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REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE

BIODIVERSITY DECREE LAW No. /2012

Timor-Leste is endowed with a rich biodiversity, being home to a number of globally significant ecosystems and endemic species, and positioned in a global 'biodiversity hotspot'. However, this biodiversity is under considerable pressure, with over-exploitation and unsustainable use of biological resources, and habitat degradation, fragmentation and loss caused by deforestation, land conversion, unsustainable agricultural practices, mining of rivers and pollution, invasive alien species and climate change, all contributing to the loss of biodiversity. Maintaining Timor-Leste's endowed biodiversity is fundamental for many priority sectors, including agriculture and tourism. Conserving biodiversity and sustainably using biological resources will ensure the natural environment, and in particular the services that ecosystems provide, such as the provision of freshwater and preventing soil erosion, will continue to provide the fundamental basis for livelihoods and food security in Timor-Leste, as well as promoting the health, well-being and culture of the Timorese people. Addressing biodiversity loss and ensuring the sustainable use of biological resources is therefore a significant priority for the Government.

To help it address these challenges, Timor-Leste became a party to the Convention on Biological Diversity (CBD) in 2007, and has recently taken a number of steps towards fulfilling its obligations under this Convention, including the recent preparation of the National Biodiversity Strategy and Action Plan (NBSAP), the nation's guiding framework for biodiversity conservation. The NBSAP emphasizes the urgent need to adopt and implement a national biodiversity law to provide the legal framework for conserving biodiversity, sustainably using biological resources and equitably sharing benefits generated from genetic resources. This Decree Law and the NBSAP, together, represent a significant step towards fulfilling Timor-Leste's obligations under the CBD. This Decree Law will also contribute significantly to the implementation of Articles 6, 61 and 139 of the Constitution of the Democratic Republic of Timor-Leste, and the Framework Environmental Law.

The Decree Law promotes the integration of biodiversity considerations into the development of all national laws, policies, programs and activities. It also requires the active participation of all sectors of society in the conservation of biodiversity and the sustainable use of biological resources and education and awareness-raising about their importance.

Pursuant to Article 115 of the Constitution of the Democratic Republic of Timor-Leste, the Government therefore decrees the following, which shall have the force of law:

CHAPTER 1 - Introductory Provisions

Article 1 – Definitions

For the purposes of this Decree Law, the definitions of the Framework Environmental Law shall apply, in addition to the following:

- (a) *Access to genetic resources*: means the acquisition and use of biological or other material containing genetic material and derivatives of genetic material from *in-situ* and *ex-situ* conditions, and any traditional knowledge associated with it, for purposes of academic and applied research, conservation, or commercial use, among other applications.
- (b) *Alien species*: means a species, subspecies, or lower taxon occurring outside of the range it occupies naturally or could not occupy without direct or indirect introduction or care by humans, and includes any part of that species that might survive and subsequently reproduce;
- (c) *Benefit-sharing*: means the fair and equitable distribution of the results of access to genetic resources and the traditional knowledge associated with them and includes both monetary and non-monetary benefits;
- (d) *Biodiversity, or biological diversity*: means the variability among living organisms from all sources including, among other things, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species, and of ecosystems;
- (e) *Biological resources*: include genetic resources, living organisms or parts of them, populations, and ecosystems and any other biotic component of them, with actual or potential use or value for humanity;
- (f) *Components of biodiversity*: means ecosystems and habitats, species, and genes.
- (g) *Conservation status*: means the total of all influences acting on a species that may affect its long-term distribution and abundance;
- (h) *Critical habitat*: means habitat that is necessary for the survival of a protected species and essential for its conservation;
- (i) *Ecosystem*: means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;
- (j) *Ecosystem approach*: means a strategy for the long-term integrated management of land, water and biological resources that places human needs at the center of biodiversity management and promotes conservation and sustainable use in an equitable way;
- (k) *Environmental services*: means the functions of ecosystems that create and provide benefits for human beings and for the ecosystems themselves and which include sequestration, storage and fixing of greenhouse gases, the generation, filtration and protection of water, the protection of biodiversity, and scenic beauty;
- (l) *Ex-situ conservation*: means the conservation of biological resources outside their natural habitats;
- (m) *Favourable conservation status*: means that:
 - (1) The species is maintaining itself on a long-term basis as a viable component of its ecosystem;
 - (2) The distribution of the species is neither currently being reduced, nor is likely to be reduced, on a long-term basis;

- (3) There is, and will be in the foreseeable future, sufficient habitat to maintain the population of the species on a long-term basis; or
- (4) The distribution and abundance of the species are substantially similar to historic coverage and levels to the extent that potentially suitable ecosystems exist and to the extent consistent with sustainable wildlife management.
- (n) *Framework Environmental Law*: means the basic or framework environmental law that is in force in Timor-Leste from time to time;
- (o) *Genetic resources*: include the genetic material of animals, plants, fungi, and micro-organisms which have functional units of heredity and have actual or potential value for humankind;
- (p) *Genetically modified organism (GMO)*: means any biological entity capable of replication or of transferring genetic material that possesses a novel combination of genetic material which does not occur through natural recombination and includes both living and non-living modified organisms;
- (q) *Habitat*: means the place or type of site where an organism or population naturally occurs, finds shelter, feeds, and breeds;
- (r) *In-situ conservation*: means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties;
- (s) *Invasive alien species*: means an alien species which becomes established in natural or semi-natural ecosystems or habitat, is an agent of change, and threatens native biological diversity. Invasive species may be native to Timor-Leste, but alien outside their normal distribution in the country;
- (t) *Local authorities*: means community leaders and leadership structures, such as the *Suco Council*, the *Chefe do Suco*, and the *Chefe da Aldeia*, as defined by laws in force in Timor-Leste;
- (u) *National Clearing-House Mechanism*: means the information service organized to promote and facilitate technical and scientific cooperation, knowledge sharing and information exchange to facilitate the implementation of this Decree Law and the National Biodiversity Strategy and Action Plan;
- (v) *Payments for Environmental Services*: means public mechanisms and private agreements, including trading schemes that create markets in which legally-recognized rights, permits and/or quotas can be sold or exchanged through other means, under which one or more buyers agree to compensate one or more persons for adopting and maintaining sustainable land and natural resource management practices that ensure continuous provision of a specified environmental service;
- (w) *Population*: means a group of animals, plants, fungi or micro-organisms belonging to the same species or subs-species which is geographically separate from other groups belonging to the same species or sub-species;
- (x) *Protected area*: means a clearly defined area of land, freshwater or sea dedicated to the protection and maintenance of biological diversity, environmental services and associated cultural values and managed through legal or other effective means;
- (y) *Risk assessment*: means evaluating the direct and indirect, short-, medium- and long-term potential risk to human health, the environment and biological diversity of an activity, process or action, estimating the likelihood that the risk will occur, and estimating how much damage would be caused if the risk does occur;
- (z) *Species*: means a group of organisms that share similar characteristics and can interbreed with one another to produce fertile offspring and includes sub-species and lower taxa as well as any part of the species that is capable of survival and reproduction;

- (aa) *Specimen*: means both living and dead animals and plants and any readily recognizable parts or derivatives;
- (bb) *Stakeholder*: means any person who has an interest in, or who will be indirectly or directly affected by, or who can influence the activities and processes that involve, biological resources and the maintenance of biodiversity in Timor-Leste;
- (cc) *Household subsistence*: means hunting, fishing, and agriculture only for the purpose of providing food for oneself or one's family at the minimum level required for survival, and does not include any sale or commercialization of the specimens that are hunted or fished or of the agricultural produce.
- (dd) *Threatened species*: means a species which is facing an extremely high, very high or high risk of extinction in the wild and is thus respectively categorised for the purposes of the global Red List as critically endangered, endangered, or vulnerable;
- (ee) *Valuation of biodiversity*: means a partial or comprehensive monetary expression of the economic worth of biodiversity and biological resources as natural capital;
- (ff) *Wildlife*: means plant and animal species occurring within natural ecosystems and habitats with no, or only limited, human influence in their existence and reproduction.

Article 2 - Purpose

The purpose of this Decree Law is to establish that biodiversity and biological resources are of strategic significance and importance to Timor-Leste and to promote the sustainable use of biological resources, the conservation of biodiversity, and the fair and equitable sharing of the benefits generated from genetic resources, so that the biological resources and biodiversity of Timor-Leste shall provide the basis for livelihoods and food security, health and well-being, and culture, for current and future generations.

Article 3 – Scope of application

1. This Decree Law applies:
 - (a) To all biological resources, including terrestrial, freshwater and marine, within the jurisdiction of Timor-Leste including its territorial waters, exclusive economic zone and continental shelf;
 - (b) To all activities, processes and actions affecting biodiversity and biological resources within the jurisdiction of Timor-Leste; and
 - (c) To all activities, processes and actions conducted by or on behalf of Timor-Leste outside its territorial jurisdiction.
2. This Decree Law binds all organs of the State of Timor-Leste including national and district levels of administration, and local authorities.
3. This Decree Law binds all natural and legal persons, whether national or foreign.

Article 4 – Principles and approaches

1. The implementation of this Decree Law is to be guided by the purpose established by Article 2, the general principles contained in the Framework Environmental Law, and the following additional principles and approaches:
 - (a) *Intrinsic value*: All forms of life have intrinsic value, independent of actual or potential economic value, as well as their value, for personal, social, cultural and aesthetic purposes;
 - (b) *Equity*: The costs and benefits arising from conservation of biodiversity and sustainable use of biological resources shall be shared among all stakeholders in an equitable manner, to be determined as provided in Chapter 11;
 - (c) *The ecosystem approach*: A strategy for the long-term integrated management of land, water and living resources that places human needs at the center of biodiversity management and promotes conservation and sustainable use in an equitable way;

- (d) *The knowledge-based approach to decision-making:* Best available scientific and technical information and knowledge and, in appropriate circumstances, traditional knowledge shall be used as the basis for making all decisions affecting biodiversity and biological resources.

2. The Ministry responsible for the environment may develop regulations or guidelines to assist with the interpretation and application of these principles and approaches and, until such time as national guidelines are issued, may use applicable international standards and guidelines.

Chapter 2 – Institutional Arrangements

Part 1 - Administration and institutional responsibilities

Article 5 – Institutions responsible for biodiversity and biological resources

1. The Ministry responsible for the environment and the Ministry responsible for biological resources shall be jointly responsible for the administration of this Decree Law, in accordance with the roles conferred by Articles 6 and 7 and the general provisions of this Decree Law.

2. The Ministry responsible for the environment and the Ministry responsible for biological resources shall pursue the purpose set out in Article 2 and apply the principles and approaches set out in Article 4 when exercising the powers and functions assigned to them by this Decree Law and any regulations made under it.

Article 6 – Functions of Ministry responsible for the environment

The functions of the Ministry responsible for the environment is to:

- (a) Formulate and revise strategies, plans, policies, and programs that support the conservation and restoration of biodiversity and the sustainable use of biological resources;
- (b) Serve as the national focal point for the Convention on Biological Diversity;
- (c) Coordinate the development, monitoring and revision of the National Biodiversity Strategy and Action Plan and any implementing national programs on biodiversity conservation, and oversee their implementation, in coordination with stakeholders;
- (d) Report regularly on the status of the nation's biodiversity and biological resources;
- (d) Establish an independent Biodiversity Advisory Committee, and define its composition and operating procedures;
- (d) Promote and encourage public awareness, education and training about the sustainable use of biological resources and the conservation of biodiversity;
- (e) Promote cooperation of and consultation with stakeholders in the sustainable use of biological resources and the conservation of biodiversity, including but not limited to State institutions, district administration, local authorities, local communities, civil society and the private sector, to ensure the mainstreaming of sustainable use of biological resources and biodiversity conservation into all sectors;
- (f) In coordination with the Ministry responsible for international affairs, define and assist in the cooperative implementation of national measures to implement international policy and obligations related to biodiversity;
- (g) Regulate access to genetic resources and associated traditional knowledge, and the fair and equitable sharing of benefits arising from their utilisation, in accordance with any international agreements to which Timor-Leste is a Party;

- (h) Ensure that potential impacts on biodiversity and biological resources are considered in environmental impact assessment processes;
- (i) Encourage and support consultation and public participation in the making of decisions that impact on the sustainable use of biological resources and the conservation of biodiversity;
- (j) Recognise, support and promote the role and use of local communities' traditional culture, knowledge and practices, including but not limited to *tara bandu*, in the sustainable use of biological resources and the conservation of biodiversity;
- (k) Monitor and enforce compliance with the provisions of this Decree Law that it is responsible for, and other applicable laws, regulations or guidelines, in coordination and cooperation with other competent State institutions;
- (l) Fulfil any other functions and powers assigned to it by this Decree Law and any regulations made under it.

Article 7 – Functions of Ministry responsible for biological resources

The functions of the Ministry responsible for biological resources is to:

- (a) Identify biological resources important for biodiversity conservation and monitor the status of biodiversity and biological resources in Timor-Leste;
- (b) Establish and maintain inventories of data and information about biodiversity and biological resources, and ensure this information is made publicly available, including through the National Clearing-House Mechanism;
- (c) Establish and manage a national system of terrestrial and marine protected areas;
- (d) Coordinate and undertake programmes and activities for the sustainable use, conservation, protection, restoration and rehabilitation of ecosystems, habitats and species outside of protected areas;
- (e) Coordinate and undertake programmes and activities to respond to threats to the sustainable use of biological resources and the conservation of biodiversity, including by implementing a system of permits to regulate trade in protected species and for controlling invasive alien species;
- (f) Provide access to sound technical advice, share information and give other relevant support to stakeholders, in both the private and public sectors, on matters relating to the sustainable use of biological resources and the conservation of biodiversity;
- (g) Contribute to regular reports on the status of the nation's biodiversity and biological resources;
- (h) Recognise, support and promote the role and use of local communities' traditional culture, knowledge and practices, including but not limited to Tara Bandu, in the sustainable use of biological resources and the conservation of biodiversity;
- (i) Monitor and enforce compliance with the provisions of this Decree Law that it is responsible for, and other applicable laws, regulations or guidelines, in coordination and cooperation with other competent State institutions;
- (j) Fulfil any other functions and powers assigned to it by this Decree Law and any laws or regulations made under it.

Article 8 – Functions of other State institutions

1. All State institutions whose mandates require actions that impact biodiversity and biological resources, including but not limited to those with responsibilities for energy, tourism, natural resources and land-use

planning, have a duty to promote the sustainable use of biological resources and the conservation of biodiversity.

2. In order to fulfil the duty in subsection (1), all State institutions shall pursue the purpose set out in Article 2 and apply the principles and approaches set out in Article 4 when exercising their powers, including when developing and implementing laws, regulations, policies, plans, programmes and projects.

3. All State institutions have a duty to consult, cooperate and coordinate with the Ministry responsible for the environment and the Ministry responsible for biological resources when exercising their powers and functions, including when developing and implementing laws, regulations, policies, plans, programmes and projects, and when making decisions that may affect biodiversity and biological resources.

4. When making decisions that may affect biodiversity and biological resources, all State institutions must comply with the requirements set out in Chapter 11.

5. All State institutions have a duty to report to the responsible Ministry when they know or suspect that any activities, acts or omissions are degrading or harming or threaten to degrade or harm biodiversity or biological resources, in contravention of this Decree Law or any other environmental law or regulation.

Article 9 – Functions of district and sub-district administration

1. The functions of district and sub-district administration are to:

(a) Implement the purpose, principles and approaches of this Decree Law in carrying out their duties;

(b) Identify needs and opportunities for activities in their jurisdictions relating to the sustainable use of biological resources and biodiversity conservation in their jurisdictions and report to the Ministry responsible for biological resources;

(c) Coordinate and contribute to the implementation of processes and activities that support the sustainable use of biological resources and conservation of biodiversity in their jurisdictions;

(d) Actively participate in consultation processes relating to decision-making about the sustainable use of biological resources and conservation of biodiversity;

(e) Monitor and report regularly to the responsible Ministries on the effectiveness of programmes and activities carried out in their jurisdictions that support the sustainable use of biological resources and conservation of biodiversity;

(f) Report to the responsible Ministries when they know or suspect that any activities, acts or omissions are degrading or harming, or threaten to degrade or harm biodiversity or biological resources, in contravention of this Decree Law or any other environmental law or regulation;

(h) Fulfil any other functions and exercise any powers assigned to it by this Decree Law and any regulations made under it, in order to fulfil the purpose of this Decree Law.

2. The Ministries responsible for implementing this Decree Law shall ensure the active, prior and informed consultation with, and involvement of district and sub-district administration when developing and making decisions about policies, programs, plans and projects that are likely to have an impact on biodiversity or biological resources in or near their area of jurisdiction. Consultation for the purposes of this Article shall comply with the minimum requirements established in Article 58 of this Decree Law.

Article 10 – Functions of local authorities

1. The functions of local authorities are to:

(a) Implement the purpose and principles of this Decree Law in carrying out their duties;

- (b) Identify needs and opportunities for local activities that support the sustainable use of biological resources and conservation of biodiversity and report them to the [district and sub-district administration and the responsible Ministry;
- (c) Contribute to the coordination and implementation of programmes and activities that support the sustainable use of biological resources and conservation of biodiversity in their jurisdictions;
- (d) Promote and support local communities in the development and implementation of local biodiversity plans or agreements;
- (e) Protect and conserve biodiversity and biological resources via the enforcement of traditional and cultural conservation mechanisms relating to biodiversity, and facilitate traditional dispute resolution mechanisms to resolve local disputes or problems concerning biodiversity and biological resources in their jurisdictions, in appropriate circumstances and in coordination and cooperation with the responsible Ministries;
- (f) Report to the responsible Ministries when they know or suspect that any activities, acts or omissions are degrading or harming, or threaten to degrade or harm biodiversity or biological resources in contravention of this Decree Law or any other environmental law or regulation;
- (g) Actively participate in consultation processes relating to decision-making about the sustainable use of biological resources and conservation of biodiversity;
- (h) Fulfil any other functions and exercise any powers assigned to them by this Decree Law and any laws or regulations made under it, in order to fulfil the purpose of this Decree Law.

2. The Ministries responsible for implementing this Decree Law shall ensure the active, prior and informed consultation with, and involvement of local authorities when developing and making decisions about policies, programs, plans and projects that are likely to have an impact on biodiversity or biological resources in or near their area of jurisdiction. Consultation for the purposes of this Article shall comply with the minimum requirements established in Article 58 of this Decree Law.

Article 11 – Role of natural and legal persons

1. All persons, both natural and legal, shall promote the purpose, principles and approaches of this Decree Law and make voluntary efforts to promote the conservation of biodiversity and sustainable use of biological resources in the course of their activities.
2. All persons, both natural and legal, shall co-operate with the Ministries responsible for the implementation of this Decree Law in the course of their activities, and actively participate in public consultation mechanisms carried out under Chapter 11.
3. Every person has the responsibility to inform the Ministry responsible for biological resources, when they know or suspect that any activities, acts or omissions are degrading or harming, or threaten to degrade or harm biodiversity or biological resources.

Part 2 – Biodiversity Advisory Committee

Article 12 –Functions of Biodiversity Advisory Committee

1. A Biodiversity Advisory Committee shall be established to provide scientific and technical advice on issues related to the sustainable use of biological resources and the conservation of biodiversity.
2. The functions of the Biodiversity Advisory Committee include but are not limited to providing scientific and technical advice on the following:
 - (a) Strategies and techniques for sustainable use of biological resources and the conservation of biodiversity;
 - (b) Determining needs and priorities for conservation of biodiversity;

- (c) Assisting with the implementation of or performance of any obligations under this Decree Law, including but not limited to the preparation and implementation of planning documents in accordance with Chapter 3 of this Decree Law;
- (d) Matters relating to ecosystems and species for the purposes of Chapter 4 of this Decree Law;
- (e) Suitable measures to address threats to biodiversity and biological resources, including alien and invasive species, for the purposes of Chapter 5 of this Decree Law;
- (f) Matters relating to biosafety and to access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation, for the purposes of Chapter 5, Part 2 and Chapter 7 of this Decree Law.

3. The Biodiversity Advisory Committee may provide advice on its own initiative or on the specific request of any Minister.

Article 13 – Composition and operating procedures

1. The Biodiversity Advisory Committee shall be independent and multi-disciplinary, and shall be comprised of national and international scientific and technical experts appointed in their personal capacities on the basis of their qualifications, experience and expertise.
2. The composition and operating procedures of the Biodiversity Advisory Committee shall be established by Ministerial Diploma prepared by the Ministry responsible for the environment, in consultation with the Ministry responsible for biological resources.

Chapter 3 – Biodiversity Planning, Monitoring and Inventory

Part 1 – Biodiversity Planning

Article 14 – National Biodiversity Strategy and Action Plan

1. The Ministry responsible for the environment shall lead the development and implementation of a National Biodiversity Strategy and Action Plan (NBSAP), which is the guiding framework for the sustainable use of biological resources and the conservation of biodiversity in Timor-Leste.
2. The NBSAP shall:
 - (a) Establish guiding principles, priority strategies and national targets for the sustainable use of biological resources and the conservation of biodiversity in Timor-Leste;
 - (b) Establish an integrated, coordinated and uniform approach to the sustainable use of biological resources and the conservation of biodiversity across all relevant Ministries;
 - (c) Be consistent with the Framework Environmental Law, this Decree Law, any other relevant laws and regulations, and any international agreements to which Timor-Leste is a signatory; and
 - (d) Reflect international and regional cooperation on issues concerning the sustainable use of biological resources and the conservation of biodiversity.
3. The Ministry responsible for the environment shall collaborate and consult closely with all stakeholders in the development and implementation of the NBSAP, in particular the Ministry responsible for biological resources.
4. The Ministry responsible for the environment shall review and, where necessary revise, the NBSAP, every five years.

Article 15 – Local biodiversity plans

1. The Ministry responsible for biological resources may enter into an agreement with any local authority and/or district and sub-district administration, to develop and implement a local biodiversity plan concerning strategies, measures and proposed activities for the sustainable use of biological resources and conservation of biodiversity at the local community, district or sub-district level.

2. A local biodiversity plan prepared for the purposes of this Article may be developed on the request of any local authority, or district or sub-district administration, or may be initiated by the Ministry responsible for biological resources, in close consultation with relevant stakeholders.
3. The Ministry responsible for the environment, in consultation with the Ministry responsible for biological resources, shall develop regulations or guidelines for local biodiversity plans.
4. The Ministry responsible for biological resources may seek the advice of the Biodiversity Advisory Committee or other public or private entities, including but not limited to other State institutions and national or international organisations, to develop and implement a local biodiversity plan in accordance with this Article.
5. Any local biodiversity plan developed under this Article must be consistent with this Decree Law, the NBSAP, and any applicable regulations or guidelines.
6. Where the Ministry responsible for biological resources provides financial or other support or assistance for the implementation of a local biodiversity plan, the Ministry must monitor the implementation of the plan or agreement on a regular basis and shall utilise the results from this monitoring in decision-making about future local biodiversity plans.

Article 16 – Biodiversity considerations in national development and sectoral planning

1. The State shall take the sustainable use of biological resources and the conservation of biodiversity into account in national development planning.
2. All national plans, policies and strategies that have a potential impact on biodiversity and biological resources, in particular those relating to land-use, tourism, and natural resources, must be consistent with the purpose and principles of this Decree Law and the NBSAP.

Article 17 – Consultation on plan-making

Before finalising or approving any plan or agreement under this Part, the responsible Ministry must comply with the minimum requirements for consultation as set out in Article 58 of this Decree Law.

Part 2 – Identification, monitoring and reporting

Article 18 - Identification and inventories

1. The Ministry responsible for biological resources, in coordination and cooperation with other stakeholders and in particular the Ministry responsible for environment, shall identify and inventory components of biodiversity important for the sustainable use of biological resources and the conservation of biodiversity in Timor-Leste, and shall maintain this information in the National Clearing-House Mechanism.
2. The identification and inventory process referred to in subsection (1) shall focus on:
 - (a) The location and extent of ecosystems important for the sustainable use of biological resources and the conservation of biodiversity;
 - (b) The range and distribution of species important for the sustainable use of biological resources and the conservation of biodiversity;
 - (c) The conservation status of components of biodiversity;
 - (d) The components of biodiversity about which there is inadequate information or data;
 - (e) Processes or activities that are likely to have a significant impact on the sustainable use of biological resources and the conservation of biodiversity.
3. All State institutions whose policies, programs, plans and projects affect the sustainable use of biological resources and the conservation of biodiversity must submit relevant data they hold to the National Clearing-House Mechanism.

4. National and international researchers and academics, non-governmental organisations, institutions and private sector entities that undertake research and related activities in Timor-Leste, must submit any data about biological resources that they obtain through their activities to the National Clearing-House Mechanism.

5. The information compiled under this Article shall be used to prepare the lists required by Chapter 4 of this Decree Law.

Article 19 – Monitoring

1. The Ministry responsible for biological resources, in coordination and with the cooperation of other relevant State institutions, in particular the Ministry responsible for the environment, must develop and implement mechanisms for regular monitoring of the conservation status of the components of biodiversity, and for monitoring the processes and activities that are likely to have an adverse impact on them.

2. The results of monitoring shall be submitted to the National Clearing-House Mechanism and shall be used to update the lists required by Chapter 4 of this Decree Law.

Article 20 - Reporting

1. The Ministry responsible for the environment in close consultation with the Ministry responsible for biological resources shall, every five years, prepare a report on the status of the nation's biodiversity.

2. The reports prepared in accordance with subsection (1) shall be submitted to the Council of Ministers and made publicly available through the National Clearing-House Mechanism.

Chapter 4 – *In-situ* Conservation and Protection of Ecosystems, Habitats and Species

Part 1 –Ecosystems

Article 21 – National System of Protected Areas

1. The Ministry responsible for biological resources shall establish a national system of terrestrial, freshwater and marine protected areas, with the following purposes:

- (a) To implement the ecosystem approach in Timor-Leste;
- (b) To protect all critical habitats for endemic, migratory and threatened species found in Timor-Leste;
- (c) To identify all critical habitats based on established methodologies and ensure that ecosystems representing the biodiversity of Timor-Leste across biological scales and realms are included;
- (d) To ensure that individual protected areas are the right size to ensure the persistence of the biodiversity of Timor-Leste;
- (e) To ensure that protected areas play a role in mitigating and adapting to climate change; and
- (f) To ensure that protected areas are designed so that they are resilient and able to withstand stresses and changes such as human-forced climate change.

2. The National System of Protected Areas shall be established, managed and regulated by appropriate law and regulations.

3. In addition to the prohibitions stipulated in Article 22, the Ministry responsible for biological resources may place a temporary prohibition on the conduct of any activities in a particular area to prevent damage to the conservation value of that area, prior to a decision being made about whether that area shall be included in the national system of protected areas, in accordance with procedures established by applicable law and regulations.

Article 22 – Management of protected areas

1. Each protected area shall have a management committee, a management plan, and a collaborative management agreement to guide the management of each protected area and regulate activities permitted and prohibited in each protected area.

2. The Ministry responsible for biological resources must ensure that all management plans and collaborative management agreements are prepared in close consultation and coordination with individuals and local communities living within and surrounding each protected area.

3. Until such time as a management plan or a collaborative management agreement is adopted for a protected area, the following activities are prohibited in all protected areas:

- a) Constructing or maintaining any kind of temporary or permanent, private or communal structure, including fences and enclosures;
- b) The building of a road or other access place for vehicles and transportation;
- c) Hunting, collecting, destroying, disturbing, removing, and/or possessing any plant, animal or any part of a plant or animal, or other living or non-living resource;
- d) Possessing or setting traps, snares, or any other devices for capturing animals of any kind;
- e) The killing, injuring, harming, taking or disturbing of any endangered species;
- f) The destruction in any way of the habitat of an endangered species;
- g) The introduction of any alien species;
- h) The intentional killing, damaging, or destruction of coral or coral reef;
- i) Use of a firearm;
- j) The use of explosives or poisons for fishing which results in the killing, damaging, or destroying of coral or coral reef;
- k) The pollution, draining, or destruction of naturally existing wetlands and mangrove areas;
- l) The cutting, damaging, removing of a mangrove;
- m) Agricultural activities and the grazing of animals;
- n) Disposal of waste of any kind and polluting activities of any kind on land or in water bodies of any kind;
- o) Setting a fire;
- p) Mutilating, defacing or destroying natural, historic, cultural or artistic property or the removal of such objects;
- q) Use of motorized equipment, excluding permitted vehicles, of any kind;
- r) Damaging protected area infrastructure and facilities, including roads and trails;
- s) Occupying land other than in a designated special use zone;
- t) Mining and any other activity related to exploration or exploitation of any non-renewable resources;
- u) Providing any service without an administration contract, lease, license, or permit;
- v) Altering, removing, destroying or defacing boundary marks or signs and/or any signs or markers placed for management purposes whether outside or in the interior of the protected area; and
- w) Any other activity that may be specified by the national institution responsible for administering protected areas.

4. The State must ensure that activities carried out in areas adjacent to protected areas or in buffer zones of protected areas do not jeopardize the integrity of the protected area.

Article 23 – Local community and private protected areas

Upon the request of any local community or private person, the Ministry responsible for biological resources shall consider for inclusion in the National System of Protected Areas any terrestrial, freshwater, or marine area, in accordance with procedures established by applicable laws and regulations.

Article 24 – Management of ecosystems outside the National System of Protected Areas

1. The Ministry responsible for biological resources shall take measures to identify ecosystems outside the National System of Protected Areas that require special management measures and to cooperate in listing them in accordance with international standards.

2. For the purposes of this Article, the following ecosystems shall be prioritised:

- (a) Wetlands;
- (b) Estuaries;
- (c) Mangroves; and
- (d) Coral and coral reefs.

3. Until such time as the National System of Protected Areas and individual protected areas are officially established or proposed and management plans and collaborative management agreements are approved for individual protected areas, the following activities are prohibited everywhere in the country:

- a) The intentional killing, damaging, or destruction of coral or coral reefs;
- b) The use of explosives or poisons for fishing which results in the killing, damaging, or destroying of coral or coral reef;
- c) The pollution, draining, or destruction of naturally existing estuaries, wetlands and mangrove areas;
- d) The cutting, damaging, or removing of a mangrove;
- e) The introduction of any alien species;
- f) The damaging or destruction of historic, cultural or artistic property or the removal of such objects; and
- g) Any other activity that may be specified by the Council of Ministers.

4. The Ministry responsible for the environment and the Ministry responsible for biological resources, in coordination with other relevant Ministries, shall develop and implement measures to promote the identification and management of healthy ecosystems and the identification and rehabilitation of degraded ecosystems, including through the NBSAP, local biodiversity plans under Article 15 of this Decree Law, measures under Articles 25 and 26 of this Decree Law, and activities focusing on education and awareness-raising about the importance of these ecosystems.

4. The Ministry responsible for the environment may develop regulatory mechanisms that place restrictions on processes, activities, or projects that may negatively impact on ecosystems, including adopting regulatory measures to prevent impacts of pollution and development on ecosystems.

Article 25 – Rehabilitation and restoration of damaged ecosystems

1. The Ministry responsible for biological resources shall take measures and undertake activities to repair, restore and rehabilitate ecosystems that have been damaged, and in particular those ecosystems that:

- (a) Contain or constitute habitat for one or more protected species;
- (b) Would support a corridor for the movement of species between areas of habitat; or
- (c) Are adjacent to one or more protected areas.

2. The Ministry responsible for biological resources shall encourage and promote the participation of other Ministries as well as national and international non-governmental organisations, academic institutions and private entities in rehabilitation and restoration activities, both on public and private land, including through the use of collaborative partnerships and agreements.

Article 26 – Conservation on private land outside the National Protected Areas System

1. The Ministry responsible for biological resources shall promote and support initiatives and measures to conserve biodiversity and biological resources on private land, including through entering into agreements to provide assistance and incentives, both financial and technical, to private owners or managers of land to promote the management of private land.

2. The Ministry responsible for biological resources may provide support in accordance with subsection (1), upon the request of any landowner or manager of land if the land is determined to have high conservation value because it:

- (a) Contains or constitutes habitat for one or more protected species;
- (b) Would support a corridor for the movement of species between areas of habitat;
- (c) Is adjacent to one or more protected areas; or
- (d) Is suitable for rehabilitation and restoration to enable it to fulfil one or more of (a) to (c) above.

3. The Ministry responsible for biological resources must regularly monitor any initiatives or measures that it has provided support to in accordance with this Article and shall utilise the results from this monitoring in decision-making about future initiatives and measures under this Article.

Part 2 – Species and habitats

Article 27 – Identification and listing of species that require protection

1. The Ministry responsible for biological resources, in consultation with the Ministry responsible for the environment and if applicable, upon consultation with and upon receipt of advice from the Biodiversity Advisory Committee and any relevant universities or research institutions, shall compile and maintain a comprehensive list of terrestrial, marine, aquatic and other species that are determined to be in need of special protection and conservation efforts, because they are threatened or due to other characteristics including endemism, genetic potential, or scientific or cultural value.

2. The data and information contained in the inventories prepared in accordance with Article 18 of this Decree Law shall be utilised to prepare the list under this Article.

3. Species that are listed under this Article because they are threatened, according to internationally recognised objective criteria, shall remain listed as protected until their conservation status is scientifically confirmed to be favourable, both globally and nationally.

4. Any person may make a submission to the Ministry responsible for biological resources proposing the inclusion or removal of a species from the list in subsection (1). The Ministry shall refer such requests to the Biodiversity Advisory Committee for its due consideration and recommendation.

5. Before finalising or approving a list under this Article, the Ministry responsible for biological resources must comply with the minimum requirements for consultation as set out in Article 58 of this Decree Law.

6. Lists prepared under this Article shall be issued as Ministerial Diplomas by the Minister responsible for biological resources and shall be published in the *Jornal da República*.

7. Until a list is published in the *Jornal da República* in accordance with this Article, the list in Annexure 1 to this Decree Law shall apply.

Article 28 – Protection and conservation of protected species

1. Unless authorised by a permit issued under Chapter 6 of this Decree Law, the following activities are strictly prohibited for protected species listed under Article 27:

(a) Hunting, fishing, killing, injuring, trapping, capturing, collecting, picking, uprooting, cutting, harvesting, gathering, destruction and removal of protected species, or any part of those species that is capable of survival and reproduction; and

(b) Disturbing any protected species during the seasons in which they breed, rear their young, migrate and hibernate as well as degrading or destroying their breeding and resting sites.

2. A permit issued under subsection (1) may be granted for the purposes of scientific research or *ex-situ* conservation only, following a determination made by the Ministry responsible for biological resources that taking the specimen or specimens will not be detrimental to the survival of the species concerned.

3. The prohibition in subsection (1) shall not apply for the use of protected species for household subsistence, nor to a specimen of a protected species that is endangering human life.

4. Notwithstanding subsection (3), the Ministry responsible for biological resources may determine to prohibit on a temporary or permanent basis the subsistence use of a specie or species if that use is impacting or is likely to impact the survival of the species concerned, by issuing a Ministerial Diploma, published in the *Jornal da República*, or by supporting the use of *Tara Bandu* by a local community or local communities.

Article 29 – Recovery of protected species

1. The Ministry responsible for biological resources shall prioritise species listed as protected species under Article 27 that require immediate conservation actions on the basis of their conservation status, and prepare and implement recovery plans for those species.

2. Recovery plans shall identify existing threats to the species, its critical habitats, and the species' conservation needs, including both *in-situ* and *ex-situ* measures.

3. Recovery plans under this Article shall be prepared in coordination with management plans for protected areas, where habitat for the species is located in protected areas.

4. Recovery plans made under this Article shall be issued as Ministerial Diplomas and published in the *Jornal da República*.

5. The Ministry responsible for biological resources may develop regulations or guidelines for the preparation and implementation of recovery plans.

Article 30 – Conservation of habitats of protected species

1. The Ministry responsible for biological resources shall identify critical habitats of protected species and propose the designation of those areas as protected areas in the national system of protected areas, in accordance with applicable laws and regulations.

2. The Ministry responsible for biological resources shall develop plans and take steps to identify and manage protected species and their habitats outside of protected areas, and to restore degraded habitats outside of protected areas, in accordance with this Part.

Article 31 – Management of non-protected species

1. The taking of species that are not protected shall be allowed on the basis of relevant licenses, permits, management plans or other authorisations for the exploitation and use, including for the purpose of *ex-situ* conservation, of biological resources, granted by the Ministry responsible for biological resources, in accordance with applicable laws and regulations.

2. Licenses, permits, management plans or other authorisations for the exploitation and use of non-protected species shall be granted and subject to conditions to ensure the maintenance of favourable conservation status of the species.

3. The Ministry responsible for biological resources, in consultation with the Ministry responsible for the environment, shall prepare sustainable use management plans for all exploited species whose conservation status is not favourable.

4. Regulations may impose restrictions on processes, activities, or projects that may negatively impact a non-protected species, in order to ensure the sustainable use of non-protected species.

5. Regulations for the purposes of subsection (4) may include measures such as:

- (a) Temporary or local prohibitions on the taking, removal, damage to or destruction of specimens or exploitation of populations;
- (b) Regulation of the time periods, methods or equipment used in taking specimens;
- (c) The establishment of a system of permits, licenses or quotas; and

(d) Regulation or restriction of access to or use of biological resources in certain areas of land or sea.

6. In preparing regulations for the purpose of this Article, traditional, cultural and subsistence uses for local communities, as well as traditional methods for sustainable use and conservation of biological resources, such as *Tara Bandu*, shall be taken into account.

7. In preparing regulations for the purposes of this Article, the minimum requirements for consultation set out in Article 58 of this Decree Law must be complied with.

Article 32 – Trade in species

1. It is strictly prohibited to engage in any domestic or international trade of protected species, including the import, export, transport, sale, keeping or possession of living or dead specimens or parts of such, without a permit issued under Chapter 6 of this Decree Law. A permit may be issued for the purposes of scientific research or *ex-situ* conservation only.

2. The Ministry responsible for biological resources shall monitor the state of legal and illegal trade of specimens of protected species, both domestic and international, and work with other relevant entities public and private, including but not limited to the State institutions responsible for international and domestic trade, and customs.

3. The Ministry responsible for biological resources may issue regulations to establish a permit system to regulate international trade in species that are not protected under this Decree Law but are protected under international agreements.

Article 33 – *Ex-situ* conservation measures

1. The Ministry responsible for the environment shall promote and encourage the establishment of *ex-situ* conservation centres, including but not limited to botanical gardens, herbaria, gene banks, zoos and wildlife rescue centres, to complement *in-situ* conservation measures.

2. Individual specimens of animals, plants, fungi or micro-organisms shall not be removed from the wild for *ex-situ* conservation purposes unless the Ministry responsible for biological resources is satisfied that such action will not compromise the viability of the wild population.

3. *Ex-situ* conservation centres shall regularly provide data and information for inclusion in the inventories referred to in Article 18 of this Decree Law and for inclusion in the National Clearing-House Mechanism.

4. *Ex-situ* measures may be implemented by public or private entities, or through joint arrangements or partnerships, and must be conducted consistently with this Decree Law, in particular the purpose and principles, and any other relevant laws, regulations or guidelines.

5. *Ex-situ* conservation centres shall prioritise the conservation of protected species with the aim of promoting their recovery and rehabilitation, and reintroduction into their natural habitats, as well as species of agricultural, scientific, economic, religious or cultural significance.

6. The State may provide support, financial or otherwise, to the establishment and management of *ex-situ* conservation centres.

7. The establishment of *ex-situ* conservation centres shall take into account the importance of these centres for education about biodiversity conservation and for tourism.

8. The Ministry responsible for the environment may develop regulations or guidelines for the establishment and management of *ex-situ* conservation centres.

Article 34 – Recognition, support and use of *Tara Bandu*

1. The State shall support and promote *Tara Bandu*, as a way to ensure the sustainable use of biological resources and the conservation of biodiversity at the local level.
2. Local communities may use and implement actions of *Tara Bandu*, so long as these actions are generally consistent with the purpose and guiding principles and approaches of this Decree Law and do not deny any community member the right to appeal decisions.
3. If a local community determines to utilise *Tara Bandu* in order to sustainably use, conserve or protect biodiversity and biological resources, and that act of *Tara Bandu* conforms to subsection (2) above, the State must not take any action, or permit any other person or entity to take any action, that would be contrary to the protection created by the *Tara Bandu*.
4. The Ministry responsible for the environment and the Ministry responsible for biological resources shall promote the documentation of and research into traditional knowledge and practices such as *Tara Bandu* that are relevant to the sustainable use of biological resources and the conservation of biodiversity, including through joint arrangements or partnerships with other public or private entities, or the provision of financial assistance to other entities.

Chapter 5 – Threats to biodiversity and biological resources

Part 1 – Alien species

Article 35 – Identification and listing of alien species

1. The Ministry responsible for biological resources in consultation with State institutions responsible for agriculture, the environment and quarantine and if applicable, upon consultation with and upon receipt of advice from the Biodiversity Advisory Committee and any relevant universities or research institutions, shall compile and maintain two lists of species that are determined to be alien species as follows:
 - (a) A list that contains species alien to Timor-Leste that are known to be invasive and whose import or movement within the country is strictly prohibited.
 - (b) A list that contains species alien to Timor-Leste that are known to be beneficial or non-invasive and whose import or movement within the country is permitted, subject to the requirements of any other laws or regulations.
2. Any person may make a submission proposing the inclusion or removal from the list in subsection (1). The Ministry responsible for biological resources shall refer all such submissions to the Biodiversity Advisory Committee for its due consideration and recommendation.
3. Before finalising or approving a list under this Article, the Ministry responsible for biological resources must comply with the minimum requirements for consultation as set out in Article 58 of this Decree Law.
4. Lists prepared under this Article must be reviewed and approved by the Biodiversity Advisory Committee and shall be issued as Ministerial Diploma by the Minister responsible for biological resources and published in the *Jornal da República*.
5. Until prepared and published in the *Jornal da República* in accordance with this Article, the list in Annexure II to this Decree Law shall apply for the purposes of Article 35(1(a)).

Article 36 – Research about alien species

1. The Ministry responsible for biological resources shall undertake research to identify:
 - (a) Species alien to Timor-Leste whose invasive properties are unknown or poorly understood; and

(b) Species native to Timor-Leste that are known to be invasive outside of their national distribution in the country, and whose movement within the country must be controlled.

2. The Ministry shall use the information obtained from this research to assist with preparing the lists required by Article 35, and the strategy for managing invasive alien species in Article 37.

Article 37 – Management of invasive alien species

1. The Ministry responsible for biological resources shall, in accordance with the provisions of this Part, develop and implement a strategy for managing alien species that includes:

(a) The identification and implementation of preventive and eradication measures for invasive alien species;

(b) The identification of the pathways by which alien species enter Timor-Leste and methods to control and limit the risk of unintentional introductions and releases;

(c) Incentives for the participation of local households and local communities in eradication and control measures for invasive alien species.

2. The control and eradication of invasive alien species must be carried out in a manner appropriate for the species concerned and the environment in which it occurs, and be executed with caution and in a manner that may cause the least possible harm to biodiversity and biological resources, and other damage to the environment.

3. Strategies for the control and eradication of invasive alien species shall be incorporated into management plans of protected areas.

4. In implementing this Part, the Ministry responsible for biological resources shall coordinate closely with other relevant public and private entities, in particular the State institutions responsible for agriculture, the environment and quarantine, and universities and other research institutions.

5. The advice and assistance of the Biodiversity Advisory Committee may be requested for the purpose of implementing this Article.

6. The Ministry responsible for biological resources may publish regulations or guidelines regarding alien species management.

Article 38 – Restricted activities involving alien species

1. Unless authorised by a permit issued under Chapter 6 of this Decree Law or for those alien species listed under Article 35(1)(b), the following activities are strictly prohibited for all alien species:

(a) Importing into Timor-Leste, including introducing from the sea, any specimen;

(b) Having in possession or exercising physical control over any specimen;

(c) Growing, breeding or in any other way propagating any specimen, or causing it to multiply;

(d) Conveying, moving or otherwise translocating any specimen;

(e) Selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen; or

(f) Any other activity which involves a specimen and is set out in a Ministerial Diploma, published in the *Jornál da República*.

2. A permit may be issued only after an assessment of risks and potential impacts on biodiversity and biological resources is caused to be carried out by the person seeking the permit, and may be subject to any conditions reasonably required to protect the environment.

3. If an alien species establishes itself in nature as an invasive species because of the actions of a specific person in contravention of this Part, the Ministry responsible for biological resources may hold that person liable for any costs incurred in the control and eradication of that species.

4. No permit may be granted for the introduction of any alien species into any protected area unless it is a species listed under Article 35(1)(b).
5. Regulations or guidelines may establish the detailed requirements for conditions and risk assessments under subsection (2) of this Article.

Part 2 – Other threats and threatening processes

Article 39 – Genetically modified organisms

1. The Ministry responsible for environment, in consultation with the Ministry responsible for biological resources, shall prepare specific laws and regulations to regulate activities relating to genetically modified organisms, including but not limited to the import, export, use, release into the environment, research, and experimentation with, genetically modified organisms.
2. Any law made in accordance with this Article shall pay particular regard to the precautionary principle, and shall be consistent with any international agreements to which Timor-Leste is a Party.
3. Until such time as a law referred to in subsection (1) is adopted, in order to avoid and prevent any damage, present or future, to human, animal or plant health, or to the integrity of ecosystems, any activity involving genetically modified organisms within the territorial jurisdiction of Timor-Leste is strictly prohibited.

Article 40 – Activities, processes and actions that impact biodiversity and biological resources

1. The Ministry responsible for the environment shall take steps to identify existing or potential activities, processes and actions that are impacting or likely to impact biodiversity and biological resources, and shall identify and implement measures to prevent, reduce and ameliorate their impacts.
2. In particular, the Ministry responsible for the environment shall promote measures that recognise and address the linkages between climate change and biodiversity, focusing on:
 - (a) Mitigation measures that address activities, processes and actions that contribute to climate change, and
 - (b) Measures to promote resilience and adaptation of local communities, and ecosystems and species, to the impacts of climate change in Timor-Leste, in particular through implementation of relevant measures identified in the National Adaptation Plan of Action on Climate Change.
3. In implementing this Article, the Ministry responsible for the environment must coordinate closely with relevant State institutions and private entities such as international and national non-government organisations, universities and other research institutions, including by entering into agreements or partnerships, and providing assistance, financial or otherwise, to implement such measures.

Chapter 6 – Environmental assessment and permits

Part 1 – Environmental assessment

Article 41 – Biodiversity considerations in environmental assessment

1. When preparing a strategic environmental assessment, environmental impact statement, environmental management plan or conducting any other assessment, analysis or evaluation of environmental impacts caused by any activities, processes and actions as required by any law or regulation in Timor-Leste, the proponent must include an assessment of the potential impacts of the proposed policy, strategy, plan, programme or project on biodiversity and biological resources.
2. Any assessment under subsection (1) must include consideration of:
 - (a) Impacts on any natural ecosystems and habitats located within or near the proposed site, in particular the habitat of any protected species and critical habitat;

- (b) Impacts on any legally protected areas, as well as any areas the subject of cultural or traditional protection mechanisms such as *Tara Bandu*;
- (c) Impacts associated with invasive alien species on or near the proposed site;
- (d) The sustainability of any proposed use of biological resources; and
- (e) Proposed measures to avoid, minimize, or mitigate identified impacts, and measures to offset or compensate for any affected biological resources and impacts on biodiversity.

3. For the purpose of subsections (1) and (2), impacts shall include:

- (a) Direct and indirect impacts on the proposed site and the surrounding area of a project or activity;
- (b) Cumulative impacts of the project or activity combined with other activities or development of a similar nature or in the area of influence of the project or activity;
- (c) The contribution of the policy, strategy, plan, programme or project to other processes and activities that may impact on biodiversity and biological resources; and
- (d) Trans-boundary or global impacts.

4. To ensure the holistic consideration of potential impacts, any assessment conducted in accordance with this Article must be carried out for the totality of the policy, strategy, plan, programme or project, regardless of whether it will be carried out in stages, or whether there are different components.

5. Any assessment conducted in accordance with this Article must be based on the best scientific data and information that is available, and shall endeavour to utilise best available technology and implement international best practice.

6. Regulations may establish additional matters that must be included in an assessment to which this Article applies.

Article 42 – Decision-making under environmental assessment procedures

1. When analysing an assessment in accordance with this Part, and any associated application for a license or permit required by law and regulations on environmental assessment, before deciding to grant approval, the decision-maker shall take into account whether granting approval for the proposed activity or development would be consistent with the purpose and principles of this Decree Law.

2. Prior to granting any approval, the decision-maker shall be satisfied that:

- (a) Any adverse impacts and risks identified in the assessment are deemed satisfactory;
- (b) Adequate measures to avoid, minimize, or mitigate identified adverse impacts have been identified and will be implemented;
- (c) As a last resort, adequate compensatory measures, which are designed to achieve no net loss of biodiversity, have been identified and will be implemented by the proponent to offset or compensate for any impacts on biodiversity and affected biological resources;
- (d) The proponent has prepared, in close consultation with affected local communities, a comprehensive plan that includes details about all necessary remedial and restoration efforts, and is satisfied that the plan will be implemented at the proponent's expense.

Article 43 – Compliance with environmental assessment

The Ministry responsible for the environment has a duty to monitor and verify compliance with any measures identified to avoid, minimize, or mitigate identified adverse impacts on biodiversity and biological resources identified in an assessment to which this Part applies, and any conditions placed on an applicable license, permit or other authorisation.

Part 2 – Permits

Article 44 – Requirement for permit

1. Any person may apply to the Ministry responsible for biological resources for a permit to:

- (a) Take protected species, in accordance with Article 28;
- (b) Trade in protected species, in accordance with Article 32;
- (c) Carry out any activity involving alien species in accordance with Article 38;
- (d) Conduct scientific research about biological resources and biodiversity, in accordance with Article 54.

Article 45 – Permit procedure

1. An application for a permit required by this Decree Law shall be made using a form prescribed by the Ministry for biological resources and shall be accompanied by any information that is reasonably required by the Ministry to enable it to adequately assess the permit application, including an independent risk assessment or expert scientific evidence.
2. Applications for a permit shall be subject to a non-refundable application fee, to be determined by the Ministry for biological resources and set out in a Ministerial Diploma, published in the *Jornal da República*.
3. Any risk assessment or expert scientific evidence provided as part of an application shall be carried out at the applicant's expense.
4. Upon receiving an application, the Ministry responsible for biological resources:
 - (a) May seek technical advice from the Biodiversity Advisory Committee, or any other relevant institution, including universities or other research institutions;
 - (b) Must comply with the minimum requirements for consultation in accordance with Article 58 of this Decree Law.
5. The Ministry responsible for biological resources shall determine to either grant or refuse to issue a permit, after considering:
 - (a) Whether the proposed activity is consistent with the purpose and principles of this Decree Law;
 - (b) Whether the proposed activity is in compliance with applicable provisions of this Decree Law;
 - (c) Any potential benefits of the proposed activity, in particular the benefits relating to biodiversity and biological resources, or the environment;
 - (d) Any potential adverse impacts and risks of the proposed activity, in particular the impacts on and risks to biodiversity and biological resources, or the environment;
 - (e) Whether adequate measures to avoid, minimize, or mitigate any potential impacts and risks have been identified and will be implemented;
 - (f) Any comments or submissions made in accordance with any person, whether natural or legal, through consultation processes;
 - (g) Any other matters specified in regulations or guidelines issued under this Decree Law.
6. Where the proposed activity will take place in a protected area, a permit shall only be issued if the proposed activity is permitted in the management plan for the protected area or, until such time as a management plan has been approved, under the Decree Law on Establishment and Management of Protected Areas. The Ministry must consult with, and receive authorisation from the national government department responsible for protected areas prior to granting any permit.
7. A permit shall specify the purpose for which it is issued, the period for which it will remain valid, and may be granted unconditionally or subject to any conditions the Ministry responsible for biological resources determines reasonable.
8. A permit issued under this Decree Law is not transferrable to any other person.
9. Regulations or guidelines may establish additional matters relating to permits under this Decree Law, including the imposition of application fees and permit fees.

Article 46 – Permit conditions

1. All permits issued in accordance with this Part shall be subject to mandatory conditions in relation to research and ex-situ conservation efforts about biological resources and biodiversity that require the permit holder to:

- (a) Deposit duplicates of any specimens collected with relevant State institutions;
- (b) Submit reports on all research results, including data and other information, to relevant State institutions;
- (c) Submit copies of any publications on research on Timor-Leste's biological resources to relevant State institutions;
- (d) Endeavour to conduct any research in partnership with national institutions and/or national researchers;
- (e) Promote the participation and training of national researchers, and in appropriate circumstances officials from State institutions, in their research programs; and
- (f) Explore potential mechanisms for technology transfer.

2. The Ministry responsible for the environment and the Biodiversity Advisory Committee may, through consultation processes required by Article 45, submit proposed permit conditions to the Ministry responsible for biological resources if they deem the conditions necessary to prevent or minimise harm to biodiversity, biological resources and the environment.

Article 47 – Cancellation of permit

The Ministry responsible for biological resources may cancel a permit issued under this Part if:

- (a) The permit was issued as a result of misleading or false information or representations by the applicant or a representative of the applicant; or
- (b) The permit holder has contravened or failed to comply with any condition of the permit, any provision of this Decree Law, any other law or regulation, or the condition of any other permit, licence, authorisation or approval granted by the State of Timor-Leste.

Chapter 7 – Genetic resources, traditional knowledge and access and benefit-sharing

Article 48 – Control of access to genetic resources

1. No person may access genetic resources or their derivatives for any purpose without obtaining a permit. Where there is access to traditional knowledge associated with genetic resources, the prior informed consent of the persons or local communities that are holders of that knowledge must also be obtained.

2. Specific laws or regulations, to be prepared by the Ministry responsible for the environment, shall facilitate and regulate access to genetic resources, their derivatives, and any associated traditional knowledge, and the fair and equitable sharing of benefits arising from their utilization, including by establishing a permit system.

3. Any laws or regulations made for the purposes of this Article shall include provisions that:

- (a) Fully recognise the importance and value of traditional knowledge and practices associated with the utilization of genetic resources;
- (b) Establish appropriate procedures for obtaining the free and prior informed consent of local communities that provide traditional knowledge associated with genetic resources, which respect traditional and cultural practices and traditional mechanisms for decision-making; and
- (c) Ensure the fair and equitable sharing of benefits arising from the utilisation of genetic resources and their derivatives with local communities.

Chapter 8 – Information management

Article 49 – Dissemination and sharing of information

1. The Ministry responsible for the environment and the Ministry responsible for biological resources, in coordination with other public and private entities, shall promote the collection, compilation, and dissemination of information on biodiversity and biological resources in Timor-Leste, in particular data generated by research and monitoring activities.
2. The Ministry responsible for biological resources, through an assigned national Focal Point, shall establish, manage and operate the National Clearing-House Mechanism, which shall operate as Timor-Leste's biodiversity information service. The National Clearing-House Mechanism shall be part of the national Environmental Information System.
3. Private and public entities, including State institutions, national and international researchers and academics, and non-government organisations, institutions and companies who undertake research and related activities, that generate information and data about biodiversity and biological diversity in Timor-Leste, and in particular those that conduct research and monitoring on the sustainable use of biological resources and conservation of biodiversity, are required to share that information and data with the Ministry responsible for agriculture, fisheries and forestry.
4. The Ministry responsible for biological resources and the Ministry responsible for the environment shall encourage the repatriation of, and develop and promote incentives for the repatriation of, information about biodiversity and biological diversity in Timor-Leste that was generated prior to the date this Decree Law entered into force, and that is currently held by private and public entities, both national and international.

Article 50 – Access to information

1. The Ministry responsible for the environment and the Ministry responsible for biological resources shall ensure there is free public access to the information they hold about biodiversity and biological resources in Timor-Leste.
2. In particular, the following information must be made available through the National Clearing-House Mechanism to any person, free of charge in a readily accessible format and to the extent possible, in at least one of the official languages of Timor-Leste:
 - (a) Any advice given by the Biodiversity Advisory Committee;
 - (b) Inventories created under Chapter 3;
 - (c) Plans and agreements made under Chapter 3;
 - (d) Reports made pursuant to Article 20;
 - (e) All lists made under this Decree Law, including protected species and alien species;
 - (f) Any information held about the state of legal and illegal trade in protected species under Chapter 4;
 - (g) Any information about *Tara Bandu* held in accordance with Article 34;
 - (h) Any plans or agreements entered into by a Ministry in accordance with any part of this Decree Law;
 - (i) Any assessments, scientific expert or consultant reports used to assist with decision-making under this Decree Law;
 - (j) Any reports and publications generated as a result of research on the country's biological resources;
 - (k) Any statements of reasons for all decisions made by a decision-maker under this Decree Law;
 - (l) Any submissions received in relation to decision-making through public participation and consultation processes under this Decree Law;
 - (m) Any permits issued under this Decree Law, including all documents and information furnished in any application for such permits;
 - (n) Any warning and compliance notices, and other documents relating to compliance and enforcement activities, issued in accordance with Chapter 12;
 - (o) Any subsidiary laws, regulations and guidelines made under this Decree Law; and
 - (p) Any other type of information on the biological resources of Timor-Leste that may be identified.

3. To the extent that it is technically feasible, the documents and information listed in subsection (2) shall be made available in electronic format in addition to being available in hardcopy.

Chapter 9 – Education and awareness-raising, training and research

Part 1 – Education and awareness-raising

Article 51 – Education about biodiversity

The Ministry responsible for education, in coordination and cooperation with the Ministry responsible for the environment, shall promote the preparation of educational materials about biodiversity, and incorporate education about biodiversity into relevant curriculum and educational policies and plans, at primary, secondary and university levels and in particular at the primary school level, in order to facilitate learning about the biodiversity and its value, and understanding the importance of the sustainable use of biological resources and the conservation of biodiversity. Materials shall also facilitate learning about Tara Bandu and other traditional mechanisms for conserving biodiversity and sustainably using biological resources.

Article 52 – Awareness-raising and socialisation

1. The Ministry responsible for the environment, with the cooperation and collaboration of other public and private entities, shall design and implement policies and programs to promote widespread public awareness about the value and importance of biodiversity, the importance of, and threats to, the sustainable use of biological resources and the conservation of biodiversity.

2. The Ministry responsible for enforcing this Decree Law shall design and implement a public awareness and information campaign explaining the provisions of this Decree Law in ways that can be easily understood by the general public, including in particular the role and involvement of local authorities and local communities in monitoring compliance, the use of traditional enforcement mechanisms, and penalties that may apply for non-compliance.

3. Public awareness campaigns shall be directed across all sectors of society, including urban and rural civil society, the public sector and the private sector.

Part 2 – Research and training

Article 53 – Promotion of research and technological development

1. The Ministry responsible for biological resources, in collaboration with other relevant public and private entities, research institutions, non-governmental organisations and local communities, shall promote and develop strategies and programs for research and technological development, aimed at evaluating, strengthening and promoting alternative technologies which foster the sustainable use of biological resources and the conservation of biodiversity.

2. Research programs related to biological resources and biodiversity shall, as appropriate, encourage the revitalisation, strengthening and dissemination of the use of traditional practices and knowledge for the sustainable use of biological resources and the conservation of biodiversity. Such research programs must ensure that the rights of local communities and the holders of traditional knowledge are respected, and the economic benefits of this research are shared in a fair and equitable manner.

Article 54 – Permits for research

1. Unless authorised by a permit issued under Chapter 6 of this Decree Law, no person may conduct scientific research involving biological resources in Timor-Leste, regardless of the purpose, nor remove any specimen of any species from Timor-Leste.

2. Where the proposed research is within a protected area, research will be permitted only if it is specifically allowed in the management plan for the protected area or, until such time as a management plan has been approved, is permitted by the Decree Law on Establishment and Management of Protected Areas.

3. Where scientific research involves access to genetic resources and associated traditional knowledge, or involves access to biological resources on private or community land, the free prior and informed consent of the local communities or individuals that are holders of that knowledge, or the owners of the land, must be obtained and documented in the permit application.

Article 55 – Training programs

The Ministry responsible for the environment in cooperation with the Ministry responsible for education and training and the Ministry responsible for biological resources, shall develop and support training programs to promote the development of expertise in biodiversity-related fields within Timor-Leste.

Chapter 10 – Incentives, and valuation of biological resources

Article 56 – Economic instruments and incentives

1. The Ministry responsible for the environment, the Ministry responsible for biological resources, and the Ministry responsible for finance shall design, promote and implement a variety of economic instruments and incentives that promote the sustainable use of biological resources and the conservation of biodiversity, and in particular private sector investment and involvement.

2. Incentives for the purposes of this Article shall focus on transferring technologies and methodologies required for biodiversity conservation from other countries and institutions.

3. For the purposes of subsection (1), economic instruments and incentives may include but are not limited to schemes for payments for environmental services, environmental fees, service charges, and taxes, credit mechanisms, and carbon trading schemes.

4. Economic instruments and incentives designed under this Article shall focus on ensuring that benefits from the sustainable use of biological resources are equitably shared among all owners, custodians and providers of biological resources.

5. For the purposes of implementing measures under subsection (1), State entities may enter into partnerships, agreements and joint arrangements with the private sector, international and national non-governmental organisations, and bilateral and multi-lateral agencies.

6. All State institutions shall discourage policies and practices that act as perverse incentives by directly or indirectly inducing unsustainable use of biological resources.

7. The Ministry responsible for the environment shall work in cooperation with other government entities, in particular the Ministry responsible for finance, to propose, design and implement any fiscal reforms necessary to eliminate or reduce perverse incentives, and to monitor, enforce and evaluate such reforms.

Article 57 - Valuation of biodiversity and biological resources

1. The State, in particular the Ministry responsible for the environment, the Ministry responsible for biological resources, and the Ministry responsible for finance, shall promote research on the economic valuation of biodiversity and biological resources of Timor-Leste.

2. The State shall work progressively to incorporate into the system of national accounts the value of goods and services provided directly and indirectly by biological resources, and the costs of environmental degradation and damage in Timor-Leste.

3. The Ministry responsible for biological resources in consultation with the Ministry responsible for finance and the Ministry responsible for the environment, may prepare regulations or guidelines setting out principles and methods to be used in assessing the value of biodiversity and biological resources, which shall be designed to provide the basis for:

- (a) Incorporating the value of biodiversity and biological resources in national accounts;

- (b) Determining the levels for fees or taxes to be levied under this Decree Law;
- (c) Determining administrative penalties to be levied under Chapter 12 of this Decree Law; and
- (d) Determining compensation to be paid for damage to biodiversity and biological resources.

Chapter 11 – Consultation and public participation

Article 58 - Minimum requirements for consultation

1. Before taking an action under this Decree Law that requires consultation to be undertaken, the Ministry responsible for the action shall facilitate and conduct a process of appropriate and genuine consultation in accordance with this Article.
2. For the purposes of subsection (1), the responsible Ministry shall:
 - (a) Consult all relevant State institutions whose areas of responsibility may be affected by the action;
 - (b) Consult all relevant district administration and local authorities whose area of jurisdiction may be affected by the action; and
 - (c) Facilitate a process of public participation that includes all stakeholders, as set out in Article 58.
3. Consultation processes shall be commenced as early as possible in the decision-making process.
4. A Ministry may also undertake consultation in accordance with this Article in circumstances not specifically required by this Decree Law.
5. The Ministry responsible for the environmental may issue regulations or guidelines may provide additional requirements for consultation and public participation under this Chapter.

Article 59 – Minimum requirements for public participation

1. For the purposes of Article 58(2)(c) above, to facilitate public participation the responsible Ministry must publicly notify the proposed action by a notice published as follows:
 - (a) At a public noticeboard at the premises of the responsible Ministry;
 - (b) In at least one newspaper distributed nationally;
 - (c) When a proposal will affect a particular area, or a particular sector or group, in a publication that is circulated in that area and via radio in that area, or directly to members of that sector or group; and
 - (d) By electronic communication including publication on the relevant Ministry website and through any email list.
2. The notice referred to in subsection (1) above must, at a minimum:
 - (a) Invite any member of the public to submit, within a minimum of 20 business days of the notification, written comments about the proposed action, and specify the contact details of the person to whom written comments should be directed;
 - (b) Contain sufficient information to enable any member of the public to understand the content of the proposal and make meaningful submissions about the proposed action;
 - (c) Where necessary, provide details of where further information can be viewed; and
 - (d) Be published in at least one official language of Timor-Leste.
3. For an action that will affect a particular area, local community or communities, the responsible Ministry must, in addition to the requirements in subsections (1) and (2), conduct at least one meeting for the affected local community or communities, to provide information about the proposed action, and to provide opportunities for questions and for oral comments to be made.
4. The details of a meeting for subsection (3) shall be advertised at least 1 week in advance. Any meeting conducted for the purposes of this Article shall be conducted in a language understood by that local

community or communities, shall respect any traditional or cultural practices, mechanisms or forms of meetings of the relevant local communities, and shall support the participation of vulnerable groups.

5. The responsible Ministry may extend and undertake additional public participation activities on a case-by-case basis if it determines that this is warranted in the particular circumstances.

Article 60 – Decision-making

1. For an action under this Decree Law for which consultation is required, the responsible Ministry must give genuine consideration to any submissions, representations or objections made in accordance with this Part.

2. Within 10 business days of taking any action under this Decree Law, the responsible Ministry shall publicise the decision and the reason or reasons for the action by a notice publicised as follows:

- (a) At a public noticeboard at the premises of the responsible Ministry;
- (b) In at least one newspaper distributed nationally;
- (c) When a proposal will affect a particular area, or a particular sector or group, in a publication that is circulated in that area and via radio in that area, or directly to members of that sector or group; and
- (d) By electronic communication including publication on the relevant Ministry website and through any email list.

Chapter 12 – Compliance, enforcement and appeals

Part 1 – Compliance and enforcement

Article 61 – Powers of compliance and enforcement

1. The Ministry responsible for biological resources has the power to enforce compliance with this Decree Law in accordance with the provisions of this Part.

2. Notwithstanding subsection (1), local authorities have the power to resolve community disputes and enforce compliance with traditional or community-based dispute resolution and enforcement mechanisms that regulate the sustainable use of biological resources and conservation of biodiversity at the local level, such as *Tara Bandu*.

3. Where harm to biodiversity or biological resources is considered minor in nature, local authorities shall attempt to resolve the matter at the local level, and impose traditional or community-based dispute resolution and enforcement mechanisms.

4. For the purposes of subsection (3), a minor offence includes minimal or localised and small-scale harm or damage to biodiversity or biological resources of less than \$100 in damage, and in the opinion of relevant local authorities, is one that is appropriately resolved at the local community level through traditional or community-based mechanisms.

5. In the event that the relevant local authority considers that it is inappropriate or not possible to resolve an offence as a minor offence, or the offender has not complied with traditional or community-based sanctions imposed by a local authority, the offence shall be referred to the Ministry responsible for biological resources, which shall take appropriate enforcement action in accordance with this Part.

Article 62 – Enforcement officers

1. The Ministry for biological resources shall appoint qualified enforcement officers to serve at both the national and district offices of the Ministry.

2. The Ministry for biological resources may delegate enforcement powers to representatives from district or sub-district administration, or local authorities, to act as enforcement officers for the purposes of this Decree Law.

3. Enforcement officers shall be issued an official identification card which they must at all times carry, and present, during the exercise of their duties.

Article 63 – Powers and duties of enforcement officers

1. Enforcement officers have the duty to monitor and investigate compliance with this Decree Law and any regulations made pursuant to it.

2. Enforcement officers, without a warrant or court order and at any reasonable time, may, after showing identification:

- (a) Enter any premises or land that the officer reasonably believes is necessary to enter in order to prevent the conduct of unlawful activities covered by this Decree Law;
- (b) Make reasonably enquiries of any person, whether orally or in writing;
- (c) Stop and inspect any vehicle that the officer reasonably believes is transporting any protected species, biological resources or other things in contravention of this Decree Law;
- (d) Require the production of any document, record or any thing that was prepared in accordance with this Decree Law or any other environmental law or regulation;
- (e) Confiscate any materials, equipment, transportation vehicles, funds or other things used or gained in the conduct of activities that are unlawful under this Decree Law, including specimens of any protected species, biological resources or other things or items;
- (f) Carry out any other action reasonably required to enable the enforcement of this Decree Law.

3. Enforcement officers must immediately:

- (a) Inform the police of any confiscation;
- (b) Turn over to the police the confiscated documents, materials, equipment, transportation, and funds used or gained in the conduct of the activity; and
- (c) Provide the police with all available information that will facilitate the detention of the person or persons who carried out the activity.

Article 64 – Cooperation and reporting complaints

1. All persons and entities must cooperate with enforcement officers acting in the course of their duties in accordance with this Decree Law.

2. Any person may make a complaint to the Ministry responsible for biological resources if they suspect there has been a breach of this Decree Law.

3. Any person who makes a complaint in relation to a suspected breach of this Decree Law may do so anonymously, and the Ministry responsible for biological resources shall establish means by which any person can make an anonymous complaint.

4. Upon receiving a complaint, the Ministry responsible for biological resources shall investigate to ascertain if there has been a breach of this Decree Law, and provide a response to the person who complained within 7 days unless the complaint has been made anonymously.

5. The Ministry responsible for biological resources shall keep a record of complaints made under this Article, the outcomes of any investigation, and the reasons for decisions made following the investigation.

6. Local authorities shall provide regular information to the Ministry responsible for biological resources in relation to the implementation of traditional or community-based dispute resolution and enforcement mechanisms.

Article 65 – Warning Notices

1. If the Ministry responsible for biological resources, on reasonable grounds, suspects there has been a breach of this Decree Law of a minor nature, the Ministry may issue a written warning notice to the person or persons suspected of the non-compliance.

2. The purpose of a warning notice is to remind any person of the requirements of, and their obligations under, this Decree Law.

Article 66 – Compliance notices

1. The Ministry responsible for biological resources may issue a compliance notice in writing if satisfied, on reasonable grounds, that there is a credible risk of a breach or threatened breach of this Decree Law, and that immediate or urgent action is required to protect biodiversity or biological resources.

2. A compliance notice shall require any person responsible for any act or omission that has breached or is threatening to breach this Decree Law to take any action necessary to cease or remedy the breach, including actions to prevent, cease, mitigate, repair, remedy or rehabilitate any damage to biodiversity or biological resources.

3. A compliance notice may be subject to any conditions that the Ministry responsible for biological resources considers necessary, including conditions relating to monitoring and reporting.

Article 67 – Administrative offences

1. It is an administrative offence under this Decree Law for any person or entity to:

- (a) Intentionally or negligently make a statement that is false or misleading, particularly where that statement is made in response to a requirement to provide information or for the purposes of obtaining a permit or authorisation under this Decree Law;
- (b) Intentionally prevent, obstruct or delay an enforcement officer in the exercise or performance of powers under this Decree Law;
- (c) Carry out any activity that is prohibited under this Decree Law without a permit; (d) Breach the conditions of any permit granted under this Decree Law;
- (e) Fail to comply with any requirements of a compliance notice issued under Article 65;
- (f) Contravene any other provision of this Decree Law or any regulations made under this Decree Law.

2. Additional administrative offences may be established by regulations.

Article 68 – Financial penalties for administrative offences

1. The Minister responsible for biological resources may issue regulations establishing a regime to guide the application of financial penalties for administrative offences under this Decree Law. Until such time as regulations have been prepared, the financial penalties in this Article shall apply.

2. If satisfied that an administrative offence has been committed, the Ministry responsible for biological resources may apply a financial penalty of between \$500 and \$500,000, depending on the nature and severity of the offence and based on consideration of the factors in Article 69, by issuing a penalty notice in writing to the responsible person.

3. Where the Ministry responsible for biological resources proposes to apply a financial penalty of between \$100,000 and \$500,000, the Ministry shall obtain approval in writing from the Minister responsible for biological resources prior to issuing the penalty notice.

4. For every day that an offence continues after the receipt by the offender of a penalty notice issued in accordance with this Article, a further financial penalty may be imposed for every day or part of a day for which an offence continues.

5. Any financial penalty that is applied under this Decree Law shall accrue to the general State budget of Timor-Leste, and if applicable shall be included in the Environmental Fund that has been established through budgetary allocation in accordance with the Framework Environmental Law.

Article 69 – Civil penalties

1. Any civil proceedings initiated in respect of biodiversity and biological resources, including proceedings relating to civil financial penalties and claims for compensation for damage to biodiversity and biological resources, shall be conducted in accordance with the Civil Code.
2. If the Minister responsible for biological resources, upon recommendation of the Ministry responsible for biological resources, considers it appropriate in the circumstances due to the nature and severity of an offence committed under this Decree Law, the Minister may apply to a competent Court to seek a civil financial penalty between \$500,000 and \$5,000,000, in addition to any order for compensation to be paid for damage to biodiversity and biological resources.
3. For the purposes of subsection (1), in addition to applying a civil financial penalty, the Court may also impose such other orders as it sees fit to cease or remedy the offence.
4. When determining an order for compensation for damage to biodiversity and biological resources, the competent Court shall, if available, apply regulations or guidelines developed pursuant to Article 56 establishing methodologies for valuation of biodiversity and biological resources, or in their absence, may apply international standards or methodologies.

Article 70 – Complementary and alternative penalties

1. In addition to or as an alternative to applying a financial penalty for an administrative offence under this Decree Law, the Ministry responsible for biological resources may determine to apply one or more of the following sanctions:
 - (a) Suspend or revoke any permit, or amend any permit conditions, issued under this Decree Law;
 - (b) Require the offender to take mitigating, corrective or restorative measures as may be deemed necessary to remedy the damage or prevent further damage being caused to biodiversity or biological resources;
 - (c) Seize materials, equipment, transportation vehicles, funds or other things used or gained in committing the offence;
 - (d) Require the offender to reimburse any costs and expenses incurred by any State institution associated with prevention, eradication, remediation or mitigation measures taken in relation to the offence;
 - (e) Require the offender to publicise the offence, for example in a newspaper, a community forum or other manner that is appropriate in the circumstances;
 - (f) Require the offender attend a specific training course related to awareness about biodiversity and biological resources;
 - (g) Require the offender to carry out a specific project for restoration or enhancement of biodiversity in a public place or for the public benefit;
 - (h) Any other alternative penalty deemed appropriate by the Ministry.
2. Notwithstanding subsection (1), any person, domestic or foreign, who has caused damage or degradation to habitats or ecosystems in Timor-Leste in violation of this Decree Law and any other applicable law or regulation, shall be required to implement rehabilitation and restoration of the habitats and/or ecosystems that have been degraded or damaged.

Article 71 – Determining appropriate penalty

Factors that shall be taken into account by the Ministry responsible for biological resources when determining the penalty or penalties to apply under this Part include:

- (a) The seriousness of the offence or breach;
- (b) Whether the responsible person or persons acted with negligence, recklessness, or intent;
- (c) The degree of contrition demonstrated by the responsible person or persons;
- (d) The willingness of the responsible person or persons to comply with enforcement officers and the responsible Ministry;

- (e) Whether any warning or compliance notices had been issued in relation to the relevant acts or omission constituting the offence;
- (f) Whether the responsible person or persons have previously committed other offences under this Decree Law or any other environmental laws and regulations;
- (g) The extent of any achieved or intended economic advantage from the offence;
- (h) The likely deterrent effect and overall effectiveness of the penalty; and
- (i) Whether any traditional or community-based penalties have already been imposed, and if so whether or not these have been complied with.

Article 72 – Criminal penalties

1. Criminal penalties in respect of biodiversity and biological resources are established in the Penal Code.
2. The Ministry responsible for the environment, the Ministry responsible for biological resources, and the Ministry for Justice shall cooperate and collaborate to review relevant provisions in the Penal Code and to propose and submit amendments to stipulate crimes relating to biodiversity and biological resources consistent with this Decree Law.
3. Where the responsible Ministry suspects that a criminal offence may have been committed under the Penal Code, the responsible Ministry shall refer the details of the matter to the police and the public prosecutor.
4. The responsible Ministry shall cooperate with the police and public prosecutor in the conduct of any criminal investigation or prosecution relating to biodiversity or biological resources.
5. The application of any administrative or civil penalty under this Decree Law does not preclude the prosecution of any person for a criminal offence in accordance with the Penal Code.

Part 2 – Appeals and dispute resolution

Article 73 – Appeals

Any person aggrieved by a decision made under this Decree Law may appeal that decision by seeking administrative review of that decision in accordance with procedures established in *Decree Law No. 32/2008 on Administrative Procedure* and its subsequent amendments, or by appealing to a competent Court.

Article 74 – Open standing

1. Any person may commence proceedings in a competent Court to restrain a breach or threatened breach of this Decree Law, enforce the application of this Decree Law, including seeking compensation for any loss or damage suffered as a result of a breach of this Decree Law, or to challenge the procedural or substantive legality of any decision, act or omission made under this Decree Law.
2. The right to bring a matter before a competent Court may be exercised without the need for prior administrative review.
3. The right to bring a matter before a competent Court may be exercised regardless of any personal interest in the matter.

Article 75 – Efforts to settle disputes outside of Court

Prior to commencing any proceedings in a Court in relation to biodiversity and biological resources, all persons shall make efforts to resolve the matter and pursue alternative dispute resolution mechanisms outside of Court, including the use of traditional or community-based dispute resolution mechanisms in appropriate circumstances.

Chapter 13 – Final and transitory provisions

Article 76 – International cooperation

Timor-Leste shall cooperate with other States in order to promote the conservation of biodiversity and the sustainable use of biological resources that are located within Timor-Leste and beyond its national jurisdiction, as well as to conserve transboundary ecosystems.

Article 77 – Subsidiary regulation making power

1. Subsidiary regulations may provide further detail on any matter regulated by this Decree Law.
2. The Ministry responsible for the environment and the Ministry responsible for biological resources shall issue regulations in accordance with their functions under this Decree Law, and any applicable provisions of this Decree Law.
3. The minimum requirements for consultation established in Article 58 must be undertaken prior to making any regulations under this Decree Law.
4. Any laws or regulations made in accordance with this Article shall be consistent with international obligations legally assumed by Timor-Leste.

Article 78 – Transitional arrangements for regulations and guidelines

Until such time as regulations and guidelines are prepared to assist with the interpretation and application of this Decree Law, the responsible Ministries may use and apply international standards, guidelines and best practice, in appropriate circumstances.

Article 79 – Repeal

This Decree Law supersedes and repeals all relevant Indonesian and UNTAET laws and regulations, as well as laws of Timor-Leste, that are inconsistent with this Decree Law.

Article 80 - Commencement

This Decree Law shall enter into force on the day following its publication in the *Jornal da República*.

Approved in the Council of Ministers on [date]

The Prime Minister,

Kay Rala Xanana Gusmão

To be published.