

Comparative Analysis of Bhutan Legal Framework and ADB Safeguard Policy Statement:

ENVIRONMENT

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
Policy Principle 1: Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.			
Key element (1) Use a screening process to determine the appropriate extent and type of environmental assessment	<p>Regulations for Environmental Clearance (EC) for Projects, Chapter II Sections 16 through 28 and Annex 2.</p> <p>A screening process is in force for projects requiring an Environmental Clearance (EC) from permitting authorities. Project proponents must submit an application in a standard form for all prescribed projects. The Competent Authority (CA) shall determine whether the proposed project requires an EA.</p> <p>Once screening determines the need to undertake an EIA, the level of EA effort is determined.</p> <p>The NEC has enacted sectoral guidelines to define process, content and level of assessment. Eight such sectoral guidelines are in force. The Project proponent must check whether its project falls under the eight activities for which the National Environment Commission (NEC) has issued sectoral guidelines. If so, the proponent must follow the standard guidelines as to determine what data and information need to be provided to the CA. If the project does not fall under any of the eight sectors, then the NEC and/or CA will issue terms of reference commensurate to the project.</p> <p>The CA would issue an EC, reject the application or subject the project to a full EA and/or further studies.</p>	Full Equivalence	None required
Policy Principle 2: Conduct an environmental assessment for each proposed project to identify potential direct, indirect, cumulative, and induced impacts and risks to physical, biological, socioeconomic (including impacts on livelihood through environmental media, health and safety, vulnerable groups, and gender issues), and physical cultural resources in the context of the project's area of influence. Assess potential trans-boundary and global impacts, including climate change. Use strategic environmental assessment where appropriate.			
General Guidelines for conduct of EIA	<p>Environmental Protection Act, Regulation for the Environmental Clearance of Projects, EAA and Environmental Codes of Practice</p> <p>All related legislation refer to the need for the Environmental Assessment to include both short-term and long-term impacts for all phases of the project (e.g., acquisition, development, operation and decommissioning) and cumulative impacts of the project, any other projects, and other work or activity in the immediate surroundings and region.</p>	Partial Equivalence The legislation does not explicitly cover reference to assessments of (i) "induced impacts" (ii) impact on people's	For Full Equivalence the legislation of ECOPs should specify requirements for assessment of "induced impacts"; "livelihood, health, safety and impacts on

¹ There are relevant provisions of the Revised National Environmental Protection Act of 2007, Environmental Assessment Act of 2000, Regulations for the Environmental Clearance of Projects and Regulation of 2001, Regulation on Strategic Environmental Assessment of 2001, Environmental Codes of Practice

² "Full Equivalence" denotes that the Bhutan's legal requirement(s) are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that the Bhutan's legal requirement is in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no Bhutan's legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

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	<p>The Environment Assessment Act of 2000 and RECOP defines “environment” as the complex web of interrelationships between the abiotic and <u>biotic components</u> which sustains life on earth, including the social, health and cultural aspects of human beings and required environmental assessment to follow all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.</p> <p>The RECOP requires the Environmental Assessment report provide a description and analysis of the physical, biological, chemical, economic, and social conditions of the project site, its immediate surroundings, and the region and impacts</p>	livelihood, health and safety and on vulnerable groups; (iii) trans-boundary and global impacts	vulnerable groups” and “trans-boundary and global impacts”
Key element (1) Identify indirect as well as direct impacts	<p>Environmental Protection Act , Section 18, Regulation for the Environmental Clearance of Projects, Section 28.2 and Annex 3 on the description of the Environmental Assessment Report Format, notably Section 8 On Assessment of ImpactsAnnex of the Regulations for the Environmental Clearance of projects (RECOP) of 2000 provide overall guidance for identification of impacts</p> <p>The minimum requirements and level of detail for EAs reflect the potential environmental, economic and social impacts of the proposal. The EA report must be prepared in accordance with NEC sectoral guidelines, which list common environmental concerns associated with different development activities. Apart from a project description, the EA is to set out alternatives to the project (including the feasibility of a “no build” alternative), a description of the existing environment, an assessment of impacts (positive and adverse), mitigation measures, and a response to comments received from “concerned people” on the environmental report. “The potential adverse effects of the project...including the direct, indirect and cumulative effects” must be clearly stated in the application.</p> <p>Annex 3 of RECOP requires a detailed description and assessment of the negative and positive potential environmental impacts of the project and its alternatives. The environmental assessment report shall assess (in quantitative terms, to the maximum extent practicable) the direct and indirect potential environmental impacts from all aspects of the project that are within the Scope. The assessment shall include both short-term and long-term impacts for all phases of the project (e.g., acquisition, development, operation and decommissioning) and cumulative impacts of the project, any other projects, and other work or activity in the immediate surroundings and region.</p>	Full Equivalence	None required
Key element (2) Identify cumulative impacts	<p>Environmental Protection Act , Section 18, Regulation for the Environmental Clearance of Projects, Section 28.2 and Annex 3 on the description of the Environmental Assessment Report Format, notably Section 8 On Assessment of ImpactsAnnex of the Regulations for the Environmental Clearance of projects (RECOP) of 2000 provide overall guidance for identification of impacts</p> <p>Annex 3 of RECOP requires a detailed description and assessment of the negative and positive potential environmental impacts of the project and its alternatives. The environmental assessment report shall assess (in quantitative terms, to the maximum extent practicable) the direct and indirect potential environmental</p>	Full Equivalence	None required

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	impacts from all aspects of the project that are within the Scope. The assessment shall include both short-term and long-term impacts for all phases of the project (e.g., acquisition, development, operation and decommissioning) and cumulative impacts of the project, any other projects, and other work or activity in the immediate surroundings and region.		
Key element (3) Identify induced impacts	There is no explicit reference to “induced impacts” in the legal framework. All potential references to indirect impacts are implicit. However Annex 3 of RECOP explicitly requires that the environmental assessment include both the short and long term impacts..... that might mean the “induced impacts”	Partial equivalence	For Full Equivalence the Environment Protection Act or RECOP or ECOPs should directly made reference to assessment of “induced” impacts.
Key element (4) Identify physical impacts	<p>The National Environment protection Act (2007) defines “environment” as the physical factors of the surroundings of human beings including the earth, soil, water, atmosphere, climate, sound, odors, tastes and the biological factors of animals and plants of every description including the complex web of interrelationships between the abiotic and biotic components which sustain life on earth.</p> <p>The Environment Assessment Act of 2000 defines “environment” as the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the social, health and cultural aspects of human beings and required environmental assessment to follow all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.</p> <p>The Regulations for the Environmental Clearance of projects of 2001 defines the existing environment as the <u>physical</u>, biological, chemical, economic, and social conditions of the project site, its immediate surroundings, and the region including:</p> <ul style="list-style-type: none"> a) topography, geology, and soils; b) surface and groundwater hydrology and quality; c) air quality and noise; h) the built environment and human use of the project site, such as the infrastructure (i.e., water supply, wastewater treatment and/or disposal, transportation, waste management, etc.), and relevant plans (i.e., local or regional plans or infrastructure investments, economic development, growth planning and open space plans, etc.); i) rare or unique features (including environmental and social conditions) of the project site and its immediate surroundings . <p>and requires that the Assessment of impacts provide a detailed description and assessment of the negative</p>	Full Equivalence	None required

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	and positive potential environmental impacts of the project on the existing environment as described above.		
Key element (5) Identify biological impacts	<p>The National Environment protection Act (2007) defines “environment” as the physical factors of the surroundings of human beings including the earth, soil, water, atmosphere, climate, sound, odors, tastes and <u>the biological factors of animals and plants of every description including the complex web of interrelationships between the abiotic and biotic components which sustain life on earth.</u></p> <p>The Environment Assessment Act of 2000 defines “environment” as the complex web of interrelationships between the abiotic and <u>biotic components</u> which sustains life on earth, including the social, health and cultural aspects of human beings and required environmental assessment to follow all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.</p> <p>The Regulations for the Environmental Clearance of projects of 2001 defines the existing environment as the physical, biological, chemical, economic, and social conditions of the project site, its immediate surroundings, and the region including:</p> <ul style="list-style-type: none"> d) <u>plant and animal species and habitat;</u> f) scenic qualities, open space and recreational resources; h) the built environment and human use of the project site, such as the infrastructure (i.e., water supply, wastewater treatment and/or disposal, transportation, waste management, etc.), and relevant plans (i.e., local or regional plans or infrastructure investments, economic development, growth planning and open space plans, etc.); i) rare or unique features (including environmental and social conditions) of the project site and its immediate surroundings . <p>and requires that the Assessment of impacts provide a detailed description and assessment of the negative and positive potential environmental impacts of the project on the existing environment as described above.</p>	Full Equivalence	None required
Key element (6) Identify socioeconomic impacts (including on livelihood through	<p>The Environment Assessment Act of 2000 defines “environment” as the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the <u>social, health and cultural aspects of human beings and required environmental assessment to follow all procedures</u> required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.</p>	Partial Equivalence The legislation is absent in the discussion of assessment of impact on	For Full Equivalence legal framework should require full assessment of all socio-economic impacts, including on people’s livelihood, health and safety and on vulnerable

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environmental health and safety, vulnerable groups, and gender issues)	<p>The Regulations for the Environmental Clearance of projects of 2001 defines the existing environment as the physical, biological, chemical, economic, and social conditions of the project site, its immediate surroundings, and the region including:</p> <p>h) the built environment and human use of the project site, such as the infrastructure (i.e., water supply, wastewater treatment and/or disposal, transportation, waste management, etc.), and relevant plans (i.e., local or regional plans or infrastructure investments, economic development, growth planning and open space plans, etc.);</p> <p>and requires that the Assessment of impacts provide a detailed description and assessment of the negative and positive potential environmental impacts of the project on the existing environment as described above.</p>	people's livelihood, health and safety and on vulnerable groups and gender	groups and gender
Key element (7) Identify impacts on physical cultural resources	<p>The Environment Assessment Act of 2000 defines "environment" as the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the <u>social, health and cultural aspects of human beings and required environmental assessment to follow all procedures</u> required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.</p> <p>The Regulations for the Environmental Clearance of projects of 2001 defines the existing environment as the physical, biological, chemical, economic, and social conditions of the project site, its immediate surroundings, and the region including:</p> <p>g) culturally significant sites;</p> <p>and requires that the Assessment of impacts provide a detailed description and assessment of the negative and positive potential environmental impacts of the project on the existing environment as described above.</p> <p>Consent of the Ministry of Home and Cultural Affairs and the consent of the concerned GYT and DYT are pre-requisite for environmental clearance of any project/ activity that is located within 50 meters of a sacred landscape or site.</p>	Full Equivalence	None required
Key element (8) Identify impacts in the context of the project's	The RECOP requires the Environmental Assessment report provide a description and analysis of the physical, biological, chemical, economic, and social conditions of the project site, its immediate surroundings, and the region and impacts	Full Equivalence	None required.

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area of influence			
Key element (9) Assess potential trans-boundary impacts	There is no explicit reference to “assessment of trans-boundary impacts” in the legal framework. There is no explicit reference to trans-boundary impacts; however, there is reference to impacts on the “immediate surroundings and region.” All potential references to trans-boundary impacts are implicit.	No Equivalence Absence of clear reference to “trans-boundary and global impacts” may be considered a significant gap	For Full Equivalence the regulations and/or guidelines should make explicit reference to assessing potential trans-boundary impacts
Key element (10) Assess potential global impacts, including climate change	The reference to assessment of global impacts is not explicit. The RECOP refers to assessment of impacts on the “immediate surroundings and region.”, this refers to the project area of direct influence rather than an emphasis of the global aspects	No Equivalence. There is absence of reference to assessment of global impacts	For Full Equivalence the regulations and/or guidelines should make explicit reference to assessing potential impacts on the global environment, including climate change.
Key element (11) Use strategic environmental assessment	The Regulations on Strategic Environmental Assessment of 2001 provides explicit purpose : 1.1. to ensure that environmental concerns are fully taken into account by all government agencies when formulating, renewing, modifying or implementing any policy, plan or program, including Five-Year developmental plans under Articles 7 and 32.2 of the Environmental Assessment Act, 2000; 1.2. to ensure that the cumulative and large scale environmental effects are taken into consideration while formulating, renewing, modifying or implementing any policy, plan or program; 1.3. to complement project specific environmental reviews as per the Regulation for the Environmental Clearance of Projects and to encourage early identification of environmental objectives and impacts of all governmental proposals at appropriate planning levels; 1.4. to promote the design of environmentally sustainable proposals that encourage the use of renewable resources and clean technologies and practices; and 1.5. to promote and encourage the development of comprehensive natural resource and land use plans at the local, Dzongkhag and national levels.	Full Equivalence.	None required.

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Policy Principle 3: Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts and document the rationale for selecting the particular alternative proposed. Also consider the no-project alternative.			
Key element (1) Examine alternatives to the project's location, design, technology.	<p>Regulation for the EC of Projects (RECOP), Annex 3, Sections 6 and 8 Under Bhutan's system, the EA must provide a detailed analysis of the negative and positive impacts of the proposed project and <u>its alternatives</u> including the "alternative of not undertaking the project". The treatment of the alternative is quite comprehensive and include: (i) analysis of all feasible alternatives, (ii) analysis of the principal differences among the feasible alternatives under consideration, particularly regarding environmental impacts, and (iii) discussion of any alternative non longer under consideration"</p> <p>Annex 3 of RECOP describes alternatives to the Project to include description and analysis of any or all of the following alternatives:</p> <ul style="list-style-type: none"> a) all feasible alternatives, including but not limited to those indicated in the Scope; b) the alternative of not undertaking the project (i.e., the no-build alternative) for the purpose of establishing a future baseline in relation to which the project and its alternatives can be described and analyzed and its potential environmental impacts and mitigation measures can be assessed; c) an analysis of the feasible alternatives in light of the objectives of the proponent ; d) an analysis of the principal differences among the feasible alternatives under consideration, particularly regarding potential environmental impacts; e) a brief discussion of any alternatives no longer under consideration including the reasons for no longer considering these alternatives; and f) a brief description of the cleaner technology and environmental management taken into consideration while selecting the equipment and technology. 	Full Equivalence	None required
Key element (2) Consider the no-project alternative	<p>Regulation for the EC of Projects (RECOP), Annex 3, Sections 6 and 8 Under Bhutan's system, the EA must provide a detailed analysis of the negative and positive impacts of the proposed project and <u>its alternatives including the "alternative of not undertaking the project"</u>. The treatment of the alternative is quite comprehensive and include: (i) analysis of all feasible alternatives, (ii) analysis of the principal differences among the feasible alternatives under consideration, particularly regarding environmental impacts, and (iii) discussion of any alternative non longer under consideration"</p>	Full Equivalence	None required
Policy Principle 4: Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational			

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arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.			
Key element (1) Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management	<p>The EAA Article 28 requires as follows:</p> <p>28.3. A description of measures to avoid or mitigate potential adverse impacts (including direct, indirect and cumulative effects) and enhance positive impacts of the project.</p> <p>Section 2 of RECOP 2007 requires:</p> <p>2.5 To ensure that all feasible means to avoid or mitigate damage to the environment are implemented;</p>	Full Equivalence	None required
Key Element (2) Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements	<p>The EAA provides for the formulation of environmental management plans (EMPs). The EMPs must identify environmental risks and address means of avoiding or minimizing adverse impacts (including direct, indirect and cumulative effects) and enhancing positive impacts. Applicants must also set out a monitoring program (both baseline and compliance monitoring) and are responsible for all project monitoring (project monitoring is undertaken by CA or NEC).</p> <p>The Code of Environmental Practice e.g. for Highways and Roads (CEPHR) requires that EMPs include the proposed mitigation measures, the need to budget mitigation measures, supervision, monitoring and evaluation requirements for the construction, operation and maintenance phases of the project cycle.</p> <p>The RECOP provides that: (i) “the CA shall be responsible for monitoring compliance” for projects requiring development consent and EC, and (ii) the Secretariat [of NEC] shall monitor projects “that do not require development consent”.</p> <p>Section 30 of RECOP also states that Environmental clearance of projects shall specify:</p> <p>30.1 Binding mitigation and compliance measures: and</p> <p>30.2 Appropriate monitoring, recording and reporting requirements</p> <p>The EA Act states that “compliance monitoring of projects” is undertaken by the Secretariat [of NEC]...on becoming aware of non-compliance with the terms or other activities related to a project that may be dangerous to the environment.”</p> <p>EC for a project must be reviewed every 5 years and may be revised and renewed upon review but the Secretariat is empowered to review the EC at any time where there is new information indicating the project creates unacceptable risks to the environment, where improved and cleaner technology becomes available, and where the review is needed to bring the project into compliance with changes to Bhutanese</p>	Full Equivalence	None required

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	laws.		
Key Element (3) Prepare an EMP with related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates,	<p>The Code of Environmental Practice e.g. for Highways and Roads (CEPHR) (used as an example for all ten Codes of Environmental Practice) requires that EMPs include the proposed mitigation measures, the need to budget mitigation measures, supervision, monitoring and evaluation requirements for the construction, operation and maintenance phases of the project cycle.</p> <p>In addition the CEPHR requires defining staffing, schedule and costs of mitigation measures</p> <p>Annex 6 of CEPHR Monitoring/Evaluation further elaborates on the monitoring protocols</p> <p>The RECOP provides that: (i) “the CA shall be responsible for monitoring compliance” for projects requiring development consent and EC, and (ii) the Secretariat [of NEC] shall monitor projects “that do not require development consent”.</p>	<p>Partial Equivalence</p> <p>The requirement for institutional and organization of EMP is implicit in the legislation</p>	To attain Full Equivalence, the RECOP and/or ECOPs should require explicit reference in the EMP to institutional and organization arrangements and capacity building
Key Element (4) Prepare an EMP with performance indicators.	<p>The EAA provides for the formulation of environmental management plans (EMPs). The EMPs must identify environmental risks and address means of avoiding or minimizing adverse impacts (including direct, indirect and cumulative effects) and enhancing positive impacts. Applicants must also set out a monitoring program (both baseline and compliance monitoring) and are responsible for all project monitoring (project monitoring is undertaken by CA or NEC).</p> <p>Section 30 of RECOP also states that Environmental clearance of projects shall specify:</p> <p>30.1 Binding mitigation and compliance measures; and</p> <p>30.2 Appropriate monitoring, recording and reporting requirements</p>	Full Equivalence	None required
Key Element (5) Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.	<p>Section 43 through 49 of RECOP (Sanctions and Compensation) states the following:</p> <p>Section 43: Whoever commits an offense under EA Act 2000 may be subjected to sanctions, held liable for payment of compensation for environmental damage resulting from their action, as well as subject to prosecution for any related criminal offences:</p> <p>Section 44: Sanctions under the EA ACT of 2000 include suspension or revocation of environmental clearance, in part or in whole, and payment of a fine;</p> <p>Section 45: A fine shall range from [.....] depending on the severity of the offense. The amount of the fine may be reviewed and revised from time to time:</p> <p>Section 46: An authorized officer(s) of the Secretariat or Competent Authority may be empowered to levy the fine under Section 45 of the regulation:</p> <p>Section 47, 47, 48 and 49 covers oversight responsibilities for imposition of fines</p>	Full Equivalence	None required
Policy Principle 5: Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women’s participation in consultation. Involve stakeholders, including			

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affected people and concerned nongovernment organizations, early in the project preparation process and ensure that their views and concerns are made known to and understood by decision makers and taken into account. Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment. Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.			
Key element (1) Carry out meaningful consultation with affected people and facilitate their informed participation	<p>EA Act, 2000, Sections 16 and 22 The Regulations for Environmental Clearance of projects: Sections 5.4, 28.8, 29, 30 and 31 and Environmental Codes of Practice (ECOPs)</p> <p>Under the EAA, applicants have a duty to inform and consult with “concerned people” and organizations before submitting the EA documents to the CA where the project is classified as a “significant project”. NECS or the CA is authorized to “ensure that concerned people are given adequate opportunity to express their views on the project and that their views are adequately taken into account.” “Concerned people” and “organizations” are those “individuals, groups or communities whose interests may be affected by a project or proposal” and “significant project” is defined as a project nominated as a type A or B project by sectoral guidelines issued by the NEC. (Category C and D projects may also be considered significant if the cumulative effects of two or more projects are significant.) The NECS and the CA are authorized to ensure that the views of concerned people and organizations “are adequately taken into account in the project”.</p> <p>Where it applies, the duty to inform and consult includes, at a minimum, written notice to local people, a newspaper notice, and public hearings. Local authorities are directed to assist people express their views to the applicant; the public and other agencies have three weeks to respond to the application with comments. The applicant is solely responsible for costs associated with public consultation. The Secretariat of NEC or CA may require the applicant to undertake public consultation beyond the minimum standard, including public notice and review procedure.</p> <p>All sectoral guidelines (ECOPs) for applications for environmental clearances detail requirements for public consultation. The applicant must explain the expected impact to affected people, where these impacts will occur and how they will be mitigated; the applicant must provide a record of the meetings (including a record of names, times and place of meeting and information on issues raised and agreements made). Signatures of consulted parties as proof of consultation are required, as is a description of unresolved issues of discussion.</p>	Full Equivalence	None required
Key element (2) Ensure women's participation in consultation	Reference to women's participation in EIA consultation process is not explicitly mentioned, although it is implicitly required based on the need for consultation in the EIA process.	No Equivalence	For full compliance the legal regulations or RECOP should specify the need for participation of women in the EIA process

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<p>Key element (3) Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process.</p>	<p>EA Act, 2007, The Regulations for Environmental Clearance of projects: Sections 5.4, 28.8, 29, 30 and 31. and Annex 1 to the Regulations (Timing of EA processing including for consultation and disclosure)</p> <p>Under the EAA, applicants only have a duty to inform and consult with “concerned people” and organizations before submitting the EA documents to the CA where the project is classified as a “significant project”. ‘Concerned people’ and “organizations” are those “individuals, groups or communities whose interests may be affected by a project or proposal” and “significant project” is defined as a project nominated as a type A or B project by sectoral guidelines issued by the NEC. (Category C and D projects may also be considered significant if the cumulative effects of two or more projects are significant.)</p> <p>Where it applies, the duty to inform and consult includes, at a minimum, written notice to local people, a newspaper notice, and public hearings. Local authorities are directed to assist people express their views to the applicant; the public and other agencies have three weeks to respond to the application with comments. The applicant is solely responsible for costs associated with public consultation. The Secretariat of NEC or CA may require the applicant to undertake public consultation beyond the minimum standard, including public notice and review procedure.</p> <p>Public information: The Secretariat of NEC or CA must make a public announcement of the decision to issue an environmental clearance and provide reasons for decision including information to the public describing the project, and its environmental terms, describing measures to avoid or mitigate potential adverse effects and to enhance positive impacts, and a non-technical summary of this information. Public notice must be made within 15 days of a decision by the Secretariat or CA. The Secretariat or competent authority may take comments of the public made during the public consultation stage into account when making a decision.</p> <p>Sectoral guidelines for applications for environmental clearances detail requirements for public consultation. The applicant must explain the expected impact to affected people, where these impacts will occur and how they will be mitigated; the applicant must provide a record of the meetings (including a record of names, times and place of meeting and information on issues raised and agreements made). Signatures of consulted parties as proof of consultation are required, as is a description of unresolved issues of discussion.</p> <p>Public participation is an important and necessary component for all projects. Public involvement is likely to result in a more sustainable project when people feel a sense of local ownership, acceptability and a commitment for maintaining the road. It involves a two-way flow of information. Firstly, the study team has a duty to inform the local population of all aspects of the project for all the project stages (adverse impacts and benefits). Secondly, the public should be knowledgeable about local conditions and issues that are crucial for a good project design, the project management and the project operation. During the execution of the pre-</p>	<p>Full Equivalence</p>	<p>None required</p>

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	<p>feasibility study, the local population must be informed about project options. At this project stage, all available data concerning physical, socio-economical, cultural and ecological factors must be collected from locals to receive a broad and valid information basis for all the proposed alignment options.</p> <p>The potential stakeholders such as involved government agencies, NGOs and private people have to be approached for their input with regard to potential environmental problems caused by any project. The EA Team must inform local populations which option has been selected for execution and for what reasons. Complete information on the process of alignment selection again helps to secure the full co-operation of the local population for the further project stages.</p> <p><u>Public Participation and Coordination</u></p> <p>Whenever and wherever required, the further mutual exchange of information between project staff and locals should be encouraged and supported.</p>		
Key element (4) Establish a grievance redress mechanism	There is no explicit mention is made of the need for project-level grievance mechanisms either in the EA Act, Land Act or applicable environmental legislation on establishment of grievance mechanism or make any provision for vulnerable groups	No Equivalence	For Full Equivalence, articles relating to establishment of project-level grievance mechanisms should be included in the legislation or RECOP.
Policy Principle 6: Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders.			
Key element (1) Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place.	<p>EAA 2000, Sections 16, 28.4 and other provisions cited under Principle 7 above.</p> <p>Regulations for EC for projects, Section 31</p> <p>Under the EA Act, applicants have an obligation to inform and consult with concerned people and organizations before submitting the EA documents to the Competent Agency (CA) or National Environment Commission (NEC). Outcomes of the consultations are described in the EA.</p> <p>With respect to “significant projects” the proponent has the further obligation to provide at a minimum, written notice to local people, a newspaper notice, and public hearings. Local authorities are directed to assist people express their views to the applicant; the public and other agencies have three weeks to respond to the application with comments. NECS or the CA may require the applicant to undertake public consultation beyond the minimum standard, including public notice and review procedures.</p> <p>NECS or the CA must make a public announcement of the decision to issue an environmental clearance and provide reasons for decision including information to the public describing the project, and its environmental terms, describing measures to avoid or mitigate potential adverse effects and to enhance positive impacts, and a non-technical summary of this information. Public notice must be made within 15</p>	Full Equivalence	None required

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	<p>days of a decision by the Secretariat or CA. The Secretariat or competent authority may take comments of the public made during the public consultation stage into account when making a decision.</p> <p>Sectoral guidelines for applications for environmental clearances also detail requirements for public consultation. The applicant must explain the expected impact to affected people, where these impacts will occur and how they will be mitigated; the applicant must provide a record of the meetings (including a record of names, times and place of meeting and information on issues raised and agreements made). Signatures of consulted parties as proof of consultation are required, as is a description of unresolved issues of discussion.</p>		
<p>Key element (2) Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders</p>	<p>Regulations for EC for projects, Section 31</p> <p>NECS or the CA must make a public announcement of the decision to issue an environmental clearance and provide reasons for decision including information to the public describing the project, and its environmental terms, describing measures to avoid or mitigate potential adverse effects and to enhance positive impacts, and a non-technical summary of this information. Public notice must be made within 15 days of a decision by the Secretariat or CA. The Secretariat or competent authority may take comments of the public made during the public consultation stage into account when making a decision.</p>	Full Equivalence	None required
<p>Policy Principle 7: Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.</p>			
<p>Key element (1) Implement the EMP and monitor its effectiveness.</p>	<p>EAA, Sections 7 through 10, 23, 26 through 31, 40 through 43 and RECP, Sections 30, 31, 33-34 and Annex to the Regulations</p> <p>The EAA mentions that Applicants must [also] set out a monitoring program (both baseline and compliance monitoring) and are responsible for all project monitoring (project monitoring is undertaken by CA or NEC).</p> <p>The ECOPs requires that EMPs include the proposed mitigation measures, the need to budget mitigation measures, supervision, monitoring and evaluation requirements for the construction, operation and maintenance phases of the project cycle.</p> <p>The RECOP provides that: (i) “the CA shall be responsible for monitoring compliance” for projects requiring development consent and EC, and (ii) the Secretariat [of NEC] shall monitor projects “that do not require development consent”.</p> <p>The EAA states that “compliance monitoring of projects” is undertaken by the Secretariat [of NEC]...on becoming aware of non-compliance with the terms or other activities related to a project that may be dangerous to the environment.”</p>	Full Equivalence	None required.

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Key element (2) Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.	<p>The RECOP provides that: (i) “the CA shall be responsible for monitoring compliance” for projects requiring development consent and EC, and (ii) the Secretariat [of NEC] shall monitor projects “that do not require development consent”.</p> <p>The EAA states that “compliance monitoring of projects” is undertaken by the Secretariat [of NEC]...on becoming aware of non-compliance with the terms or other activities related to a project that may be dangerous to the environment.”</p>	<p>Partial Equivalence</p> <p>It is unclear if the monitoring results and corrective actions have to be disclosed</p>	<p>For Full Equivalence the RECOP of ECOPs should define that need for disclosing monitoring results</p>
<p>Policy Principle 8: Do not implement project activities in areas of critical habitats, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function, (ii) there is no reduction in the population of any recognized endangered or critically endangered species, and (iii) any lesser impacts are mitigated. If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available, (ii) the overall benefits from the project substantially outweigh the environmental costs, and (iii) any conversion or degradation is appropriately mitigated. Use a precautionary approach to the use, development, and management of renewable natural resources.</p>			
Key Element (1) Do not implement project activities in areas of critical habitats, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function, (ii) there is no reduction in the population of any recognized endangered or critically endangered species, and (iii) any lesser impacts are mitigated..	<p>Forest and Nature Conservation Act, 1995; Forest and nature Conservation Rules, Sections 62, 70 and EAA and RECOP relates to this issue:</p> <p>Under Bhutan’s laws and regulations, it is prohibited to undertake any human activities within the core zone of a protected area unless determined necessary by forest/ protected area officials to achieve nature conservation objectives. Outside the core area, no construction is allowed except with a written permit or authorization from the MoA, acting as CA under the EA Act. A permit for land clearance may be granted in private lands under strict conditions but not to alter protected area status, water catchment areas and areas containing high forest.</p> <p>Any activity that may impact protected area and natural habitats in general cannot be undertaken unless it is permitted by the Secretariat of the NEC and the CA including local government. The permitting process shall analyze all alternatives including no-project alternative before any decision is reached.</p> <p>Protected Areas including national parks, wildlife reserves and wildlife corridors their legal status includes the prohibition to convert or degrade them. Activities that have an impact on any protected area must be submitted to prior review by the Secretariat of the NEC. Prohibitions include all activities that may alter, degrade, or convert any part of a “habitat” and those permitted activities are to be undertaken by the Forestry Department for the purpose managing the habitat only including “culling species for sanitation and conservation purpose... [as required by].. a management plan”. In general protected areas comprise: (i) a Core Zone, (ii) a Multi-Use Zone, and (iii) a Buffer Zone. Activities and changes to land uses are strictly regulated and stringent norms apply to Core Zone which, in general is a pure conservation area where only scientific and educational activities may be authorized.</p>	<p>Full Equivalence</p>	<p>None required</p>

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<p>Key Element (2)</p> <p>If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available, (ii) the overall benefits from the project substantially outweigh the environmental costs, and (iii) any conversion or degradation is appropriately mitigated.</p>	<p>Forest and Nature Conservation Act, 1995; Forest and nature Conservation Rules, Sections 62, 70 and EAA and RECOP relates to this issue:</p> <p>Protected Areas including national parks, wildlife reserves and wildlife corridors their legal status includes the prohibition to convert or degrade them. Activities that have an impact on any protected area must be submitted to prior review by the Secretariat of the NEC. Prohibitions include all activities that may alter, degrade, or convert any part of a “habitat” and those permitted activities are to be undertaken by the Forestry Department for the purpose managing the habitat only including “culling species for sanitation and conservation purpose... [as required by].. a management plan”. In general protected areas comprise: (i) a Core Zone, (ii) a Multi-Use Zone, and (iii) a Buffer Zone. Activities and changes to land uses are strictly regulated and stringent norms apply to Core Zone which, in general is a pure conservation area where only scientific and educational activities may be authorized.</p> <p>Management plans must define all measures to ensure the sustainability of the exploitation and its environmental soundness. Each management plan shall describe the management regime required for the protection and sustainable utilization of the resources, including logging and reforestation requirements and designation of protected areas; and assess the environmental and socio-economic impact of the proposed management regime.</p>	Full Equivalence	None required
<p>Key Element (3)</p> <p>Use a precautionary approach to the use, development, and management of renewable natural resources</p>	<p>National Environmental Protection Act (2007) Chapter II Principles Applicable to Environmental Protection Section 8 through 10 (Precautionary Principle) states the following:</p> <p>Section 8: Where there are threats of serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation</p> <p>Section 9: A developmental activity shall be strategically planned and executed in harmony with the carrying capacity of the country’s sensitive ecological settings and geographical terrains; and</p> <p>Section 10: A person taking natural resources from the environment or deriving economic benefits is responsible to ensure sustainable use and management of those resources and their ecology</p>	Full Equivalence	None required
<p>Policy Principle 9: Apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group’s Environmental, Health and Safety Guidelines. Adopt cleaner production processes and good energy efficiency practices. Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions, waste generation, and release of hazardous materials from their production, transportation, handling, and storage. Avoid the use of hazardous materials subject to international bans or phase-outs. Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.</p>			
Key element (1)	Sectoral Guidelines and Environmental Codes of Practices for specific activities provides very specific guidelines and discharge standards setting out acceptable levels of air, noise and other pollutants	Full Equivalence	None required

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Apply pollution prevention and control technologies and practices consistent with international good practices.	applicable to specific industries, some if which are drawn from international organization's guidelines such as WHO and FAO.		
Key Element (2) Adopt cleaner production processes and good energy efficiency practices.	<p>The National Environmental Protection Act (2007) Chapter IV “Protection of Environmental Quality” provides broad guidance for ensuring measures to maintain environmental quality including...</p> <p>(b) laying out standards for emission discharge of environmental pollutants from various sources, provided that different standards for emission and discharge may be laid down under this clause from different sources having regard to the quality and composition of the emission or discharge of environmental pollutants from such sources.</p> <p>(c) laying down, after consultations, restrictions and procedures on the disposal of wastes;</p> <p>(e) laying down standards and procedures ...and best environmental practices</p>	<p>Partial Equivalence</p> <p>The legislation lacks specificity regarding adoption of cleaner processes and good energy efficiency practices, although it might be considered implicit in the legislation</p>	To attain Full Equivalence, the legislation should explicitly require the adoption of cleaner technologies and energy efficiency measures
Key Element (3) Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions, waste generation, and release of hazardous materials from their production, transportation, handling, and storage.	<p>The National Environmental Act (2007) and Sectoral Guidelines and Environmental Codes of Practices for specific activities provides very specific guidelines and discharge standards setting out acceptable levels of air, noise and other pollutants applicable to specific industries, some if which are drawn from international organization's guidelines such as WHO and FAO.</p> <p>The National Environmental Act has some specific guidance on avoidance and/or mitigation of pollution as follows:</p> <p>Section 53 through 56 requires the Commission (National Environmental Commission) to take measures to protect the environment prevent, control and abate environmental harm, including restrictions on emissions, operation of industries, procedures and safeguards for handling of hazardous substances and pollution, inspection of premises and taking steps therein to prevent, control and abate pollution; and discharge or emission of pollutants in excess of prescribed standards</p>	<p>Partial Equivalence</p> <p>The legislation lacks specificity on waste generation and movement of hazardous materials</p>	To attain Full Equivalence, the legal framework should provide explicit guidance on avoidance and minimization of pollutants, greenhouse gases and waste as well as on the handling and movement of hazardous materials
Key element (4) Avoid the use of hazardous materials subject to international bans or phaseouts.	The National Environmental Act Section 55 “handling of Hazardous Substances” states that no person shall handle or cause to be handled hazardous substances except in accordance with such procedure and after complying with such safeguards as may be prescribed under national and international instruments	Full Equivalence	None required

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Key Element (5) Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.	<p>The Pesticide Act 2000 stipulates measures to: (i) control the sale and licensing of pesticides; (ii) use and manufacture of pesticides; (iii) waste disposal of pesticides; (iv) packaging and labelling; (v) use of pesticides; (vi) precautions in transport and handing and application.</p> <p>The over-arching objective of the Pesticide Act is to ensure that an integrated pest management strategy is pursued, limiting the use of pesticides as the last resort</p>	Full Equivalence	None required
Policy Principle 10: Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease. Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.			
Key Element (1) Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease.	<p>The Labour and Employment Law of 2007 lays out detailed guidance on the health and safety conditions that an Employer must provide to the employees:</p> <p><u>Health and safety policy of Labour and Employment Law (Article 150 through 152):</u></p> <p>Article 150.An employer that is either-(a) a registered company under the Companies Act of the Kingdom of Bhutan (2000); or (b) a small, medium or large scale industry; or (c) falling outside section 150 (a) and (b) and having twelve or more employees, shall prepare and implement an occupational health and safety policy that ensures that each workplace of the enterprise is safe and healthy by:</p> <p>(i) addressing the hazards and risks at the workplace or workplaces;</p> <p>(ii) outlining the procedures and responsibilities for preventing, eliminating and minimising the effects of those hazards and risks;</p> <p>(iii) identifying the emergency management plans for the workplace or workplaces; and</p> <p>(iv) specifying how consultation, training and information are to be provided to employees at the workplace or workplaces.</p> <p>Article 151. The employer shall prepare and implement the policy in consultation with the health and safety representative and Workers' Association (if any) at each workplace of the enterprise or, if there is no such representative or association, the employees at each of the workplaces.</p> <p>Article 152. The employer shall display the policy in a prominent place at each permanently sited workplace of the enterprise.</p>	Full Equivalence	None required
Key Element (2) Establish preventive and emergency preparedness and response measures to	<p>National Environmental Protection Act (2007) "Environmental Emergencies":</p> <p>Section 63: Environmental emergencies, including any industrial accident or accidental spillage or leakage resulting in a significant release of a hazardous substance into the environment, shall be notified to the nearest government authority which shall in turn take the necessary measures for damage control</p>	<p>Partial Equivalence</p> <p>The legislation lacks explicit requirement for</p>	To attain Full Equivalence, the legal framework should explicitly require the establishment of emergency

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avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.	including alerting the public.	preventive and emergency preparedness in environmental aspects	preparedness measures
Policy Principle 11: Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment. Provide for the use of “chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation.			
Key Element (1) Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment.	<p>RECOP Annex 3</p> <p>Section 6 “Alternatives to Projects”</p> <p>Section 9 “Mitigation Measures”</p> <p>The DYT Act, 2002, mandates the DYT to adopt and enforce regulations for designation and protection of monuments of cultural and historical importance in the Dzongkhag.</p> <p>The GYT Act, 2002, mandates the GYT to administer, monitor and review geog plan activities, including maintenance and preservation of religious monuments that are not under the custody of monastic body or central agencies</p> <p>Once a project has been screened as potentially harmful to a sacred landscape or site or any sensitive area, it must be submitted to a full EA with a view to avoid, minimize or reduce impacts and to enhance benefits. The EA must include analysis of all alternatives, including “feasible alternatives” and “the no-build alternative” and describe mitigation measures.</p> <p>Consent of the Ministry of Home and Cultural Affairs and the consent of the concerned GYT and DYT are pre-requisite for environmental clearance of any project/ activity that is located within 50 meters of a sacred landscape or site.</p>	Full Equivalence	None Required
Key Element (2) Provide for the use of “chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project	None	Partial Equivalence Absence of legislation or regulations to protect “chance finds” is a significant gap	For Full Equivalence the legal framework should incorporate the provisions of the proposed Conservation of Archeological Heritage Act or an equivalent measure to ensure the protection of “chance finds” would bridge the difference on a systems level.

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implementation.			

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