

China's Wildlife Law in the Context of Public Health: Problems and Proposals

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COVID-19 has sparked various discussions and reflections in China. The public is deeply aware of the huge public health risks associated with the commercial use of wildlife.

WHERE DID THE COVID-19 CORONAVIRUS COME FROM?

HOW WILDLIFE MARKETS SPREAD DISEASE

The spread of zoonotic diseases — those pathogens that jump from the species that it evolved with to a new host — is exacerbated by wildlife trafficking, habitat destruction and climate change. These threats drive humans and animals closer together. Coronavirus is just one example of a string of pathogens that has come from wildlife trafficking, including SARS, Ebola, Bird Flu, and more. | #COVID19

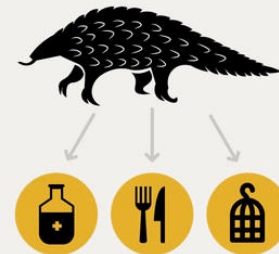


2. RESERVOIRS OF DISEASE

Wild animals that appear healthy can harbor diseases that can make other animals, including humans, sick. When animals are forced into markets, they can spread disease.

1. WILDLIFE TRAFFICKING & POACHING

Animals are hunted, trapped and taken to markets to be sold for traditional medicine, food and the pet trade.



3. PATHOGEN EXCHANGE



It's only when humans hunt wildlife or destroy their homes that these viruses and other pathogens jump species. We must combat trafficking of wild animals and change dangerous wildlife consumption behaviors, especially in cities.



Outline

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- Highlights of the Wildlife Protection Law
- Public Controversy over Wildlife Management
- Legal Responses
- Next Steps Foreseen
- Suggestion



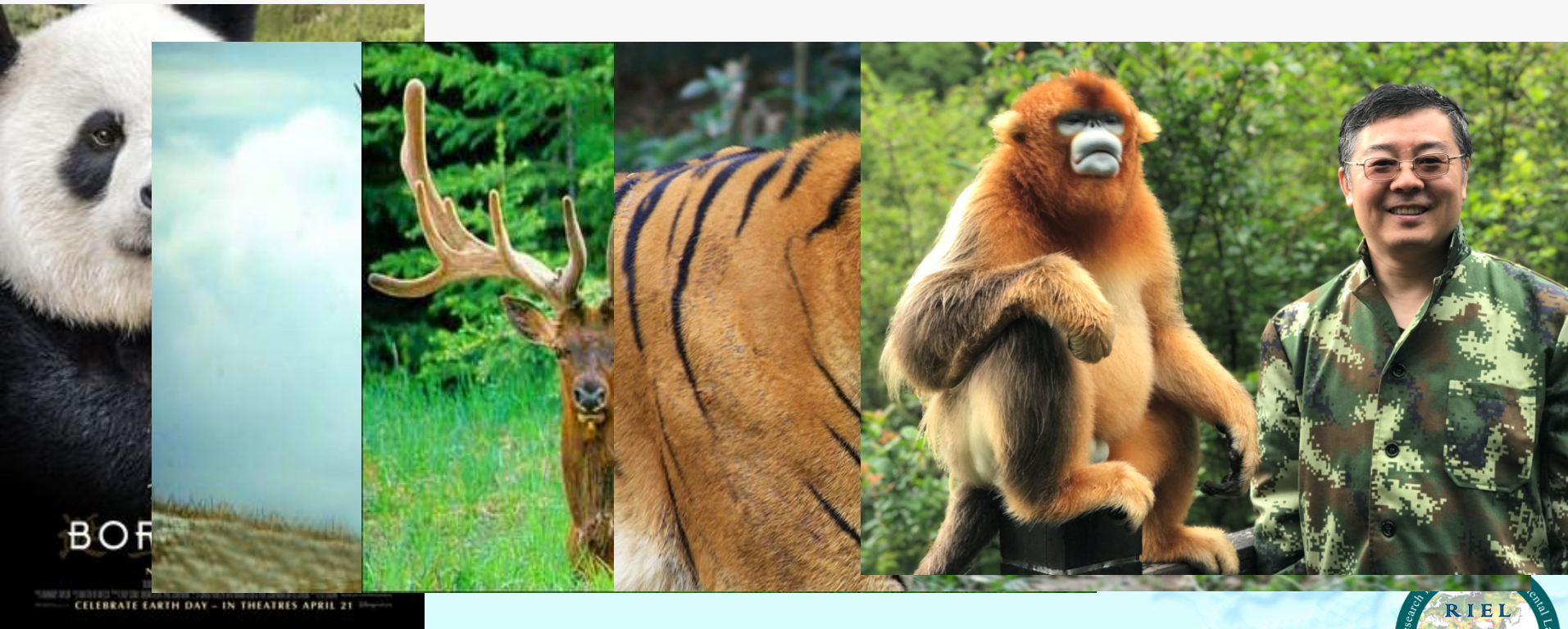
Background 1

China's vast and diverse landscape is home to a profound variety and abundance of wildlife. As of one of 17 megadiverse countries in the world, China has 7,516 species of vertebrates, including 4,936 fish, 1,269 bird, 562 mammal, 403 reptile and 346 amphibian species. In terms of the number of species, China **rank**s third in the world in mammals, eighth in birds, seventh in reptiles and seventh in amphibians.

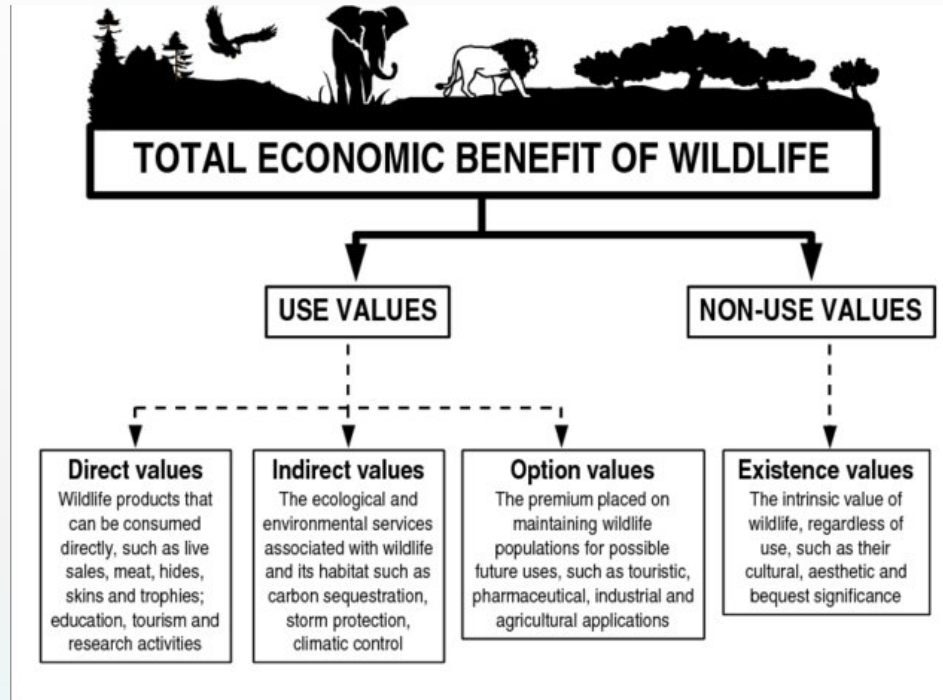


Background 2

Many species of animals are **endemic** to China, including the country's most famous wildlife species, the giant panda. In all, about one-sixth of mammal species and two-thirds of amphibian species in China are endemic to the country.



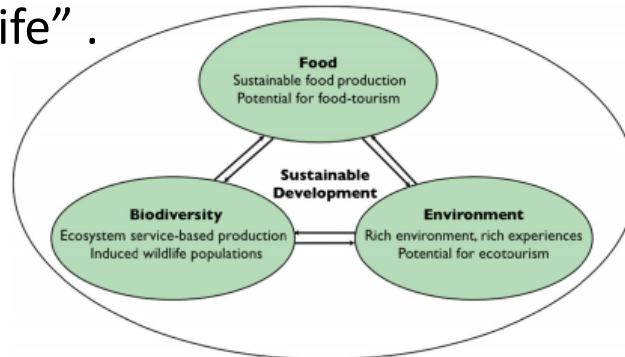
Background 3



Highlights of the Wildlife Protection Law 1

The Wildlife Protection Law (WPL) was enacted in 1988 for the purpose of protecting and saving the species of wildlife which are rare or near extinction, protecting, developing and rationally **utilizing** wildlife resources and maintaining ecological balances, and for implementing the obligations of CITES as well.

The WPL was amended slightly twice in 2004 and 2009, and was revised greatly in 2016. The fundamental principles of the Law was adjusted from “strengthening resources protection, actively domesticating and breeding, and **rational utilization of wildlife**” to “prioritized protection, **regulated utilization**, and strict oversight of wildlife” .



Highlights of the Wildlife Protection Law 2

Name	Effective	Contents Pertinent to Wildlife Protection
Regulation on Terrestrial Wildlife Protection	06-02-2016	makes detailed stipulations on the hunting, domestication, propagation, and utilization of terrestrial wildlife
Regulation on Aquatic Wildlife Protection	07-12-2013	makes detailed stipulations on the hunting, domestication, propagation, and utilization of aquatic wildlife
Regulation on Nature Reserves	08-01-2011	stipulates concrete wildlife protection measures in different regions of nature reserves at various levels
Regulation on Administration of Import and Export of Endangered Wild Animals and Plants	01-09-2006	stipulates the examination and approval procedure of import and export of endangered wildlife
Management Rules for Nature Reserves of Forest and Wildlife Types	21-06-1985	is responsible for constructing nature reserves for specific wildlife species
Management Rules on Rescue of Terrestrial Wildlife	01-08-2014	aims to strengthen rescue management—including the inspection, quarantine, treatment, and reasonable placement of terrestrial wildlife
Management Rules on Animal Quarantine	01-03-2010	stipulates the quarantine conditions and procedure of legally captured wildlife
Management Rules on Urban Zoo	23-08-2001	pays attention to the propaganda and education of wildlife protection, the scientific research on protection of rare and endangered wildlife, and the domestication and propagation of wildlife

Highlights of the Wildlife Protection Law 3

Key Provisions

❑ All wildlife resources **belong to the State**, according to both the old and the new laws.

❑ The new Law also continues to authorize the forestry and fishery **departments** under the State Council to be in charge of the protection of terrestrial and aquatic wildlife respectively.

❑ The State carries out **wildlife protection differentiated by category and level**.



Highlights of the Wildlife Protection Law 4

Breeding of Wildlife Species



❑ The new Law deletes the articles which might encourage domestication and breeding of wildlife for various purposes, including human utilization, keeping programs carried out by scientific research institutions for preservation purposes.

❑ Captive breeding of wildlife for commercial purposes is still allowed, as long as **a license** is obtained from provincial-level government authorities.

❑ The new Law also requires captive breeding of wildlife under key national protection to **be beneficial to the protection of the species and its scientific research** and non-destructive of the species in the wild.

Highlights of the Wildlife Protection Law 5

Trade Ban in Protected Wildlife and Products

- ❑ The Law in general prohibits the sale, purchase, or use of rare or near-extinction wildlife, and their products, that are under key national protection.
- ❑ However, exceptions are made for trade in these wildlife species and their products for certain purposes, including scientific research on, captive breeding of, and public exhibitions or performances involving wildlife. Under these **excepted circumstances**, an approval must be obtained from the provincial-level government authorities, and **a special label** must be obtained and used to ensure tracking.



Highlights of the Wildlife Protection Law 6

Protection of Wildlife Habitats

□ The 2016 Law has some new provisions on the protection of wildlife habitats. For example, the Law restricts construction projects in **nature reserves**. Sites and routes for construction projects such as airports, railways, roads, waterworks, etc. shall avoid nature reserves and migration paths of wildlife. When it is impossible to avoid the nature reserves and migration paths, the projects will build **corridors** for wildlife and migratory fish facilities and institute “other measures to eliminate or mitigate the adverse impact on wildlife.”



Highlights of the Wildlife Protection Law 7

Prohibited Hunting Methods

❑ The new Law expands the hunting methods prohibited by the old Law to include poisons, explosives, electronic shock, electronic trap devices, snares, leg-hold traps, makeshift guns, etc. Nighttime hunting with lights, guerrilla-style hunting, and hunting by destroying nests or using fire, smoke, or nets are also generally prohibited.



Highlights of the Wildlife Protection Law 8

Limited Prohibition of Use as Food

❑ The production and trade of food made from wildlife under **key national protection**, and the products thereof, is prohibited, as well as use of wildlife that are not under national key protection to produce food **without proofs of its lawful origins**.

❑ The illegal purchase of wildlife under key national protection, and the products thereof, for use as food is prohibited.



Highlights of the Wildlife Protection Law 9

Epidemic Sources and Wildlife Diseases

❑ The departments for the protection of wildlife and veterinary medicine shall monitor epidemic sources and wildlife diseases, organize and carry out **monitoring, forecasting** and other work, make **emergency response plans** for wildlife disease epidemics in accordance with provisions, and report plans to the people's governments at the same level for approval or filing.

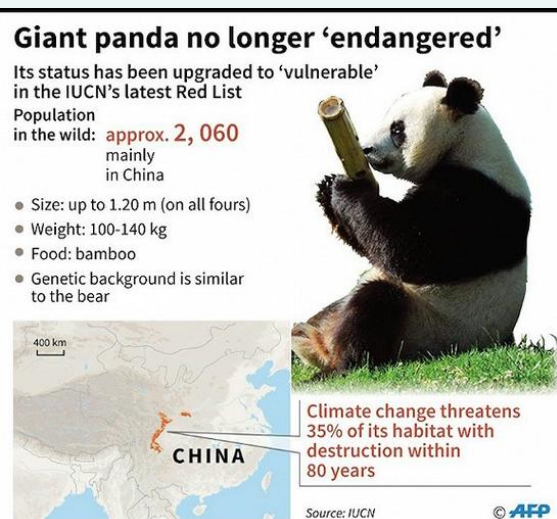
❑ The competent departments for wildlife protection, veterinary medicine, and health shall take efforts to prevent and manage **zoonotic diseases**.



Highlights of the Wildlife Protection Law 10

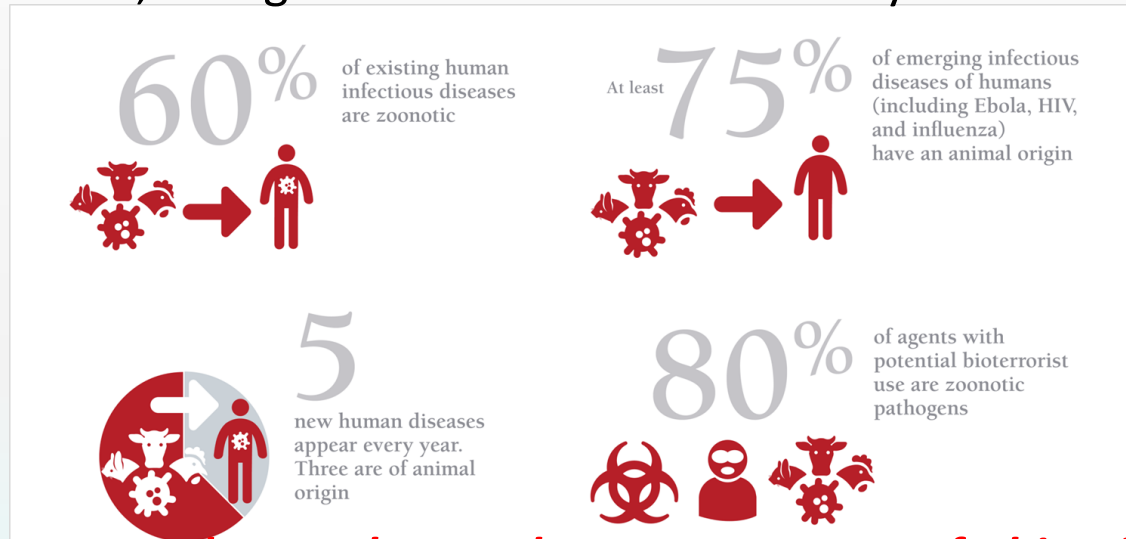
Effectiveness of the Wildlife Protection Law

- ❑ Some endangered species, such as Asian Elephants, Giant Pandas, have been well rescued, protected and restored.
- ❑ Wildlife breeding and utilization activities have been strictly regulated and supervised
- ❑ Various types of nature reserves for wildlife have been established.



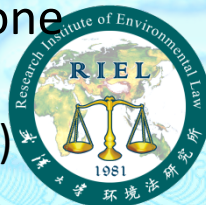
Public Controversy Over Wildlife Protection Law 1

Majority of general public believed that, COVID-19 likely originated from wildlife, though without scientific certainty.



However, we do not know the exact source of this virus. Public health officials and partners are working hard to identify the source of COVID-19. The first reported infections were linked to a live animal market, but the virus is now spreading from person to person. The coronavirus most similar to the virus causing COVID-19 is the one that causes SARS.

(<https://www.cdc.gov/coronavirus/2019-ncov/prepare/animals.html>)



Public Controversy Over Wildlife Protection Law 2

In such circumstance, from the **precautionary** perspective, there are some major deficiencies of the Wildlife Protection Law as follows:

- ❑ The close relationship between wildlife and public health has not been properly understood and incorporated in the WPL.
- ❑ It has failed to form an effective system of coordination with other laws on wildlife epidemic prevention and quarantine.
- ❑ There is no definition of “Wildlife” and limited scope of protected wildlife.
- ❑ The existing provisions on utilization industry and weak enforcement increase the risk of public health related to wildlife.

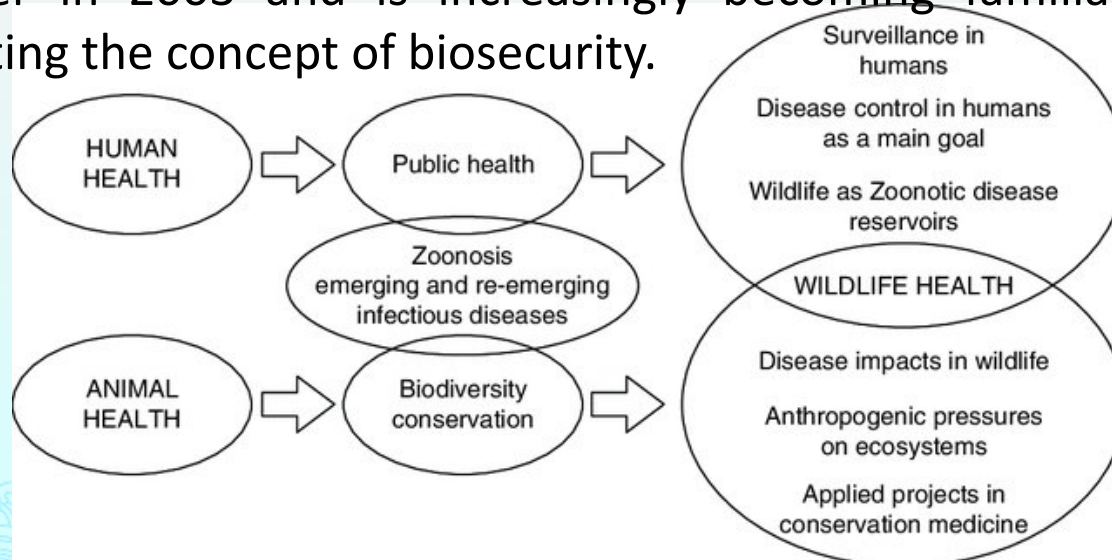


Public Controversy Over Wildlife Protection Law 3

1. No substantial consideration of public health in the WPL.

❑ Purposes of the WPL are limited to wildlife itself, namely, to protect wildlife, to rescue rare and endangered wildlife, and to preserve biodiversity and ecological balance.

❑ Obviously, it did not consider inter-relationship between wildlife protection and public health, especially that we have had the SARS disaster in 2003 and is increasingly becoming familiar with and accepting the concept of biosecurity.



Public Controversy Over Wildlife Protection Law 4

2. No effective coordination among WPL with other related laws.

❑ The ***Animal Epidemic Prevention Law*** excludes illegally hunted wildlife from the animal quarantine system, and the gaps have instead promoted **illegal hunting** of wildlife.

❑ The ***Entry and Exit Animal and Plant Quarantine Law*** is mainly to prevent the introduction and export of animal infectious diseases, parasitic diseases, and plant diseases and insect pests. The problem of **epidemics caused by domestic wildlife** in China does not fall into its scope of application.

❑ The ***Law on the Prevention and Control of Infectious Diseases*** provides more regulations on **existing zoonotic diseases**, but few on new types of infectious diseases, especially those affecting only people but not wildlife.



Public Controversy Over Wildlife Protection Law 5

3. No definition of “Wildlife” & limited scope of protection

❑ All the laws in China have not clearly stipulated a definition of wildlife, leading to **two important legal questions** are: 1) Whether animals domesticated after capture from the wild should still be legally regarded as wildlife, and 2) whether domesticated animals should be regarded as wildlife after they are released into the wild.

❑ **Not all wildlife is effectively protected** through current legislation. Only rare and endangered terrestrial and aquatic species are protected under the WPL. Furthermore, terrestrial species not categorized as having important ecological, scientific, and social values are not protected under the WPL. In summary, the legislation’s objective squarely but narrowly focuses on the importance of a species in terms of its rarity, particularity, and specific value



Public Controversy Over Wildlife Protection Law 6

4. Utilization industry increases risk of public health

❑ The Law emphasizes the **issuance of permits** for captive breeding of wildlife, but not clearly regulates the following management and supervision of captive animals.

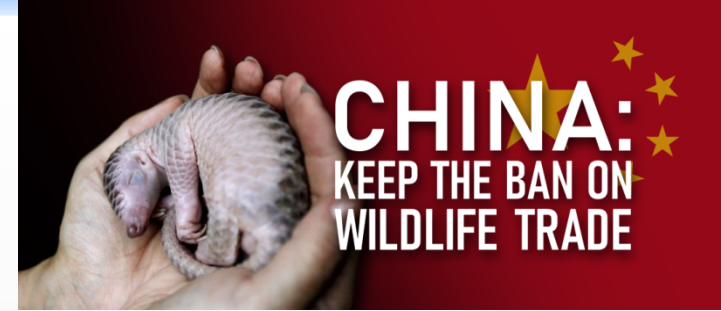
❑ The “**wildlife domestication**” is a key part of rural development, eco-tourism and poverty alleviation. A 2017 report by the Chinese Academy of Engineering valued the wildlife-farming industry at ¥520bn, or \$75bn.

❑ The consumption of wildlife and the products thereof has greatly stimulated the hunting and trade of wildlife and the risks of epidemic sources and wildlife diseases as well.

hunting—breeding—transportation—consumption



Legal Responses 1



On January 26th, the State Administration of Market Regulation, Ministry of Agricultural and Rural Affairs and the State Forestry and Grassland Administration (SFGA) temporarily banned the trade of wildlife following a viral outbreak in Wuhan.

- ❑ Any form of **wildlife trade** will be strictly prohibited on platforms including marketplaces, supermarkets, dining places and e-commerce sites.
- ❑ Authorities ordered all sites raising wildlife to be **quarantined** and forbade the transportation and selling of wildlife from these sites.
- ❑ Any businesses and operators breaching the ban shall be **shut down**. And if the violations are serious enough, the suspects shall be handed over to police for criminal investigation.



Legal Responses 2

On February 4, 2019, the U.S. Congress adopted the **Wildlife and Tourism Act**, which **Prohibits the Trade and Consumption of Wildlife**.

❑ **Black list:** terrestrial wildlife and Aquatic wildlife

❑ **White List** Poultry Genet

❑ The **quarantine** provisions shall be strictly implemented for the management and utilization of wildlife for non-food purposes



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Legal Responses 3

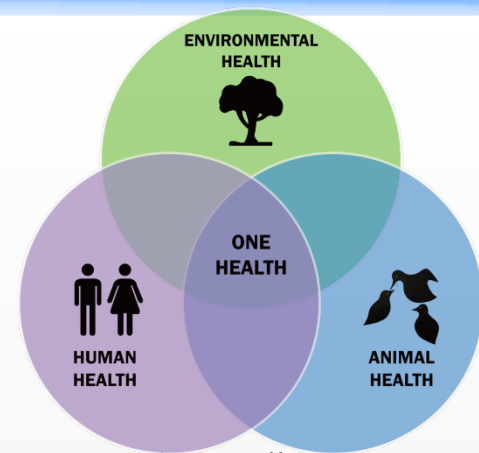
On February 27th, the SFGA issued rules implementing the Decision which

- ❑ Strictly crack down on wildlife hunting, illegal trading and other activities, and **resolutely ban illegal wildlife markets**
- ❑ Comprehensively rectify the companies for artificial breeding, operation and utilization of wildlife, and **withdraw and cancel all issued licenses** and permits according to laws
- ❑ All applications for hunting, operating wildlife and other activities for the purpose of **eating shall be halted**, and the approval of **non-edible use** of wildlife (such as research, medicine and exhibition) shall be **strictly regulated**.



Legal Responses 4

Progress: Precaution Principle + Public Health



□ Public health as the main purpose was accepted “to comprehensively prohibit and punish illegal wildlife trade, eliminate the bad habits of abusively eating wildlife, to maintain biosecurity and ecological safety, to effectively **prevent major public health risks, to effectively protect life and health of the people**, to strengthen the construction of ecological civilization, and to promote the harmonious symbiosis of people and nature”.

□ Expansion of Eating Ban to all wildlife.

□ Coordinated arrangements for amendments to relevant laws.

Legal Responses 5

Problems to be solved in following amendments/revisions of Laws

- ❑ The Decision is a parliamentary instrument, not as comprehensive and systematic as laws, only for temporary and transitional regulation.
- ❑ Terrestrial and aquatic wildlife still need to be clearly defined.
- ❑ There are also public health loopholes in the trade of living wildlife as pets (such as parrots, amphibians and reptiles, etc.) which are not considered



Next Steps Foreseen

The Decision indicates the **direction** of the revision of the *Wildlife Protection Law* and other relevant laws.

❑ The concept of public health will be emphasized in the process of amending laws such as the *Wildlife Protection law*, the *Animal Epidemic Prevention Law*, the *Prevention and Control of Infectious Diseases Law*, and of enacting of the new *Biosecurity Law*.

❑ The breeding, management and utilization of wildlife for food purposes will be strictly banned and punished.

❑ A white-list system will be adopted for the commercial breeding, management and utilization of wildlife.

❑ The quarantine regulations will be more stringent, detailed, and operational.



Suggestion

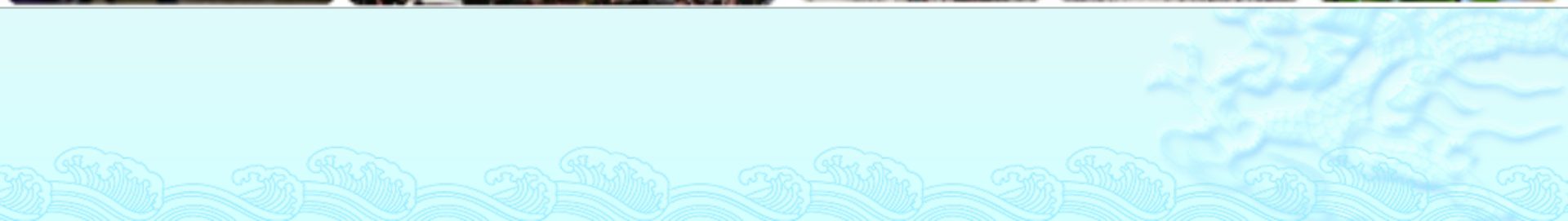
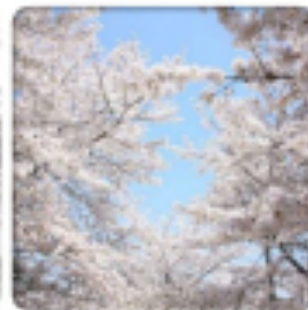
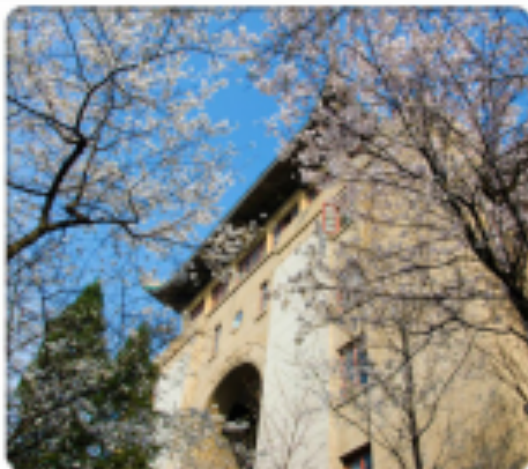


In the context of globalization, the illegal trade in transnational wildlife will accelerate the long-range transfer, reorganization and cross-species transmission of unknown pathogens. This is a public health challenge facing the whole world.

To deal with such challenge, it is necessary to strengthen international cooperation to jointly combat the illegal transnational wildlife trade.



Thanks! Comments?



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