

LEGISLATIVE PROPOSAL

1. **Title of the Proposal:** Co-operatives and Farmer Groups Bill of Bhutan,2019

(1) **Type of Legal Measure:** Act

(2) **Lead Ministry or Agency:** Department of Agricultural Marketing and Co-operatives,
Ministry of Agriculture and Forests

(3) **Expected Date of Adoption:** 2023

2. **PROBLEM IDENTIFICATION**

The Co-operatives (Amendment) Act of Bhutan, 2009 has been challenged with many implementation problems as highlighted in the Legislative Impact Assessment Report, out of many identified problems, the following are some of the few issues which the revised bill will tackle and try to incorporate in the bill. Initially, the Act was being implemented by the Ministry of Home and Cultural Affairs. It was in 2009, the implementation of Act came under Ministry of Agriculture and Forests with an amendment of one section which is the implementation agency. Therefore, the Act do not align with the mandates of the Department of Agricultural Marketing and Co-operatives and Ministry of Agriculture and Forests.

Farmers group and Co-operatives is not a new concept in Bhutan, it has been initiated by various sectors and agency independently without any coordination. The registration of Co-operatives and Farmer Groups should ideally have the similar process, however in the present context, the DAMC as a Registrar for Co-operatives neither has control or clarity nor records of Farmer groups and Co-operatives formed under the initiative of another agency or Civil Society Organizations (CSOs). Therefore, there is a need for streamlining the procedures for formation of such groups and Co-operatives in the country to avoid duplication.

The existing Act lacks provisions on sanctions to be imposed in case of non-performance and violation of the laws and such measures are not intended to punish the farmers and cooperative members, rather it will help channelization of the limited resources of the government more effectively and efficiently. Thus, the new bill will also highlight elaborated provision on sanctions.

As per the existing Act, the dissolution process is the only solution for non-functional Co-operatives or Farmer Groups and which is further complicated by the requirement to dissolve through Court Order. Such process is an administrative process and can be kept within the power of the Ministry and the Department to dissolve.

Further there are no clarity on the mandates and responsibilities with no clear reporting and compliance mechanism. There is also a need for segregation of compliance requirements for Co-operatives, Farmer groups, Federation and Union.

The existing Act is titled as the “Co-operatives Act of Bhutan”, while the Act also covers the legal requirements of Farmer Groups and they are also recognized as legal entity once registered with Department of Agricultural Marketing as required by the Act. In order to have an inclusive Act, the proposal is being made to change the title of the bill as “Co-operatives and Farmer Groups Bill”. There is no clear provision on the dispute settlement and administrative resolution for any issues related to Co-operatives and Farmer Groups in the existing Act.

3. OBJECTIVE OF THE PROPOSAL

What is the “Objective” of the proposal and what is expected out of the proposal?

The overall objective of revision of the existing Act is to enhance equitable distribution of resources to benefit all Co-operatives and Farmer Groups based on the principles of equity. Additionally, the revision aims to strengthen the systematic reporting and compliance mechanism; and most importantly through this revision the income of the farmers and unemployed population is expected to be enhanced, since Farmer Groups and Co-operatives are mostly focused in the rural areas and unemployed population.

The revision of the Co-operatives (Amendment) Act of Bhutan, 2009 is expected to achieve the following objectives in particular:

- 1) Bring in a coordinated approach for all the Co-operatives and Farmer Groups created in the country with other line departments in the Ministry and relevant agencies or CSOs and clearly specify the mandates of DAMC;

- 2) Harmonize or realign the standards and requirements as per the International Cooperative Alliance in due consideration to the national context;
- 3) Incorporate accountability provisions and sanctions for violation of the laws;
- 4) Propose for an administrative measure to resolve the issues without dissolving the Co-operatives or groups;
- 5) Insert clear monitoring and evaluation mechanism linked with accountability;
- 6) Strengthen the criteria for formation of Co-operatives and groups; and
- 7) Segregation in compliance requirements for Farmer Groups, Primary Co-operatives, Federation and Union.

4. POLICY OPTIONS

- 1) What are the options that are available to reach the objective and what range of alternatives will be considered?*

The following are the options considered:

- 1) Option 1: Do nothing
- 2) Option 2: Amend the specific provisions of the existing Act
- 3) Option 3: Amend the existing Act
- 4) Option 3: Repeal

The Ministry has recommended to consider option 4 i.e., Repeal since there are major incorporation of new issues pertinent to formation of Farmer Groups and Co-operatives, monitoring and evaluation, sanctions, roles and responsibilities of the Ministry of Agriculture and Forests and Department of Agricultural Marketing and governance of the Farmer Groups and Co-operatives created by the Civil Society Organization and other agencies.

- 2) How have the principles of subsidiarity and proportionality been taken into account?*

In the existing Act, there is no clarity on who will be the registrar as article 5 only states registration as a mandate of the Ministry of Agriculture and Forests. Further, in the rules and regulations 2010, the head of the Department of Agricultural Marketing and Co-operatives is being assigned as the

registrar for Co-operatives and regulatory authority for both RNR and non RNR based Co-operatives. However, in the new bill, there will be more clarity on the roles of the Ministry, Department and the regional offices. The authority to issue certificate of registration will be decentralized to the regional heads along with dispute settlement powers and the national registrar, ex-officio power for the head of the Department will be limited to the federation of Co-operatives and union of Co-operatives.

In the existing Act, there are no provisions on accountability on the Co-operatives and Farmer Groups after the support is granted from the government and because of which most often the Co-operatives are dissolved after the investment of the government is exhausted. Considering such issues, the new bill will see the accountability provisions on the groups and strengthen the compliance. The new bill will have administrative measures to resolve the disputes instead of dissolving the Farmer Groups and Co-operatives.

5. IMPACT- POSITIVE AND NEGATIVE

*On a preliminary basis, what are the likely positive and negative impacts of the selected options, particularly in terms of economic, social and environmental consequences?
Who would be affected?*

The main objective of revision of the Co-operatives Act, 2009 is to synchronize the current disorganized set up of forming and strengthening Farmer Groups and Co-operatives with existing institutions and policies, which would bring out clarity in the roles of respective institution. Therefore, this revision is expected to reinvigorate a more coordinated approach in implementing the Act. There will also be an increase in transparency and accountability by the stakeholders resulting in balanced resource allocation and utilization. Considering the objectives and expected outcome, there will be no potential conflicts and inconsistencies.