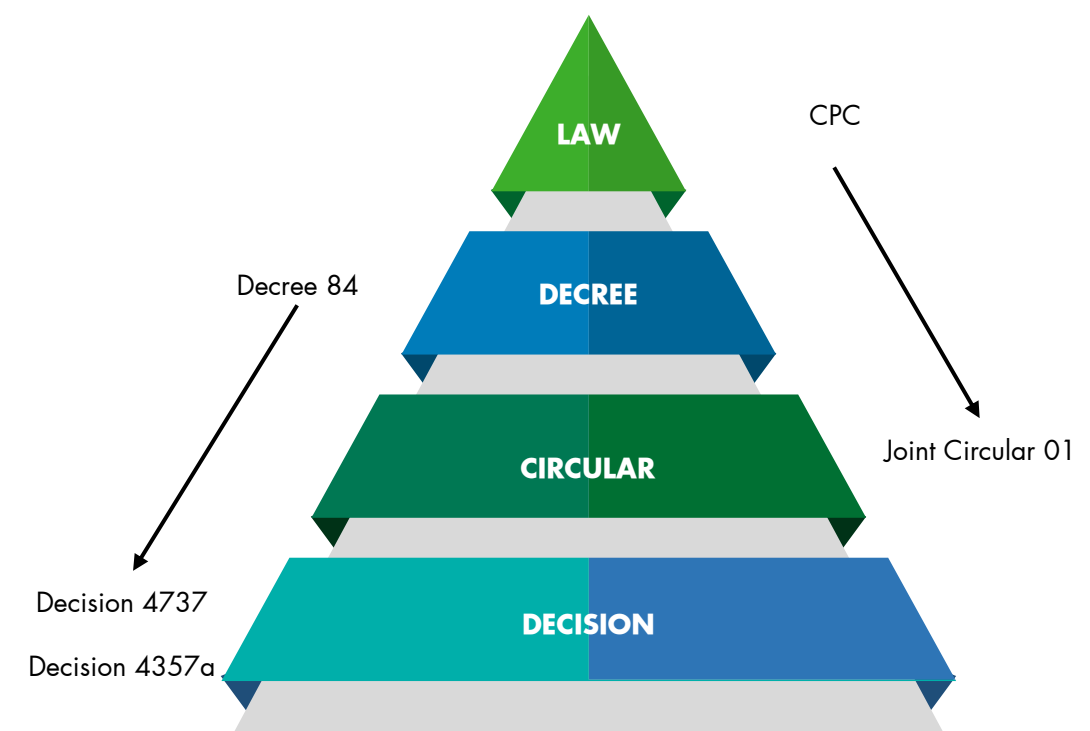
To specify the term "*other terrestrial animals*" in Decree 84, the Ministry of Agriculture and Rural Development (MARD) issued Decision 4737 on the list of other terrestrial animals belonging to the class of birds, mammals, reptiles and amphibians not subject to management as wild animals prescribed in Clause 4, Article 1 of Decree 84 and Decision 4357a on announcement of administrative procedures for amending and supplementing the forestry sector under the management functions of the MARD.

The definition of "*derivative of an animal*" was revised to exclude "*parts of animals that have been processed such as medicines, perfume, watches, bags and so on*" (Clause 1,

Article 1 Decree 07). This definition is more exact and in line with provisions of Animal Health Law and Penal Code. Moreover, Decree 84 provides for the management regime for newly added terrestrial wild animals and species in Appendix III the same as common forest animals (Clause 21, Article 1 Decree 84); prohibits the auction of species in Appendix II and III CITES for commercial purposes (Clause 20, Article 1 Decree 84). It also revises a number of provisions related to wildlife farming, CITES permit, breeding and rearing endangered, precious and rare species with stricter procedures (Clause 3, Clauses from 6 to 10, Article 1 Decree 84) and promotes the role and responsibility of CITES Management Authority and Environmental protection agencies in management and control of wildlife farming (Clauses 7 and 9, Article 1 Decree 84).

The Criminal Procedure Code was revised in 2021 to supplement the legal basis for suspension of investigation and suspension of criminal cases due to force majeure circumstances like natural disasters and pandemics. This new provision was then guided by the Joint Circular 01.

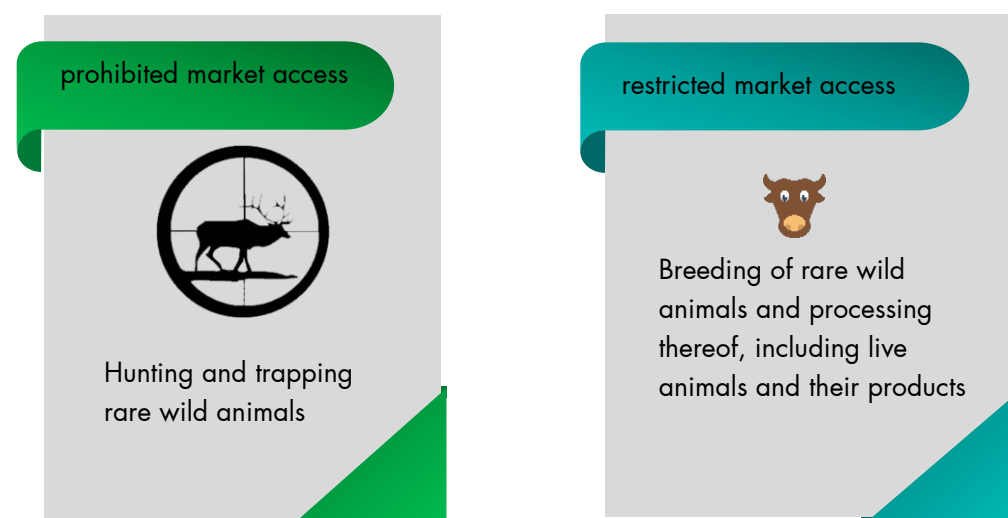
Infographic 4: The hierarchy of legislations issued in 2021 related to wildlife protection



## 2. Wildlife trade

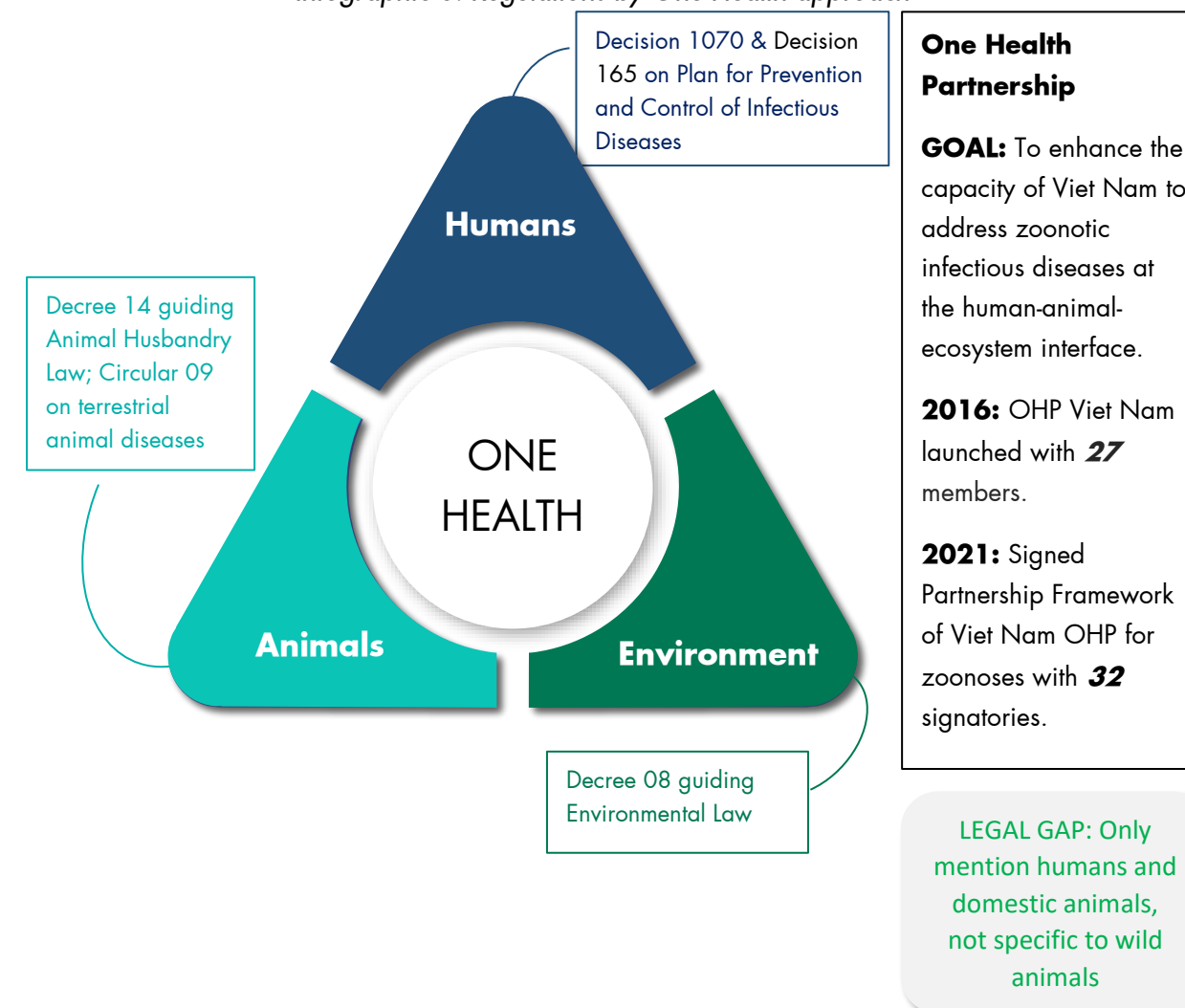
In 2021, a negative list for market access applicable to foreign investors was supplemented to include: (i) business lines with prohibited market access, i.e, “Services that involve survey, assessment and harvest of natural forests, including hunting and trapping rare wild animals” and (ii) business lines with restricted market access, i.e, “breeding of rare wild animals and processing thereof, including live animals and their products” (Decree 31).

Infographic 5: Wildlife-related business lines in negative list for foreign investors



## 3. Zoonotic diseases

Infographic 6: Regulations by One Health approach



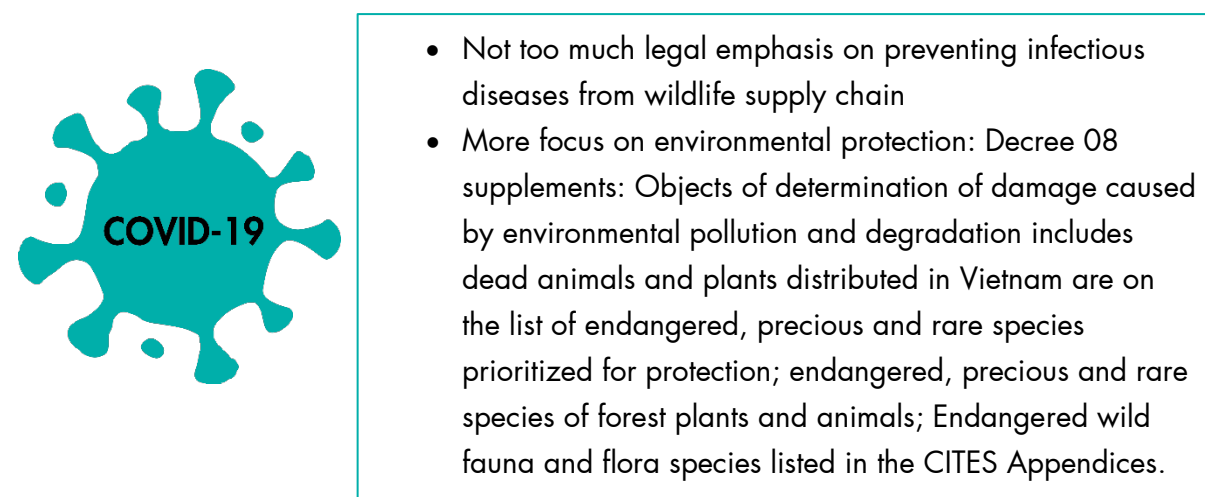
The Viet Nam’s One Health Partnership for Zoonoses (short name: One Health Partnership or OHP), built upon the previous Partnership for Avian and Human Influenza (PAHI), was officially established in March 2016 to bring together national and international governmental and non-governmental One Health stakeholders, including the private sector, under the leadership of the Government of Viet Nam to enhance the capacity of Viet Nam to address zoonotic infectious diseases threats at the human-animal-ecosystem interface.

The Viet Nam’s OHP framework for 2021 - 2025 period was signed on March 23, 2021, between three Ministries (Agriculture and Rural Development, Health, Natural Resources and Environment) and 29 national and international development partners. The objective of the OHP is to work and act together towards the common goal of



minimizing the risk of future pandemics. On March 21, 2022, Vietnam approved the Master Plan for the OHP framework, 2021-2025 period, which recommends several legal reforms in wildlife disease control (Decision No. 1039/QĐ-BNN-HTQT of MARD).<sup>1</sup>

Infographic 7: How COVID-19 influence legal framework on zoonosis



#### 4. Offense and penalty

In January 2022, Decree 07 was to revise Decree 35 on handling administrative violations against regulations on forestry with new following provisions:<sup>2</sup>

- Expanding the regulation scope to include other wild animals outside of the forest and other species in Appendix III CITES.
- Supplementing definition of “other terrestrial wild animals” to be in line with Decree 84 and ensure the consistency of legal system.

<sup>1</sup> WCS Viet Nam is a signatory member to the OHP framework in 2021, actively consulted and contributed to the development of OHP Master Plan in 2022. In September 2021, WCS Viet Nam was consulted by the Department of Animal Health to develop the Guidance on monitoring, preventing, and controlling the spread of the SARS-CoV-2 virus on animals, including wildlife.

<sup>2</sup> WCS Viet Nam actively participated in the revision of Decree 35 with strong position and comments for expanding the regulation scope, providing the definition of “other terrestrial wild animals” to ensure consistency, principle for handling violations of the newly regulated species, breaking down penalty for certain common forest animals, which were reflected in Decree 07 (see the first 4 bullet points in this section).

- Supplementing a general principle for handling violations against other terrestrial wild animals valued at VND 300,000,000 or more
- Breaking down the penalty for common forest animals worth less than 10 million VND to be practical and reasonable.
- Abolishing the requirement of the number “10 tools” bringing in the forest to overcome the difficulty of determining and sanctioning these violations in practice.
- Supplementing the principle that penalties for illegally imparking alive forest animals shall be imposed for the act of illegal storage of wild animals.
- Supplementing certain offenses against regulations on management of dossiers during transport, trading, storage and processing of wildlife.

Infographic 8: Key highlights of revision of Decree 35



Table 1: Key new wildlife-related offenses and penalties since 2021

No.	New offenses	Penalty	Legal basis
1	Offenses against other terrestrial wild animals and endangered wild animals listed in Appendix III CITES ( <i>newly added in accordance with Decree 84</i> ), including the following acts:	The same penalties applicable for common forest animals	Clause 4a Article 1 Decree 07 (Clause 4a Article 6 Decree 35)
	Illegally hunting, catching, killing, raising and confining wild animals		Clauses 12, 13, 14 and

	Transporting wild animals without a legal dossier or with a legal dossier but the actual transported products do not match that dossier	From VND 1,000,000 to VND 25,000,000	15 Article 1 Decree 07 (revise Articles 21, 22, 23 and 24 Decree 35)
	Storing, buying, selling, exporting, importing or processing wild animals without a legal dossier or having a legal dossier whose contents is not consistent.		
	Failure to make a monitoring book or making a monitoring book that is not according to the prescribed form; failure to take notes or making incomplete or unrealistic records in the monitoring book or failure to notify on time as prescribed by law to competent authorities when bringing other terrestrial wild animals in the rearing facility.	From VND 5,00,000 to VND 10,000,000	
2	Failure to present forest product dossiers to competent persons at the time of inspection of means of transporting forest products (for vehicle drivers or wild animals' owners) <i>(applicable to all wild animals)</i>	From VND 500,000 to VND 1,000,000	Clause 15 Article 1 Decree 07 (revise Article 24 Decree 35)
3	Failure to set up a monitoring book or making a monitoring book that is not according to the prescribed form; Inadequate and inaccurate records in the forest product import and export books (for owners of forest product processing and trading establishments or wildlife rearing establishments) <i>(applicable to all wild animals)</i>	From VND 1,000,000 to VND 10,000,000	
4	Advertising wild sourced endangered, rare species in Appendix I CITES and	From VND 70,000,000 to	Article 33 Decree 38

	Appendix III of Investment Law, including their body parts or products	VND 100,000,000  <i>* Note: The penalty for this offense in Decree 38 remains the same as previous decree, however, the list of Group IB species expanded according to Appendix III of Law on Investment 2020. Therefore, more species will be under the scope of this penalty.</i>	
<b>5</b>	Carrying out advertising for trading forest animals and their products inconsistently with law in respect of species which are not specified in Annex III of the Law on Investment.	From VND 1,000,000 to VND 1,500,000	Clause 9c Article 1 Decree 07 (revise Article 16 Decree 35)

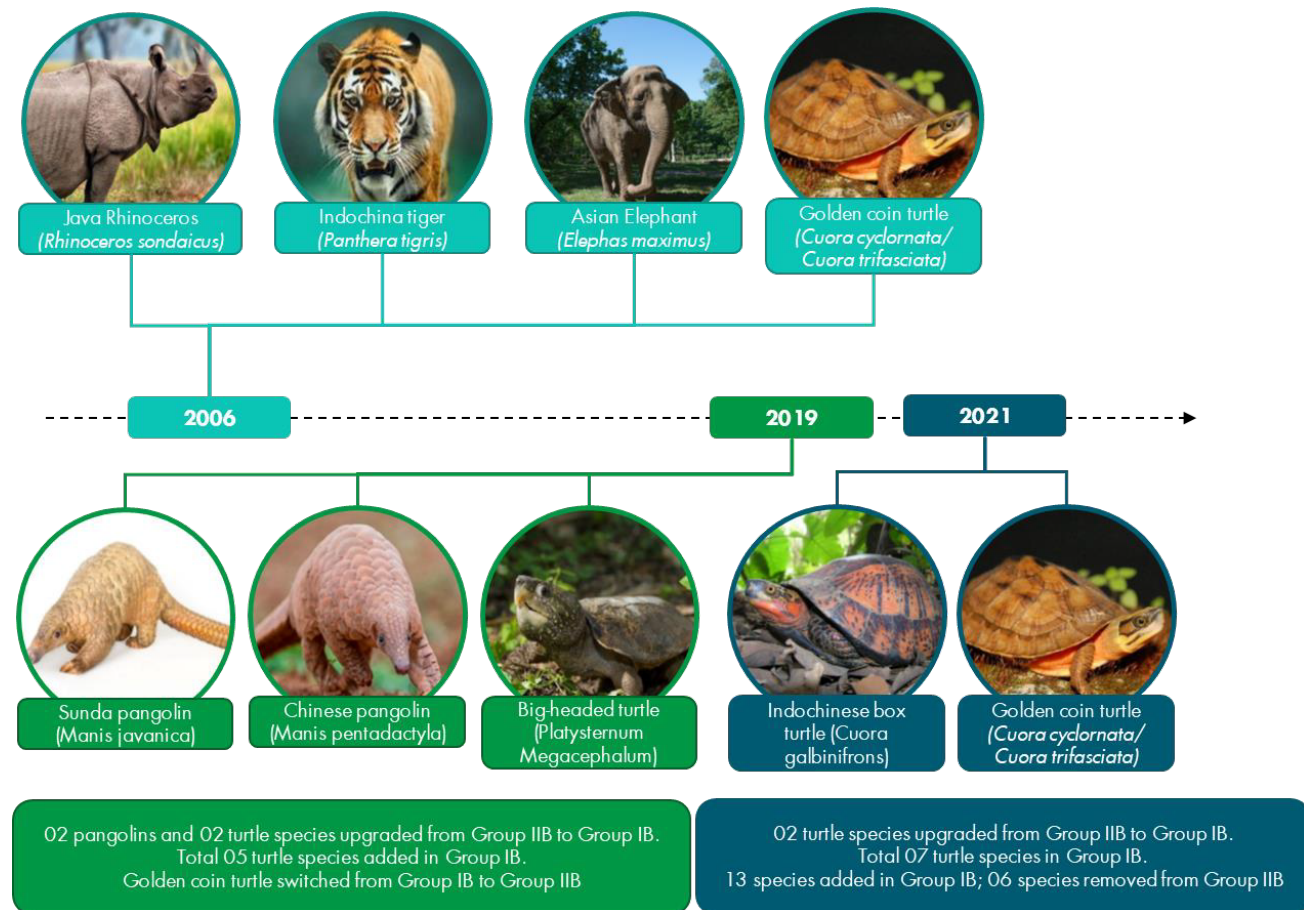
### 5. Regulations by focus species<sup>3</sup>

In 2021, Decree 84 updates the list of endangered, precious and rare forest fauna, with an increase of 13 species in Group IB and a decrease of 06 species in Group IIB as compared to Decree 06. 11 species are upgraded from Group IIB to Group IB, **which include 02 turtle species namely the Indochinese box turtle/Flowerback Box Turtle (*Cuora galbinifrons*) and Golden coin turtle (*Cuora cyclornata* or *Cuora trifasciata*)**. This means the increasingly higher protection regime for these two turtle species. Moreover, 11 species are introduced into the list for the first time.

<sup>3</sup> Focus species of WCS Viet Nam include rhino, elephant, pangolin, big cats and turtle.



Infographic 9: How law changes in regulating focus species since 2006



Picture 1: Vietnamese pond turtle; Annam pond turtle (*Mauremys annamensis*)

[Source: Phạm Văn Thông/ATP/IMC, <http://phanchautrinh.edu.vn/rua-ho-guom-trong-nhom-nguy-cap-nhat-the-gioi.html>]



Picture 2: Big-headed turtle (*Platysternum Megacephalum*)

[Source: <https://tienphong.vn/loai-rua-dau-to-biet-treo-cay-la-nhat-trong-sach-do-viet-nam-post1058515.tpo>]



Picture 3: Indochinese box turtle/  
Flowerback Box Turtle (*Cuora galbinifrons*)

[Source: <https://www.reptilefact.com/wp-content/uploads/2017/04/Cuora-Galbinifrons.jpg>]



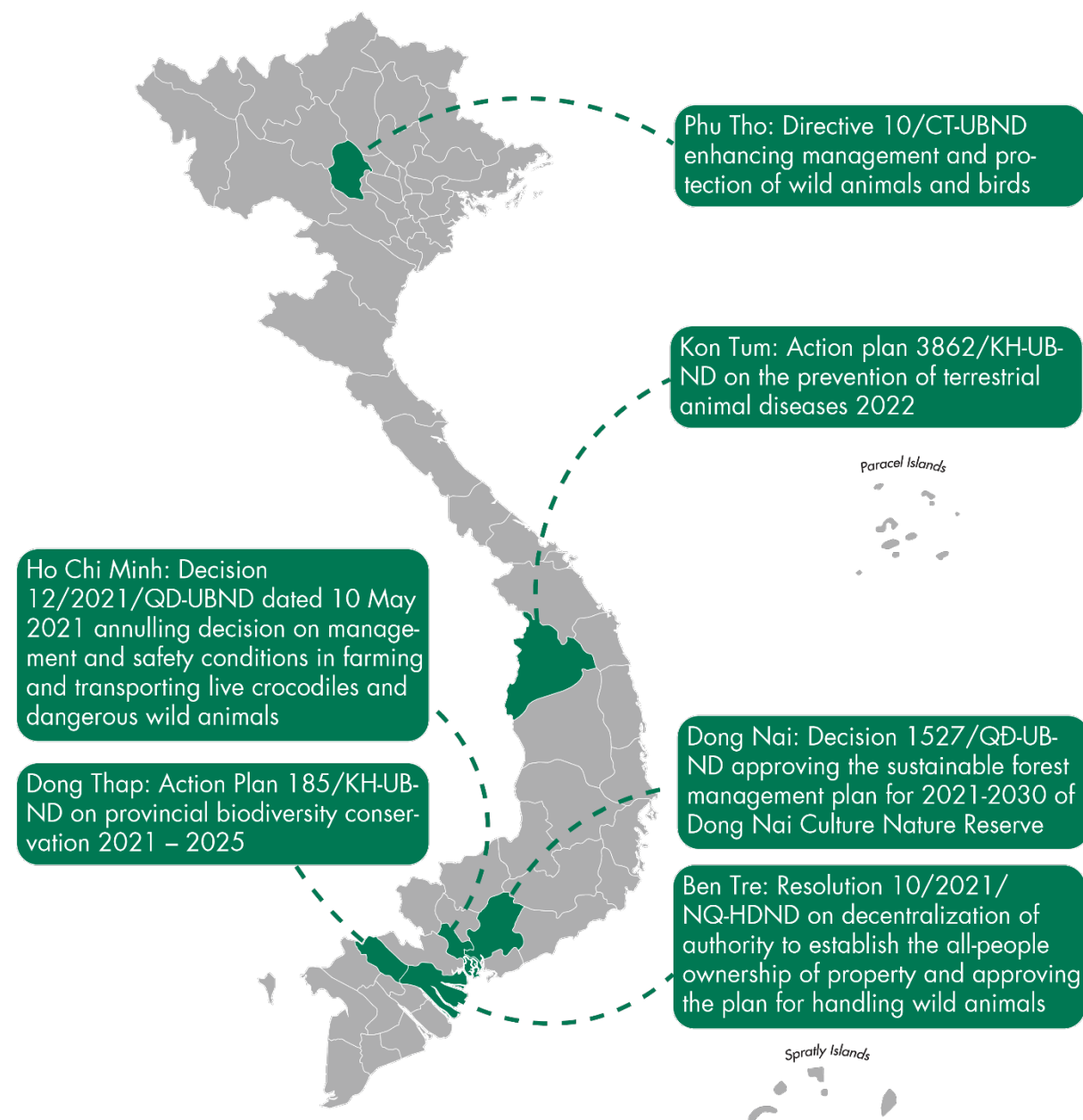
Picture 4: Bourret's box turtle (*Cuora bourreti*)

[Source: [https://en.wikipedia.org/wiki/Bourret%27s\\_box\\_turtle](https://en.wikipedia.org/wiki/Bourret%27s_box_turtle)]

## II. Local level regulations

Based on the central level legislations, local governments develop and promulgate instruments to regulate wildlife management, wildlife trade and zoonotic diseases within their province. In 2021, most local regulations involved decisions and Action Plan of the provincial People's Committee on biodiversity and wildlife protection (See details in Appendix I).

Infographic 10: Key local legislations on wildlife protection in 2021



## Appendix I

### LIST OF WILDLIFE-RELATED LEGISLATIONS IN 2021 AND JANUARY 2022

#### I/ Central level regulations

1. Law on amending and supplementing certain provisions of Criminal Procedure Code (*effective from 01 Dec. 2021*)
2. Joint Circular 01/2021/TTLT-VKSNDTC-BCA-BQP-BNN&PTNT-BTC dated 29 Nov. 2021 guiding certain provisions on suspension of criminal cases due to force majeure of natural disaster and pandemics
3. Decree 84/2021/ND-CP dated 22 Sep. 2021 amending certain provisions of Decree 06/2019 on wildlife management and CITES implementation (*effective from 30 Nov. 2021*)
4. Decree 38/2021/ND-CP dated 29 Mar. 2021 prescribing penalties for administrative violations involving cultural and advertising activities (*effective from 1 Jun. 2021*)
5. Decree 31/2021/ND-CP dated 26 Mar. 2021 elaborating and guiding the implementation of certain articles of Investment Law (*effective from 26 Mar. 2021*)
6. Decree 55/2021/ND-CP dated 24 May 2021 prescribing amendments and supplements to several articles of the Government's Decree 155/2016/ND-CP dated November 18, 2016 on penalties for administrative violations against environmental protection regulations (*effective from 10 July 2021*).
7. Decree 118/2021/ND-CP dated 23 Dec. 2021 guiding certain provisions and implementation measures of Law on Handling of Administrative Violations (substituting Decree 97/2017/ND-CP dated 18 Aug. 2017 and Decree 81/2013/ND-CP dated 19 Jul. 2013 specifying certain provisions and measures of implementation of Law on Handling Administrative Violations)
8. Decree 14/2021/ND-CP dated 1 Mar. 2021 on regulating penalties for administrative offenses involving animal husbandry
9. Decree 07/2022/ND-CP dated 10 Jan. 2022 amending and supplementing certain provisions of decrees on handling administrative violations against regulations on forestry, plant protection and quarantine, veterinary medicine, animal husbandry. (revising Decree 35/2019/ND-CP)
10. Decree 08/2022/ND-CP dated 10 Jan. 2022 guiding Environmental Law
11. Decision 4737/QĐ-BNN-TCLN dated 2 Dec. 2021 on the list of other terrestrial animals belonging to the class of birds, mammals, reptiles and amphibians not subject to management as wild animals prescribed in Clause 4, Article 1 of Decree No.



- 84/2021/ND-CP dated 22 Sep. 2021 amending and supplementing a number of articles of Decree No. 06/2019/ND-CP dated 22 Jan. 2019
12. Decision 4357a/QD-BNN-TCLN dated 10 Nov. 2021 on announcement of administrative procedures for amending and supplementing the forestry sector under the management functions of the Ministry of Agriculture and Rural Development
  13. Decision 2025/QD-TTg dated 2 Dec. 2021 approving the policy to participate in the project "Statistics and data to measure illicit financial flows in the Asia-Pacific region" (which provides Vietnam shall focus on financial flows from illegal wildlife trade and illegal tobacco trade).
  14. Decree 124/2021/ND-CP dated 28 Dec. 2021 amending Decree 115/2018/ND-CP on sanctioning of administrative violations on food safety and Decree 117/2020/ND-CP on sanctioning of administrative violations against regulations on food safety and medical field.
  15. Circular 09/2021/TT-BNNPTNT dated 12 Aug. 2021 of the Minister of Agriculture and Rural Development amending Circular 07/2016/TT-BNNPTNT regulating the prevention and control of terrestrial animal diseases
  16. Decision 1070/QD-BYT on the Plan for Prevention and Control of Infectious Diseases in 2021
  17. Decision 165/QD-BYT dated 21 Jan. 2022 on the Plan for Prevention and Control of Infectious Diseases in 2022

## II/ Local level regulations

18. Decision 12/2021/QD-UBND dated 10 May 2021 of **Ho Chi Minh** People's Committee annulling the entire Decision No. 83/2007/QD-UBND dated June 8, 2007 promulgating Regulations on management and safety conditions in farming and transporting live crocodiles and dangerous wild animals.
19. Resolution 10/2021/NQ-HDND dated 24 Aug. 2021 of the **Ben Tre** People's Assembly on decentralization of authority to establish the all-people ownership of property and approving the plan for handling wild animals (including forest animals and aquatic animals) owned by organizations and individuals who voluntarily transfer ownership to the State.
20. Decision 2918/QD-UBND dated 14 Dec. 2021 on announcement of additional administrative procedures in the forestry sector under the committee of the Department of Agriculture and rural development of **Ben Tre** province, which supplements the procedures for code registration of establishments raising and planting endangered and rare species of forest animals and plants of Group II and endangered wild animals and plants in Appendix II and III of CITES.

21. Action plan 3862/KH-UBND dated 26 Oct. 2021 of **Kon Tum** People's Committee on the prevention of terrestrial animal diseases in 2022 in Kon Tum, which stipulates the clinical surveillance for early detection of Avian Influenza outbreaks in domestic poultry, captive-bred wild birds and other wild birds.
22. Decision 1527/QD-UBND dated 10 May 2021 of **Dong Nai** People's Committee approving the sustainable forest management plan for 2021-2030 of Dong Nai Culture Nature Reserve, which stipulates (i) Biodiversity Conservation Plan: survey, monitor and develop a set of specimens of wild animals (10-year cycle); rehabilitating habitats and restoring habitats for wild, precious and rare species of animals; cleaning the balls, water tanks to supply water for wild animals; organize the monitoring and evaluation of a number of endangered, precious and rare wildlife species; building a center for rescue, conservation and development of organisms; (ii) Forest development plan: Nurturing natural production forests (wildlife park planning area): 281ha; (iii) Plan to develop eco-tourism, resort and entertainment including semi-wild petting area; (iv) Plan for construction and maintenance of infrastructure including water supply point for wildlife during the dry season; building wildlife park; (v) Orientation of forest environment rental areas including Safari; (vi) Solutions to coordinate among stakeholders to establish a coordination mechanism with local authorities in propagating, educating and protecting natural resources, recruiting workers to do service jobs on ecotourism, taking care of natural resources and wild animals...; to promote the application of new science and technology to production and business, especially in the rescue and conservation of wild animals.
23. Action Plan 185/KH-UBND dated 14 Jun. 2021 of **Dong Thap** People's Committee on biodiversity conservation of Dong Thap province for 2021 – 2025, which stipulates inter alia: (i) Management, inspection and control of wild animals, especially inspection of facilities registered for raising wild animals, illegal use, transportation of **wild animals** and products derived from wild animals.; (ii) propaganda in the media to combat **wildlife** trafficking; (iii) Investigation, inventory and evaluation of **wild species**; endangered, precious and rare forest plants and animals; rare and endangered species prioritized for protection; (iv) Promoting socialization and sharing of benefits from forests and biodiversity resources; developing programs and eco-tours in association with environmental protection, biodiversity conservation, and protection of wildlife, endangered, precious and rare species prioritized for protection; (v) Application of science and technology to research on breeding in order to conserve endangered, precious and rare species prioritized for protection.
24. Directive 10/CT-UBND dated 28 Jul. 2021 of **Phu Tho** People's Committee on enhancing the management and protection of wild animals and birds.

## Appendix II

### LIST OF NEWLY REMOVED AND ADDED SPECIES IN DECREE 84

STT	Species	Scientific name	Decree 06	Decree 84
1	Red fox	<i>Vulpes vulpes</i>	IIB	IB
2	Large spotted Civet	<i>Viverra zibetha</i>	IIB	IB
3	Hog badger	<i>Arctonyx collaris</i>	No	IIB
4	Common raccoon dog	<i>Nyctereutes procyonoides</i>	No	IIB
5	Owston's Palm Civet	<i>Chrotogale owstoni</i>	IIB	IB
6	Canis aureus	<i>Canis aureus</i>	IIB	IB
7	Vietnam mouse deer	<i>Tragulus versicolor</i>	No	IIB
8	Small flying fox	<i>Pteropus hypomelanus</i>	No	IIB
9	Sunda flying lemur	<i>Cynocephalus variegatus</i>	No	IB
10	Greater spotted eagle	<i>Aquila clanga</i>	IIB	No
11	Lesser fish eagle	<i>Ichthyophaga humilis</i>	IIB	No
12	Grey-headed fish eagle	<i>Ichthyophaga ichthyaetus</i>	IIB	No
13	Crested serpent eagle	<i>Spilornis cheela</i>	IIB	No
14	Red-headed vulture	<i>Sarcogyps calvus</i>	IIB	IB
15	Green peafowl	<i>Pavo muticus</i>	IIB	IB
16	Spoon-billed sandpiper	<i>Calidris pygmeus</i>	IIB	IB
17	Collared laughingthrush	<i>Garrulax yersini</i>	IIB	IB
18	Chestnut-eared laughingthrush	<i>Ianthocincla konkakinhensis</i>	No	IB
19	Grey-crowned crocias	<i>Laniellus langbianis</i>	IIB	IB

20	Tokay gecko	<i>Gecko gecko</i>	No	IIB
21	Goniurosaurus spp.	<i>Goniurosaurus spp.</i>	No	IIB
22	Giant Asian pond turtle	<i>Heosemys grandis</i>	No	IIB
23	Yellow-headed temple turtle	<i>Heosemys annandalii</i>	No	IIB
24	Golden coin turtle	<i>Cuora trifasciata</i> ( <i>Cuora cyclornata</i> )	IIB	IB
25	Indochinese box turtle; Flowerback Box Turtle	<i>Cuora galbinifrons</i>	IIB	IB
26	Paramesotriton spp.	<i>Paramesotriton spp.</i>	No	IIB

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