

**Regulatory Impact Assessment (RIA) Report for the Environmental Assessment
(Amendment) Bill 2014**

WHAT ISSUES/PROBLEM IS THE PROPOSAL EXPECTED TO TACKLE?

1. What is the issue/problem and is it to be expressed in economic, social and environmental terms including unsustainable trends?

Uncontrolled economic development activities have the potential to lead to irreversible adverse impacts on the environment. Realizing such consequences the fragile mountain ecosystems of the country is vulnerable to, the Environmental Assessment Act (EAA) was adopted by the National Assembly in 2000 which entered into force on 14th July 2000. The Act established procedures for the assessment of potential effects of strategic policies, plans, programs and projects on the environment and determination of measures to reduce potential adverse impacts and promote environmental benefits to ensure that socio-economic development in the country is consistent with the “Middle Path” strategy of sustainable development. Over the years, more environmental legislations such as the Biodiversity Act of Bhutan 2003, the National Environment Protection Act 2007, the Waste prevention and Management Act of Bhutan 2009 and the Water Act of Bhutan 2011 were enacted to address specific concerns related to respective sector in addition to specific provisions in the Constitution of the Kingdom of Bhutan 2008. Moreover, new environmental policies were adopted, notably the Carbon Neutral declaration and Economic Development Policy 2010 and governments focus on ease of doing business and improving service delivery. The implementation and compliance to all environmental legislations and policies are administered through issuance of environmental clearances and monitoring thereafter as per the procedures specified in the EAA. Therefore, the EAA 2000 requires amendment in order to align with the new legislations and correct those grey or missing areas and strengthen some of the provisions keeping in mind the pace of development in the country. Having implemented the EAA for the last 14 year, need to resolve deficiency and inconsistency in the EAA 2000 by amendment.

2. What are the risks inherent in the initial situation?

The existing EAA 2000 provides more focus on Project based EIA rather than handling the impact at strategic level, i.e. policy, planning and programme where degree of changes is more accommodative. Moreover compliance and monitoring needs to be strengthened by laying clear operating procedures.

3. What is (are) the underlying motive force(s)?

The underlying motive behind ammendment of the EAA is to strengthen environmental conservation by clearly defining the purpose and process to ensure sustainable development by pursuing “The Middle Path”. These are proposed to be achieved by:

- Aligning the EAA with the new environmental laws, policies and the Constitution.
- Making the environmental assessment process more clear and efficient.
- Including strategic environmental assessment process which was somehow not reflected well in the current act.
- Strengthening the compliance and monitoring aspects.
- Making the responsibilities and accountability of competent authorities clearer.
- Ensuring mainstreaming of environmental concerns into policies, plans and programs through establishment of environment units and focal persons.
- Define the responsibilities of proponents/agencies to whom environmental clearances have been issued.
- Address the non-functionality of Environmental Assessment Advisory Board.
- Enhance public service delivery.

4. What would happen under a “non-action” scenario?

Non-revision of the EAA will lead to inconsistencies in implementation of different environmental legislations and policies. Moreover, the deficiencies, inconsistencies and poor clarity in the environmental assessment process in the existing EAA will continue to exist leading to poor public service delivery, environmental concern poorly addressed, weak compliance and monitoring, delay in the implementation of development activities and hindering the socio-economic development of the country.

5. Who is affected?

Public at large, NEC and competent authorities.

6. What are the previous initiatives and the existing Regulatory Measures that the Government has deployed to solve the issue/problem?

The first EAA was enacted in 2000 after which a number of other environmental legislations and policies were adopted necessitating its amendment.

WHAT MAIN OBJECTIVE IS THE PROPOSAL EXPECTED TO TACKLE?

1. What is the overall objective in terms of expected impacts?

- Aligning the EAA with the new environmental laws, policies and the Constitution.
- Making the environmental assessment process more clear and efficient.
- Including strategic environmental assessment process which was somehow not reflected well in the current act.
- Strengthening the compliance and monitoring aspects.
- Making the responsibilities and accountability of competent authorities clearer.
- Ensuring mainstreaming of environmental concerns into policies, plans and programs through establishment of environment units and focal persons.

- Define the responsibilities of proponents/agencies to whom environmental clearances have been issued.
- Address the non-functionality of Environmental Assessment Advisory Board.

Enhance public service delivery.

2. Has account been taken of any previously established objectives?

Yes but effort has been made to improve the clarity.

WHAT ARE THE MAIN OPTIONS AVAILABLE TO REACH THE OBJECTIVE?

1. What is the basic approach to reach the objective?

The basic approach to reach the objective is by amending the EAA Act as proposed.

2. Which policy instruments have been considered?

Constitution, The Middle Path – National Environment Strategy for Bhutan, 11th Five Year Plan, Carbon Neutral Policy, Economic Development Policy, Bhutan Sustainable Hydropower Policy, Bhutan 2020.

3. What is the trade-offs associated with the proposed option?

The amendment of the EAA is expected to ensure conservation of the environment for future generation and simultaneously promote sustainable development in the country.

4. What “designs” and “stringency levels” have been considered?

Amendment of the EAA had gone through series of stakeholder consultations at various levels since 2011 and incorporated concerns agreed by all relevant agencies/stakeholders. Introducing environmental principles, mitigation hierarchy, stand alone chapter on Strategic Environment Assessment and strengthening the compliance and monitoring.

5. Which options have been discarded at an early stage?

The option of amendment of the EAA by way of addition and variation have been discarded.

WHAT ARE THE IMPACTS- POSITIVE AND NEGATIVE-EXPECTED FROM THE DIFFERENT OPTION IDENTIFIED?

1. What are the expected positive and negative impacts on the options selected, particularly in terms of economic, social and environmental consequences, including impact on management of risks? In particular:

- What are the likely administrative compliance costs;
- What are like impacts on the Budget?
- Will the Regulatory measure create a new institution?

Positive:

- Promote environmental conservation by keeping in line with Article 5 of the Constitution.
- Aligning and synchronizing with related policies and new legislation.
- Enhance public service delivery.
- Shorten the lead time to obtain environmental clearance.
- Make the procedure and system clearer which in turn will lower the administrative cost of the act.
- Clearly define responsibilities of relevant authorities.
- Strengthen implementation and compliance to the act by authorities and proponents respectively.
- Ensure sustainable economic development without compromising environmental conservation.
- Enhance public participation in environmental decision making.

Negative

- Establishment of environment units and employment of environmental focal persons will entail additional costs.

2. Are there potential conflicts and inconsistencies between economic, social, and environmental impacts that may lead to trade-offs and related policy decisions?

Any developmental activities on our mother earth will have impact in terms of social, environment and economic perspectives. The impact can be both positive and negative. All aspects of conflicts, inconsistency, trade-off are look into by preventing, reducing and mitigating through Environmental Assessment process resulting in decision making by issuance of environmental clearance by following “The Middle Path”.

3. Are there especially severe impacts on a particular social group, economic sector (including size-class of enterprises) or region?

Impacts depend on project type, if any are reduced to minimum through prevention, reduction and mitigation actions.

4. What are the impacts over time?

Environmental concerns will be fully mainstreamed into development policies, plans, programs and projects, thereby making a right choice.

COMPARISION OF THE OPTIONS AND JUSTIFICATION OF THE PREFERRED OPTION

1. What is the final policy choice and why?

The amendment of the EAA 2000. Ensure that emerging environmental concerns are incorporated, removing or modifying redundant provisions, and aligning with new environmental legislation and related policies targeting sustainable growth and development.

2. Why was a more/less ambitious option not chosen?

- Repealing is easier and more convenient
- Considering the emerging trend in the environmental areas.

3. Have any accompanying measures to maximize positive impacts and minimize negative impacts taken?

- Broadening the purpose.
- Competent authorities to be made more responsible and accountable
- Strengthen compliance and monitoring activities
- Environmental mainstreaming and strategic environmental assessment to be given a strong legal basis.
- Enhancing service delivery.

OUTLINE POLICY MONITORING AND EVALUATION

1. What are the core progress indicators for assessing if the key objectives of the proposal have been met?

- Number of projects subjected to environmental impact assessments.
- Number of projects approved at initial environmental examination levels.
- Number of environmental clearances issued for development projects.
- Frequency of compliance monitoring conducted.
- Corrective orders issued and fines/penalties imposed for non-compliances.
- Analysis of trends in non-compliance incidences.
- Time taken for issuance of environmental clearance.
- Improvement in environment management services.

2. What is the broad outline of possible monitoring and evaluation arrangements?

- Establishing standard operating procedures for compliance monitoring.
- Periodic compliance monitoring and enforcement.
- Overall trend or change in the environment.
- Improvement in pre and post decision making process.
- Improvement in environment management services.
- Update environmental clearance database

3. How and when the expost evaluations will be organized and in which way in order to ensure that the results can be used as input for future impact assessments.

- Conduct ad hoc, informed and scheduled/annual compliance monitoring.
- On-site sampling and data collection on environmental pollutions.
- Conduct meetings with stakeholders and project proponents.
- Determining the outcome of the environmental impact assessment.
- Overseeing the implementation of environmental management plan.
- Review of compliance report submitted by project proponents.
- Voluntary and compliance agreement.
-

STAKEHOLDER CONSULTATION

1. Which interested parties were consulted, when in the process, and for what purpose?

- Internal consultations within the NECS to ascertain possible gaps and deficiencies with the current act.
- Hiring of international consultant for initiation drafting.
- Hiring of national consultant for finalization of the bill.
- Consultation with all relevant stakeholders; public and private sector agencies and Civil Society organizations after the draft bill was ready.
- Consultation with member of the National Environment Commission for refinements.
- Presentation to the National Environment Commission for final endorsement of the bill.

2. What are the results of the consultation?

- Issues concerning respective agencies were raised during the consultation which were later incorporated during the finalization of the bill.
- The results of consultations as of date have been positive and encouraging.
- The ultimate outcome is the comprehensive EAA harmonized with other relevant national environmental legislations and policies.