

RIA REPORT

Title of the Legal Measure: The Federation of Bhutan Chamber of Commerce and Industry Act

Type of Regulatory Measure: Act

Lead Agency: Bhutan Chamber of Commerce & Industry

Expected Year of Adoption: 2014

1. Description of policy context, objectives and options (for example different forms of Legal Measures)

The Bhutan Chamber of Commerce & Industry was established under the Royal Command of His Majesty the King in 1980. The BCCI was established with the aim to espouse the cause of economic development of the Nation.

Trade sector contributed 47 percent of the total revenue¹ in the Fiscal year 2011-12. The trade sector is the single highest contributor. The Royal Government of Bhutan has been playing its role in respect of private sector development, and it is also the private sector's responsibility to take up the bulk of this responsibility and advance the cause of economic development of the nation.

There is an emerging business environment in Bhutan, characterized by greater reliance on market forces and private enterprises; therefore there is an increasing recognition of the need for stronger private sector involvement.

With the enactment of the Civil Society Organization Act of Bhutan in 2007, it is mandated under section 22 of the Civil Society Organization Act of Bhutan that all associations be registered as a Civil Society Organization.

However, this was not thought to be pragmatic in the case of BCCI as some of its sector associations have also registered with the Civil Society Organization and if BCCI was to register as a CSO, broader institutional representation would not be achieved.

¹ National Revenue Report 2011-2012

- **Problem Definition**

The Bhutan Chamber of Commerce and Industry is not able to effectively foster meaningful private sector development due to lack of legal recognition which is further compounded by the fact that most of its sector associations are registered CSOs.

2. An identification of the various policy options or choices which are under consideration.

Based on the problem definition, the BCCI identified possible solutions to the problem, in addition to the option of doing nothing (the baseline).

Accordingly, three options were considered in resolving the issues:

- 1) Status quo;
- 2) Registering as a CSO;
- 3) Creation of a statutory body.

3. Identification of costs, benefits and other impacts of any options which are being considered

Option 1: Status quo

If status quo is maintained there will be no additional cost. However, the Bhutan Chamber of Commerce and Industry will continue to face difficulty in dealing with its members, foreign businesses and chambers as its very existence itself is questionable with the enactment of the Civil Society Organization Act of Bhutan.

Under the current regime of existence, while the sectoral associations which are registered with the CSO Authority are incorporated personalities, BCCI as the apex body still does not have a legal status.

Option 2: Registering as a CSO

The cost implication on the registration as CSO would be Nu. 50,000/- for registration of the Organization under the CSO Authority. The amount would include consultancy fee and material expended for preparation and submission of documents.

However, it may be pointed out that the registration of BCCI as a Civil Society Organization is not a valid option as reasoned hereunder:

- a) As per the CSO Act a Mutual Benefit Organization is a business engaged in a particular industry, while the membership of the Bhutan Chamber of Commerce and Industry is cross sectoral in nature and not just confined to business engaged in a particular industry;

- b) Its members are commercially oriented organizations with the focus on creating an environment aimed at increasing its profits; and
- c) Some of BCCIs sectoral organizations are registered with CSO Authority, which could breed issues of poor coordination.

Therefore, even though the cost implication is Nu. 50,000/- only for registration as a CSO and a separate legal entity is granted, the very existence of BCCI as the apex business forum will be dissipated. The BCCI would no longer be able to espouse the interest of the business community as a whole or bring all business under one common forum.

Option 3: Creation of a statutory body

The Bhutan Chamber of Commerce and Industry would be able to function more efficiently and effectively if it is accorded a legal status through the enactment of a law by Parliament.

This option will not create additional cost to the government as the institution is already in place and has been functioning since the 1980s. The proposed law has already been prepared at the cost of Nu. 250,000/- and ready to be presented to Parliament.

The administrative compliance costs will be minimal because the institutional set up is already in place and most of the functions are being performed by the BCCI. The administrative compliance cost would only relate to providing a mechanism for registration of chamber which would consume 6 hrs of an official time to scrutinize a document.

There will be no impact on the National Budget as the Act will not create a new organisation but give recognition to a body already in existence.

It may also be noted that following would be achieved:

- a. The business community will be better organised;
- b. Encourage participation of all businesses including businesses in the rural community;
- c. Enhance the capacity of businesses by providing capacity building trainings, seminars, conferences, business talks and also provide assistance in book keeping;
- d. Coordinate opinions of the business community which would be presented to Parliament or the Government, thereby ensuring that an effective policy dialogue mechanism is put in place;
- e. Disseminate business related information to the businesses.

The enactment of the law will not bring significant change in policy, change in an economic market including impacts on competition and consumers in the first instance but will result in building greater inter relations with the government and will ensure:

- a. Formal access to the administration;
- b. Policy-makers draw on business sector expertise;

c. The government may delegate certain functions to the BCCI as and when deemed appropriate, thereby enhancing its participation.

4. Summary of costs, benefits and impacts of each option identified in section 1(iii) and the brief description of the preferred option where appropriate.

Scoring Criteria

- **Impacts on Costs**
 High Impact: 0
 Medium Impact: 2
 Low Impact: 4
 No Impact: 6

- **Impact on Benefits**
 High Impact: 6
 Medium Impact: 4
 Low Impact: 2
 No Impact: 0

Cost

Options	Quantified Cost	Un-quantified Costs	
<i>1. Status quo</i>	Nil	<ul style="list-style-type: none"> • No legal status; • Dealings with foreign business and chambers will be adversely affected. • Not be able to forge formal links with the government. 	4+0=4
<i>Registering as a CSO</i>	Nu. 50,000/-	<ul style="list-style-type: none"> • Not fit in the CSO theme as it is more business oriented; • Business community cannot be brought under one forum and rural community participation will suffer; • No apex body for the business associations. 	2+0=2
<i>3. Creation of a statutory body</i>	Nu. 250,000/-	Nil	0+6=6

Benefit

Options	Un-quantified Benefits	
<i>1. Status quo</i>	Nil	0
<i>2. Registering as a CSO</i>	<ul style="list-style-type: none"> • Legal Status accorded 	2
<i>3. Creation of a statutory body</i>	<ul style="list-style-type: none"> • Legal status will be accorded • Provide a common forum for the business community; • business community will be better organised including business in the rural community; • Coordinated opinions of the business community can be presented to Parliament or the Government; • ensure that policy-makers draw on business sector expertise; • Information sharing; • The government may delegate certain functions to the BCCI as and when deemed appropriate, thereby enhancing its participation. 	6

6. Recommendations

Options	Quantified B-C	Unquantified B - C	Total	Recommendation
<i>1. Status quo</i>	4	0	4	😊
<i>2. Registering as a CSO</i>	2	2	4	😊
<i>3. Creation of a statutory body</i>	6	6	12	😊😊😊

From the examination of the costs and benefits the current scenario (option 1) or registration as a CSO (Option 2) does not help BCCI in fostering a meaningful private sector development, while option 3: creation of a statutory body by way of enactment of law by Parliament is the most preferred option.

7. Consultation

Both active and passive consultation was held with the business community and all were of the view that the BCCI must obtain a legal status.

8. Enforcement and Compliance

The Bill provides for the establishment of the General body which will be the supreme constitutional arm of the Federation. The General body comprise members of the federation.

There will be an Executive Council of the Federation which shall comprise of representatives elected by the General Body from amongst its members. The Executive Council is the executive arm of the federation.

The General body is mandated to ensure that the Executive Council functions in accordance with the Act and will ensure that the Federation complies with the Act and all laws in force in the country.

Furthermore, it may be noted that all chambers registered with the Federation will be monitored by the Federation for compliance and enforcement.