

## Comparative Analysis of Nepal Legal Framework and ADB Safeguard Policy Statement

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(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	<b>The Environmental Protection Rules 1997, Rule 3</b> requires an Initial environment Examination or Environmental Impact Assessment to be made and in carrying out this task, the proponent shall be required to either prepare an initial environmental examination or environmental impact assessment of the proposals based on the list of activities defined Schedule (1) and Schedule (2) respectively.	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	The <b>Protection of Environment Act of 1997</b> and the <b>Environmental Protection Rules of 1997</b> spells out the terms of conduct of Environmental Assessment of development projects	As noted in the sections below, the existing legislation is lacking in requirement for assessment of “induced”, “trans-boundary” and “global” impacts as well as impacts on vulnerable groups and gender issues and the lack of legislation for conduct of strategic environment assessment	For full equivalence, the Protection of Environment and its Regulation should include explicit reference to assessment of “induced”, “trans-boundary”, “global” impacts as well as those on “vulnerable” groups and gender and the inclusion of requirement for SEA.

<sup>1</sup> The relevant legislation that deals with environmental assessment are the Protection of Environment Act of 1997 and the Environment Protection Rules of 1997.

<sup>2</sup> “Full Equivalence” denotes that the Nepal’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 Nepal’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 Nepal’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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Key element (1)  Identify indirect as well as direct impacts	<b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include: Item 6 .</b> <b>Identification of environmental Impact:</b> To mention the possible positive and negative impact on the following spheres of the environment while implementing the proposal, and estimate and specify the volume of possible impart according to time and work schedules as far as possible. (a) Geographical area likely to have positive or negative impact of the implementation of the proposal and thereof time-schedule. (b) Impact of waste and pollution to be emitted through the implementation of the proposal. (c) <u>Direct or indirect</u> and cumulative impact of the implementation of the proposal on the environment.	Full equivalence	None required
Key element (2) Identify cumulative impacts	<b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include: Item 6: Identification of environmental Impact:</b> To mention the possible positive and negative impact on the following spheres of the environment while implementing the proposal, and estimate and specify the volume of possible impart according to time and work schedules as far as possible..... (c) Direct or indirect and <u>cumulative impact</u> of the implementation of the proposal on the environment.	Full equivalence	None required
Key element (3) Identify induced impacts	The identification of induced impacts is not explicit in the legislation. All references to induced impacts are implicit.	Partial equivalence  There is no explicit reference to “induced” impacts	For full equivalence the EPR should explicit in the requirement for identification of induced impacts
Key element (4) Identify physical impacts	<b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include in Items 4 through 6:</b> <b>Item 4. Particulars of the proposal:</b> (a) To specify the technical, geographical, environmental, economic, social, cultural and <u>physical aspects of the proposal.</u> <b>Item 5. Basic information relating to the proposal:</b> To mention basic information about the <u>geo-physical</u> , cultural, biological, and social and economic conditions of the area to be assessed, as well any possible change that may occur there before the implementation of the proposal. In case there are any data which may not be available or any Subject which may not be covered by the study, they too should be	Full equivalence	None required

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	<p>mentioned.</p> <p><b>6. Identification of environmental Impact:</b> To mention the possible positive and negative impact on the following spheres of the environment while implementing the proposal, and estimate and specify the volume of possible impact according to time and work schedules as far as possible.</p> <p><b>Schedule 5</b> requires the assessment of physical impact to include impact on:</p> <ul style="list-style-type: none"> <li>(i) Land,</li> <li>(ii) Atmosphere,</li> <li>(iii) Water,</li> <li>(iv) Noise,</li> <li>(v) Man-made objects,</li> <li>(vi) Others</li> </ul>		
<p>Key element (5)</p> <p>Identify biological impacts</p>	<p><b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include in Items 4 through 6:</b></p> <p><b>Item 4. Particulars of the proposal:</b> (a) To specify the technical, geographical, <u>environmental</u>, economic, social, cultural and physical <u>aspects of the proposal</u>.</p> <p><b>Item 5. Basic information relating to the proposal:</b> To mention basic information about the geo-physical, cultural, <u>biological</u>, and social and economic conditions of the area to be assessed, as well any possible change that may occur there before the implementation of the proposal. In case there are any data which may not be available or any Subject which may not be covered by the study, they too should be mentioned.</p> <p><b>6. Identification of environmental Impact:</b> To mention the possible positive and negative impact on the following spheres of the environment while implementing the proposal, and estimate and specify the volume of possible impact according to time and work schedules as far as possible.</p> <p><b>Schedule 5</b> requires impact on biological resources to assess impact on:</p> <ul style="list-style-type: none"> <li>(i) Population (biological),</li> <li>(ii) Flora and fauna.</li> <li>(iii) 'Natural habitat and communities</li> </ul>	Full equivalence	None required
<p>Key element (6)</p> <p>Identify socioeconomic impacts (including on livelihood through environmental health and safety, vulnerable groups, and gender issues media,)</p>	<p><b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include in Items 4 through 6:</b></p> <p><b>Item 4. Particulars of the proposal:</b> (a) To specify the technical, geographical, environmental, <u>economic, social</u>, cultural and physical <u>aspects of the proposal</u>.</p> <p><b>Item 5. Basic information relating to the proposal:</b> To mention basic information about the geo-physical, cultural, biological, and <u>social and economic conditions of the area to be assessed</u>, as well any possible change that may occur there before the implementation of the proposal. In case there are any data</p>	<p>Partial equivalence</p> <p>There is no reference to the assessment of impacts on vulnerable groups and gender related aspects</p>	<p>For full equivalence the EPR should include requirement for assessing the impact on vulnerable groups and gender aspects</p>

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	<p>which may not be available or any Subject which may not be covered by the study, they too should be mentioned.</p> <p><b>6. Identification of environmental Impact:</b> To mention the possible positive and negative impact on the following spheres of the environment while implementing the proposal, and estimate and specify the volume of possible impart according to time and work schedules as far as possible.</p>		
<p>Key element (7)</p> <p>Identify impacts on physical cultural resources</p>	<p><b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include in Items 4 through 6:</b></p> <p><b>Item 4. Particulars of the proposal:</b> (a) To specify the technical, geographical, environmental, economic, social, <u>cultural</u> and physical <u>aspects of the proposal</u>.</p> <p><b>Item 5. Basic information relating to the proposal:</b> To mention basic information about the geo-physical, <u>cultural</u>, biological, and social and economic <u>conditions of the area to be assessed</u>, as well any possible change that may occur there before the implementation of the proposal. In case there are any data which may not be available or any Subject which may not be covered by the study, they too should be mentioned.</p> <p><b>6. Identification of environmental Impact:</b> To mention the possible positive and negative impact on the following spheres of the environment while implementing the proposal, and estimate and specify the volume of possible impart according to time and work schedules as far as possible.</p> <p><b>Schedule 5</b> requires the socio-economic impact to relate to:</p> <ul style="list-style-type: none"> <li>(i) Impact on human health,</li> <li>(ii) Degradation of cultivable land,</li> <li>(iii) Destruction of forests,</li> <li>(iv) Changes in social, cultural and religious norms and value,</li> <li>(v) Others.</li> </ul> <p><b>The Protection of Environment Act of 1997 Protection of National Heritage:</b> states the following:</p> <ul style="list-style-type: none"> <li>(i) It shall be the duty of the concerned agency to protect National Heritage</li> <li>(ii) For the purpose of the protection of National Heritage, the concerned agency shall be required to prepare and maintain an inventory and such an inventory shall also include the objects or places listed in the World Heritage List available within the Kingdom of Nepal.</li> <li>(iii) The objects, places, plants, animals etc, included in the inventory referred to in sub-section (2) shall be protected as prescribed.</li> </ul>	Full equivalence	None required
<p>Key element (8)</p> <p>Identify impacts in the</p>	<p><b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include: Item 6</b></p>	Full equivalence	None required

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context of the project's area of influence	<b>Identification of environmental Impact:</b> To mention the possible positive and negative impact on the following spheres of the environment while implementing the proposal, and estimate and specify the volume of possible impact according to time and work schedules as far as possible. (a) <u>Geographical area likely to have positive or negative impact of the implementation of the proposal and thereof time-schedule.</u>		
Key element (9)  Assess potential trans-boundary impacts	There is no explicit reference to assessment of trans-boundary impacts	No Equivalence	For full equivalence it is important that the Environment Protection Act or related regulations should explicitly require the assessment of trans-boundary impacts
Key element (10)  Assess potential global impacts, including climate change	There is no explicit reference to assessment of global impacts	No equivalence	For full equivalence it is important that the Environment Protection Act or related regulations should explicitly require the assessment of global impacts, including climate change in particular due to vulnerability of the country to global impacts of sea level rise.
Key element (11)  Use strategic environmental assessment	There is no explicit reference for requirement of strategic environmental assessments	No equivalence	For full equivalence, the Protection of Environment Act or its regulation or separate legislation for SEA is required
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.	<b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include: Item 7: Analysis of the alternatives for the proposal:</b> The following matters are to be analyzed: (a) Matters concerning the design of the proposal, project site, technology, operation procedure, time – schedule and raw materials to be used. (b) Comparison is to be made on the basis of the fixed and working capital, local suitability , institutional	Full equivalence	None required

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	training and supervision needed for the implementation of the proposal, and the environmental cost and returns and economic significance of each alternative measures are to be analyzed as far as possible. (c) Short, medium and long – term adverse impact of the implementation of the proposal. (d) Sources of energy to be used for the implementation of the proposal and measures to be adopted for saving such energy. (e) Analysis of the consequences of the non- implementation of the proposal.		
Key element (2) Consider the no-project alternative	<b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include: Item 7: Analysis of the alternatives for the proposal:</b> The following matters are to be analyzed..... (e) Analysis of the consequences of the non- implementation of the proposal.	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			
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	<b>The Environmental Protection Rules 1997, Schedule 6 (on basis of Rule 7) defines the EIA content to include: Item 8: Measure to reduce environmental impact:</b> (a) To mention practical preventive measures to be adopted for all activities which could have a negative impact on the environment. (b) In case the environmental impact cannot be fully avoided through preventive measures, arrangements made for payments of compensation shall be mentioned. The effectiveness of the preventive measures shall be analyzed from the view point of their cost on the basis of the comparison with other possible alternatives. (c) The effectiveness of the preventive measures shall be analyzed from the viewpoint of their cost on the basis of a comparison with other possible alternatives.	Full equivalence	None required
Key element (2) Prepare an environmental management plan (EMP)	The reference to preparation of an EMP is implicit in the legislation. However, it is implied in the <b>Protection of Environment Act</b> that the Project Proponent “who is desirous of implementing any proposal shall have to submit such a proposal, accompanied by the report on Initial Environmental Examination or Environmental Impact Assessment of the proposal, to the concerned agency for the approval of such a proposal” In terms of the Approval for Implementation of mitigation and control, a Proposal it May be Given “Notwithstanding anything contained in sub-section (1) or (5), in case it appears from the Initial Environmental Examination or Environmental Impact Assessment report that significant adverse impacts to be caused on the environment while implementing the proposal can be mitigated or controlled, the concerned agency or Ministry may grant approval, with prescription of necessary terms, to the proponent to implement the proposal. In addition, <b>Rule 12 of the Protection of Environment Act</b> requires the proponent to mandatorily comply with the matters mentioned in the report, as well as the conditions prescribed by the concerned	Full Equivalence	None required

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	body or the Ministry, while implementing the proposal.		
Key Element (3) Prepare an environmental management plan (EMP) that includes the proposed... environmental monitoring and reporting requirements	<p><b>The Environmental Protection Rules 1997, Schedule 6 “Matters to be mentioned while preparing reports relating to EIA”</b></p> <p><b>Rule 12 Monitoring of the Proposal:</b> To mention the procedure of monitoring the impact of implementation of the proposal (EMP) on the environment, as well as the monitoring agency, time-schedule, monitoring and evaluation indicators, etc.</p> <p><b>Rule 14 Environmental Examination and Maintenance Updated:</b> Requires that two years after the commencement of the “project” the Ministry shall carry out an environmental examination of the implementation of the proposal and measures adapted to reduce impacts, and maintain updated records thereof</p> <p><b>The National EIA Guidelines (1993)</b> (endorsed by Government of Nepal and developed under the auspices of the EIA Regulations) <b>Chapter X Environmental Impact Monitoring</b> mentions that the reporting structure of monitoring depends on the nature of the project and analysis undertaken by the project approving agency, but the reporting format should be developed and presented as regular reports</p>	<p>Partial Equivalence</p> <p>There is no explicit requirement in the legislation for the proponent regarding the reporting intervals</p>	<p>To attain full equivalence, the legislation must require the EMP to specify monitoring reporting requirements and timing</p>
Key Element (4) Prepare an environmental management plan (EMP) that includes... related institutional or organizational arrangements	<p><b>The National EIA Guidelines (1993)</b> (endorsed by Government of Nepal and developed under the auspices of the EIA Regulations) <b>Chapter IX review of Draft EIA Report: Review Parameters</b></p> <p><b>(d) Implementation</b> requires evaluation of:</p> <p>(1) whether <u>institutional arrangements for implementation of recommended mitigation measures</u> are adequate;</p>	<p>Full Equivalence</p>	<p>None required</p>
Key Element (5) Prepare an environmental management plan (EMP) that includes the proposed... capacity development and training measures	<p><b>The National EIA Guidelines (1993)</b> (endorsed by Government of Nepal and developed under the auspices of the EIA Regulations) <b>Chapter IX review of Draft EIA Report: Review Parameters</b></p> <p><b>(d) Implementation</b> requires evaluation of:</p> <p>(3) whether the expenditure required to undertake environmental protection measures has been estimated and whether financial and <u>technical capability</u> and resources to implement these measures are adequate</p>	<p>Partial Equivalence</p> <p>It is unclear if the assessment of technical capability to implement EMP is linked to identifying training and capacity building measures as well</p>	<p>To attain full equivalence, the legislation should require the EMP to include the capacity development and training requirements for implementing mitigation measures</p>
Key Element (6) Prepare an environmental management plan (EMP) that includes the proposed ... implementation schedule	<p>None</p>	<p>No Equivalence</p>	<p>To attain full equivalence, the legislation and/or guidelines should include specific requirements of an implementation schedule for EMP actions</p>

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Key Element (7) Prepare an environmental management plan (EMP) that includes the proposed... cost estimates	<b>The National EIA Guidelines (1993)</b> (endorsed by Government of Nepal and developed under the auspices of the EIA Regulations) <b>Chapter IX review of Draft EIA Report: Review Parameters</b> <b>(d) Implementation</b> requires evaluation of: (3) whether <u>the expenditure required to undertake environmental protection measures has been estimated</u> and whether financial and technical capability and resources to implement these measures are adequate	Full Equivalence	None required
Key element (8) Prepare an environmental management plan (EMP) that includes the proposed ...performance indicators	<b>The National EIA Guidelines (1993)</b> (endorsed by Government of Nepal and developed under the auspices of the EIA Regulations) <b>Chapter X: Environment Impact Monitoring</b> requires: 33. (a) determination of indicators to be used in the process of monitoring; (c) apply measurable criteria with regard to prescribed indicators 37: Selection of Impact Indicators:	Full Equivalence	None required
Key Element (9) 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.	<b>Chapter 8 of Environmental Protection Rules “Compensation and other provisions”</b> states that anyone who has suffered as a result of being harmed by pollution or emitting wastes can submit an application for compensation, and the Chief District Officer, on a case-by-case basis will determine the validity of the application and the amount of compensation to be paid.	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 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	<b>The Environment Protection Rules 1997 Chapter 2</b> discusses consultation in relation to preparation of an IEE or EA report. <b>Repost of the Initial environmental examination and environmental impact assessment to be prepared:</b> Rule 7 (2) Whilst preparing the report, the proponent shall, in the cases of initial environmental examination affix a notice in the concerned Village Development Committee or Municipality, Office of the District Development committee school, hospital, and health post requesting the Village Development committee or Municipality and District Development Committee or concerned individuals or institution to offer their written opinion and suggestions within Fifteen days with regard to the possible impact of the implementation of the proposal on the environment where the proposal is to be implemented and prepare a deed.....Provided that, while preparing the report of environmental impact assessment, the proponent shall organize a public hearing about the proposal at the area of Village Development Committee or	Partial Equivalence  Consultation seems largely determined by government request, rather than an explicit requirement of meaning consultation early in the process. Further reference to consultation is to request the Village	For full equivalence the Environment Protection Rules should explicitly specify that requirement for early, informed and meaningful consultation with affected people



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	<p>Municipality where the proposal is to be implemented and collect opinions and suggestions.</p> <p><b>Rule 10. Submission of proposal for Approval :</b> The proponent, who wishes to implement a proposal pursuant to Section 5 of the Act, shall Submit Fifteen copies of the report prepared under Rules 7 along with the recommendation of the concerned Village Development Committee or Municipality to the concerned body for the approval of proposal</p> <p><b>Rule 11. Power to Grant Approval to Implement Proposals:</b> (1) In cases where any proposal is received pursuant to Rule 10, the concerned body shall conduct investigations into the report attached to the proposal, and in cases where the investigations show that the implementation of that proposal will have no Substantial negative impact on the environment , grant approval within _Twenty One days from the date of its receipt in the case of a proposal which requires an initial environmental examination only , and forward to the proposal the Ministry along with its opinion as well as ten copies of the report within _Twenty One days from the date of its receipt in the case of a proposal which requires and environmental impact assessment as well. (2) In cases where a proposal is received pursuant to Sub-Rule (1), Ministry shall publish a public notice in any one of the daily newspaper, granting a time limit of Thirty days, to the general public to make a copy of the report themselves received along with the proposal on their own or to study it for offering their opinions and suggestions on it. (3) In cases where any individual or institution wishes to offer his/her its opinion and suggestion on the report as mentioned in Sub-rule (2) he/she it shall send his/her its opinion or suggestion to the Ministry within thirty days from the first date of publication.</p>	<p>development Committee for written opinion and suggestion, which is not supported by direct consultation with the affected people</p>	
<p>Key element (2) Ensure women's participation in consultation</p>	<p>There is no explicit requirement for women's participation in the environment legislation, although it is implicit in the reference to participation of the Village Development Committee.</p> <p><b>Chapter 3 Section 12 (2c) of the Local Self-Governance Act 1999</b>, requires the inclusion of a woman member in the Village Development Committee</p> <p>(2) The Village Development Committee shall consist of the Chairman, Vice chairman and Members as follows</p> <p>(c) Two Members including one woman nominated by the Village Development Committee from amongst the Members of the Village Council as referred to in clause (c) of sub section (2) of Section 8.</p> <p>Clause (c) Sub-section (2) of Section 8</p> <p>(c) Six persons including one woman nominated by the Village Council from amongst those social workers, socially and economically backward tribes and ethnic communities, down trodden and indigenous people living within the village development area, belonging to the class whose representation 'm the Village Council does not exist and who are in possession of the required qualifications to become</p>	<p>Partial equivalence</p>	<p>For full equivalence the Environment Protection Rules should provide explicit reference to women's participation in the consultation process</p>

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	the Member of the Village Council under Section 10.		
Key element (3) Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process.	While, there is reference to inform the Village Development Committee of the project and seek written opinion and suggestions, there is no time line defined for such consultation	Partial equivalence  Consultation is restricted to receipt of opinion and suggestions from Village Development Committee, and is not an interactive process	For full equivalence, the Environment Protection Rules should specify a more direct and interactive consultation process with affected people from very early in the project preparation process and extending into project design and implementation
Key element (4) Establish a grievance redress mechanism	There is no explicit mention regarding the establishment of a project-related grievance mechanism	No equivalence	To attain equivalence, the Environment Protection Act and/or Rules should clearly specify the requirement for project-specific grievance mechanisms and the broad steps that would entail the establishment of such a mechanism
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.	<b>The Environment Protection Rules 1997</b> require that the Ministry shall publish a public notice in any one of the daily newspaper, granting a time limit of thirty days, to the general public to make a copy of the report themselves received along with the proposal on their own or to study it for offering their opinion and suggestions on it.	Partial equivalence  There is no reference to the language of the document as well as the need to have the report available at an easily accessible location	For full equivalence, the Environment Protection Rules should clearly specify that the draft reports should be available in the local language and an easily accessible location
Key element (2) Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders	There is no explicit requirement in the legislation to disclose the final environmental assessment	No equivalence	For full equivalence the Protection of Environment Act and/or Rules should require the project proponent to make available the final EA report to all stakeholders in an language and place that is easily accessible.

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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.			
Key element (1) Implement the EMP and monitor its effectiveness.	<b>Chapter 2 Rule 12 of the Protection of Environment Act</b> calls upon “The proponent shall mandatorily comply with the matters mentioned in the report (EA), as well as the conditions prescribed by the concerned body or the Ministry, while implementing the proposal.	Full equivalence	None required
Key element (2) Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.	<p><b>Chapter 2 Rule 13 of the Protection of Environment Act</b> makes specific reference to monitoring</p> <p>(1) The concerned body shall monitor and evaluate the impact of the implementation of the proposal on the environment.</p> <p>(2) In case where it is found in the course of carrying out monitoring and evaluation under Sub-Rule (1) that the actual impact is higher than the one specified in the conditions prescribed at the time of approving the proposal, the concerned body shall issue necessary directives to the proponent to adopt measures to reduce or control such impact and it shall be the duty of the concerned proponent to comply with such directives.</p> <p>(3) The concerned body shall also inform the Ministry about the directives issued to the proponent under Sub-Rule (2).</p> <p><b>The Environmental Protection Rules 1997, Schedule 6 “Matters to be mentioned while preparing reports relating to EIA”</b></p> <p><b>Rule 14 Environmental Examination and Maintenance Updated:</b> Requires that two years after the commencement of the “project” the Ministry shall carry out an environmental examination of the implementation of the proposal and measures adapted to reduce impacts, and maintain updated records thereof</p> <p><b>The National EIA Guidelines (1993)</b> (endorsed by Government of Nepal and developed under the auspices of the EIA Regulations) <b>Chapter X Environmental Impact Monitoring</b> mentions that the reporting structure of monitoring depends on the nature of the project and analysis undertaken by the project approving agency, but the reporting format should be developed and presented as regular reports</p>	Partial equivalence While there is requirement to monitor EMP implementation and take corrective actions if necessary, there is no requirement for disclosure of monitoring reports, except informing the Ministry of Environment	To attain equivalence, the Environment Protection Rules should specify the need for making the monitoring reports available more widely, including to stakeholders and affected people
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.			
Key Element (1) Do not implement project activities in areas of critical habitats, unless (i)	<b>Chapter 5 of Protection of Environment Act</b> prohibits any damage or loss of biodiversity as stated below: “Except with the approval of the concerned body no one shall take or cause to be taken any of the following act in respect to the objects sites, plants, animals etc. incorporated in the inventory or	Partial equivalence  There is no explicit reference to which	For full equivalence, the Environment Protection Rules or other relevant Acts/Rules should explicitly specific

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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.	coming under national heritages:- (a) To remove, alter or take any action which may cause any damage to any object, site, plant, animal etc. (b) To gift away, sell or transfer ownership through relinquishment of title any object site, plant animal etc. (c) To take into the national heritage conservation zone to any animal of the type which could harm any animal incorporated in the inventory, (d) To take any other action in such a manner so as to cause any damage or destroy any object site plant animal, etc.	categories of land use are considered non-violate, nor reference to employing precautionary approaches to use of lesser important natural areas or minimize such impacts	categories of natural lands/seas that are considered non-violate, that there should be no significant conversion of degradation of such lands, and that any impact on conversion and impacts of other lesser important natural areas as to employ a precautionary approach to use and development
Key Element (2) If a project is located within a legally protected area, implement additional programs to promote and enhance conservation aims of the protected area	<b>Chapter 5 of Protection of Environment Act</b> prohibits any damage or loss of biodiversity as stated in Key Element (1) above: <b>The National Parks and Wildlife Conservation Act (1973)</b> intent is to manage the national parks, conservation of wildlife and their habitats, regulate hunting and to conserve, promote and develop such areas for the purposes for which these areas were established. The Act covers national parks, strict nature reserves, Wildlife reserves, Hunting reserves, Conservation Areas, and Buffer Zones, The Act defines activities that are prohibited in these areas, including construction of dwellings, clearing trees or forests, mining and quarrying, grazing, damaging forests and wildlife, river diversions, etc.	Partial Equivalence  The legislation is silent regarding whether projects can be located within protected areas, and if so, under what conditions and management regimes	To attain full equivalence, the legislation should specify clearly if projects can be located within protected areas or not, and if they are located within protected areas, the authority responsible for making such decisions and what conditions apply to the management of these areas.
Key Element (3) In an area of natural habitats, there must be no 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	<b>The Environment Protection and Management Act and Environment Protection Rules</b> aims to maintain a clean and healthy environment, by minimizing, as far as possible adverse impacts likely to be caused by environmental degradation on human beings, wildlife, plants, nature and physical objects and to protect the proper use and management of natural resources, taking into consideration sustainable development.  <b>National Environmental Impact Assessment Guidelines (1993) Chapter VIII Impact Mitigation Measures</b> requires: (2) adoption of Compensatory Measures to compensate for unavoidable impacts and must include: (i) restoration of damaged natural resources	Partial Equivalence  There is no guidance in the legislation on decision making regarding conversion or degradation of natural resources	To attain full equivalence, the legislation should provide explicit guidance on decision making regarding conversion of natural habitats, including cost benefit assessment to facilitate decision making
Key Element (4) Use a precautionary	<b>The Environment Protection and Management Act and Environment Protection Rules</b> centres on the approach that proper use and management of natural resources. However, there is no specific reference to	No equivalence	To attain full equivalence, the legislation should specify the

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approach to the use, development, and management of renewable natural resources	the use of a precautionary approach		use of a precautionary approach to management of renewable natural resources
<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 phaseouts. Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.</p>			
<p>Key element (1) Apply pollution prevention and control technologies and practices consistent with international good practices.</p>	<p><b>Chapter 3 of the Environment Protection Rules of 1997 “Prevention and control of pollutions”</b> specifies:  <b>Rule 15.” Prohibition to emit waste in contravention of the prescribed standards”</b> ...that no one shall emit or cause to emit the noise, heat and waste from any mechanical means, industrial establishment or any other place in contravention of the standards prescribed by the Ministry by a Notification published in the Gazette.  <b>Rule 16. Provisions relating to provisional or permanent pollution control certificate</b> require all industries to apply for provisional pollution control certificate and .....require such industry to cause no substantial adverse impact on environment or there is possibility of reducing or controlling such effect, then...thereafter which a provisional pollution control certificate valid for one year would be issued to the applicant by the relevant agency.  In cases where the standard of sound, heat, nuclear radiation and waste disposal for any industry has been determined by publishing a notice in Nepal Gazette pursuant to Rule 15, the concerned body shall require to issue a permanent pollution control certificate valid for three years to those industries after having their examination from the designated laboratory.  While issuing the provisional or permanent pollution control certificates pursuant to Sub- Rule (1) and (3) the concerned body may , as required, prescribe all or any of the following conditions to be complied by such industry: -  (a) To install within the stated time the equipment required to reduce or control pollution,  (b) To properly use the installed equipment of pollution control,  (c) To operate the industry only at stated time,  (d) To take specific measures to control such activities carried out in the premises of any industry which generate pollution,  (e) To take specific measures to control the activities of any industry which generate pollution outside the premise of the industry,  (f) To make available the equipment necessary for the monitoring activities at the fixed time,  (g) To work as per other conditions prescribed and defended necessary by the concerned body in view of the nature of industry.  (6) The provisional pollution control certificate pursuant to Sub-rule (1) shall be renewed every years and</p>	Full equivalence	None required

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	<p>the permanent pollution control certificate pursuant to Sub-Rule (3) shall be renewed every three year.</p> <p>(7) The terms and conditions mentioned in the provisional or permanent pollution control certificate obtained pursuant to this Rule shall be put in the places of operation of industry as may be seen by all.</p> <p>(8) The concerned body shall maintain the updated list of the industries who obtained the certificates pursuant to this Rule and the list shall be made available to the Ministry.</p> <p><b>Rule 18. Notice to be issued control pollution or not to emit waste:</b> (1) In cases where the concerned body finds in the course of an investigation conducted on its own or following a complaint lodged under Rule 17 that any individual, institution or industry has not controlled pollution or has emitted waste in contravention of the condition or standards prescribed under the Act and these Rules , it shall immediately issue a notice to the concerned individual, institution or industry to control pollution or immediately not to emit waste according to the prescribed conditions or standards.</p> <p>(2) While issuing a notice to the concerned individual, institution or industry under Sub- Rules (1) , the concerned body may order him/her it to take all or any of the following actions immediately by prescribing a time limit in that behalf: -</p> <p>(a) Measures to be adopted immediately for controlling or reducing pollution, or for not emitting waste,</p> <p>(b) To use, operate, or improve any device or equipment,</p> <p>(c) Not to use all or any of the equipment currently being used or operated,</p> <p>(d) To adopt the specified monitoring programs and submit a report to it,</p> <p>(e) To adopt various alternative measures for controlling pollution and avoiding emission of waste,</p> <p>(f) To develop environment management system and furnish information thereof,</p> <p>(g) To perform other functions which are deemed appropriate for controlling pollution and prohibiting waste emission activities.</p>		
Key Element (2) Adopt cleaner production processes and good energy efficiency practices	<p><b>Chapter 3 of the Environment Protection Rules of 1997 “Prevention and control of pollutions”</b> specifies:</p> <p><b>Rule 16. Provisions relating to provisional or permanent pollution control certificate</b> require all industries to apply for provisional pollution control certificate and .....require such industry to cause no substantial adverse impact on environment or there is possibility of reducing or controlling such effect, then...thereafter which a provisional pollution control certificate valid for one year would be issued to the applicant by the relevant agency.</p> <p>In cases where the standard of sound, heat, nuclear radiation and waste disposal for any industry has been determined by publishing a notice in Nepal Gazette pursuant to Rule 15, the concerned body shall require to issue a permanent pollution control certificate valid for three years to those industries after having their examination from the designated laboratory.</p> <p>While issuing the provisional or permanent pollution control certificates pursuant to Sub- Rule (1) and (3) the concerned body may , as required, prescribe all or any of the following conditions to be complied by such industry: -</p> <p>(a) To install within the stated time the equipment required to reduce or control pollution,</p>	Full Equivalence	None required

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	<p>(b) To properly use the installed equipment of pollution control,  (c) To operate the industry only at stated time,  (d) To take specific measures to control such activities carried out in the premises of any industry which generate pollution,  (e) To take specific measures to control the activities of any industry which generate pollution outside the premise of the industry,  (f) To make available the equipment necessary for the monitoring activities at the fixed time,  (g) To work as per other conditions prescribed and defended necessary by the concerned body in view of the nature of industry.</p> <p>(6) The provisional pollution control certificate pursuant to Sub-rule (1) shall be renewed every years and the permanent pollution control certificate pursuant to Sub-Rule (3) shall be renewed every three year.  (7) The terms and conditions mentioned in the provisional or permanent pollution control certificate obtained pursuant to this Rule shall be put in the places of operation of industry as may be seen by all.  (8) The concerned body shall maintain the updated list of the industries who obtained the certificates pursuant to this Rule and the list shall be made available to the Ministry.</p> <p><b>Rule 18. Notice to be issued control pollution or not to emit waste:</b> (1) In cases where the concerned body finds in the course of an investigation conducted on its own or following a complaint lodged under Rule 17 that any individual, institution or industry has not controlled pollution or has emitted waste in contravention of the condition or standards prescribed under the Act and these Rules, it shall immediately issue a notice to the concerned individual, institution or industry to control pollution or immediately not to emit waste according to the prescribed conditions or standards.  (2) While issuing a notice to the concerned individual, institution or industry under Sub- Rules (1) , the concerned body may order him/her it to take all or any of the following actions immediately by prescribing a time limit in that behalf: -  (a) Measures to be adopted immediately for controlling or reducing pollution, or for not emitting waste,  (b) To use, operate, or improve any device or equipment,  (c) Not to use all or any of the equipment currently being used or operated,  (d) To adopt the specified monitoring programs and submit a report to it,  (e) To adopt various alternative measures for controlling pollution and avoiding emission of waste,  (f) To develop environment management system and furnish information thereof,  (g) To perform other functions which are deemed appropriate for controlling pollution and prohibiting waste emission activities.</p> <p><b>In addition, Schedule 6, Matters Pertaining with Reports Relating to EIA and in particular the on “Analysis of Alternatives for the Proposal:</b> states under (d) that sources of energy to be used for the implementation of the proposal and measures to be adopted for energy saving  <b>The Industrial Enterprises Act 1992</b> grants the reduction of up to 50% on the taxable income of any industry investing in pollution minimization equipment and processes</p>		
Key Element (3) Avoid pollution, or, when	<b>Chapter 3 of the Environment Protection Rules of 1997 “Prevention and control of pollutions”</b> specifies:	Full Equivalence	None required

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<p>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>	<p><b>Rule 16. Provisions relating to provisional or permanent pollution control certificate</b> require all industries to apply for provisional pollution control certificate and .....require such industry to cause no substantial adverse impact on environment or there is possibility of reducing or controlling such effect, then...thereafter which a provisional pollution control certificate valid for one year would be issued to the applicant by the relevant agency.</p> <p><b>Rule 15.” Prohibition to emit waste in contravention of the prescribed standards”</b>....that no one shall emit or cause to emit the noise, heat and waste from any mechanical means, industrial establishment or any other place in contravention of the standards prescribed by the Ministry by a Notification published in the Gazette</p> <p><b>Rule 18. Notice to be issued control pollution or not to emit waste:</b> (1) In cases where the concerned body finds in the course of an investigation conducted on its own or following a complaint lodged under Rule 17 that any individual, institution or industry has not controlled pollution or has emitted waste in contravention of the condition or standards prescribed under the Act and these Rules, it shall immediately issue a notice to the concerned individual, institution or industry to control pollution or immediately not to emit waste according to the prescribed conditions or standards.</p> <p>(2) While issuing a notice to the concerned individual, institution or industry under Sub- Rules (1) , the concerned body may order him/her it to take all or any of the following actions immediately by prescribing a time limit in that behalf: -</p> <p>(a) Measures to be adopted immediately for controlling or reducing pollution, or for not emitting waste,</p> <p>(b) To use, operate, or improve any device or equipment,</p> <p>(e) To adopt various alternative measures for controlling pollution and avoiding emission of waste,</p> <p>(g) To perform other functions which are deemed appropriate for controlling pollution and prohibiting waste emission activities.</p> <p><b>The Solid Waste Management Act 2011, Article 5</b> requires:</p> <p>(1) an individual, organization or body shall, as far as possible, reduce the production of solid waste;</p> <p>(2) the duty of every individual, organization or body to reduce the amount of remaining solid waste by making arrangements for reuse of solid waste</p> <p><b>Articles 7, 8, 9 and10</b> provides guidance on the segregation, discharge, collection, transportation , reduction, reuse and recycling of solid waste</p>		
<p>Key Element (4) Avoid the use of hazardous materials subject to international bans or phase-outs</p>	<p><b>The Environment Protection and Management Act</b> states that no one shall create pollution in a manner as to cause significant adverse impacts on the environment or is likely to be hazardous to public life and people’s health or cause to be disposed contrary to prescribed norms.</p> <p><b>The Ozone Depleting Substances Rules of 2001, Article 3 Specification, Quality and Phase Out:</b> states:</p> <p>(1) that specification of the substance to be consumed as well as sold and distributed within Nepal as prescribed in Schedule 1 of the Rules;</p>	<p>Partial Equivalence</p> <p>Lack of legislation that provides comprehensive coverage to all varieties of hazardous wastes, including those from industry, transport and other polluting sectors</p>	<p>To attain full equivalence, the legislation should provide complete management of all potential hazardous substances</p>



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	<p>(2) the annual consumption, import quantity and phase out rate of the substances to be prescribed by the Ministry</p> <p>The Rules further state under <b>Article 5 “Conditions to be fulfilled by the Importer”</b> under section (f) that the substance to be imported must be purchased from the countries that are parties to the Basel Convention of protocol</p> <p><b>Article 7 Functions, Duties and Rights of the Ministry</b> states that under section (e) to carry out any activities as required for regulating and controlling the consumption of Ozone depleting substances in accordance with the objectives of the Act, Rules, Convention and protocol</p> <p><b>The Solid Waste Management Act (2011) and Regulations</b> recognizes the need for management of the use and discharge of solid wastes that are hazardous to the environment and human health</p>		
Key Element (5) Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.	<p><b>The Pesticide Act (1991) and Pesticide Rules (1994) Article 3</b> requires applicants wanting to produce pesticides to submit an application, and <b>Article 14</b> states that such approvals would be subject to standards.</p> <p><b>Article 18</b> provides the powers to the pesticide inspectors to inspect premises that sell of formulate pesticides</p>	<p>Partial Equivalence</p> <p>There is limited reference in the legislation to the use and management of pesticides (including transport, application, disposal, storage etc.) and the application of an IPM approach</p>	<p>To achieve full equivalence, the legislation should seek to promote an IPM approach to manage and reduce the reliance on chemical pesticides</p>
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><b>The Labour Act of 1992, Chapter 5</b> provides the Internal Responsibility System which is based on the following principles:</p> <p><b>Section 27 Arrangements relating to health and safety</b> to include:</p> <ul style="list-style-type: none"> <li>(a) cleaning and disinfecting work establishments</li> <li>(b) adequate ventilation and lighting</li> <li>(c) disposal of refuse, dust and filth</li> <li>(d) prevention of accumulation of pollutants and substances harmful to health</li> <li>(e) provision of personal protective equipment and noise reduction</li> <li>(f) reduction of over-crowding</li> <li>(g) hygiene and adequate and portable water</li> <li>(h) modern toilet facilities</li> <li>(i) compulsory medical checkups</li> </ul>	Full equivalence	None required

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	<p><b>Section 28: Protection of eyes</b>, including provision of protective equipment in establishments where certain hazardous substances are used</p> <p><b>Section 29: Protection from Chemical Substances</b>, including protective gear</p> <p><b>Section 30: Protection from Fire</b>: use of modern equipment to protect establishment from fires and availability of firefighting equipment</p> <p><b>Section 31 Dangerous Machinery to be Fenced</b></p> <p><b>Section 35 Duty to Inform</b>: The concerned establishment to notify the Labor Office of deaths, accidents</p>		
<p>Key Element (2)</p> <p>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</p>	<p><b>The Natural Disaster Relief Act 1982</b> deals specifically with rescue and response operations</p>	<p>Partial Equivalence</p> <p>The legislation lacks explicit discussion of preventive and emergency preparedness measures</p>	<p>To attain full equivalence, the legislation/regulations should emphasize establishment of preventive and emergency preparedness response measures to avoid and manage impacts and risks on health and safety of local people</p>
<p>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.</p>			
<p>Key Element (1)</p> <p>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>	<p><b>The Act to Preserve Ancient Monuments and Archaeological, Historical or Artistic Objects (1959, and amends of 1970 and 1994)</b> states that trenching or blasting of land around the ancient monument is restricted, and any such act is punishable with a fine or with imprisonment and any person who destroys, demolishes, removes, alters, defaces or steals and ancient monument,</p> <p>There is explicit reference in the <b>Environment Protection and Management Act</b> to conserve physical cultural resources or referred to as collectively as “national heritage” (including natural, cultural, historical, archaeological, scientific, spiritual and aesthetic sites) and avoid destroying or damaging them.</p> <p><b>The Environmental Rules Chapter 5 Conservation of national Heritages and Environment Conservation Zones, Section 28</b> mentions, that except with approval of the concerned body, no one shall cause the following actions:</p> <p>(a) to remove, alter or take action to cause damage to any object or site</p>	<p>Partial equivalence</p> <p>There is no reference to use of field-based surveys and qualified experts to undertake environmental assessments</p>	<p>For full equivalence, the Protection of Environment Act or similar legislation should require the use of filed based surveys and qualified experts during environmental assessment for projects that might be located within and around national heritage sites</p>
<p>Key Element (2)</p> <p>Provide for the use of</p>	<p>None</p>	<p>No Equivalence</p> <p>There is no explicit</p>	<p>For full equivalence, the Protection of Environment Act</p>

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“chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation		instructions on how to address “chance finds”	or similar legislation should provide guidance on dealing with “chance finds”

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