

## **Terms of Reference (ToR) for Local 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 km<sup>2</sup>. 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 time<sup>1</sup>. 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.

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<sup>1</sup> 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 provide 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.

## 2. Scope of Work

The local consultant shall:

- 1) Reviewing the identified environmental laws provided in Annexure I, in both Dzongkha and English and identify any inconsistencies between Dzongkha and English versions and present to the Working Committee.
- 2) 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.
- 3) Prepare stakeholders meeting report and share with the Working Committee
- 4) Assist International Consultant in presenting any report including Final Report to RSPN and key stakeholders
- 5) Engage with the international consultant and Working Committee as and when required.
- 6) Work with the international consultant in incorporating the Dzongkha and English text inconsistencies and recommendations on harmonizing the provisions in both languages in the Final Report.

## 4. Deliverables and Timeline:

- **Deliverable One:**

The local consultant to prepare a preliminary report and submit to the Working Committee on any inconsistencies between Dzongkha and English versions

January 15, 2025

- **Deliverable Two**

- Prepare stakeholders meeting report and share with the Working Committee

- **Deliverable Three**

Work with the international consultant in incorporating the Dzongkha and English text inconsistencies and recommendations on harmonizing the provisions in both languages in the Final Report.

## **5. Qualifications/ selection criteria**

The local consultant must possess the following:

### **Academic Qualification**

- At least a Master's Degree or higher credentials in the field of law.

### **Professional experience**

- Experience in environmental and climate law and policy analysis is required.
- 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.
- 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.
- Proven experience in conducting legal reviews and drafting legislation.

### **Technical Skills and Knowledge**

- Good understanding of international climate and environmental policies, laws, principles, and best practices.
- Strong 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.

### **Competencies**

- Strong analytical and problem-solving skills.
- Excellent verbal and written communication skills both Dzongkha and English.
- 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.

### **Language**

- Proficient in the Dzongkha and English language.

### **6. Duration**

The consultancy is expected to be completed within 65 days from the date of signing of the contract agreement.

### **7. Reporting and Supervision**

- The preliminary report is to be submitted in the format provided in Annexure II.
- The communication for any updates or clarifications may be done electronically or in person.
- The Working Committee will supervise the local consultant in timely report preparation and submission.

### **8. Payment Schedule**

- The payment for the consultancy service shall be made through RSPN. The local consultant shall use the Advance to Party form (F1) of RSPN provided in Annexure III 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 50% of the contract amount shall be released upon successful completion and satisfactory performance of deliverables 1.
- The final payment of 40% of the contract amount shall be released upon successful completion and satisfactory performance of deliverables 2. The consultancy work and report are deemed to be complete upon approval of RSPN management.

### **9. Criteria for Selection of the Best Offer**

The following criteria shall be used to evaluate the bid application:

1. Technical Approach and Methodology

2. Consultant Qualifications and Experience
3. Financial Proposal
4. References and Past Performance

## **10. Confidentiality and proprietary rights**

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

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

## **11. Expression of Interest/Application Procedure**

- I. All qualified International 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](mailto:syarphele@rspnbhutan.org) and copy to [tsheringom@oag.gov.bt](mailto:tsheringom@oag.gov.bt). For further clarification contact Ms. Tshering Om @+975-77468895.
- III. Submission Deadline: **on/before 5:00 PM, 25<sup>th</sup> 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.
  - Supporting Documents: A copy CV of the consultant(s), valid trade license and tax clearance certificate

## **12. Annexures:**

**Annexure I: List of Environmental or Climate Laws of Bhutan**

**Annexure II: Report format**

**Annexure III: Advance to the Party**

## ANNEXURE-I

### List of Environmental 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**

### **Report Format**

#### **Content**

#### **List of Acronyms**

##### **1. Introduction**

##### **2. The objectives of the harmonization of Environmental laws and gap analysis**

##### **3. Executive Summary**

##### **4. Summary of key findings**

##### **5. Individual Act**

a. Summary of gap analysis

b. Analysis of the inconsistencies between the Dzongkha and English texts

c. Analysis of the inconsistencies among the Acts

d. Analysis of the Act's consistency with the the Constitution of the Kingdom of Bhutan 2008; the Civil Service Reform Act 2022; and Bhutan civil service transformation.

##### **6. Conclusion**



**ANNEXURE III: ADVANCE TO THE PARTY**

**Date:.....**

**Name of the party:**

**Address:**

<b>Advance request (Amount)</b>	<b>Name of the work assigned</b>	<b>Work order no. &amp; date</b>	<b>Outstanding Balance amount</b>

**Name and Signature of the applicant:**

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**Verified by:**

**1. Project Coordinator:.....**

**1. Administration and Finance Division.....**

**Approved by:**

**Executive Director.....**