

Terms of Reference (ToR) for International Consultant - Review and Harmonization of Environmental and Climate Laws

1. Background

Bhutan, a small landlocked country located in the Eastern Himalayas, has an area of 38,394 km². Bhutan's variation in altitude, ranging from 100 meters above sea level to more than 7,000 meters, creates diverse micro-climates, agro-ecological systems, and rich biodiversity. These unique geographical characteristics, including its active geological conditions and high-altitude terrain, make Bhutan vulnerable to a wide range of climate-related impacts and natural hazards.

The country's economy is primarily supported by agriculture, employing 56.76% of the population, with hydropower and tourism as major revenue generators. All these sectors depend heavily on Bhutan's natural resources and sustainable land use, underscoring the critical link between environmental preservation and economic stability.

Bhutan's centuries-long tradition of environmental preservation and harmonious coexistence with nature aligns perfectly with the country's vision of Gross National Happiness (GNH), where economic progress does not come at the cost of natural resources. The GNH philosophy, deeply ingrained in Bhutan's national development, prioritizes the well-being of the environment alongside economic and social development. This holistic approach, rooted in the country's traditional reverence for nature, has enabled Bhutan to maintain its rich natural environment and gain global recognition as an environmental leader.

Furthermore, the Constitution of the Kingdom of Bhutan 2008 requires the Government to secure ecologically balanced sustainable development while promoting justifiable economic and social development, ensuring a safe and healthy environment. Article 5 of the Constitution mandates to maintain a minimum of 60% of forest cover for all time¹. It also vests the government, the parliament, and every Bhutanese citizen with the right and responsibility for environmental conservation and stipulates several provisions to ensure that development does not take place at the cost of the natural environment, which includes:

- Every Bhutanese is a trustee of the Kingdom's natural resources and environment for the benefit of the present and future generations and it is the fundamental duty of every citizen to contribute to the protection of the natural environment, conservation of the rich biodiversity, and prevention of all forms of ecological degradation, through the adoption and support of environment-friendly policies and practices.

¹ Article 5, Section 3 of the Constitution of Kingdom of Bhutan 2008

- The Royal Government shall protect, conserve, and improve the pristine environment and safeguard the biodiversity of the country; prevent pollution and ecological degradation; secure ecologically balanced sustainable development; and ensure a safe and healthy environment.

However, Bhutan faces challenges in maintaining its environmental commitments and implementation of its existing legal frameworks in the face of development pressures, climate change, and evolving international obligations. These challenges necessitate the harmonization of environmental laws to ensure effective implementation and protection of the environment. One of the primary challenges is the fragmentation and overlap of environmental laws across various fields. This can lead to confusion, inconsistencies, and inefficiencies in enforcement. Additionally, some environmental laws may be outdated, failing to address contemporary environmental issues such as climate change, biodiversity loss, waste and pollution. Another challenge is the limited capacity and resources available for enforcing environmental laws leading to non-compliance and environmental degradation. Furthermore, a lack of public awareness and understanding of environmental and climate laws can hinder their effectiveness. Balancing development with environmental protection is another crucial challenge for Bhutan. While the country strives to achieve economic growth, it must also ensure that development is sustainable and does not harm the environment.

In light of these challenges and commitments, there is a pressing need to review and harmonize Bhutan's environmental laws. A crucial aspect to consider is the current absence of a specific Climate change law in Bhutan, a gap that should be addressed to strengthen the country's response to climate change. This review and harmonization process seeks to strengthen environmental governance, enhance resilience to climate change, maintaining the country's image as a global leader in environmental stewardship. The review also aims to ensure that the country's legal framework aligns with its constitutional mandates, cultural values, and international obligations while supporting sustainable socio-economic development.

2. Objective

The main objectives of hiring an international consultant for the Harmonization of Existing Environmental and Climate Laws Project is to:

1. Develop and submit a comprehensive report on environmental and climate law harmonization that evaluates current legal frameworks, identifies gaps and inconsistencies, and provides recommendations.
2. Propose a harmonized legal framework for effective environmental and climate governance that is efficient, effective, and consistent with international standards and best practices.

3. Scope of Work

The international consultant shall:

- 1) Conduct a comprehensive review of the environmental and climate change laws including amendments in the country to the Working Committee.
- 2) Review inconsistencies, challenges, and requirements related to environmental and climate laws in Bhutan
- 3) Incorporate report prepared by local consultant on environmental and climate change laws inconsistencies in English and Dzongkha versions.
- 4) Ensure that the review is carried out with reference to the following documents, among others:
 - a) the Constitution of the Kingdom of Bhutan 2008;
 - b) the Civil Service Reform Act 2022; and
 - c) Bhutan civil service transformation.
- 5) Determine gaps and recommend areas of improvement of the national environmental and climate laws in light of the existing international climate change and environmental laws and conventions to which Bhutan is a party.
- 6) Engage with the Working Committee as and when required.
- 7) Engage with the relevant stakeholders provided in Annexure II and gather input to ensure that the report captures relevant needs of stakeholders involved.
- 8) Review the assessment of effectiveness of the current legal framework in addressing environmental and climate change challenges.
- 9) Propose amendments where required to existing environmental and climate change laws or new legislation aligned with international best practices.
- 10) Develop a roadmap for the implementation of the harmonized legal framework.
- 11) Provide recommendations for:
 - a) capacity building and public awareness of environmental and climate change laws; and
 - b) effective and user-friendly regulatory mechanisms to reduce procedural complexities.

- 12) Study Bhutan’s environmental legislations and international best practices to recommend a legal framework for implementing a green economy such as a carbon market system, considering the country's unique position as a carbon-negative nation.
- 13) Work with the local consultant in incorporating the Dzongkha and English text inconsistencies and recommendations on harmonizing the provisions in both languages in the Final Report.

3. Deliverables and Timeline:

Sl. No.	Deliverables	Duration	Timeline
1.	Consultant to prepare and present a road map to the Working Committee- (virtual)	2 days	2 December 2024
2.	Consultant to prepare and complete the 1st draft report after conducting an initial review of the existing environmental and climate laws (Annexure I), international conventions and other bilateral and multilateral agreements in consultation with the Working Committee and to share it electronically with the Working Committee.	30 days	3 March 2025
3.	Consultant to present 1st draft report to the Working Committee and RSPN- (virtual)	5 days	10 to 14 March 2025
4.	Consultant to review and incorporate all comments on 1st draft report and share it electronically with the Working Committee	3 days	21 March 2025
5.	Conduct 1st Stakeholder consultation workshop to gather input on existing environmental and climate laws and the 1st draft report- (in person)	7 days	31 March to 6 April 2025
6.	Consultant to review and incorporate stakeholder comments in consultation with the Working Committee (in person)	5 days	7 to 11 April 2025
7.	Conduct 2nd Stakeholder consultation workshop to gather input on existing environmental and climate laws and the 2nd draft report- (in person)	5 days	14 to 18 April 2025
8.	Consultant to review and incorporate stakeholder comments on the 2nd draft report and share it	5 days	27 April 2025

	electronically with the Working Committee		
9.	Consultant to present the 3rd draft report to the Working Committee and incorporate comments and share it with the Working Committee- (virtual)	2 days	5 and 6 May 2025
10.	Consultant to incorporate stakeholders' final written comments on the final draft report and share it electronically with the Working Committee	3 days	30 May 2025
11.	Consultant to present the final draft report to the Working Committee and RSPN management followed by presentation to the PSC for endorsement- (virtual)	1 day	3 June 2025
12.	Consultant to prepare the final report after incorporating the comments and share it electronically with the Working Committee	2 days	13 June 2025

5. Qualifications/ selection criteria

The international consultant must possess the following:

a. Academic Qualification

At least a Master’s Degree or higher credentials in the field of law relating to environment and climate change or equivalent.

b. Professional experience

- A minimum of 10 years of experience in environmental and climate laws and policy analysis.
- Proven experience in conducting legal reviews, environmental and climate change comparative analysis, and harmonization and drafting legislation.
- Experience in working or understanding the functioning of Green Climate Fund (GCF), Readiness and Preparatory Support Programme of GCF and Climate Change Adaptation and Mitigation projects.
- A Proven track record in facilitating multi-stakeholder groups and working with government agencies.
- Experience in conducting situation analysis of the impacts of climate change on various sectors, including biodiversity and nature conservation

- Demonstrating a foundational understanding of how environmental legislation and climate policies impact gender equity and social justice.

c. Technical Skills and Knowledge

- Strong understanding of international climate and environmental policies, laws, principles, and best practices.
- Basic understanding of the national and international environmental and climate legislation.
- Expertise in legal research and analysis, with the ability to synthesize complex legal and technical information into actionable recommendations.

d. Competencies

- Strong analytical and problem-solving skills.
- Excellent verbal and written communication skills.
- Works collaboratively with others and drives to achieve results for impact.
- Ability to work under pressure and manage different expectations.
- Computer skills, including internet navigation, and various office applications.
- Ability to work in a team and adapt to new circumstances.

e. Language

Proficient in the English language.

6. Duration and Location

The consultancy is expected to be completed within 90 days from the date of signing of the contract agreement. However, 20 days will be allocated for capacity building of relevant stakeholders. The consultant can work flexibly in a hybrid mode. This arrangement includes a 25-days of work in person in Bhutan including travel, with the consultant traveling to the country for two stakeholder consultation workshops to gather input on existing environmental laws and draft reports.

7. Reporting and Supervision

- The consultant shall provide regular updates to the working committee on the progress, challenges, and outcomes related to the assigned tasks.
- The reports are to be submitted in the format provided in Annexure III.

- Any communication regarding updates or clarifications can be done via email or in person.
- The Working Committee will supervise the consultant in timely report preparation and submission.
- The consultant shall directly report to Ms. Tshering Om, Chairperson of the Working Committee via tsheringom@oag.gov.bt on a day-to-day basis and as and when required.

8. Stakeholder consultation

The consultant shall ensure that there are adequate and comprehensive stakeholder consultations carried out across relevant agencies as provided in Annexure II.

9. Payment Schedule

- The payment for the consultancy service shall be made through RSPN. The consultant shall use the Advance to Party form (F1) of RSPN provided in Annexure IV for advance request.
- A payment of 10% of the contract amount shall be released to the consultant upon signing of the contract agreement.
- A payment of 30% of the contract amount shall be released upon successful completion and satisfactory performance of deliverables 1, 2, and 3.
- A payment of 20% of the contract amount shall be released upon successful completion and satisfactory performance of the deliverable 4.
- The final payment of 40% of the contract amount shall be released upon successful completion and satisfactory performance of deliverables 5 and 6. The consultancy work and report are deemed to be complete upon approval of RSPN and UNOPS.

10. Office Facilities

During the consultant's work in Bhutan, the consultant will directly work under the supervision of the Working Committee. The consultant shall utilize the workspace of the Office of the Attorney General that shall provide essential amenities including access to internet and printing facilities. However, the consultant is required to bring a laptop and associated accessories.

11. Criteria for Selection of the Best Offer

The following criteria shall be used to evaluate the bid application. The bid application shall be evaluated jointly by the Working Committee and RSPN.

1. Technical Approach and Methodology
2. Consultant Qualifications and Experience
3. Financial Proposal
4. References and past experience in the relevant field

12. Confidentiality and proprietary rights

The consultant shall not either during the term or after the completion of the assignment, disclose confidential or proprietary information related to the consultancy without prior written consent from the RSPN and Office of the Attorney General.

Proprietary interests on all materials and documents prepared by the consultant under this assignment shall become and remain properties of the RSPN and Office of the Attorney General.

13. Expression of Interest/Application Procedure

- I. Qualified International/Foreign consultants interested in taking this assignment need to submit a formal application to RSPN with a cover letter addressed to the Executive Director, RSPN, Thimphu.
- II. The Subject should be “**Review and Harmonization of Environmental and Climate Laws**”. The mode of application submission will be accepted only via email, syarphele@rspnbhutan.org and copy to tsheringom@oag.gov.bt. For further clarification contact Ms. Tshering Om @+975-77468895.
- III. Submission Deadline: **on/before 5:00 PM, 25th October 2024.**
- IV. The application should contain:
 - Cover letter - Addressed to Executive Director, RSPN, Thimphu, Bhutan.
 - Technical Proposal
 - Describing the approaches and key tasks to undertake in achieving the objectives of this assignment and producing the aforementioned deliverables.
 - Financial Proposal - Describing each activity with a logical framework and budget breakdown including workshop/meeting
 - Supporting Documents: A copy CV of the consultant(s)

14. Annexures:

Annexure I: List of Environment or Climate Laws of Bhutan

Annexure II: List of Stakeholders

Annexure III: Report format

Annexure IV: Advance to the Party

ANNEXURE I

List of Environment or Climate Laws of Bhutan

Sl. No.	Title
1	Water Act 2011
2	Forest and Nature Conservation Act 2023
3	Biodiversity Act 2022
4	Environmental Assessment Act 2000
5	Waste Prevention and Management Act 2009
6	Pesticide Act 2000
7	Biosafety Act 2015
8	Livestock Act 2001 and Livestock Bill 2024
9	National Environment Protection Act 2007
10	Mines and Mineral Act 1995 and Mines and Minerals Bill 2020
11	Road Act 2013
12	Seeds Act 2000
13	Electricity Act 2001
14	Food Act 2005
15	Disaster Management Act 2013
16	Plant Quarantine Act 1993

ANNEXURE II: List of Stakeholders

Sl. No.	Agency/Ministry
1	Ministry of Energy and Natural Resources
2	Ministry of Agriculture and Livestock
3	Ministry of Health (Bhutan Food and Drug Authority)
4	National Land Commission Secretariat
5	Ministry of Infrastructure and Transport
6	Relevant Civil Society Organizations
7	National Council
8	National Assembly
9	Local Government and Disaster Management
10	Jigme Singye Wangchuck school of law
11	Office of the Attorney General
12	Royal Society for Protection of Nature
13	Royal Civil Service Commission
14	National Centre For Hydrology and Meteorology
15	Ministry of Industry, Commerce and Employment

ANNEXURE III

Report Format

Contents

List of Acronyms

Executive Summary

- a) Overview
- b) Key issues
- c) Recommendations

1. Introduction

- a. Background
- b. Objectives of the harmonization of Environmental laws and gap analysis
- c. Methodology

2. Review of current environmental framework

- a. National laws
- b. International conventions
- c. Summary of gap analysis
- d. A comparative analysis- Regional case studies and International Environmental and climate law

3. Challenges in Harmonization

- a. Legal and Regulatory Differences
- b. Political and Economic Factors
- c. Institutional and Capacity Issues

4. Key Recommendations

5. Implementation Strategy

- a. Action Plan
- b. Stakeholder Engagement
- c. Monitoring and Evaluation

6. Conclusion

ANNEXURE IV: ADVANCE TO THE PARTY

Date:.....

Name of the party:

Address:

Advance request (Amount)	Name of the work assigned	Work order no. & date	Outstanding Balance amount

Name and Signature of the applicant:

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Verified by:

1. Project Coordinator:.....

2. Administration and Finance Division.....

Approved by:

Executive Director.....