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Inter-agency circular N<sub>0</sub> 19/2007

## **Inter-agency Circular outlining guidelines for the application of certain articles in the Criminal Code to violations of forest protection and management laws**

To ensure the correct application of certain articles in the Criminal Code to violations of forest protection and management laws, the Ministry of Agriculture and Rural Development, the Ministry of Justice, the Ministry of Police, the People's Supreme Procuracy, and the Supreme Court have agreed on the following points:

### **I. Expressions used in the Circular specifying certain crimes:**

1. **“Repeats of violations”** refers to those cases in which violators who have been punished at least once previously for violations of regulations in Item 1 of Article 175 or Article 189 of the Criminal Code can not yet be considered as non-violators because an insufficient period of time has elapsed, or if it has not yet been one year since the expiry of their punishment term, but they carry out another activity that violates the aforementioned regulations.

2. **“Make use of position and power”**, described in Item 1 of Article 176, point (b) of Item 2 of Article 189, and point (b) of Item 2 of Article 190 of the Criminal Code, applies to those who occupy posts within forest protection and management departments, but who make use of their power to carry out certain activities that constitute violations of Item 1 of the Article 176, Item 1 of the Article 189 and item 1 of the Article 190 of the Criminal Code.

3. **“Abuse of position and power”** described in Item 1 of Article 176 of the Criminal Code, applies to those who hold posts within forest protection and management departments, but who abuse their rights and job title to carry out certain activities that constitute violations of Item 1 of the Article 176 of the Criminal Code.

4. **“Repeat violation during probation period”** described in Item 1 of Article 176 of the Criminal Code, refers to when those who hold posts in forest protection and management departments use their job title and associated privileges to violate regulations in Item 1 of Article 176, and who then repeat the violation even though the initial probation period is not complete.

5. **“Repeat violation after being sentenced and the period of serving sentence is not over”** refers to those who repeat the same crime regulated in Item 1 of Article 175 of the Criminal Code after they are sentenced, and before the sentence is over.

### **II. Words and Expressions used in the circular**

1. “The maximum volume for which an administrative fine would apply” is the maximum damage, based on the forest area, quantity of forest products (for example, number of individual animals) or the cash equivalent of any other forest product, for which an administrative fine has been deemed an appropriate punishment for violations of forest protection and management laws at the time of violation, according to Government regulations.

2. “Rare, precious and endangered forest plants in Group I A and II A; rare, precious and endangered forest animals in Group I B and II B” are rare, precious and endangered forest plants and animals regulated by the Government.

The punishment applied for violations relating to animals listed in Group IB is also applicable for animals not listed in Group IB but that belong to Appendix I of CITES.

3. “**Timber**” as mentioned in this circular includes round timber, rough round timber, sawn timber and slabs of wood.

### **III. Specifying damage to forest and forest products**

#### 1. Units used to specify the extent or volume of damage

1.1 Forest area is measured in m<sup>2</sup>.

1.2 Timber quantity is measured in m<sup>3</sup> for round timber, while sawn timber or slabs of wood are considered equal to the quantity of round timber multiplied by 1.6.

1.3 The number of rare, precious and endangered forest animals listed in Group IB is counted individually.

1.4 Other forest products are measured in terms of their cash value in Vietnam Dong (VND).

1.5 Quantity of fire wood is measured in a ste.

#### 2. How to specify the damage

2.1. The measurement of forest area is conducted in accordance with the regulations of the Ministry of Environment and Natural Resources.

2.2 The measurement of timber and forest products is regulated by the Ministry of Agriculture and Rural Development.

2.3 The value of other forest products is calculated according to local market price at the time of the violation. In the case that local authorities are unable to evaluate the forest product value because comparable products are not readily available in the market, higher level authorities will be responsible for evaluating the products.

### **IV. Some certain regulations**

#### **1. Violation of regulations relating to forest protection and exploitation (Article 175 of the Criminal Code)**

1.1 Crimes relating to the illegal exploitation of wood include:

a. Exploitation of trees from production forest, protective forest, or special use forest without a permit from the authorized state agencies.

b. Exploitation of forest trees from a restricted area.

c. Exploitation of forest trees without a ranger’s stamp.

d. Exploitation of forest trees in excess of the authorized amount.

1.2 “Two violations at the same time” refers to the case where illegal exploitation of forest trees is conducted in addition to another activity violating the State regulations on forest protection and exploitation.

In the case of illegal exploitation of trees or forest products from designated areas of forest that State authorized agencies have handed down to local organizations, households or individuals to use for regeneration purposes, on the understanding that they will invest money in plantation and protection of the area, punishment will be applied as follows:

a. If the forest owners exploit forest trees illegally, they will be subject to a fine as regulated in Article 175 of the Criminal Code.

b. If the individual or group responsible for exploiting the trees is not the forest owner, punishment will be applied as regulated in the relevant articles of Chapter XIV of the Criminal Code.

1.3 “*Illegal smuggling and transportation of timber*” refers to the act of transporting and purchasing timber in a manner that does not follow State regulations; for example, transporting timber without the necessary legal documents, or trading timber without a permit or with an expired permit.

In the case of illegal transportation of timber across national borders, punishment will be determined on a case by case basis, depending on the seriousness of the violation. According to Article 153 and 154 of the Criminal Code, the violator may be prosecuted for criminal responsibility.

1.4 To “*cause serious damage*”, as described in Item 1 of Article 175 of the Criminal Code, is defined as:

a. Causing damage to an area of forest (excluding forest animals) ranging in size from the maximum area for which an administrative fine would apply to twice this area. For example, in the

case that timber from an area of production forest listed in Group IV to Group VIII is exploited, the maximum area for which an administrative fine would apply is 20m<sup>3</sup>. As such, exploitation of 20m<sup>3</sup> to 40m<sup>3</sup> is considered to be serious.

b. Illegally exploiting, transporting or trading two or more types of timber (common timber in Group I to III and common timber in Group IV to VIII; common timber and rare or precious timber in Group IIA) where the total volume of timber exceeds the maximum quantity for which an administrative fine would apply. For example,

Example 1: Mr A illegally exploits 13m<sup>3</sup> of common round timber in Group IV to VIII and 9m<sup>3</sup> of common round timber in Group I to III. The total quantity Mr A has exploited is 22 m<sup>3</sup> and the maximum quantity for which an administrative fine would apply is 20 m<sup>3</sup>, so his violation is considered serious.

Example 2: Mr B illegally exploits 11 m<sup>3</sup> of common round timber in Group IV to VIII, 7m<sup>3</sup> of common round timber in Group I to III and 5 m<sup>3</sup> of rare and precious timber in Group IIA. The total quantity Mr B has exploited is 23m<sup>3</sup> and the maximum quantity for which an administrative fine would apply is 20m<sup>3</sup>, so his violation is considered serious.

Example 3: Mr C illegally transports 13 m<sup>3</sup> of common round timber in Group IV to VIII, 5m<sup>3</sup> of common round timber in Group I to III and 3m<sup>3</sup> of rare and precious round timber in Group IIA. The maximum quantity for which an administrative fine would apply in the case of illegal transportation of timber is 20m<sup>3</sup>, and the total quantity Mr C has transported is 21m<sup>3</sup>, so his violation is considered serious.

c. Illegally exploiting up to 2m<sup>3</sup> of rare and precious timber in Group IA from production forest, up to 1.5m<sup>3</sup> from protective forest and up to 1m<sup>3</sup> from special use forest.

d. Illegally exploiting rare, precious and endangered forest plants listed in Group IA to the value of three million Vietnam Dong (VND) from production forest; two million VND from protective forest; and one million VND from special use forest.

e. Illegally transporting and trading up to 2m<sup>3</sup> of rare and precious timber listed in Group IA.

1.5 “*Committing a crime in very serious manner*”, as described in Item 2 of Article 175 of the Criminal Code refers to one of the following crimes:

a. Causing damage to an area of forest (excluding forest animals) two to four times larger than that for which an administrative fine would apply. For example, the maximum volume for which an administrative fine would apply for illegal exploitation of round timber listed in Group IV to VIII is 20m<sup>3</sup>, so illegally exploiting from 40 m<sup>3</sup> to 80 m<sup>3</sup> is considered very serious;

b. Illegally exploiting, transporting or trading two or more types of timber, including common timber listed in Group I to III, common timber listed in Group IV to VIII, and common or rare and precious timber listed in Group IIA, with the total volume of timber being two to four times larger than the maximum volume for which an administrative fine would apply, for the common timber species listed in Group IV to VIII;

For example: Mr. A illegally exploits, from an area of production forest, 19m<sup>3</sup> of common round timber listed in Group IV to VIII, 13 m<sup>3</sup> of common round timber in Group I to III and 9m<sup>3</sup> of rare and precious timber in Group IIA. The total volume of timber is 41 m<sup>3</sup> but the maximum quantity for which an administrative fine applies for common round timber in Group IV to VIII from production forest is 20m<sup>3</sup>, so Mr. A's violation is considered very serious.

c. Illegally exploiting rare and precious timber in Group IA; rare and precious forest plants in Group IA, where the quantity of timber or plants is at least twice as much as the maximum quantity regulated in point (c) and (d) of section 1.4 of section 1.

Example 1: Illegally exploiting 2.5m<sup>3</sup> of rare and precious timber in Group IA from production forest is considered extremely serious because the illegal exploitation of up to 2 m<sup>3</sup> is considered a very serious crime.

Example 2: Illegally exploiting rare and precious forest plants from protective forest with a total value of 2,500,000 VND is considered extremely serious because the illegal exploitation of rare and precious plants from protective forest with a total value of up to 2,000,000 VND is considered a very serious crime.

d. Illegally trading or transporting rare and precious plants in Group IA, where the traded or transported quantity is at least twice as much as the maximum quantity defined as constituting a serious crime in point (e) of section 1.4 of sub-Item 4.

For example: The act of illegally transporting and trading 3m<sup>3</sup> of rare and precious timber in Group IA is considered very serious because the maximum volume of timber necessary for it to be considered a serious crime is 2m<sup>3</sup>.

To cause serious consequences, as defined in section 1.4 of sub-Item 1, involves participating in one of the following activities but in a manner that is not serious enough to be prosecuted for criminal responsibility:

- Fighting against the authorities
- Injuring the authorities
- Causing loss or damage to the office, equipment or other facilities belonging to agencies of forest protection and management

1.6 “Causing an extremely serious crime”, as described in Item 2 of Article 175 of the Criminal Code refers to one of the following violations:

a. Causing damage to forest products (excluding forest animals), where the level of damage is more than four times higher than the maximum level for which an administrative fine would apply.

b. Illegally exploiting, transporting and trading two or more types of timber (common timber in Group I to III and common timber in Group IV to VIII; common timber and rare and precious timber in Group IIA), where the total volume of timber is four or more times greater than the maximum volume for which an administrative fine would apply for common timber in Group IV to VIII

c. Illegally exploiting rare or precious timber in Group IA; or rare, precious and endangered forest (timber) in Group IA, where the exploited volume is higher than that for which it would be considered a very serious crime.

d. Illegally transporting and trading rare or precious timber in Group IA, where the quantity is higher than for which it would be considered a very serious crime.

e. Violating two regulations at the same time: one regulated in point (a), (b), (c), (d) and one regulated in point (e) of section 1.5 of sub-Item 1.

## **2. Violations of regulations relating to forest management (Article 176 of the Criminal Code)**

This circular only guides the criminal prosecution of violations relating to forest management law.

2.1 “Illegal allocation or withdrawal of forest” refers to the act of allocating or withdrawing forest out of his/her jurisdiction, to improper individuals, in a manner that does not accord with the State’s planning or in a manner that does not follow legal procedure.

2.2 “Allowing the forest owner to use the forest for other improper purposes” refers to a situation in which the forest owner is allowed to use the forest for other purposes in spite of not possessing a permit, in a manner that does not accord with the State’s planning, or in a manner that does not follow legal procedure.

2.3 “Allowing the illegal exploitation and transportation of forest products” refers to the act of supporting the exploitation and transportation of forest products, which are out of his/her Jurisdiction, in greater volume than is permitted, or in a manner that does not follow legal procedure.

2.4 “Causing serious loss” as described in Item 1 of Article 176 of the Criminal Code refers to one of the following crimes:

a. Illegally allocating or withdrawing forest, the size of which is outlined below:

- a.1 Production forest: from 20,000 m<sup>2</sup> to 25,000 m<sup>2</sup>
- a.2 Protective forest: from 15,000 m<sup>2</sup> to 20,000 m<sup>2</sup>
- a.3 Special use forest: from 10,000 m<sup>2</sup> to 15,000 m<sup>2</sup>

b. Allowing the forest owner to use the forest for other improper purposes

- b.1 Production forest: from 10,000 m<sup>2</sup> to 12,500 m<sup>2</sup>
- b.2 Protective forest: from 7,500 m<sup>2</sup> to 10,000 m<sup>2</sup>
- b.3 Special use forest: from 5,000 m<sup>2</sup> to 7,500 m<sup>2</sup>

c. Allowing the illegal exploitation of forest products, leading to a loss of production forest

c.1 Round timber in Group IA: up to 2m<sup>3</sup>

c.2 Round timber in Group IIA: from 10 m<sup>3</sup> to 20 m<sup>3</sup>

c.3 Common round timber in Group I to III: from 15 m<sup>3</sup> to 30 m<sup>3</sup>

c.4 Common round timber in Group IV to VIII: from 20 m<sup>3</sup> to 40 m<sup>3</sup>

c.5 Rare, precious and endangered forest products in Group IA: up to the value of three million

VND

d. Allowing the illegal exploitation of forest products, leading to a loss of protective forest.

d.1 Round timber in Group IA: up to 1.5 m<sup>3</sup>

d.2 Round timber in Group IIA: from 7.5 m<sup>3</sup> to 15 m<sup>3</sup>

d.3 Common round timber in Group I to III: from 10 m<sup>3</sup> to 20 m<sup>3</sup>

d.4 Common round timber in Group IV to VIII: from 15 m<sup>3</sup> to 30 m<sup>3</sup>

d.5 Rare, precious and endangered forest products in Group IA: up to the value of two million

VND

e. Allowing the illegal exploitation of forest products, leading to a loss of special use forest

e.1 Round timber in Group IA: to 1 m<sup>3</sup>

e.2 Round timber in Group IIA: from 5 m<sup>3</sup> to 10 m<sup>3</sup>

e.3 Common round timber in Group I to III: from 7.5 m<sup>3</sup> to 15 m<sup>3</sup>

e.4 Common round timber in Group IV to VIII: from 10 m<sup>3</sup> to 20 m<sup>3</sup>

e.5 Rare, precious and endangered forest in Group IA: up to the value of one million VND

f. Allowing the illegal removal of forest products, including rare, precious and endangered forest animals in Group IB, with the volume outlined in the Appendix attached to this circular.

g. Allowing the illegal transportation of forest products with the following quantities:

g.1 Round timber in Group IA: up to 2 m<sup>3</sup>

g.2 Round timber in Group IIA: from 10 m<sup>3</sup> to 20 m<sup>3</sup>

g.3 Common round timber in Group I to III: from 15 m<sup>3</sup> to 30 m<sup>3</sup>

g.4 Round timber in Group IV to VIII: from 20 m<sup>3</sup> to 40 m<sup>3</sup>

h. Permitting the illegal transportation of endangered, precious and rare species listed under in Group 1B, with the volume outlined in the Appendix attached to this Circular.

2.5. “*Causing very serious consequences*”, as described in Item 2, Article 176 of the Criminal Code, is defined as causing damage ranging from anything greater than that which is considered as causing “serious consequence”, stipulated in section 2.4 of sub-Item 2, to as much as twice this level.

For example: Nguyen Manh V, Chairman of the A district People’s Committee permits the illegal exploitation of 43 m<sup>3</sup> of round timber in Group V from production forest. As a result, Nguyen Manh V’s activity is considered to cause very serious consequence.

2.6. “*Causing extremely consequences*”, as described in Item 3, Article 176 of the Criminal Code, is to cause damage above the level that is considered to cause very serious consequence, as stipulated in sub-Item 2.5 of Item 2.

2.7. In case of exchange of the usage purposes between production forest and protective forest, production forest and special-use forest, or production forest, protective forest and special-use forest, the total area of forests of all types is calculated as though it was all production forest; in the case of protective forest and special-use forest, the total area of forest of all kinds is calculated as though it was all protective forest.

2.8. Giving permission for a shipment of forest products containing two or more kinds of timbers (common timbers listed in Group I - III and common timbers listed in Group IV – VIII; and common or precious/rare timbers in Group 2A) to be illegally transported, where the volume of timber is less than that which is subject to criminal prosecution, the total volume of all timbers should be compared with the maximum level of the timber listed in Group IV to VIII to determine whether the violation should be prosecuted criminally; and with timbers listed in Group IV to VIII, if the exploitation is legal and done in production forest.

In the case of allowing the illegal exploitation or transportation of forest products that include two or more species of endangered, precious, and/or rare animals listed in Group 1B, the terms “*causing serious consequence*”, “*causing very serious consequence*” or “*causing extremely serious consequence*” are determined in the Appendix attached to this Circular as follows:

a) If the number of endangered, precious and/or rare animals causes “*extremely serious consequence*” as defined in the Appendix attached to this circular, this case is considered as “*causing extremely serious consequence*”. The number of other species will be taken into consideration when determining the punishment.

b) If the number of individuals of each endangered, precious and/or rare species being illegally exploited and transported is determined as “*causing serious consequence*” or “*causing very serious consequence*”, the total number of individuals of all species will be compared with that of the species of highest number mentioned in the Appendix (attached to this Circular) to determine whether that case can be described as “*causing serious consequence*”, “*causing very serious consequence*” or “*causing extremely serious consequence*”.

### **3. Forest destruction (Article 189 in the Criminal Code)**

3.1. “*(Causing an) illegal forest fire*” refers to the intentional act of burning forest for any purpose without a permit from the state or other relevant authorities.

3.2. “*Illegal forest destruction*” refers to the act of destroying forest, cutting trees, or any other illegal activity causing death or damage to forest trees for any purpose, except in any of the circumstances mentioned in section 1.1 and 1.2 of sub-Item 1 in IV.

3.3. “*Other forest damage*” refers to any illegal activities that result in the death of a number of trees and/or cause forest soil pollution, including but not limited to digging, exploding mines, excavation, preventing the tidal flow into forest area, dumping water or releasing toxic agents into the forest.

Any activities that involve illegally burning, destroying or damaging planted forests, or regenerated forests, that have been allocated to any organization, group, family or individual by the State’s competent agencies for their stable and long-term use for forestation purposes, and are invested in, taken care of and protected by them, will be punished as follows:

a) If the forest owner undertakes any activity that involves burning; destroying or damaging the forest, they will be subject to criminal prosecution in accordance with Article 189 of the Criminal Code.

b) Any individual or group who burns, destroys or damages the forest; but who is not the forest owner; will be prosecuted for their criminal responsibility in accordance with relevant articles in Chapter XIV: “*Violation relating to possession of property*” of the Criminal Code.

3.4. “*Causing serious consequence*” as described in Item 1 of Article 189 in the Criminal Code refers to the following cases:

a) Burning, destroying or damaging an area of production forest ranging from anything above the maximum area for which a financial fine would apply, to twice this area.

For example: The maximum violation for which a financial fine would apply, in accordance with the relevant law, is the destruction of 10,000 m<sup>2</sup> of production forest. Van V Nguyen destroys 15,000 m<sup>2</sup> of production forest. His activity is legally considered to cause serious consequences.

b) Causing a loss in the value of natural production forest of 60 to 100 million VND; a loss in the value of planted production forest or regenerated allocation forest of 50 to 100 million VND; if it is impossible to calculate the size of the burned or damaged forest area; or if different forest fragments in different sectors have been destroyed.

Any destruction of forest that leads to loss of human life, health or the property of the State, a community or an individual, will be subject to criminal prosecution, and punished not only for destroying forest, but also for the correlative crimes, as stipulated in the Criminal Code.

3.5. On the regulation of punishment as described in Item 2 of Article 189 in the Criminal Code

a) “*Destroying a very large area of forest*” is defined as destroying an area of production forest that is two to four times as large as the maximum area for which a financial fine would apply.

For example: Anyone found guilty of destroying production forest of 10,000 m<sup>2</sup> or less would be

subject to a financial fine. Dinh S Tran destroys an area of production forest of 30,000 m<sup>2</sup>. Mr. S's violation is considered to constitute destroying a very large area of forest.

b) "*Cutting or clearing rare and precious plants mentioned in the Government's list*" is defined as cutting or clearing critical, precious and/or rare plants listed in Groups IA and 2A

Activities that involve cutting or destroying endangered, precious and/or rare plants listed in Groups IA, to the value of 30 to 60 million VND, or IIA, to the value of 50 to 100 million VND, and in the case that it is not possible to determine whether the damage is regulated in section 3.4 of sub-Item 3 (which refers to destruction of forest in many different areas in one or more sectors), will be subject to criminal prosecution in accordance with point (d) of Item 2 in Article 189 of the Criminal Code.

c) "*Causing very serious consequence*" is defined as causing serious consequence as outlined in section 3.4 of sub-Item 3, as well as engaging in one or more of the following activities: fighting with the authorities; causing injury to the authorities; destroying the work place, facilities, or other property of the agency in charge of forest management and protection, though in a manner that is not serious enough to be prosecuted for criminal responsibility for each individual violation.

3.6. On the regulation of punishment as described in Item 3 of Article 189 in the Criminal Code

a) "*Destroying an extremely large area of forest*" is to destroy an area of production forest four times larger than that for which a financial fine would apply.

b) "*Destroying protective forest and special use forest*" refers to destruction of these types of forest when the damaged area is larger than that for which a financial fine would apply.

c) "*Causing extremely serious consequence*" refers to:

c.1) The destruction of endangered, precious and/or rare plants listed in Group IA and worth more than 60 million VND, and those listed in Group IIA worth more than 100 million VND, if the activity is not regulated in point (a) or (b) of section 3.6 in sub-Item 3;

c.2) Causing damage or loss as mentioned in point (a) or (b) of section 3.5 in sub-Item 3 and committing one of the following activities: fighting with authorities that results in injury to the authorities; or damaging the work place, facilities, or property of the agency in charge of forest management and protection, in a manner that is not serious enough to be prosecuted for criminal responsibility for each individual violation.

#### **4. Violation of protection laws relating to precious and/or rare wildlife (Article 190 of the Criminal Code)**

4.1. "*Illegally hunting, killing, transporting or trading precious and/or rare wildlife*" is to hunt, kill, transport, or trade endangered, precious, and/or rare wildlife listed in Group IB without a permit from authorized state agencies or with a permit, but in a manner that exceeds the boundaries of the permit.

4.2. "*Illegally transporting or trading products of these species*" is to transport or trade products, including meat, bones, horns, skins, furs, tusks, nails, scales, teeth and other products derived from endangered, precious, and/or rare wildlife listed in Group IB, without a legal permit. If these products are confiscated by the authorities after they have been processed into goods or materials used in production, they will be disposed of in accordance with regulations relating to prohibited products.

4.3. Illegally hunting, killing, or transporting precious and/or rare wildlife as prohibited under the Government's Regulation will be subject to criminal prosecution in accordance with Item 1 of Article 190 of the Criminal Code if belonging to one of following cases:

a) Illegally hunting, killing, transporting, or trading precious and/or rare wildlife listed in Group IB is defined as "*causing extremely serious consequence*" if the activity involves the minimum number of individual animals outlined in the Appendix attached to this Circular.

b) Transporting or trading products derived from endangered, precious and/or rare species listed in Group IB worth at least 50 million VND.

4.4. On the regulation of punishment as stipulated in Item 2 of Article 190 in the Criminal Code

a) "*Using prohibited hunting tools or vehicles*" is to use military weapons (including modified ones), toxic arrows, (to dig) tunnels, (to place) stakes, large traps, traps with stakes, traps with javelins, trap doors, (to use) big timber or big iron saws, (to use) lights, (to use) guns and other dangerous tools and any other means to hunt wildlife in a designated area that have been prohibited by the authorized agencies.

b) Hunting in a prohibited area is to hunt wildlife within the boundaries of Natural Reserves, National Parks or in other prohibited area as determined by State authorized agencies.

c) Hunting during a prohibited period is to hunt endangered, precious and/or rare wildlife during its breeding or migration season.

d) “*Causing very serious consequence*” refers to any of the following cases:

d.1) Hunting, killing, transporting, or trading endangered, precious and/or rare wildlife listed in Group IB, with the number of individual animals exceeding that outlined in the Appendix attached to this Circular;

d.2) Hunting, killing, transporting, or trading endangered, precious and/or rare wildlife listed in Group IB and worth 50 to 100 million VND;

d.3) Hunting, killing, transporting, or trading endangered, precious and/or rare wildlife with a volume below the level considered to “*cause very serious consequence*” mentioned in the Appendix attached to this Circular; and the illegal transport or trade of products of endangered, precious and/or rare wildlife listed in Group IB and worth at least 50 million VND.

đ) “*Causing extremely serious consequence*” refers to any of the following cases:

đ.1) Hunting, killing, transporting, or trading of endangered, precious and/or rare wildlife listed in Group IB with the volume mentioned in the Appendix attached to this Circular;

đ.2) Illegally transporting or trading products derived from endangered, precious and/or rare wildlife species listed in Group IB and worth more than 100 million VND;

đ.3) Hunting, killing, transporting, or trading of endangered, precious and/or rare wildlife listed in Group IB, with a volume considered to “*cause very serious consequence*” as defined in the Appendix attached to this Circular; and the illegal transporting or trading of products of endangered, precious and/or rare wildlife listed in Group IB, and worth 50 to 100 million VND.

4.5. In case of illegally hunting, killing, transporting, or trading of two or more endangered, precious and rare species listed in Group IB, the determination of “*causing very serious consequence*” or “*causing extremely serious consequence*” in the Appendix attached to this Circular is carried out as follows:

a) If the volume of a species of endangered, precious and/or rare wildlife reaches the level at which it is considered to “*cause extremely serious consequence*”, that case is considered as “*causing extremely serious consequence*”. The volume of any other species is also considered when deciding the punishment applied to the violators.

b) If the volume of a species of endangered, precious and/or rare wildlife only reaches the level at which it is considered to “*cause very serious consequence*” or if it is less than that considered to “*cause serious consequence*”, the total volume of all species will be compared with the species with the highest volume in the Appendix attached to this Circular, to determine whether the case belongs to Item 1 in Article 190 of the Criminal Code or if it should be defined as “*causing very serious consequence*” or “*causing extremely serious consequence*”.

## **5. Crimes on fire regulations (Article 240 of Criminal Code)**

5.1. This circular instructs that a criminal fine be imposed on activities which violate fire regulations and which result in damage to the forest, health, life or the property of other people.

5.2. Activities violating fire regulations include:

a. The use of fire in continuous forests where owners don't have methods to prevent or to bring fire under control, or the infrastructure necessary to prevent and fight fires.

b. The use of fire in strictly protected subdivisions of special-use forests, or in very important protective subdivisions;

c. The use of fire in highly flammable forests, containing, for example, a high proportion of dried vegetable cover and/or during the dry season;

d. The use of fire near timber storage sites, or near fields which are classified as level 3 to 4 in terms of their likelihood to be the site of a forest fire.

e. The use of fire to hunt wild animals, or to clear trees in the forest for fire wood, charcoal, honey, or remnants of war;

- f. Illegally clearing or terracing fields using fire, within or at the edge of the forest;
- g. Failing to ensure adequate fire prevention and fighting measures while using fire, other heat sources, equipment or tools that produce fire or heat; or flammable materials;
- h. Other activities that directly increase the risk of forest fire.

5.3. Those that violate fire regulations in such a way that ultimately leads to a forest fire will be subject to criminal prosecution according to Item 1 of Article 240 of the Criminal Code when at least:

- a. The area of damaged forest is larger than the maximum area for which an administrative fine would apply, to as much as twice this area;
- b. Two or more types of forest (including productive forest, protective forest, and special use forest) are damaged as a result of the fire, with the area of each not reaching the maximum area for which a financial fine would apply, but where the total damaged area exceeds the maximum area for which a financial fine would apply, and up to twice the maximum area for which a financial fine would apply in the case of productive forest;

For example: Hoang Ngoc B. started a forest fire which ultimately damaged 6.000 m<sup>2</sup> of productive forest, 3.000 m<sup>2</sup> of protective forest, and 2.000 m<sup>2</sup> of special use forest. The total damaged area including all three types of forests is 11.000 m<sup>2</sup>. In accordance with the current regulations, the maximum area for which a financial fine would apply in the case of productive forest is 10.000 m<sup>2</sup>. As such, B must be prosecuted for criminal responsibility in accordance with Item 1, Article 240 of the Criminal Code.

- c. A person is killed as a result of the fire;
- d. The health of one or two people is damaged, with a disablement degree of 31% or more for each person;
- e. The health of many people is damaged, with each having a disablement degree of below 31%, but their total disablement degree is between 41% and 100%;
- f. The health of a person is damaged, with a disablement degree between 21% and 30%, and there is an accompanying loss of property to the value of between 30 and 50 million VND;
- g. The health of many people is damaged, with each person having a disablement degree of between 30% to 40%, and there is accompanying loss of property to the value of between 30 and 50 million VND;
- h. There is a loss of value to other property of between 50 to 500 million VND.

5.4. To “*commit crimes causing very serious consequences*”, as described in Item 2 of Article 240 of the Criminal Code, refers to one of the following cases:

- a. An area of forest is damaged which is between twice the maximum area for which a financial fine would apply to four times this area.
- b. Two or more types of forest (productive forest, protective forest, or special use forest) are damaged, and the total damaged area is twice the maximum area for which a financial fine would apply in the case of productive forest, to four times the maximum area for which a financial fine would apply, regardless of whether the area of each individual forest reaches the minimum threshold for criminal prosecution,

For example: Tran Van M. caused a forest fire, damaging 9.500 m<sup>2</sup> of productive forest, 7.000 m<sup>2</sup> of protective forest, and 4.000 m<sup>2</sup> of special use forest. The total damaged area is 20.500 m<sup>2</sup>. In accordance with the current regulations, the maximum area for which a financial fine applies for productive forests is 10.000 m<sup>2</sup>. As such, M's crime is classified as causing very serious consequences.

- c. An area of forest is damaged in one of the cases listed in (a) or (b) and section 5.3 of sub-Item 5; resulting in one of circumstances outlined in (c), (d), (e), (f), (g) and (h) of section 5.3 of this sub-Item 5;
- d. Two people are killed;
- e. A person is killed and consequences listed in (d), (e), (f) and (h) of section 5.3 of this sub-Item 5 also occur;

- f. The health of three to four people is damaged, with the disablement degree of each person at 31% or more;
- g. The health of many people is damaged, with the total disablement degree from 101% to 200%;
- h. The health of one or two people is damaged, with the disablement degree of each at 31% or more and consequences outlined in (e), (f), (g) and (h) of section 5.3 of this sub-Item 5 also occur.
- i. There is a loss of property to the value of 500 to 1,500 million VND.

5.5. To “*commit crimes causing extremely serious consequences*” as described in Item 3 of Article 240 of the Criminal Code refers to one of the following cases:

- a. An area of forest is damaged that is over four times the maximum area for which an administrative fine would apply;
- b. Two or more types of forest (productive forest, protective forest, or special use forest) are damaged, and the total damaged area exceeds four times the maximum for which an administrative fine would apply in the case of productive forests, regardless of whether the damaged area reaches the minimum threshold for criminal prosecution.
- c. An area of forest is damaged in one of cases listed in (a) or (b) of sub-Item 5 and one of circumstances outlined in (d), (e), (f), (g), (h) and (i) of section 5.4 of sub-Item 5;
- d. Three or more people are killed;
- e. Two or more people are killed, and consequences listed in (d), (e), (f), (g) or (h) of section 5.3 if this sub-Item 5 also occur;
- f. A person is killed and consequences listed in (f), (g), (h) or (i) of section 5.4 of this sub-Item 5 also occur;
- g. The health of five or more people is damaged, with the disablement degree of each at 31% or more;
- h. The health of many people is damaged, and their total disablement degree exceeds 200%;
- i. The health of three or four people is damaged, with the disablement degree of each at 31% or more, and there is an accompanying loss of property as described in (i) of section 5.4 of this sub-Item 5;
- k. There is a loss of property worth 1,500 million VND or more

## V. Implementation

1. This Decree is effective 15 days after the date of its public release.
2. In cases where the violator was sentenced in accordance with previous legal documents and the sentence was already handed down, this circular is not be used as a basis upon which to protest or to demand reconsideration of the outcome of the case, unless the accused also has other bases upon which to protest. In case the violation is not described within this Circular, the violator may not be made subject to criminal prosecution.
3. During enforcement, if there is any difficulty or any circumstance for which this Circular does not provide adequate instructions, or requires additional explanation, the Ministries of Agriculture and Rural Development, Police, Justice, the Supreme People’s Procuracy and/or the Supreme People’s Court must be approached so as to provide additional explanation or instruction.

**On behalf of the  
Deputy of the  
Ministry of Justice  
DEPUTY MINISTER**

**On behalf of the  
Deputy of the  
Ministry of Police  
DEPUTY MINISTER**

**On behalf of the Deputy of the Ministry of Agriculture  
and Rural Development  
DEPUTY MINISTER**

Le Thi Thu Ba

Le The Tiem

Hua Duc Nhi

On behalf of the Deputy of The Supreme  
People's Procuracy  
DEPUTY CHAIRMAN

On behalf of the Deputy of the Supreme People's  
Court  
DEPUTY CHAIRMAN

Duong Thanh Bieu

Dang Quang Phuong

**Receiver:**

- Ministry of Agriculture and Rural Development
- Ministry of Police;
- Ministry of the Supreme People's Procuracy;
- Ministry of the Supreme People's Court
- Ministry of Justice;
- Government office (02 copies for publication);
- Store: National Forest Protection Department (Ministry of Agriculture and Rural Development), Department of Criminal – Administrative Law (Ministry of Justice), V19 (Ministry of Police), V8 (Ministry of the Supreme People's Procuracy), VKHXX (Ministry of the Supreme People's Court).

**For distribution** within the  
branches

**Appendix**

On determining the volume of endangered, rare, or precious species of forest animals in group IB  
(Attached by Inter-agency Circular No. /2007/TTLT/BNN&PTNT-BTP-BCA-VKSNDTC-TANDTC dated /  
/2007)

No.	Vietnamese common name	Scientific name	Volume of individuals necessary to be considered as "causing serious consequences" as outlined in Item 1, Article 176 and requiring criminal prosecution in accordance with Item 1, Article 190 of the Criminal Code	Volume of individuals necessary to be considered as "causing very serious consequences"	Volume of individuals necessary to be considered as "causing extremely serious consequences"
	Mammal	MAMMALIA			
	<b>Dermapteran order</b>	<b>Dermoptera</b>			
1	Malayan Flying Lemur	<i>Cynocephalus variegatus</i>	1 to 2 individuals	3 to 4 individuals	5 individuals or more
	<b>Primate order</b>	<b>Primates</b>			
2	Common slow loris	<i>Nycticebus bengalensis</i> ( <i>N. coucang</i> )	1 to 2 individuals	3 to 4 individuals	5 individuals or more
3	Pygmy loris	<i>Nycticebus pygmaeus</i>	1 to 2 individuals	3 to 4 individuals	5 individuals or more
4	Grey-shanked douc langur	<i>Pygathrix cinerea</i>	1 individual	2 to 3 individuals	4 individuals or more
5	Red-shanked douc langur	<i>Pygathrix nemaeus</i>	1 individual	2 to 3 individuals	4 individuals or more
6	Black-shanked douc langur	<i>Pygathrix nigripes</i>	1 individual	2 to 3 individuals	4 individuals or more

7	Tonkin snub-nosed langur	<i>Rhinopithecus avunculus</i>	1 individual	2 to 3 individuals	4 individuals or more
8	Grey langur	<i>Trachypithecus barbei</i> ( <i>T. phayrei</i> )	1 individual	2 to 3 individuals	4 individuals or more
9	Delacour's langur	<i>Trachypithecus delacouri</i>	1 individual	2 to 3 individuals	4 individuals or more
10	Francois' langur	<i>Trachypithecus francoisi</i>	1 individual	2 to 3 individuals	4 individuals or more
11	Hatinh langur	<i>Trachypithecus hatinhensis</i>	1 individual	2 to 3 individuals	4 individuals or more
12	Cat Ba langur (Golden-headed langur)	<i>Trachypithecus poliocephalus</i>	1 individual	2 to 3 individuals	4 individuals or more
13	Indochinese silvered langur	<i>Trachypithecus villosus</i> ( <i>T. cristatus</i> )	1 individual	2 to 3 individuals	4 individuals or more
14	Western black-crested gibbon	<i>Nomascus (Hylobates) concolor</i>	1 individual	2 to 3 individuals	4 individuals or more
15	Yellow-cheeked gibbon	<i>Nomascus (Hylobates) gabriellae</i>	1 individual	2 to 3 individuals	4 individuals or more
16	Northern white-cheeked gibbon	<i>Nomascus (Hylobates) leucogenys</i>	1 individual	2 to 3 individuals	4 individuals or more
17	Eastern black-crested gibbon	<i>Nomascus (Hylobates) nasutus</i>	1 individual	2 to 3 individuals	4 individuals or more
	<b>Carnivore order</b>	<b>Carnivora</b>			4 individuals or more
18	Dhole	<i>Cuon alpinus</i>	1 individual	2 to 3 individuals	4 individuals or more
19	Malayan sun bear	<i>Ursus (Helarctos) malayanus</i>	1 individual	2 to 3 individuals	4 individuals or more
20	Asiatic black bear	<i>Ursus (Selenarctos) thibetanus</i>	1 individual	2 to 3 individuals	4 individuals or more
21	Eurasian otter	<i>Lutra lutra</i>	1 to 2 individuals	3 to 4 individuals	5 individuals or more
22	Hairy-nosed otter	<i>Lutra sumatrana</i>	1 to 2 individuals	3 to 4 individuals	5 individuals or more
23	Smooth-coated otter	<i>Lutrogale (Lutra) perspicillata</i>	1 to 2 individuals	3 to 4 individuals	5 individuals or more
24	Oriental small-clawed otter	<i>Amblonyx (Aonyx) cinereus</i> ( <i>A. cinerea</i> )	1 to 2 individuals	3 to 4 individuals	5 individuals or more
25	Binturong	<i>Arctictis binturong</i>	1 to 2 individuals	3 to 4 individuals	5 individuals or more
26	Asian golden cat	<i>Catopuma (Felis) temminckii</i>	1 individual	2 to 3 individuals	4 individuals or more
27	Jungle cat	<i>Felis chaus</i>	1 individual	2 to 3 individuals	4 individuals or more
28	Marbled cat	<i>Pardofelis (Felis) marmorata</i>	1 individual	2 to 3 individuals	4 individuals or more
29	Leopard cat	<i>Prionailurus (Felis) bengalensis</i>	1 individual	2 to 3 individuals	4 individuals or more
30	Fishing cat	<i>Prionailurus (Felis) viverrina</i>	1 individual	2 to 3 individuals	4 individuals or more
31	Clouded leopard	<i>Neofelis nebulosa</i>	1 individual	2 to 3 individuals	4 individuals or more
32	Leopard	<i>Panthera pardus</i>	1 individual	2 to 3 individuals	4 individuals or more
33	Indochinese tiger	<i>Panthera tigris</i>			1 individual or more
	<b>Proboscidian Order</b>	<b>Proboscidea</b>			
34	Asian elephant	<i>Elephas maximus</i>			1 individual or more

	<b>Perissodactylate Order</b>	<b>Perissodactyla</b>			
35	One horn rhinos	<i>Rhinoceros sondaicus</i>			1 individual or more
	<b>Artiodactylous Order</b>	<b>Artiodactyla</b>			
36	Hog deer	<i>Axis (Cervus) porcinus</i>	1 individual	2 to 3 individuals	4 individuals or more
37	Eld's deer	<i>Cervus eldii</i>	1 individual	2 to 3 individuals	4 individuals or more
38	Giant muntjac	<i>Megamuntiacus vuquangensis</i>	1 individual	2 to 3 individuals	4 individuals or more
39	Truong Son muntjac	<i>Muntiacus truongsonensis</i>	1 individual	2 to 3 individuals	4 individuals or more
40	Chinese forest musk deer	<i>Moschus berezovskii</i>	1 individual	2 to 3 individuals	4 individuals or more
41	Gaur	<i>Bos gaurus</i>			1 individual or more
42	Banteng	<i>Bos javanicus</i>			1 individual or more
43	Kouprey	<i>Bos sauveli</i>			1 individual or more
44	Wild water buffalo	<i>Bubalus arnee</i>			1 individual or more
45	Serow	<i>Naemorhedus (Capricornis) sumatraensis</i>	1 individual	2 to 3 individuals	4 individuals or more
46	Saola	<i>Pseudoryx nghetinhensis</i>	1 individual	2 to 3 individuals	4 individuals or more
	<b>Lagomorph order</b>	<b>Lagomorpha</b>			4 individuals or more
47	Striped hare	<i>Nesolagus timinsi</i>	1 individual	2 to 3 individuals	4 individuals or more
	Bird class	AVES			
	<b>Pelicanus Order</b>	<b>Pelecaniformes</b>			
48	Lesser Adjutant	<i>Leptoptilos javanicus</i>	1 individual	2 to 3 individuals	4 individuals or more
49	White-shouldered ibis	<i>Pseudibis davisoni</i>	1 individual	2 to 3 individuals	4 individuals or more
50	Black-faced spoonbill	<i>Platalea minor</i>	1 individual	2 to 3 individuals	4 individuals or more
	<b>Crane Order</b>	<b>Gruiformes</b>			
51	Sarus crane	<i>Grus antigone</i>	1 individual	2 to 3 individuals	4 individuals or more
	<b>Bộ gà</b>	<b>Galiformes</b>			
52	Grey peacock pheasant	<i>Polyplectron bicalcaratum</i>	1 individual	2 to 3 individuals	4 individuals or more
53	Germain's peacock pheasant	<i>Polyplectron germaini</i>	1 individual	2 to 3 individuals	4 individuals or more
54	Crested argus	<i>Rheinardia ocellata</i>	1 individual	2 to 3 individuals	4 individuals or more
55	Green peafowl	<i>Pavo muticus</i>			
56	Siamese fireback	<i>Lophura diardi</i>	1 individual	2 to 3 individuals	4 individuals or more
57	Edward's pheasant	<i>Lophura edwardsi</i>	1 individual	2 to 3 individuals	4 individuals or more
58	Vietnamese Pheasant	<i>Lophura hatinhensis</i>	1 individual	2 to 3 individuals	4 individuals or more
59	Imperial pheasant	<i>Lophura imperialis</i>	1 individual	2 to 3 individuals	4 individuals or more
60	Silver pheasant	<i>Lophura nycthemera</i>	1 individual	2 to 3 individuals	4 individuals or

					more
	Reptile class	REPTILIA			
	<b>Squamate Order</b>	<b>Squamata</b>			
61	King cobra	<i>Ophiophagus hannah</i>	1 individual	2 to 3 individuals	4 individuals or more
	<b>Turtle order</b>	<b>Testudinata</b>			
62	Chinese three-stripped box turtle	<i>Cuora trifasciata</i>	1 individual	2 to 3 individuals	4 individuals or more