

**Mid-Term Review of
National Conservation Strategy**

Environmental Legislation

Final Report

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Abbreviations and Acronyms

AJK	Azad Jammu and Kashmir
BAP	Biodiversity Action Plan
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EUAD	Environment and Urban Affair Department
HBP	Hagler Bailly Pakistan (Pvt.) Ltd.
IEE	Initial Environmental Examination
IUCN	The World Conservation Union (Formerly the International Union for the Conservation of Nature and Natural Resources)
KPT	Karachi Port Trust
MTR	Mid Term Review
NEQS	National Environmental Quality Standards
NCS	(Pakistan) National Conservation Strategy
NGO	Non-Governmental Organization
NWFP	North-West Frontier Province
PEPC	Pakistan Environmental Protection Council
SDPI	Sustainable Development Policy Institute
TOR	Terms of Reference

1. Introduction

1.1 Background

The Pakistan National Conservation Strategy (NCS) is the primary document designed to encourage sustainable development, conserve natural resources, and improve efficiency in the use and management of resources. The formal implementation of the NCS started after its approval by the federal cabinet in March 1992, although some measures were already under way in 1991, with allocations in the federal budget. Based on an extensive consultation process, 68 specific programs in 14 core theme areas were identified. Long-term goals and results expected by the year 2001 were set for each core theme area.

A committee was formed in 1998 to make arrangements to undertake a mid-term review (MTR) of the NCS. The goal of the MTR is to enable the stakeholders (government, civil society and supporting institutions) to assess the current status of NCS implementation and to take necessary steps for mid-course corrections. The World Conservation Union (IUCN) is the executing agency for the MTR.

The specific objectives of the MTR are to:

1. Assess the progress achieved in the implementation of the NCS since its adoption, taking into account all the factors influencing the implementation
2. Analyze and collate lessons learnt so far, draw conclusions, and formulate recommendations for making the NCS a holistic and integrated strategic guideline for sustainable development in Pakistan.

The NCS review committee identified 13 specific tasks for achieving these goals. One of these tasks entails reviewing legislative changes pertaining to the NCS. Hagler Bailly Pakistan (Pvt.) Ltd. (HBP) was engaged by IUCN-Pakistan to conduct this study, which is presented in this report.

1.2 Scope of Work

In its review and analysis of changes in Pakistan's environmental legislation and their impact on sustainable development, Hagler Bailly was guided by the following TORs:

- ⊗ Review and analyze legislative changes/revisions at the federal/provincial level influenced by NCS
- ⊗ Review and analyze the participation of various sectors (e.g., private, corporate, NGOs, etc.) in the process of legislative changes
- ⊗ Review and analyze the economic instruments/regulations embedded in the policy/legislation changes
- ⊗ Review and analyze the role of different agencies such as EPAs in the legislative process and its implications for NCS implementation

- ⊕ Review and compare the status of agencies like EPAs in the implementation of legislative reforms
- ⊕ Review and analyze the government's track record of ensuring compliance/enforcement of legislation with implications for, or as a result of, NCS implementation
- ⊕ Review and analyze economic incentives/benefits that were predicted or promised as a result of legislative changes/revisions
- ⊕ Review the impact of legislative changes/revisions at the community level, e.g., have the common property rights been defined and how do they affect communities?

The scope of work was modified as discussed in **Section 1.3** below.

1.3 Methodology

The methodology HBP adopted for this study is briefly outlined below:

1. Finalization of the TORs

The NCS was reviewed at the beginning of the study to identify the areas in which legislative changes may have taken place. A meeting was held with the MTR Coordinator to discuss the TORs. It was decided that the study would focus on the Pakistan Environmental Act, 1997, as the primary instrument for partially implementing the NCS, rather than on the full scope of review and analyses of federal and provincial legal instruments contemplated in the TOR.

2. Identification of Regulatory Developments Expected in the NCS

All regulatory developments envisaged in the NCS were identified. This information was found in Chapters 7 (*Issues and Opportunities in the Primary Sectors*), 8 (*Issues and Opportunities in the Secondary and Tertiary Sectors*) and 10 (*Action Agenda and Implementation Strategy*) of the NCS document.

3. Identification of Legislative Changes

Legislative developments in the 14 core areas of the NCS were identified. The sources of information included:

- ⊕ Gazette of Pakistan, 1992-1999
- ⊕ IUCN libraries at Islamabad and Karachi
- ⊕ SDPI library
- ⊕ HBP Archives
- ⊕ Pakistan Environmental Protection Agency
- ⊕ The NCS Unit
- ⊕ Other resource persons

4. Review of Legislative Changes

Pertinent federal and provincial laws were reviewed to:

- ⌘ Identify specific changes in laws and regulations and analyze the implications of changes on the goals of the NCS.
- ⌘ Identify economic instruments embedded in the laws and regulations and analyze their significance and implications on achieving the goals set in the NCS.
- ⌘ Review the role of various government agencies in implementation of the legislative reforms as intended in the laws and regulations.

5. Discussions with Selected Stakeholders

Discussions were held with selected stakeholders, focusing on:

- ⌘ The role of the NCS in legislative developments: how, and at what stages, the Strategy's provisions were taken into account and incorporated in the legislative changes
- ⌘ How, and at what stage, the various sectors (government, private, and corporate bodies, NGOs, etc.) participated in the legislative changes
- ⌘ The economic instruments embedded in the legislative changes
- ⌘ The roles envisaged in the laws and regulations for various government agencies
- ⌘ The extent of the government's success in ensuring compliance with and enforcing legislation with implications for, or as a result of, NCS implementation.

6. Preparation of Final Report

The findings of the study were compiled in the form of this report.

1.4 Contributors to the Report and Acknowledgements

The report has been prepared by Hidayat Hasan, senior analyst in HBP's Environmental Programs unit. The following persons reviewed the draft of the report and provided valuable comments:

- ☞ Mr. Vaqar Zakaria, Managing Director, HBP
- ☞ Mr. Jawad Hassan, Environmental Lawyer, Associate, Hassan & Hassan (Advocates)

HBP also thanks the following personnel in IUCN-Pakistan and the NCS cell in the Ministry of Environment for providing assistance in identifying resource persons, locating literature, and providing valuable suggestions during this study:

- ☞ Dr. Asif Ali Zaidi, Head, Islamabad Office, IUCN-Pakistan
- ☞ Mr. Mohammad Rafiq, Head of Program, IUCN-Pakistan

- ☉ Ms. Nabila Makhdoom, Assistant Coordinator, Environmental Law Program, IUCN-Pakistan
- ☉ Ms. Maheen Zehra, NCS Coordinator

Critical information was obtained through discussions with the following persons:

- ☉ Mr. Asif Shuja Khan, Director General, Pakistan Environmental Protection Agency
- ☉ Mr. Zia-ul-Islam, Director (I), Pakistan Environmental Protection Agency
- ☉ Mr. Jawed Ali Khan, Director (PEPC), Ministry of Environment, Local Government and Rural Development
- ☉ Ms. Rashida Dohad, Asia Foundation, Islamabad
- ☉ Mr. Anjum Javed Khan, Attorney at Law, AJK Law Associates, Lahore

The support provided by the resource persons at the following libraries is also greatly appreciated:

- ☉ IUCN, Islamabad
- ☉ SDPI, Islamabad
- ☉ HBP, Islamabad

Editorial services at HBP were provided by:

- ☉ Ms. Kiren Khan
- ☉ Ms. Rumina Iftikhar.

1.5 Organization of the Report

Following this section, **Section 2** (*Regulatory Developments Envisaged in the NCS*) reviews the NCS document to identify all the regulatory support that was expected from the government for the implementation of the NCS programs. Similarly, the economic incentives and the requirements for defining of common property rights are also discussed.

Section 3 (*Development of Environmental Regulations and Policies, 1992-1999*) discusses the laws, regulations and policies developed during the period 1992-1999 pertaining to environment.

Section 4 (*Review of Regulatory Development*) discusses the regulatory instruments developed during 1992-1999 in the context of NCS.

2. Regulatory Developments Envisaged in the NCS

2.1 The Pakistan National Conservation Strategy

The Pakistan NCS is a broad-based policy statement aimed at achieving environmentally sustainable economic and social development in Pakistan. The three overriding objectives of the NCS are:

- ⊕ Conservation of natural resources,
- ⊕ Sustainable development, and
- ⊕ Improved efficiency in the use and management of resources.

Three operating principles are identified to achieve these objectives. These are:

- ⊕ Greater public participation in development and environmental management,
- ⊕ A merging of environment and economics decision-making, and
- ⊕ Lasting improvements in the quality of life.

The NCS was developed over a nine-year period (1983-1992) through the collaborative efforts of the IUCN and the Government of Pakistan. The NCS development process included extensive consultation with thousands of experts, interested individuals, communities, NGOs, and government agencies. The final product, according to several observers, is outstanding, in terms of both comprehensiveness and quality.¹

The NCS sets out the basic guidelines for an integrated effort aimed at protecting the environment and natural resources of the country. This broad framework provides a comprehensive point of reference for all agencies, departments, private sector companies, financial institutions, and donor agencies for undertaking systematic efforts to bring about an effective change for sustainable development.

The NCS has three main parts:

Part 1, *Pakistan and the Environment*, provides the context of the document. A comprehensive discussion on the state of the environment in Pakistan is followed by discussions on resource use, existing institutions, policies, instruments and environment-related programs.

Part 2, *Elements of National Conservation Strategy*, starts by defining the basic objectives and principles of the NCS as discussed earlier in this section. This is followed by a comprehensive discussion of issues and opportunities in the primary sectors (agriculture, forest management, rangeland rehabilitation, livestock management, water

¹ *Pakistan: Support to the Implementation of the National Conservation Strategy, Stage I, Final Report*, Sweco, April 20, 1993.

resources, marine and coastal resource management, fisheries, wildlife and their ecosystem, and mineral resources). After this, the issues and opportunities in the secondary and tertiary sectors (energy, industrial development, human settlement, pollution control, recreation and tourism) are presented, followed by a discussion on supporting programs (population, education, communications, research and technology, women in development, training and environmental information systems).

Part 3, *Implementation Arrangements*, provides the action agenda and implementation strategy. The NCS has 14 program areas for priority implementation. These are:

1. Maintaining soils in croplands
2. Increasing irrigation efficiency
3. Protecting watersheds
4. Supporting forestry and plantations
5. Restoring rangelands and improving livestock
6. Protecting water bodies and sustaining fisheries
7. Conserving biodiversity
8. Increasing energy efficiency
9. Developing and deploying renewables
10. Preventing/abating pollution
11. Managing urban wastes
12. Supporting institutions for common resources
13. Integrating population and environment programs
14. Preserving the cultural heritage.

Within the 14 program areas, 68 specific programs have been identified. For each program, the long-term goals, and expected outputs and physical investments required within the first 10 years of implementation have been identified. The NCS proposes a seven-level strategy for implementation. The seven levels are federal and provincial leadership, departmental responsibility, district coordination, community participation, individual action, corporate tasks, and government and NGO support. The required government and institutional development, the role of community organizations, and the financial support required for the implementation of the NCS have also been discussed in this part.

2.2 Regulatory Instruments Required for NCS Implementation

The specific roles of governments, communities, individuals, and businesses in the implementation of the NCS are discussed in Section 10.5 of the NCS document and are shown in matrix form in Table 10.1 of the document. It is expected that, of the 68 programs, 22 will require development of new regulatory instruments. It is further believed that for 5 of the programs, the development of regulatory instruments will be a

critical task. **Exhibit 2.1** lists the tasks for which regulatory instruments are expected to be developed.

In addition to these, some regulatory measures are also identified in the section on issues and opportunities (Chapters 7 and 8). These measures are:

- ⑥ Revise forestry legislation and forest policy directives to meet essential ecological requirements, taking into consideration the socioeconomic realities
- ⑥ Introduce new legislation to protect habitats in the non-protected parts of the countryside, protect particular species, and ensure that the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) is implemented
- ⑥ Provide alternative disposal methods, backed by regulations preventing the discharge of industrial effluents into municipal sewers.

The government is expected to provide support by offering economic incentives and defining common property rights. Regulatory changes may also be required to provide these two instruments. The programs requiring economic instruments and those for which common property rights have to be defined are shown in **Exhibit 2.2** and **Exhibit 2.3**, respectively.

Exhibit 2.1: NCS Programs for Which Regulatory Instruments were Envisaged

<i>Program Area</i>	<i>Program</i>
Protecting Water Bodies	Sustaining mangroves under reduced freshwater inflows
	Fishers ancillary employment program ^a
	Promoting integrated pest management
Conserving Biodiversity	Development and implementation of management plans for priority national parks and protected areas
	Development of new national parks
	Development of new wetland reserves
	Medical botanics and germ-plasm preservation program
	Programs for endangered species ^a
	Captive breeding in private sector
Increasing Energy Efficiency	Energy conservation in large industries
	Energy conservation in building, retrofits, and appliances
Preventing/Abating Pollution	Shifting industry composition towards environmentally benign processes and products
	Integrating clean, low-waste technology in new large manufacturing ^a
	Retrofitting of pollution abatement in existing formal industry ^a
	Collection and treatment of wastes of urban small industries
	Refineries upgrading programs
Vehicle tune-up and related programs ^a	
Managing Urban Waste	Wastewater treatment at livestock farms
Preserving the Cultural Heritage	Area conservation of large urban centers of historical and cultural significance, and shopping precincts
	Area conservation of small historic towns
	Conservation of historical monuments and buildings
	Restoration of buildings of architectural merit

^a Regulatory supports for these tasks are critical.

Exhibit 2.2: NCS Programs for Which Economic Instruments were Envisaged

<i>Program Area</i>	<i>Program</i>
Maintaining Soils in Croplands	Biological pumpage by phreatophytes; farmer field surface drainage Gypsum application on sodic soils ^a Saline agriculture Direct/indirect return to soil of crop residues ^a Soil conservation works in rainfed croplands
Increasing Irrigation Efficiency	On-farm water management
Protecting Watersheds	Integrated watershed management
Supporting Forests and Plantations	Community forestry Courtyard/social forestry
Restoring Rangelands and Improving Livestock Quality	Community-based range management Dissemination of high yield variety (HYV) fodder; improving livestock quality
Protecting Water Bodies	Sustaining mangroves under reduced freshwater inflows Fishers ancillary employment program Promoting integrated pest management
Increasing Energy Efficiency	Energy conservation in large industries ^a Energy conservation in building, retrofits, and appliances Cogeneration in industrial units ^a
Developing and Deploying Renewables	Development and deployment of biogas units Development and deployment of open-core gasifiers and solid-state fermentation units ^a Energy from woodfuel plantations Development of micro- and mini-hydel plants ^a
Preventing/Abating Pollution	Shifting industry composition towards environmentally benign processes and products ^a Integrating clean, low-waste technology in new large manufacturing Retrofitting of pollution abatement in existing formal industry Collection and treatment of wastes of urban small industries Refineries upgrading programs Vehicle tune-up and related programs Setting up compressed natural gas stations

^a The provision of economic instruments to support these tasks is critical.

Exhibit 2.2: NCS Programs for Which Economic Instruments were Envisaged (*Contd.*)

<i>Program Area</i>	<i>Program</i>
Managing Urban Waste	Garbage collection and disposal programs Wastewater treatment at livestock farms
Supporting Institutions for Common Resources	Rural and urban community organization

^a The provision of economic instruments to support these tasks is critical.

Exhibit 2.3: NCS Programs for Which Establishment of Common Property Rights was Envisaged

<i>Program Area</i>	<i>Program</i>
Increasing Irrigation Efficiency	Improved water harvesting in torrent-irrigated areas
Protecting Watersheds	Integrated watershed management
Supporting Forests and Plantations	Community forestry ^a
Restoring Rangelands and Improving Livestock Quality	Community-based range management
Protecting Water Bodies	Sustaining mangroves under reduced freshwater inflows
Conserving Biodiversity	Community management of game reserves
Supporting Institutions for Common Resources	Rural and urban community organization ^a

^a Establishing common property rights for these tasks is critical

3. Development of Environmental Regulations and Policies, 1992-1999

The following laws, which were enacted in Pakistan and Azad Jammu and Kashmir (AJK) between 1992 and 1999, directly or indirectly influence environmental management in the country:

1. Karachi Port Trust (Amendment) Ordinance, 1994
2. Sindh Cultural Heritage (Preservation) Act, 1994
3. National Fund for Cultural Heritage Act, 1994
4. Agricultural Pesticides (Second Amendment) Ordinance, 1995
5. AJK Environmental Protection Act, 1996
6. The Pakistan Environmental Protection Act, 1997 (Act XXXIV of 1997)

Between 1992 and 1999, a number of other laws were also drafted and considered for enactment at federal and provincial levels. Legislative work on some of these did not proceed for various reasons, which included lack of support from stakeholders. A list of laws and regulations drafted during this period that were not enacted is presented below. The list, though not comprehensive, includes all major legislative efforts. Work on some of the following is still in progress.

1. The Margallah Hills (Management, Protection and Conservation of Ecology and Environment) Act, 1995
2. The Islamabad Environmental Improvement (Protection and Conservation of Green Areas) Act, 1995
3. North West Frontier Province (NWFP) Environmental Act, 1995
4. Punjab Environmental Protection Act, 1996
5. Balochistan Wildlife (Protection, Preservation, Conservation and Management) Act, 1996
6. Model Provincial Wildlife Law, 1998
7. NWFP Forestry Act, 1998
8. NWFP Cultural Heritage (Protection and Promotion) Ordinance, 1999
9. Federal Environmental Rules and Regulations, 1999²
10. AJK Forestry Act, 2000

² Regulations are subordinate to acts (or ordinances) but have the same force of law. They provide the detailed mechanism for implementation of the provisions of the acts. The power to make regulations, the agency which can make the regulation, the topics on which regulations can be made and the procedure of making regulations, if any, are all defined in the respective acts. Regulations do not require approval of the parliament, but usually require notification in the official gazette.

Three policy documents were also produced during 1992-1999 that have a significant impact on environmental legislation. These are:

1. Landuse and Social Forestry Policy for AJK, November 1997
2. NWFP Forest Policy
3. Biodiversity Action Plan.

This section briefly describes all the documents mentioned above.

3.1 Environmental Laws Enacted between 1992 and 1999

3.1.1 Karachi Port Trust (Amendment) Ordinance, 1994

The Karachi Port Trust (Amendment) Ordinance, 1994 is a federal act that amends the Karachi Port Trust Act, 1886 (Bombay Act VI of 1886). Articles 2-28 of the Ordinance amend various sections in the Karachi Port Trust Act, 1886, and add new sections pertaining to administration, operation and management of the Karachi Port. Through Article 29 of the Karachi Port Trust (Amendment) Ordinance, 1994, a new section, Section 90, has been inserted in the Karachi Port Trust Act, 1886. Section 90 has the following provisions:

1. The Board of Trustees, Karachi Port Trust (KPT), is responsible for ensuring that the marine environment within the Karachi Port's limit remains free from pollution.
2. Discharge of pollutants including waste, oil, radioactive material, hazardous material, bilge discharge from tankers and vessels is prohibited within the limits of the Karachi Port.
3. Anyone violating the above clauses may be asked to pay a fine of up to Rs. 10 million in addition to bearing the cleaning cost.

3.1.2 Sindh Cultural Heritage (Preservation) Act, 1994

The Sindh provincial assembly passed the Sindh Cultural Heritage (Preservation) Act in February 1994 to "preserve and protect ancient places and objects of architectural, historical, archeological, artistic, ethnological, anthropological and national interest in the province of Sindh." The main features of the Act are:

- ☞ The Government of Sindh is empowered to declare any premises of historical, cultural or architectural value to be protected heritage.
- ☞ The owner of any protected heritage can enter into an agreement with the Government through which a) the government can make arrangements for the preservation and maintenance of the heritage; b) the rights of the owner to destroy, remove alter or deface the heritage are restricted; and c) the public is given access to the heritage.

- ☞ If the Government feels that a protected heritage is in danger of being destroyed, injured or allowed to fall into decay, it is empowered to acquire the protected heritage under the provisions of the Land Acquisition Act, 1894.
- ☞ The destruction of a protected heritage by any person, including the owner, is punishable with fine, imprisonment or both.

3.1.3 National Fund for Cultural Heritage Act, 1994

Under this act, the National Fund for Cultural Heritage was established for “conservation and preservation of Pakistan’s national heritage and its proper maintenance.” The fund can be used to promote the conservation and preservation of Pakistan’s national heritage through various means, which include financial and technical assistance, and creating awareness in the public about the importance of appreciating and preserving the archeological, architectural, historical and cultural heritage of Pakistan. The fund can be financed through grants from federal and provincial governments, aid and assistance from national and international agencies, and contributions from private organizations and individuals.

3.1.4 Agricultural Pesticides (Second Amendment) Ordinance, 1995

The Agricultural Pesticides (Second Amendment) Ordinance, 1995 is a federal act that amends the Agricultural Pesticides Ordinance, 1971. Under the amendment, the penalties for selling, importing, manufacturing and formulating unregistered brands of pesticides have been drastically increased. For example, for certain violations, the penalty has been increased from Rs. 25,000 to Rs. 1.0 million.

3.1.5 AJK Environmental Protection Act, 1996

The AJK Environmental Protection Act, 1996 provides for “the control of pollution and preservation of living environment.”

3.1.6 The Pakistan Environmental Protection Act, 1997 (Act XXXIV of 1997)

The Pakistan Environmental Protection Act, 1997 provides for “the protection, conservation, rehabilitation and improvement of the environment, for the prevention and control of pollution and promotion of sustainable development.” The Act is discussed in detail in **Section 4**.

3.2 Draft Environmental Laws and Regulations—1992 to 1999

3.2.1 The Margallah Hills (Management, Protection and Conservation of Ecology and Environment) Act, 1995

This proposed law is designed to “provide for the management, protection and conservation of the ecology and environment of the Margallah Hills.” The key features of this law are as follows:

- ⊗ The jurisdiction of the Act extends to the Margallah Hills National Park and the areas adjacent to it in Punjab and NWFP.
- ⊗ The concept of environmental zoning has been proposed to control anthropogenic activities and land use within the Margallah Hills.
- ⊗ The flora and fauna of the Margallah Hills have been accorded protection against exploitation.
- ⊗ Constructing new buildings, changing land use, altering landscape, using or modifying public waters and undertaking industrial activities for purposes inconsistent with the objectives of this Act is expressly prohibited.
- ⊗ A Management Plan designed to meet specific conservation objectives of the Margallah Hills is required to be prepared after every five years.

This Act was drafted by IUCN-Pakistan's Legal Panel, at the request of the Ministry of Environment. Though it was presented to the government in 1995, so far, no further action has taken place.

3.2.2 The Islamabad Environmental Improvement (Protection and Conservation of Green Areas) Act, 1995

This Act was proposed to:

- ⊗ Prevent the existing green areas in the Islamabad Capital Territory from being used for purposes other than those for which they are reserved.
- ⊗ Ensure that at least 20 percent of the total area of any new scheme is reserved for the development of green areas.

For the purpose of this Act, "green areas" means land in the Islamabad Master Plan, or other schemes, reserved exclusively for parks, playgrounds, forests, nurseries, vegetative cover, green belts, and open spaces on which no construction is planned.

The Act was also drafted by IUCN-Pakistan's Legal Panel at the request of the Ministry of Environment. Though it was presented to the government in 1995, so far, no further action has taken place.

3.2.3 NWFP Environment Act, 1995

The NWFP Environmental Protection Act was proposed in 1995 to remove the deficiencies in the existing Pakistan Environmental Protection Ordinance, 1983 as applicable to NWFP. The Act was drafted by IUCN-Pakistan's Legal Panel at the request of the Government of NWFP. Because work on a more comprehensive environmental law (the present Pakistan Environmental Protection Act, 1997) was already in progress at the federal level, a separate NWFP Environmental Protection Act was considered redundant.

3.2.4 Punjab Environmental Protection Act, 1996

The Punjab Environmental Protection Act was proposed in 1996 to remove the deficiencies in the then Pakistan Environmental Protection Ordinance, 1983 as applicable

to the province of Punjab. The Act was drafted by a team of lawyers from Australia and Pakistan at the request of the Government of Punjab. As work on a more comprehensive environmental law (the present Pakistan Environmental Protection Act, 1997) was already in progress at the federal level, a separate Punjab Environmental Protection Act was considered redundant. However, according to one of the authors³ of the Act, the Government of Punjab has not completely ruled out the possibility of enacting this law.

3.2.5 Balochistan Wildlife (Protection, Preservation, Conservation and Management) Act, 1996

The Balochistan Wildlife (Protection, Preservation, Conservation and Management) Act, 1996 was proposed by the Forest and Wildlife Department, Government of Balochistan to replace the existing Balochistan Wildlife Protection Act, 1974. The proposed law differs significantly from the existing law in the following aspects:

1. An area can be declared a “National Park” only if it is the property of the government or if the government has proprietary rights over it.
2. The public is ensured access to the national park for recreation, education and research purposes.
3. A new category of protected area, “private game reserves,” has been introduced. These are private lands that have been dedicated by their owners for protecting and conserving wildlife, in the same manner as the state-owned game reserves. Within the limits of the private game reserve, the owners of the land exercise the same powers as are exercisable by an officer appointed by the government in the game reserve.

3.2.6 Model Provincial Wildlife Law

This model law was drafted by Jennifer Mohamed Katerere in 1998 for IUCN-Pakistan. The law was designed to serve as a model for provincial wildlife protection laws. Although the draft is very comprehensive, it was not generally accepted by the stakeholders.

3.2.7 NWFP Forestry Act, 1999

The NWFP Forestry Act was drafted in 1998 by Mr. Zahid Hamid for the Government of NWFP. The act provides for the protection, conservation and sustainable development of forests in the NWFP. It is currently in the public consultation process and the draft of the act has been circulated among the various stakeholders and interested persons for their comments. This process is likely to complete in March 2000 and will be followed by the redrafting and enactment process.

³ Mr. Anjum Jawed Khan, personal communication.

3.2.8 NWFP Cultural Heritage (Protection and Promotion) Ordinance, 1999

Two federal laws, the Antiquities Act, 1975 and the National Fund for Cultural Heritage Act, 1994 (see **Section 3.1.3**), provide protection to all sites and objects of significant cultural heritage in NWFP. The NWFP Cultural Heritage (Protection and Promotion) Ordinance, 1999 is designed to extend this protection to other important places and objects of “historical, cultural, religious, architectural, archeological, artistic, ethnological and anthropological significance.”

The scope and nature of this law is similar to the Sindh Cultural Heritage (Preservation) Act, 1994. The notable differences are:

1. Alteration, renovation, or destruction of a cultural heritage; construction activities within 60 meters of a cultural heritage site; and trade of a cultural heritage object has been explicitly prohibited.
2. Development authorities and local bodies are forbidden to approve any plan affecting cultural heritage without prior permission of the Committee of Experts formed under this ordinance.
3. The use of protected heritage sites for advertisement purposes (such as putting up neon signs and billboards), or installing telephone and power cables and television antennas, is prohibited.
4. Contravention of the provisions of this ordinance by any person is punishable with a fine of up to Rs. 5 million, imprisonment for three years, or both.
5. If there are reasonable grounds to believe that a person has committed an offence under any provision of this ordinance, the Director of Archeology and Museums, Government of NWFP is empowered to arrest him.
6. An “NWFP Cultural Heritage Authority” is proposed to be established under the chairmanship of the provincial Chief Minister to undertake measures for the preservation of cultural heritage in NWFP, as mandated by this ordinance.
7. A fund, to be known as “Sarhad Fund for the Development and Preservation of Cultural Heritage,” will be established with seed money of Rs. 50 million. It will be used to fund projects for the promotion and conservation of cultural heritage.

The draft of the ordinance has been approved by the provincial cabinet and now awaits the approval of the governor of the province.

3.2.9 Federal Environmental Rules and Regulations

Certain rules and regulations have been drafted by the Pakistan Environmental Protection Agency to implement the requirements of the Pakistan Environmental Protection Act, 1997. These include:

1. Pakistan Environmental Protection Agency (Certification of Environmental Laboratories) Regulations, 1999
2. Pakistan Environmental Protection Agency (Review of IEE and EIA) Regulations, 1999

3. Environmental Samples Rules, 1999
4. Pollution Charge for Industry (Calculation and Collection) Rules, 1998
5. Provincial Sustainable Development Fund Board (Procedure) Rules, 1998
6. Provincial Sustainable Development Fund Board (Utilization) Rules, 1998
7. National Environmental Quality Standards (Self-Monitoring and Reporting by Industry) Rules, 1998
8. Hazardous Substances Rules, 1999
9. Environmental Tribunal Rules, 1999

The status of the above as of February 2000 is given below:

- ☞ The Pakistan Environmental Protection Agency (Certification of Environmental Laboratories) Regulations are being printed.
- ☞ The Pakistan Environmental Protection Agency (Review of IEE and EIA) Regulations are being reviewed by the Ministry of Law.
- ☞ Stakeholder consultations on the Environmental Samples Rules, the Pollution Charge for Industry (Calculation and Collection) Rules, the Provincial Sustainable Development Fund Board (Procedure) Rules, the Provincial Sustainable Development Fund Board (Utilization) Rules, and the National Environmental Quality Standards (Self-Monitoring and Reporting by Industry) Rules are complete and these will be submitted to the Ministry of Law for vetting soon.
- ☞ The Hazardous Substances Rules have been circulated to stakeholders for comments.
- ☞ The Environmental Tribunal Rules will be developed by the Ministry of Law.

These rules are further discussed in **Section 4**.

3.2.10 AJK Forestry Act, 2000

The AJK Forestry Act, 2000 is based on the NWFP Forestry Act, 1998.

3.3 Policy Documents

3.3.1 Landuse and Social Forestry Policy for AJK

The Landuse and Social Forestry Policy for AJK was developed by IUCN-Pakistan in 1997 as part of the Government of AJK's Northern Resources Management Project.

3.3.2 NWFP Forest Policy

The NWFP Forest Policy was developed after a consultative process involving government, local communities, NGOs, and other interested parties. The NWFP Forestry Act, 1998 was drafted to meet the requirements of the policy.

3.3.3 Biodiversity Action Plan

As a party to the Convention on Biological Diversity, Pakistan is required to undertake measures to protect biodiversity in the country. More specifically, it is required to commission a country study on biological diversity, prepare a national conservation strategy, and chalk out a plan of action. The Biodiversity Action Plan (BAP) was developed in 1998 to meet all three of these requirements. The plan was discussed and formally adopted in a meeting of the Pakistan Environmental Protection Council in August 1999.

4. Review of Legislative Development

In the previous section, the development of environmental legislation between 1992 and 1999 has been reviewed. During this period, a number of new laws were enacted and important amendments made in existing laws. Several other environmental laws were also drafted, some of which are still under consideration for enactment. Work on the remaining laws was either abandoned or put off indefinitely.

In this section, the environmental laws developed between 1992-1999 for prevention and abatement of pollution are discussed in the context of the NCS. Here, NCS is seen both as a product—goals, issues, opportunities, programs and implementation arrangements—and as a process—consensus building and the mobilization of a constituency of support. Prevention and abatement of pollution is the only program area of the NCS where significant legislative development has taken place and has culminated in enactment of law. The following discussion is expected to provide insight into how the NCS has influenced the environmental legislative process. The discussion is organized as follows:

- ⊕ *Background* gives a brief background of the legislative development, including the description of legislation prior to 1992.
- ⊕ *Legislative Development* describes the key features of new environmental laws and the amendments to existing laws described in the previous section. Various articles of the law, such as enabling (or basic) articles, environmental quality (or anti-pollution) articles and resource conservation (or resource management) articles are discussed. Economic instruments embedded in the laws and definitions of community rights such as common property rights are also discussed in this subsection.
- ⊕ *Development Process* describes the process through which the law was developed. The participation of various sectors in the process of legislative changes is also discussed.
- ⊕ *Institutional Role in Implementation* describes the current status of implementation of the legislation and the role of various government agencies in the development and implementation of the law.

4.1 Background

Statutes in the Indian Subcontinent dating as far back as the nineteenth century have recognized environmental pollution as an undesirable act and proposed punitive actions against it.⁴ However, the first attempt to draft an enabling law⁵ to address environmental

⁴ For example, the Pakistan Penal Code, 1860 imposes a fine of five hundred rupees, or imprisonment for three months, or both, for “whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purposes for which it is ordinarily used.”

pollution in the country was made in 1977.⁶ The effort culminated in the promulgation of the Pakistan Environmental Protection Ordinance, 1983. Originally, far more comprehensive legislation was proposed than the Ordinance. However, after consideration by several governmental agencies, it was decided that a modest beginning would be made by introducing only the Environmental Impact Statement (EIS) as the central point of environmental protection efforts in Pakistan.⁷ Thus, even when the Pakistan Environmental Protection Ordinance, 1983 was promulgated, it was known that amendments would be required in the future to address all areas of environmental concern.

After the approval of the NCS, an immediate need to improve upon the Pakistan Environmental Protection Ordinance, 1983 was felt. The Ordinance was considered deficient in the following specific areas:⁸

- ⊗ Soil contamination, marine pollution, noise pollution, vehicular pollution, handling of hazardous substances and conservation of biodiversity were not adequately addressed.
- ⊗ Several terms including “environment,” “adverse environment affect,” “sustainable development,” “project” and “biodiversity” were not comprehensively defined.
- ⊗ The legal status of the provincial environmental protection agencies was not defined.
- ⊗ The environmental assessment procedure and the type of development projects to which the assessment requirements applied were not clear.

In 1993, the Environment and Urban Affairs Division (EUAD) requested IUCN-Pakistan to propose revisions in the 1983 Ordinance. IUCN-Pakistan accepted the challenge and formed a three-member legal panel to draft a new law. The initial draft was produced in 1993. It was revised several times in consultation with various stakeholders. The federal cabinet approved the legislation in early 1996. It was promulgated in February 1997 as an ordinance and, after approval from the parliament, enacted in December 1997.

In 1993, 10 years after the promulgation of the 1983 Ordinance, the Pakistan Environmental Protection Agency (Pak-EPA) was established under Section 6(d) of the Pakistan Environmental Protection Ordinance, 1983. The same year, on August 24, the National Environmental Quality Standards (NEQS) were established by the Pakistan Environmental Protection Council (PEPC). The notification for NEQS stated that compliance with the NEQS was mandatory for any industry commencing operations after July 1, 1994. For industries that were

⁵ An *enabling law* defines the general objectives and the powers of the legislative and executive branches of the government and its various agencies, including the power and functions of environmental protection agencies.

⁶ Pervez Hassan, “Pakistan Environment Ordinance: Background and Prospects,” the *Dawn* daily, 29 January 1984, Karachi.

⁷ Pervez Hassan, “Institutional and Legislative Framework for Environmental Management in Pakistan,” *Workshop on National Conservation Strategy of Pakistan*, 25-28 August 1986, Islamabad.

⁸ Introduction to the *Pakistan Environmental Protection Act, 1995*, Revised Version, November 1995.

in operation on August 31, 1993 or were to go into operation before July 1, 1994, the effective deadline for compliance with the NEQS was set as July 1, 1996.

Between 1994 and 1996, efforts were also made to draft provincial environmental protection laws. These, however, did not result in any enactment of law, mainly to allow the federal act to develop first.

4.2 Legislative Development

The Pakistan Environmental Protection Act, 1997 is the primary legislative tool for prevention and abatement of pollution in the country. It can be argued that the entire Act primarily addresses ‘brown issues’—environmental issues relating to industrial emission development—and ignores ‘green issues’—ie, issues such as conservation of biodiversity, forests and marine resources. The key features of the Act that relate to prevention and protection of pollution are the following:

- ⊕ The Act provides for protection, conservation, rehabilitation and improvement of the environment, for prevention and control of pollution, and for promotion of sustainable development (Preamble to the Act).
- ⊕ The jurisdiction of the Act extends to the whole of Pakistan and its territorial waters, the Exclusive Economic Zone and ‘historic waters.’
- ⊕ All pollution related terms used in the Act have been clearly defined to ensure their consistent use. The terms defined include environment, pollution, air pollution, discharge, effluent and noise.
- ⊕ It has been clearly stated that the Pakistan Environmental Protection Council (PEPC) is to approve national environmental policies within the framework of a national conservation strategy.
- ⊕ The NEQS requires the approval of the PEPC.
- ⊕ Functions of the Pak-EPA include:
 - ⊕ Preparation, revision and establishment of the NEQS;
 - ⊕ Enforcement of the NEQS;
 - ⊕ Establishment of ambient air quality standards;
 - ⊕ Establishment of systems and procedures for surveys, surveillance, monitoring, measurement, examination, investigation, research, inspection and audit, to prevent and control pollution, and to estimate the costs of cleaning up pollution and rehabilitating the environment in various sectors;
 - ⊕ Taking measures to promote research and the development of science and technology that may contribute to the prevention of pollution, protection of the environment; and
 - ⊕ Encouraging the formation and working of NGOs and community-based organizations to prevent and control pollution.

- ⊗ Provincial EPAs have been given statutory cover. Provincial EPAs can exercise powers delegated to them by the respective provincial governments or the Pak-EPA.
- ⊗ Provincial Sustainable Development Funds have been established to provide financial assistance to suitable projects, including projects for the prevention and control of pollution.
- ⊗ Discharges or emissions in excess of the NEQS, or other standards established by Pak-EPA where ambient conditions so require, have been prohibited.
- ⊗ The federal government has been empowered to levy a pollution charge on persons not complying with the NEQS.
- ⊗ An environmental assessment process has been introduced for proposed development projects. This involves filing of either an Initial Environmental Examination (IEE) or, for projects likely to have an adverse environmental effect, a comprehensive EIA, with the federal government. The EIA or IEE should establish that the project will not cause any adverse environmental effect before the project can be approved.
- ⊗ Operation of a motor vehicle from which gaseous emission or noise exceeds the NEQS, or other standards established by Pak-EPA where ambient conditions so require, have been prohibited. To ensure compliance with the NEQS, the Pak-EPA has been empowered to direct that pollution control devices be installed in motor vehicles or fuels specified by Pak-EPA be used in them or specified maintenance or testing be carried out on them.
- ⊗ Pak-EPA and the provincial EPAs have been empowered to issue an Environmental Protection Order to deal with an actual or potential adverse environmental effect following a violation of the provisions of the Act. This may include immediate stoppage of pollution, installation of pollution control devices and action for disposal of waste and restoration of environment.
- ⊗ Penalties have been imposed on contravention of the provisions of the Act that relate to NEQS, environmental assessment and environmental protection orders.
- ⊗ Environmental Tribunals have been constituted with exclusive jurisdiction to try serious offences under the Act. Minor offences relating to pollution by motor vehicles, littering and waste disposal and violation of rules and regulations, etc., are to be tried by Environmental Magistrates. The Environmental Tribunals and the Environmental Magistrates have been authorized to award compensation for losses or damages. The Environmental Tribunals have also been given the power to recover from the offender monetary benefits obtained by him as a result of the offence.

Although, the Pakistan Environmental Protection Act, 1997 is applicable to the marine environment in the jurisdiction of Pakistan, it does not contain any explicit reference to pollution of the sea. As discussed in **Section 3.1.1**, the Karachi Port Trust (Amendment) Ordinance, 1994 makes the Board of Trustees, Karachi Port Trust (KPT) responsible for ensuring that the marine environment within the limits of Karachi Port remains free of

pollution. It also prohibits discharge of pollutants from shipping vessels within the limits of the Karachi Port and imposes heavy fines on violation of this provision.

Rules and regulations required to implement the provisions of the Pakistan Environmental Protection Act, 1997 have been drafted by Pak-EPA (see **Section 3.2.9**). Two key sets of rules for pollution prevention are the Pollution Charge for Industry (Calculation and Collection) Rules, 1998 and the National Environmental Quality Standards (Self-Monitoring and Reporting by Industry) Rules, 1998.

In the context of the NCS, all seven programs in the program area “Preventing/Abating Pollution” rely on the availability of economic incentives, and, with one exception, also rely on regulatory measures for implementation (see **Exhibits 2.1** and **2.2**). The extent to which the Pakistan Environmental Protection Act, 1997 and its supporting rules and regulations provide the required regulatory support for prevention and abatement of pollution is discussed below. Regulatory support could be in the form of direct legal tools, such as prohibition of certain acts, or economic incentives imbedded in the law.

1. *Shifting industry composition towards environmentally benign processes and products:* Although, the imposition of a pollution charge can encourage installation of industries with environmentally benign processes and products, no direct incentives for such a move has been provided in the legislation. It is unlikely that the NCS goal of inducing 10 percent of forthcoming industry to adopt environmentally safe products and processes could be achieved by the year 2001.
2. *Integrating clean, low-waste technology in new large manufacturing units:* The regulatory control provided by the Pakistan Environmental Protection Act, 1997 will be sufficient to provide the initial thrust towards installation of clean low-waste technologies in new industries. The scientific execution of the environmental assessment process, proper technical assessment by the EPAs, and effective post-commissioning monitoring are key factors in implementation of this program.
3. *Retrofitting of pollution abatement in existing formal industry:* Effective imposition of the NEQS and pollution charges will encourage the retrofitting program. However, the Act neither defines the concept of “best available control technology” nor makes any provisions for it. As the law stands, all industries, new or existing, have to meet the same emission standards.
4. *Collection and treatment of wastes of urban small industries:* No explicit provisions for this program are made in Act. Since it will be difficult for small non-formal industries to initiate a self-monitoring and reporting program, it is extremely unlikely that the Act will by itself provide any impetus for starting a collective waste collection and treatment system. A separate initiative is needed to provide economic incentives for the small-scale industries to start such a program. Legal cover for such a program may have to be provided by amendment in the Act or through regulations under the Act.

5. *Refineries upgrading programs:* No regulatory measures or economic incentives have been provided to refineries to introduce processes to produce low-leaded fuel.
6. *Vehicle tune-up and related programs:* The National Energy Conservation Centre (ENERCON) has started a vehicular tune-up program. A similar program is also operational in Peshawar. However, no vehicular emission standards for pollutants other than carbon monoxide (CO) have been prescribed by the EPA.
7. *Establishment of compressed natural gas (CNG) stations:* As of February 2000, a total of 64 CNG stations are operating in the country and another 62 are under construction.⁹ Thus, the NCS goal of setting-up 75 CNG stations in the country by the year 2001 has been achieved.

The Pakistan Environmental Protection Act, 1997 gives strong punitive powers to the government but fails to provide any economic or other incentives to industries and other concerns for improvement of environmental performance. The punitive measures in the Act include:

- ⊕ Powers given to the government to investigate an alleged violation of the Act's provisions (Section 7(f)), and to enter a premises for inspection, investigation and taking samples and confiscation of any article (Section 7(g), 7(h) and (j));
- ⊕ Strong penalties for polluting (Section 17);
- ⊕ Establishment of environmental tribunals for trying offences under the Act (Section 20);
- ⊕ Appointment of environmental magistrates for trying offences under the Act (Section 24);

The Act fails to provide economic or other incentives to motivate industries or other concerns to take measure for pollution control, such as installation of pollution control equipment. Section 6(2)(d) defines it an optional function of the Pak-EPA to "recommend to the Federal Government the adoption of financial and fiscal programs, schemes or measures for achieving environmental objectives and goals and the purposes of this Act, including (i) incentives, prizes awards, subsidies, tax exemptions, rebates and depreciation allowances; and (ii) taxes, duties, cesses and other levies."

In summary, in certain areas of pollution prevention and abatement, the existing regulations still fail to provide the necessary regulatory support to the NCS programs. Additional regulations in the following areas would certainly assist in improving the implementation of NCS programs:

- ⊕ The concept of 'Best Available Control Technology (BACT)' should be introduced for existing industries. The concept takes into account the cost of installation of control devices, the health effects of operating the plant without pollution control devices, and the background environmental conditions to identify the level of control that should be imposed on the industry. The system is

⁹ General Manger (CNG), Hydrocarbon Development Institute of Pakistan, Personal Communication.

particularly suited for old industrial zones where several plants may be due for decommissioning during the next decade. The emission standards and level control on them are primarily determined by the health impacts, cost of installation of the control devices, and the background environmental conditions.

- ⊕ Regulatory support should be provided for installation, management and operation of collective waste collection and treatment systems for small-scale industries. Such systems will be particularly useful for industries in Hyderabad, Sialkot and Gujranwala.
- ⊕ Vehicular emission standards should be improved to take into account variation in engine sizes and fuel types. Apart from CO, standards should be defined for oxides of nitrogen, hydrocarbons and particulate matter.

4.3 Development Process

As has been highlighted earlier, the outcome of the NCS initiative was both a product, ie, the strategy document, and a process, ie, consensus building and the mobilization of a constituency of support. The same approach was adopted in the development of the Pakistan Environmental Protection Act, 1997. The Act is unique in that it was drafted after far more extensive public consultation than any other legislation in the country has entailed. The consultation was undertaken in the following manner:

1. The initial draft was discussed between IUCN-Pakistan's Legal Panel, the Ministry of Environment and the Pakistan Environmental Protection Agency.
2. Once a consensus on this draft had been developed within the Legal Panel, the Ministry of Environment, and the Pakistan Environmental Protection Agency, it was printed and circulated among stakeholders and interested persons for review and comments. The stakeholders included trade bodies, chambers of commerce and industry, industry associations, non-governmental organizations, government agencies, media and donor agencies.
3. Four consultative workshops were held in the four provincial capitals to solicit comments from stakeholders.
4. Stakeholders were encouraged to form their own discussion groups. The most significant of the discussion groups was the sub-committee formed by the Federation of Pakistan Chamber of Commerce and Industry (FPCCI) to prepare a collective response from industry.

Comments, both written and verbal, were received during workshops from many groups and individuals including the provincial EPAs, federal ministries and provincial government departments, the Law Commission, chambers of commerce and industry (Overseas Chambers of Commerce and Industry, FPCCI); government agencies (Board of Investment; Export Promotion Bureau); industry associations, media representatives, NGOs, lawyers, educational and research institutions, banks and development finance institutions (DFIs). The comments were carefully compiled and the draft of the law was revised in the light of these inputs.

Thus, the final draft of the Act was based on a broad-based consensus among the stakeholders. Although not all stakeholders were fully agreed on each provision of the Act, it can be argued that a consensus developed that a) improved environmental legislation is required, and b) the Pakistan Environmental Protection Act, 1997 is a step in the right direction.

At this stage, an important question that needs to be considered is the institutionalization of the consensus building process. The public consultation that has taken place in environmental policy and regulation development in Pakistan has been carried out primarily by the non-governmental sector, supported by international donor agencies. This includes the NCS itself (where the focal point was IUCN-Pakistan, supported by Canadian International Development Agency [CIDA] and United Nations Development Program [UNDP]), the Pakistan Environmental Protection Act, 1997 (where the focal point was IUCN-Pakistan), and the development of a self-monitoring pollution charge for industries (which was led by the Sustainable Development Policy Institute [SDPI] with support from the Federal Office for Foreign Economic Affairs [FOFEA], Switzerland).

It has been reported that the federal government initially resisted moves to start a public debate on the Pakistan Environmental Protection Act. The National Environmental Quality Standards (NEQS) were established in 1993 with virtually no public consultation. Similarly, the rules and regulations for the Pakistan Environmental Protection Act, 1997 drafted by the Pak-EPA (see **Section 3.2.9**) have not been debated in public so far. Clearly, as long as an NGO is involved in such initiatives and the project is funded by an international donor agency, public consultation is likely to be an important element of the policy and legislation development process. The same cannot be said about policy and regulations developed in the government sector. The reasons for lack of government support for public consultation could be:

- ⊕ A general environment of secrecy that is part of the bureaucratic setup of Pakistan's national organizations
- ⊕ Very limited provisions for public debate in the "Rules of Business," the document that is followed in government departments for day-to-day business
- ⊕ The public's right to access information and general environmental rights are not defined
- ⊕ Lessons from the three examples of successful public consultation on matters of public concern (NCS, the Act, and pollution charge) are not documented; the details of the process, how they were conducted, the benefits and pitfalls, etc., are only part of institutional memories, which, in many cases, are fading as people leave the institutions
- ⊕ Within the government, many people who took part in the consultative processes have been posted out and replaced with officers who do not have any experience of consultative processes
- ⊕ Limited financial, human and technical resources available to the government agencies.

Approval of national environmental policies and the National Environmental Quality Standards developed by the Pak-EPA are among the functions of the PEPC laid out in the Act.

The functions that the Act lays out for the Pak-EPA, include, among others:

- ⊕ Prepare, in coordination with the appropriate Government Agency and in consultation with the concerned sectoral Advisory Committees, national environmental policies for approval by the Council
- ⊕ Prepare or revise and establish the National Environment Quality Standards with approval of the Council. Before seeking approval of the Council, the Federal Agency shall publish the proposed National Environmental Quality Standards for public opinion in accordance with the prescribed procedure
- ⊕ Establish standards for the quality of the ambient air, water and land by notification in the official Gazette, in consultation with the Provincial Agency concerned
- ⊕ Identify the needs for, and initiate legislation in various sectors of the environment.

Except for the NEQS, public consultation is not legally required for any policy or legislation development process.

To enhance the institutional role of Pak-EPA and ensure that the public is involved in all important environmental decisions, policies and regulations, the consultative process should be institutionalized. In particular, the following measures are proposed:

1. The Pakistan Environmental Protection Act, 1997 should be amended to define the rights of the citizens to a clean environment, access to environmental information and participation in decision-making. The example set in the draft NWFP Environment Act, 1995 should be followed.
2. The Government Rules of Business, 1973 should be amended, at least to the extent that they apply to the Ministry of Environment, Rural Development and Local Government and the Pak-EPA, to make public consultative process an integral part of the legislation development process.
3. The Pakistan Environmental Protection Act, 1997 should be amended to make public consultation mandatory for all important environmental decisions, policies and regulations.
4. An Internet-based website should be developed by Pak-EPA to disseminate information and solicit opinion. The website can contain the following:
 - ⊕ Environmental policies, rules, regulations and standards
 - ⊕ Current drafts of policies and regulations under development
 - ⊕ Summaries of EIAs and IEEs submitted to EPAs
 - ⊕ Roster of stakeholders.

5. A permanent roster of eminent citizens, stakeholders, public figures, scientists and experts should be maintained by Pak-EPA. Every important decision and changes in rules and regulations should be circulated at least to persons on this list.
6. The public consultation process that was undertaken during the development of NCS and the Pakistan Environmental Protection Act, 1997 should be thoroughly documented for future reference.
7. Voluntary development and discussion on policies and regulations should be encouraged at the local NGO level. Public consultation should not be a donor-driven exercise.

4.4 Institutional Role in Implementation

The Pakistan Environmental Protection Act, 1997 mandates the formation of the following organizations:

1. The Pakistan Environmental Protection Council (PEPC)
2. The Pakistan Environmental Protection Agency (Pak-EPA)
3. The provincial environmental protection agencies (EPAs)
4. The provincial sustainable development funds (SDFs).

Pak-EPA is primarily responsible for implementing the provisions of the Pakistan Environmental Protection Act, 1997. It has been empowered to delegate the powers and functions the Act assigns to it to the provincial EPAs. To this extent, the provincial EPAs function as provincial branches of Pak-EPA.¹⁰

PEPC is primarily a supervisory body over the EPAs. The powers and functions of the PEPC and the Pak-EPA, particularly in respect of prevention and abatement of pollution, are summarized in **Exhibit 4.1**. The first and foremost function of agencies is the implementation of the provisions of the Pakistan Environmental Protection Act, 1997 and its associated rules and regulations.

The Pakistan Environmental Protection Act, 1997 is an enabling legislation. It empowers the government to create new institutions, draft rules and regulations for the implementation of the provisions of this Act and take specific measures for protection of the environment. The implementation of the provisions of the Act can be reviewed on the basis of the following:

- ⊗ Establishment and functioning of the institutions
- ⊗ Establishment of rules and regulations in support of the legislation
- ⊗ Performance of the institutions, particularly the Pak-EPA.

The implementation status of various provisions of the Pakistan Environmental Protection Act, 1997 is described in **Exhibit 4.2**. It is apparent that several sections of

¹⁰ Provincial governments can also delegate additional powers and functions to their respective EPAs.

the Act have not been completely implemented, even though the laws have been in force for 17 years.¹¹ This implementation failure is attributed to:

- ⊗ Limited financial, human and technical resources available to the federal and provincial EPAs;
- ⊗ Lack of political support and will;
- ⊗ Limited technical expertise in the country;
- ⊗ Lack of public pressure due to limited environmental awareness;
- ⊗ The generally short duration of appointments of officials, both technical and non-technical, in the federal and provincial ministries of environment, and the environmental protection agencies, which reduces the continuity and consistency required to develop and implement policies and regulations; and
- ⊗ ‘Posting out’ of suitably trained staff and experts from the federal and provincial ministries of environment and the environmental protection agencies to other government departments and agencies.

Although the Pakistan Environmental Protection Act, 1997 contains the basic elements required for implementation of the NCS programs, the executing agencies are not yet fully geared to carry out the implementation. EPAs do not have the necessary in-house technical, legal, and management support or sufficient financial resources. In the present absence of such resources, the only implementation alternative left is donor-supported projects. International donor organizations are not only providing the financial resources but are also assisting in formulating, managing, and implementing such projects. However, in the long run, this may not be a very sustainable arrangement. It is imperative that the institutional capacities of the implementing agencies be developed to enable them to technically manage the environmental programs and implement the NCS projects.

4.5 Conclusions

The key findings of this review are:

1. Since the approval of the NCS in 1992, new laws have been drafted, and enacted in several instances, to address various environmental issues. These developments have taken place both at the federal and provincial level. The most significant of these in terms of potential impact, and an example of government-public participation in tackling environmental issues, is the Pakistan Environmental Protection Act, 1997.
2. The Pakistan Environmental Protection Act, 1997 has all the basic legislative tools required to address the issue of prevention and abatement of environmental pollution. However, the Act is weak in green issues.

¹¹ Many provisions of the 1997 Act were also part of the Pakistan Environmental Protection Ordinance, 1983. This ordinance was repealed after the promulgation of the 1997 Act.

3. Pollution of the sea is not amply covered in the Pakistan Environmental Protection Act, 1997.
4. Progress has taken place in providing the necessary regulatory support and economic incentives for implementation of the NCS programs in prevention and abatement of environmental pollution in four of the seven programs.
5. The experience of the development of the Pakistan Environmental Protection Act, 1997 has shown that good results can be obtained by involving public and stakeholders in the development of legislation. However, the public participation process is not institutionalized.
6. Provisions of several sections of the Pakistan Environmental Protection Act, 1997, either completely or partially, remain unimplemented.
7. Definition of environmental rights and the public's 'right-to-know' are two fundamental issues that remain unaddressed.

As already pointed out by another reviewer,¹² while legislation is a never-ending process needed to keep pace with developments and experiences, Pakistan has reached a stage where implementation has to be focused upon. Provision of technical and skilled manpower to the EPAs is immediately required. Given the limited financial resources available, EPAs should focus their efforts on:

- ☞ Implementation of the provisions of the Act
- ☞ Creating an enabling environment to achieve the Act's objectives by utilizing the human, capital and technical resources of the private sector, other government agencies, and research organizations
- ☞ Developing a detailed implementation strategy for the NCS programs.

¹² E. J. Norrena, *Implementation of the National Environmental Quality Standards in Pakistan: Report and Recommendations*, March 1997.

Exhibit 4.1: Comparison of the Functions of the Pakistan Environmental Protection Council and the Pakistan Environmental Protection Agency

	<i>Pakistan Environmental Protection</i>	<i>Pakistan Environmental Protection Agency</i>
Pakistan Environmental Protection Act, 1997	Coordinate and supervise enforcement of the provisions of the Act	Administer and implement the provisions of the Act
National Environmental Policies	Approve Ensure implementation within the framework of NCS	Prepare in coordination with the appropriate government agency and in consultation with the concerned sectoral Advisory Committees Take all necessary measures for implementation
NEQS	Approve	Prepare or revise, and establish Ensure enforcement
National Environment Report	Consider and give appropriate directions	Prepare and publish
Prevention and Control of Pollution	Direct the EPAs or any other government agency to prepare, submit, promote or implement projects in this area	Establish systems and procedures for surveys, surveillance, monitoring, measurement, examination, investigation, research, inspection and audit Estimate the costs of cleaning up pollution and rehabilitating
Ambient Environmental Standards		Establish
Research and Development in Prevention of Pollution		Take measures to promote
Legislation in Various Sectors of the Environment		Identify the needs for, and initiate

Exhibit 4.2: Implementation Status of the Pakistan Environmental Protection Act, 1997

<i>Section</i>	<i>Provision</i>	<i>Status</i>
3(1)	The Federal Government shall, by notification in the official Gazette, establish a Council to be known as the Pakistan Environmental Protection council ...	Established in 1993
3(3)	The Council shall frame its own rules of procedure.	
3(4)	The Council shall hold meetings as and when necessary, but not less than two meetings shall be held in a year.	Eight meetings held so far, as follows: 1993 1 meeting 1995 3 meetings 1996 2 meetings 1997 1 meeting 1999 1 meeting
3(5)	The Council may constitute committees of its members and entrust them with such functions as it may deem fit, and the recommendations of the committees shall be submitted to the Council for approval.	
4(1)(b)	The Council shall approve comprehensive national environmental policies and ensure their implementation within the framework of a national conservation strategy as may be approved by the Federal Government from time to time	No national environmental policy approved so far
4(1)(c)	The Council shall approve the National Environmental Quality Standards	Approved in 1993 and revised in 1995 and 1999
4(1)(f)	The Council shall consider the National Environment Report and give appropriate directions thereon.	Never presented to PEPC
5(1)	The Federal Government shall, by notification in the official Gazette, establish the Pakistan Environmental Protection Agency, to exercise the powers and perform the functions assigned to it under the provisions of this Act and the rules and regulations made thereunder.	Established in 1993
6(1)(b)	The Federal Agency shall prepare, in coordination with the appropriate Government Agency and in consultation with the concerned sectorial Advisory Committees, national environmental policies for approval by the Council	Not done
6(1)(d)	The Federal Agency shall prepare and publish an annual National Environment Report on the state of the environment	Not done

Exhibit 4.2: Implementation Status of the Pakistan Environmental Protection Act, 1997
(Contd.)

<i>Section</i>	<i>Provision</i>	<i>Status</i>
6(1)(e)	The Federal Agency shall prepare or revise, and establish the National Environment Quality Standards with the approval of the Council. Provided that before seeking approval of the Council, the Federal Agency shall publish the proposed National Environmental Quality Standards for public opinion in accordance with the prescribed procedure	Prepared in 1993 and revised in 1995 and 1999. The 1999 revision is not yet notified. Prescribed procedures not yet drafted
6(1)(f)	The Federal Agency shall ensure enforcement of the National Environmental Quality Standards	Wide spread violation is still common
6(1)(g)	The Federal Agency shall establish standards for the quality of the ambient air, water and land, by notification in the official Gazette, in consultation with the Provincial Agency concerned	Not yet established.
6(1)(i)	The Federal Agency shall establish systems and procedures for surveys, surveillance, monitoring, measurement, examination, investigation, research, inspection and audit to prevent and control pollution, and to estimate the costs of cleaning up pollution and rehabilitating the environment in various sectors	Some guidelines and procedures drafted but not fully implemented.
6(1)(j)	The Federal Agency shall take measures to promote research and the development of science and technology which may contribute to the prevention of pollution, protection of the environment, and sustainable development	No Action
6(1)(k)	The Federal Agency shall certify one or more laboratories as approved laboratories for conducting tests and analysis and one or more research institutes as environmental research institutes for conducting research and investigation, for the purposes of this Act	
6(1)(l)	The Federal Agency shall identify the needs for, and initiate legislation in various sectors of the environment	Not on a regular basis
6(1)(n)	The Federal Agency shall assist the local councils, local authorities, Government Agencies and other persons to implement schemes for the proper disposal of wastes so as to ensure compliance with the standards established by it	No Action
6(1)(o)	The Federal Agency shall provide information and guidance to the public on environmental matters	No Action
6(1)(r)	The Federal Agency shall promote public education and awareness of environmental issues through mass media and other means, including seminars and workshops	

Exhibit 4.2: Implementation Status of the Pakistan Environmental Protection Act, 1997
(Contd.)

<i>Section</i>	<i>Provision</i>	<i>Status</i>
6(2)(e)	The Federal Agency may establish and maintain laboratories to help in the performance of its functions under this Act and to conduct research in various aspects of the environment and provide or arrange necessary assistance for establishment of similar laboratories in the private sector	Laboratory established but is generally under-utilized
7(1)k.	Subject to the provisions of this Act, the Federal Agency may establish a National Environmental Coordination Committee comprising the director-General as its chairman and the director-Generals of the Provincial Environmental Protection Agencies and such other persons as the Federal Government may appoint as its members to exercise such powers and perform such functions as may be delegated or assigned to it by the Federal Government for carrying out the purposes of this Act and for ensuring inter-provincial co-ordination in environmental policies.	
8(1)	Every Provincial Government shall, by notification in the official Gazette, establish an Environmental Protection Agencies, to exercise such powers and perform such functions as may be delegated to it by the Provincial Government under sub-section (2) of section 26.	EPAs established in every province.
8(6)	To assist the Provincial Agency in the discharge of its functions, the Provincial Government shall establish sectoral Advisory Committees for various sectors and appoint members form amongst eminent representatives of the relevant sector, educational institutions, research institutes and non-governmental organizations.	
9(1)	A Sustainable Development Fund shall be established in each province.	
9(3)	The Provincial Sustainable Development Fund shall be utilized in accordance with such procedure as may be prescribed for it.	Procedures drafted but not yet notified
10(1)	The Provincial Sustainable Development Fund shall be managed by a Board known as the Provincial Sustainable Development Fund Board.	

Exhibit 4.2: Implementation Status of the Pakistan Environmental Protection Act, 1997
(Contd.)

<i>Section</i>	<i>Provision</i>	<i>Status</i>
10(2)	In accordance with such procedures and such criteria as may be prescribed, the Board shall have the power to (a) sanction financial assistance for eligible projects; (b) invest moneys held in the Provincial Sustainable Development Fund in such profit-bearing Government Bonds, savings schemes and securities as it may deem suitable; and (c) take such measures and exercise such powers as may be necessary for utilization of the Provincial Sustainable Development Fund for the purposes specified in sub-section (3) of section 9.	
11(2)	The Federal Government will levy a pollution charge on any person who contravenes or fails to comply with the provisions of sub-section (1), to be calculated at such rate, and collected in accordance with such procedure as may be prescribed.	Procedures drafted but not yet notified
12(1)	No proponent of a project shall commence construction or operation unless he has filed with the Federal Agency an initial environmental examination or, where the project is likely to cause an adverse environmental effect, an environmental impact assessment, and has obtained from the Federal Agency approval in respect thereof.	EPAs have not been successful in completely implementing these requirements. Many projects, including several large ones, have been carried out without any environmental assessment
12(3)	Every review of an environmental impact assessment shall be carried out with public participation...	Very few public participation exercises undertaken
12(4)	The Federal Agency shall communicate its approval or otherwise within a period of four months from the date the initial environmental examination or environmental impact assessment is filed complete in all respects in accordance with the prescribed procedure, failing which the initial environmental examination or, as the case maybe, the environmental impact assessment shall be deemed to have been approved, to the extent to which it does not contravene the provisions of this Act and the rules and regulations made thereunder.	Procedures drafted but not yet notified
12(6)	The provisions of sub-section (1), (2), (3), (4) and (5) shall apply to such categories of projects and in such manner as may be prescribed.	Procedures drafted but not yet notified
12(7)	The Federal Agency shall maintain separate Registers for initial environmental examination and environmental impact assessment projects, which shall contain brief particulars of each project and a summary of decisions taken thereon, and which shall be open to inspection by the public at all reasonable hours and the disclosure of information in such Registers shall be subject to the restrictions specified in sub-section (3).	No Action

Exhibit 4.2: Implementation Status of the Pakistan Environmental Protection Act, 1997
(Contd.)

<i>Section</i>	<i>Provision</i>	<i>Status</i>
14a	Subject to the provisions of this Act, no person shall generate, collect, consign, transport, treat, dispose of, store, handle or import any hazardous substance except under a license issued by the Federal Agency and in such manner as may be prescribed	Procedures drafted but not yet notified
15(1)	Subject to the provisions of this Act and the rules and regulations made thereunder, no person shall operate a motor vehicle from which air pollutants or noise are being emitted in an amount, concentration or level which is in excess of the National Environmental Quality Standards, or where applicable the standards established under clause (g) of sub-section (1) of section 6.	No Action
15(2)	For ensuring compliance with the standards mentioned in sub-section (1), the Federal Agency may direct that any motor vehicle or class of vehicles shall install such pollution control devices or other equipment or use such fuels or undergo such maintenance or testing as may be prescribed.	No Action
16(1)	Where the Federal Agency or a Provincial Agency is satisfied that the discharge or emission of any effluent, waste, air pollutant or noise, or the disposal of waste, or the handling of hazardous substances, or any other act or omission is likely to occur, or is occurring or has occurred in violation of the provisions of this Act, rules or regulations or of the conditions of a licence, and is likely to cause, or is causing or has caused an adverse environmental effect, the Federal Agency or, as the case may be, the Provincial Agency may, after giving the person responsible for such discharge, emission, disposal, handling, act or omission an opportunity of being heard, by order direct such person to take such measures that the Federal Agency or Provincial Agency may consider necessary within such period as may be specified in the order.	No order issued to date
17(6)	The Director-General of the Federal Agency or of a Provincial Agency or an officer generally or specially authorized by him in this behalf may, on the application of the accused compound an offence under this Act with the permission of the Environmental Tribunal or Environmental Magistrate in accordance with such procedure as may be prescribed.	Procedures drafted but not yet notified

Exhibit 4.2: Implementation Status of the Pakistan Environmental Protection Act, 1997
(Contd.)

<i>Section</i>	<i>Provision</i>	<i>Status</i>
20(1)	The Federal Government may, by notification in the official Gazette, establish as many Environmental Tribunals as it considers necessary and, where it establishes more than one Environmental Tribunal, it shall specify territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.	Two tribunals established
20(2)	An Environmental Tribunal shall consist of a Chairperson who is, or has been, or is qualified for appointment as, a Judge of the High Court to be appointed after consultation with the Chief Justice of the High Court and two members to be appointed by the Federal Government of which at least one shall be a technical member with suitable professional qualifications and experience in the environmental field as may be prescribed.	
20(8)	The terms and conditions of service of the Chairperson and members of the Environmental Tribunal shall be such as may be prescribed.	
22(2)	An appeal to the Environmental Tribunal shall be in such form, contain such particulars and be accompanied by such fees as may be prescribed.	Procedures drafted but not yet notified
26(1)	The Federal Government may, by notification in the official Gazette, delegate any of its or of the Federal Agency's powers and functions under this Act and the rules and regulations made thereunder to any Provincial Government, any Government Agency, local council or local authority.	Powers have been delegated to provincial EPAs
26(2)	The Provincial government may, by notification in the official Gazette, delegate any of its or of the Provincial Agency's powers of functions under this Act and the rules and regulations made thereunder to any Government Agency of such Provincial Government or any local council or local authority in the Province.	
31	The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act including rules for implementing the provisions of the international environmental agreements, specified in the Schedule to this Act.	Rules drafted but not yet notified

Exhibit 4.2: Implementation Status of the Pakistan Environmental Protection Act, 1997
(Contd.)

Section	Provision	Status
33(1)	For carrying out the purposes of this Act, the Federal Agency may, by notification in the official Gazette and with the approval of the Federal Government, make regulations not inconsistent with the provisions of this Act or the rules made thereunder.	
33(2)	In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-	
33(2)(a)	submission of periodical reports, data or information by any Government agency, local authority or local council in respect of environmental matters	No Action
33(2)(b)	preparation of emergency contingency plans for coping with environmental hazards and pollution caused by accidents, natural disasters and calamities	No Action
33(2)(c)	appointment of officers, advisors, experts, consultants and employees	
33(2)(d)	levy of fees, rates and charges in respect of services rendered, actions taken and schemes implemented	
33(2)(e)	monitoring and measurement of discharges and emissions	Drafted but not yet notified
33(2)(f)	categorization of projects to which, and the manner in which, section 12 applies	Drafted but not yet notified
33(2)(g)	laying down of guidelines for preparation of initial environmental examination and environmental impact assessment and development of procedures for their filling, review and approval	Drafted but not yet notified
33(2)(h)	providing procedures for handling hazardous substances and	
33(2)(i)	installation of devices in, use of fuels by, and maintenance and testing of motor vehicles for control of air and noise pollution.	No Action

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