Report of the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary to examine the comments / suggestions on the Draft Amendments to EIA Notification, 2006.

Ministry of Environment & Forests
Government of India
New Delhi

October, 2009

We are grateful for the opportunity given to us to examine the comments / suggestions received on the Draft Amendments to EIA Notification, 2006. We have studied the views expressed by various stakeholders on the draft amendments as contained in the Notification S.O. 195(E) dated 19th January, 2009. Besides the written comments, hearings were held with all the stakeholders inter-alia; (i) Central Ministries and Departments, (ii) State Governments and their Agencies, (iii) Industries and their Associations and (iv) Civil Society including NGOs. Besides, meeting was also held with Ministry of New and Renewable Energy (MNRE). Based on the consideration of views expressed by all the stakeholders and the extensive deliberations by the Committee, the recommendations have been finalized for each of the proposed amendments in the EIA Notification, 2006. Observations / comments which were not within the mandate of the Committee, have been compiled separately; the issues which could possibly be resolved through administrative circulars / orders and the issues which could be considered subsequently for further amendment to the Notification and are annexed separately in the report.

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Place: New Delhi
Date: 30.10.2009

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Report of the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary to examine the comments / suggestions on the Draft Amendments to EIA Notification, 2006.

1.0 Background:

The Government of India, Ministry of Environment and Forests published a notification in the Gazette of India, Part II, Section 3, subsection (ii) no. S.O. 1533(E) dated 14th September 2006, replacing EIA notification 1994 which mandated certain activities / processes and their expansion and modernization as listed therein to obtain prior environmental clearance under the provisions thereof. The said Notification was first amended vide S.O. 1737(E) dated 11th October 2007.

The implementation of the notification was reviewed and based on the review it was decided to further amend the notification. Accordingly a draft notification inviting objections/suggestions was published vide S.O. 195(E) dated 19th January 2009. The Ministry has received comments/objections/suggestions from 136 stakeholders including Central and State Governments and their agencies, Industry and their Associations, Non Governmental Organisations (NGOs), Civil Society Groups and the General Public.

2.0 Constitution of the Committee and its working:

Ministry of Environment & Forests, vide order dated 3rd July, 2009 constituted a Committee under the Chairmanship of Shri J.M. Mauskar, Additional Secretary to consider all the comments received on the draft Notification, have meetings with the various stake holders and thereafter give its recommendations for finalization of the said Notification. A copy of the order constituting the said Committee is at Annexure-I. The Committee held its 1st meeting on 30th July, 2009, took stock of the comments received on the draft Notification and decided that hearings may be arranged with the stakeholders, category-wise namely; (i) Central Ministries and their Agencies, (ii) State Governments and their Agencies, (iii) Industries and Industry Associations and (iv) Civil Society including NGOs. The minutes of the meeting are at Annexure-II. Accordingly, hearings were held on 26.8.2009, 27.8.2009, 3.9.2009 and 4.9.2009. In addition, a meeting was also held with the officials of the Ministry of New and Renewable Energy (MNRE) on 7th September, 2009 to specifically discuss the issues relating to biomass based power plants. The minutes of these hearings are at Annexure III - IX.

3.0 Consideration of comments received, their analysis and recommendations:

Following is the summary of the comments received, their analysis and the recommendations of the Committee, amendment wise seriatim.

3.1 <u>Amendment I</u>:

in para 2, after sub-para (iii), the following shall be inserted; namely:—

However modernization or expansion proposals without any increase in pollution load, and, or without any additional water and or land requirement are exempted from the provisions of this Notification:

Provided that, a self certification, stating that the proposal shall not involve any additional pollution load, waste generation or water requirement, be submitted to the regulatory authority by the project proponent.

Comments:

i. Include change in the product mix. Reason:- If there is any change in the existing product mix then, the consent to establish has to be obtained by the project proponent from the State Pollution Control Board which may require prior environment clearance. Change in product mix" should altogether be exempted from the provisions of this notification. If there is any change in product mix which does not entail increase in pollution load or additional land or water requirement, it should also be exempted from the provisions of this notification

ii. Inclusion of the words 'change in raw mix', has been suggested to take care of grinding plants raw materials.

iii. Change to "without any additional water and or land requirement beyond already permitted limit" instead of present formulation.

iv. Change to "without any additional water effluent discharge" instead of present formulation

v. Additional land may be clearly mentioned as "additional land over and above that in possession of the company"

vi. Discovery & mining of new mineral, if any in the on-going mining activity should be exempted from the provision of the Notification.

vii. Increase in land requirement should be with the total lease which is already in possession of the lessee.

viii. The regulatory authority to which the self certification by the project proponent has to be submitted may be clearly mentioned.

ix. The change in configuration (e.g. from 3 x 660 MW to 4 x 500 MW) without modernization or expansion proposals without any increase in pollution load and, or without any additional water and or land requirement should also be exempted from the provisions of this notification.

x. The proposals without any additional requirement of water, without additional requirement of land over and above already in the possession of the company, and without additional pollution load *permitted in the last environmental* exempted from the provisions of this notification.

xi. As regards "additional land" a clarification is required i.e. to say (i) in case of projects where land is granted by the State Government, the entire land area granted by the government to the project proponent and or (ii) in case of lands privately held by the project proponent, the entire land area mentioned in the project proposal and approved by the concerned regulatory authority whilst granting EIA clearance for the project. In case of projects existing as on date which have already sought EIA clearance, the land that is already occupied by the project or mentioned in the project scheme approved by any other authority governing the working of the project, however without any additional water or pollution load.

xii. Ministry may also consider including other projects like ports, SEZs, etc. where additional land acquisition may be involved while expansion/ modernization but with no increase in pollution or additional water requirement

xiii. "Pollution load" needs clarification; alternatively,' emissions be less than permissible national standards' may be included As regards "pollution load", more clarity is sought with regard to quantum thereof, i.e. to say that pollution load approved by the concerned regulatory authority whilst granting EIA clearance for the project. The terms 'modernization', 'expansion', 'pollution load', 'additional' be defined in order to bring clarity and to rule out any ambiguities

xiv. We propose that the term "waste generation" should be eliminated as the words additional pollution load should take due care of the intent of proposed amendment as the 'waste disposal' and or 'waste released' is of greater importance rather than waste generated which the project proponent may treat and or dispose off within the parameters as prescribed by law.

xv. The words 'waste generation' appearing in the Proviso clause be deleted firstly because it does not find place in the main clause and secondly because it creates ambiguity in a situation when there is additional 'waste generation' but no additional pollution load or no additional water requirement.

xvi. For certain categories of industry in coastal sites where seawater is used directly/indirectly in process, additional seawater consumption be permitted and exempted from EIA Notification if pollution load of the site is not increased.

xvii. However, modernization or ..... of this Notification" to be replaced with the following "Provided further that modernization or expansion proposals for coal mines without any increase in pollution load irrespective of additional land and /or water requirement should be exempted from provision of this Notification". Explanation: This is important for coal mining projects since expansion of operations include mining of additional reserves on dip and strike direction. Mining activity provides generation of water which is adequate to meet the requirement of the operations.

xviii. Replacement of old power plant with new units in the same locality, which does not increase any pollution load and which does not require any additional water and or land requirements, may also be considered for exemption from the provisions of this Notification.

xix. It is essential to add an exemption for increase in production occurring due to the implementation of the CREP guidelines as prescribed in an MoEF clearance letter or NOC issued by State Pollution Control Board. Implemented of CREP guidelines

increases efficiency and reduces pollution load per unit product but consequently also increase production

xx. None of the industries have the data except some manipulated information. Also, many of the industries were found producing in excess of the consented quantity and thus the solid & liquid wastes in excess of the consent load to be sent to CETP/TSDF are dumped into water bodies, forest areas, in pits, along the road side drains, etc It is a clear indication of such activity is rampant with ineffective Pollution Control Board.

xxi. It may not be desirable to rely on self certification of the project proponent as they are the interested party, particularly because of the absence of any monitoring Govt. mechanism to verify the situation on site.

xxii. given the weak capacities of the regulatory institutions, it will be more or less impossible to scrutinise and validate the self-certification Under these conditions what any body can expect under "self certification", "pollution load, water & land"?

xxiii. The amendments propose to exempt modernization and expansion of projects based on a self certification by project authorities that there is no increase in pollution load. It is totally unacceptable that the modernization and expansion of projects be removed from the environment clearance regime, with or without the requirement of self certification. There are several industries operating in critically polluted areas or are in violation of their environment clearance conditions, which need to be considered before the expansion of a project is considered. What is to be considered is not just whether there is an increase in pollution load but also the current impacts of the project and its compliance with environment clearance conditions. We can provide clear examples wherein the non-compliance of the clearance conditions has not been considered while granting clearance for expansion which includes adding new components to the existing industrial operations etc. This has allowed several projects to continue their activities and expand despite blatant non compliance. Finally, it is only with industrial, thermal power and other such related operations that one can decide on parameters of pollution. Development projects like highways, airports and other infrastructure projects which seek to expand might have a detrimental impact due to factors such as change in land use (i.e. construction over a wetland, grassland or agricultural land etc). Despite this, the project proponent can certify that there is no change in pollution load and hence expansion is to be allowed. The current process seeks a detailed EIA report to determine whether impacts can be mitigated. If the amendment is brought into force, it will simply do away with this critical and necessary step in the environment clearance process. Therefore, this amendment should not be allowed.

xxiv. It pre-supposes that a project proponent will be honest and objective in certifying that their expansion or modernization plans will not lead to an increase in pollution load. Till date the role of industry in our industry is not up to mark. They have always tried to cheat/fool the people & regulatory agency regarding pollution. A few number of industry are adhering to pollution related rules & regulation. The industry owner will take self certification as a liberty to cheat. Further, allowing self certification by a project authority who is interested in seeking environment clearance for the expansion is self contradictory. It is an established fact today that one of the factors leading to the biased and inadequate nature of EIA reports is that they are funded by the project proponent and the EIA consultant is seeking to justify the project in order to procure an EC. Self certification is proposed to be given by the project proponents. Where will

the check be taken up as the project is being exempted from the scope of the notification .The companies will be allowed, through a 'self certificate' to literally get away with all projects as expansion projects.

xxv. The draft notification takes a myopic view of the environmental and social impacts of modernisation and expansion projects. Any modernisation/expansion projects will necessarily entail increase in production, increase in transportation, increase in the pressure on the local infrastructure and local natural resources and increase in the pollution load during the construction phase. So, even if a modernisation/expansion project does not lead to an increase in the pollution load or water or land requirement within the factory premises during the operation phase, it will lead to an increase in environmental and social impact outside the premises.

b. The other problem with this proposed change is that though the Ministry is going to rely on 'self-certification' mechanism, it is silent on how it is intends to deal with the issue of 'fraud'. Also, given the weak capacities of the regulatory institutions, it will be more or less impossible to scrutinise and validate the self-certification.
c. The term 'expansion' is open to misuse by project proponents. We know that in power plant projects, separate and new units are being installed in the guise of expansion and modernisation. By doing this, companies circumvent the provisions of the law, by simply passing all new projects, on the same site as expansion and modernisation. These projects have a massive environmental impact and lead to tensions with local communities. This provision will defeat the very purpose of the EIA notification. We strongly believe this draft provision should be deleted

xxvi. This is being given to avoid harassment to expansion projects but this will also give opportunity to the projects to manipulate as per their requirements. Viz: a steel plant desirous of expansion from 200 TPD to 500 TPD will take up in 3 stages i.e. 200 TPD to 295 TPD; 295 TPD to 400 TPD and 400 TPD to 500 TPD.

xxvii. There are several industries operating in critically polluted areas or are in violation of their environment clearance conditions, which need to be considered before the expansion of a project is considered. What is to be considered is not just whether there is an increase in pollution load but also the current impacts of the project and its compliance with environment clearance conditions.

xxviii. It is only with industrial, thermal power and other such related operations that one can decide on parameters of pollution. Development projects like highways, airports and other infrastructure projects which seek to expand might have a detrimental impact due to factors such as change in land use (i.e. construction over a wetland, grassland or agricultural land etc).

xxix. The current process seeks a detailed EIA report to determine whether impacts can be mitigated. If the amendment is brought into force, it will simply do away with this critical and necessary step in the environment clearance process

xxx. Any modernisation/expansion projects will necessarily entail increase in production, increase in transportation, increase in the pressure on the local infrastructure and local natural resources and increase in the pollution load during the construction phase. So, even if a modernisation/expansion project does not lead to an increase in the pollution load or water or land requirement within the factory premises during the

operation phase, it will lead to an increase in environmental and social impact outside the premises

xxxi. Separate and new units are being installed in the guise of expansion and modernisation. By doing this, companies circumvent the provisions of the law, by simply passing all new projects, on the same site as expansion and modernisation. These projects have a massive environmental impact and lead to tensions with local communities.

xxxii. It is inconceivable to have any expansion proposal without any increase in pollution load. Every expansion that would accompany pollution load increase may not need additional land requirement. For e.g., a Cement plant expansion proposal form 1000 tpd to 3000 tpd may not involve any acquisition of land since it would involve augmentation of existing machinery. Yet every such expansion would invariably be adding considerable pollution load. Further, this amendment item is in direct contradiction with item No. V of the proposed amendment which prescribes that no exemption form public hearing shall be granted in cases involving expansion beyond 50% of production capacity. Therefore, exemption ought to be restricted to only those cases of modernization not involving any pollution load. However, even in such cases certification need to be insisted upon from a recognized technical institution of repute and not self certification. In any case, every such exemption shall be granted only by the appropriate regulatory authority on the recommendation of the EAC/SEAC concerned after a proper application for prior environmental clearance is preferred as per provisions of para 6 of the EIA notification, 2006 by the project proponent.

xxxiii. Most of the Modernisation or expansion projects are associated with increase of production. So any amount of increase in capacity is in turn associated with increase of pollution however minute it may be. So, the interpretation of the term 'pollution load' as envisaged by MoEF is important.

a. Is it 'absolute pollution'? Example: Kgs OR

b. 'Specific pollution' Example: kg/tone of product?

If it is intended as 'absolute load', then there cannot be any project of expansion which can declare itself as envisaged for 'w/o any pollution load increase'. So, the notification may clarify the interpretation of 'pollution load'

xxxiv. (a) the project should be placed before the expert appraisal committee with all relevant data. (b) such project should have once obtained environment clearance and (c) frequency of expansions should be limited to one in three years i.e. second expansion should not be taken up within a period of three years of the first expansion and (d) the consideration of original base capacity must be considered on the date of notification S. O. 1533.

xxxv. For modernization/expansion of a project, the project proponent should provide information about existing compliance of environmental norms in past, any public compliant, directions from CPCB, SPCB and UTPCC etc

xxxvi. Self Certification needs to be authenticated by a recognized institute such as Engineering college, NEERI etc.

ii) Any expansion / modernization without increasing pollution load also needs to be certified likewise Pollution Control Board through a recognized technical institute (Engg. college, NEERI etc).

xxxvii. It is pointed out that, the then EIA Notification dated 27th January, 1994 was much more clear in respect of the regulatory authority in the explanatory note regarding the Impact Assessment Notification dated 27th January, 1994. The words "Pollution Load" was well defined in the context to cover emissions, liquid effluents and solid or semi-solid wastes generated Similar provisions can be made in the point-I specifying the procedure for certification and submitting it to the regulatory authority by the project proponent.

xxxviii. The proposed insertion in para-2 after sub-para-iii does not appear justified because the clearance in question is an "Environmental Clearance" and not a "Pollution clearance". Pollution Clearance is accorded under the Water and Air Acts. "Environment" as defined under the Environmental Protection Act, 1986 includes "water, air and land and the inter-relationship which exist among and between water, air, land and human beings and other living creatures, plant, micro-organism and property". In view of the above any activities that impact the Environment as above should be included for Environmental Clearance under the Environmental Impact Assessment notification of 2006.

xxxix. The proposed amendment offers highly questionable and illegal concessions to big businesses that is in violation of the model Code of Conduct. The proposed amendments be shelved, and a comprehensive review be conducted of the EIA process with a view to increasing environmental protection and public participation in environmental decision-making. The proposed amendment dilutes an already weak EIA Notification. This is sought to be done by extending to applicants a relief in the form of 'self certification' that merely requires them to declare their projects cause no additional pollution and thus open the gateway for self regulation. Such a concession is shockingly offered because the Ministry admits that along with many States and Union Territories, it has failed to establish regulatory institutions such as State Environment Impact Assessment Authority and State Environment Appraisal Committee This is bound to increase displacement of urban, rural and forest dwelling communities while seriously compromising India's human and ecological security

xl. The proposed amendment may be deleted for the following reasons. Pollution load is not the same as environmental impacts, which obliterates the functioning of a system. Even if a certification is sought from a regulatory agency such as SPCB, it would be a detrimental step as the EIA Notification 2006 had delinked the EC process of certification by SPCB by deleting the provisions of obtaining NOC from SPCBs.

xli. The regulatory authority has not been named or defined. Therefore, it become necessary to define/name the regulatory authority to whom the certification is to be submitted. It is pointed out that, the then EIA Notification dated 27th January, 1994 was much more clear in respect of the regulatory authority in the explanatory note regarding the Impact Assessment Notification dated 27th January, 1994. The words "Pollution Load" was well defined in the context to cover emissions, liquid effluents and solid or semi-solid wastes generated. It was specifically provided that, a project Proponent may approach the concern State Pollution Control Board (SPCB) for certifying whether the proposed modernization/ expansion activity is rightly to exceed the existing pollution load or not. If it is certified that, no increase is likely to occur in

the existing pollution load due to the proposed expansion of modernization, the project proponent will not be required to seek environmental clearance, but a copy of such certificate issued by the SPCB will be submitted to the Impact Assessment Agency for information. The IAA will however, reserve the right to review such cases in the public interest if material facts justifying the need for such review come to the light. Similar provisions can be made in the point-I specifying the procedure for certification and submitting it to the regulatory authority by the project proponent.

Analysis:

The industry has generally welcomed the proposal. Some of them have suggested that the industry should be allowed to modernize and expand without any permission as long as the environment impact due to such process does not increase due to pollution load. The industry has suggested that the amendment may be modified on the above lines. While the industry has supported the amendment; the civil society is opposed to it. The governmental agencies have suggested modifications. The industry supports the proposal because it may help them to reduce the time. However in any case they have to approach the State PCB for obtaining NOC/CFE. At that time if state PCB finds that the "Self Certificate" is not correct, it will cause considerable embarrassment to the Government. This is all the more possible because of the past record of the industry and continuing violations of the various environmental legislations. In the EIA Notification of 1994 there was a role for the State PCB to check on the claims of the industry. EIA Notification of 2006 has not provided for this. The appraisal agencies have to assess the pollution load themselves as they do not have the expert advice of Pollution Control Boards which monitor their consents. This is resulting in more work on the appraisal agencies. There is thus a need to involve SPCBs in the environment clearance process. But before we do that, their capacity building is felt essential. Now since, MoEF is contemplating setting up of a National Environment Protection Agency, for managing the environment in a comprehensive manner, the proposed amendment may be deferred for the time being. It may also be relevant to point out here that it is very difficult to visualise a scenario where expansion could be achieved without any increase in pollution load; however, expansion proposals linked with modernization of the existing process could be achieved without increase in the pollution load and increase in land and water requirement. In such cases also there may be requirement of additional raw material, infrastructure requirement etc. necessitating critical examination before allowing the proposed expansion to take place. Further, the change in product mix may result in generation of new type of waste and hence it cannot be included in the proposed amendment.

Further, the Committee took note of the concerns expressed by the Swaminathan Committee in para 7.4.3 of its report which read as "The amendments proposed in the EIA Notification of January 9, 2009 would require that modernisation or expansion proposals without any increase in pollution load and/or without any additional water and/or land requirement will be exempted from environmental clearance. This could lead to major impacts on the coast, as existing minor and major projects could increase in size and impact without any scrutiny or regulation. The Committee recommends that the Ministry should examine this amendment in the EIA Notification in the light of its recommendations above."

Recommendations:
There is no need for this amendment at present and the existing provision as contained in the EIA Notification, 2006 be retained.

3.2 Amendment II

in para 3, for sub-para (7), the following shall be substituted, namely:-

"(7) All decisions of the SEIAA shall be taken in a meeting by majority"

Comments:

(i) Majority has no meaning. Majority has no role in science but it should be scientifically valid. The decision must be based on scientific validation but not based on majority.

(ii) It needs mention that in dealing with projects proposals the core consideration is to appropriately and adequately assess their likely impacts on environment and deleterious consequences to the life forms in the vicinity including humans and domestic animals and to minimize/arrest/reverse the likely effects by stipulating suitable and effective mitigation measures. Therefore, given the objective of EIA exercise, there exists little reason why members of SEIAA cannot arrive at a unanimous decision. A unanimous decision carries more weightage and acceptability.

(iii) Introduction of this clause would unnecessarily bring in undesirable pressures on the members and also in course of time, there would be pressures for seeking similar procedural introduction in the committees at the National level. The decisions of the committees should always be on technical / scientific aspects and the technical assessment of a proposal cannot have different shades of appreciation or solutions other than what are scientifically and legally correct in respect of procedures or data / concept.

(iv) The MoEF has given the task of clearance of B category projects to SEIAAs with an understanding that the members of this esteemed body are of sound expertise and know-how on environmental impacts. They would also be seeking the opinion of the SEACs to take this decision. Bringing in an element of "majority" is discriminatory against one or two members of the SEIAA who might have a contradictory but critical difference of opinion with the others on the authority. The change will allow for the marginalization of that opinion in the light of a majority viewpoint. Therefore the SEIAA should continue to take decisions which have been arrived at unanimously with an adequate space for officially recording differences of opinion during discussions rather than resorting to a majority/minority format.

(v) Following points need to be considered:

• The SEIAA comprises of just three members, member-secretary who is a serving officer of the concerned State Government /Union Territory administration, Chairman and non-official member.

• The SEIAA is supposed to base its decisions on the recommendations of the State or Union Territory level Expert Appraisal Committee (SEAC). It is not supposed to take decision on its own.

• An analysis of the SEIAA of the different states show that in many states either the chairman or the non-official member or both are retired IAS or IFS officers (For example in Maharashtra, Andhra Pradesh, Karnataka, Gujarat, Meghalaya, Himachal Pradesh etc.). With the above points in background, it is quite clear that making the SEIAA decision a 'majority' decision places too much power in the hands of 'official' members. Also, if a three-member committee cannot take a unanimous decision, then there is a problem with SEIAA. In this case, the draft amendment will make this body ineffective. We would suggest deletion of this provision and amendment of the 2006 notification as follows:

Substitute para 3, sub-para (1), (3), (4), (7) as follows:

(1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of seven Members including a Chairman and a Member-Secretary to be nominated by the State Government or the Union Territory Administration concerned.

(2) The other six Members shall be either professionals or experts fulfilling the eligibility criteria given in Appendix VI to this notification or eminent environmentalists / conservationists / tribal experts.

(3) One of the specified Members in sub-paragraph (3) above who is an expert in the Environmental Impact Assessment process/ and or an eminent environmentalist shall be the Chairman of the SEIAA.

(4) All decisions of the SEIAA shall be taken in a meeting by majority.

(vi) The SEIAA should continue to take decisions which have been arrived at unanimously with an adequate space for officially recording differences of opinion during discussions rather than resorting to a majority/minority format.

(vii) The change will allow for the marginalization of that opinion in the light of a majority viewpoint.

(viii) The proposed amendment, as mentioned above, may have the effect of diluting the process of arriving at a decision by the SEIAA as possibility as well as probability of a significant opinion getting overruled or even ignored by the prevailing majority decision cannot be neglected.

(ix) All decision of SEIAA should be taken on merit not on majority otherwise it will lead to corruption which will lead to increase in pollution of all types

(x) The quorum shall comprise of minimum two members.

Analysis:
Generally industries have welcomed it. However Civil Society and State Governments and SEIAA members have pointed out certain deficiencies. The SEIAA is the apex body which takes decision on the recommendations of SEAC. There may be certain projects in which SEAC may not be able to come to a consensus but the minutes have clearly indicated where there are differences of opinion. The SEIAA should normally take a balanced view and give its unanimous recommendations. However there are possibilities that there may be a difference of opinion within SEIAA. In that case majority may take a view which may be in line with SEAC or rejecting the views of SEAC. If the majority view is in line with the recommendations of SEAC and takes in to account the dissenting views of the SEAC. There is no harm in accepting the same. However if it goes against the recommendations of SEAC, there is a need for clearly indicating the reasons for the same and MoEF should be kept informed in this regard. In addition, if SEIAA has to deliver goods it has to meet in full strength to take decision except in the most unforeseen circumstances when the absentee member should be contacted through e-mail etc. and his written views obtained before making a final decision on the proposal.

Recommendations:
The amendment be modified with a provision for reporting the dissenting decision of the SEIAA to the MoEF.

"(7) The decision of Authority shall ordinarily be unanimous; however, in case a decision is taken by majority, the details of views, for and against it, would be clearly recorded in the minutes and a copy thereof sent to MoEF."

3.3 <u>Amendment III</u>

in para 4, in sub-para (iii), for the words and letters

"In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project", the words and letters "In the absence of a duly constituted SEIAA or SEAC, a Category "B" project shall be considered at the Central Level. However, Category 'B' projects are exempt from scoping for three years from the date of issue of this notification" shall be substituted;

Comments:

i. The requirement of scoping and preparation of a TOR was brought into the EIA notification, 2006 so that the MoEF and SEIAAs are able to ensure a minimum standard and quality in the preparation of site specific EIA reports.

Category 'B' project if appraised either at State level or Central level should not be exempted from scoping process because the environmental consultants can submit

very poor quality environmental impact assessment reports which may be totally in contradiction to the ground realities viz-a-viz the likely pollutants to be generated by the proposed project.

ii. It is over two years since the EIA notification has been in place and all SEIAAs are yet to be established. While this process might be taking its due course, there seems to be no reason to do away with the scoping and TOR requirement of the "B" category projects for a period of three years. The requirement of scoping and preparation of a TOR was brought into the EIA notification, 2006 so that the MoEF and SEIAAs are able to ensure a minimum standard and quality in the preparation of site specific EIA reports. The delay in the setting up of SEIAAs should not be used to dispense with the requirement of a TOR and scoping which was stated as a positive element of the EIA notification, 2006 by the MoEF. One understands that this adds to the load of the MoEF in Delhi to also review "B" category projects and is also likely to cause delays in the clearance of projects because of the number of projects that need to be considered. However, there are several B category projects which are proposed to come up in ecologically fragile areas like the Himalayas for which the scoping will not be done. Further, the TORs are an important tool at the time of the public consultation to assess whether the EIA report is in fact in line with what was to be studied/assessed. This process too will be impacted. The Scoping stage also plays an important role coming close to the erstwhile requirement of 'site clearance'. Based on evaluation of the application (including through an optional site visit), the EAC or SEAC could choose to reject a project at the stage of Scoping itself. Excluding Category B project from Scoping for three years will seriously undermine this role of the process too.

iii. If the scoping is exempted for all category B projects then the rationale behind not exempting the category A projects is not clear. It would cause disparity from category A projects in the process. An EIA carried out without scoping found lacking site specific assessments would be asked to redo it. That, subsequently, would cause delay in the process. So scoping process is better to be included where EIA is to be carried out

iv. This amendment appears to have been proposed in order to ease the burden at the Central Expert Appraisal Committees (EAC) and also to speed up project clearance. We do not believe that exempting this category of projects from scoping will lead to better decision-making.

1. By exempting Category B projects (actually category 'B1' projects) from scoping means that the project proponent and the EIA consultant is free to choose their own Terms of Reference (TOR) and make EIA report as they want. Naturally, they will make the TOR in such a way that critical environmental and social issues will not be cover or will be 'marginalised'.

2. If an EAC is to make decision on a poor/misleading EIA report, it will either keep asking for more information, thereby delaying the project further as well as increasing its own workload or clear the project without considering critical environmental and social issues.

3. This change is most damaging also because more and more projects are being shifted to Category B. So a large number of environmentally destructive projects are likely to get environmental clearance without a TOR. As most states are already in

the process of constituting an SEIAA and SECA, this amendment seems in fructuous. We would suggest you hold this amendment and instead ask states to constitute the bodies.

v. Scoping is the cornerstone of environmental impact assessment process. The environmental impact arising out of no two industrial projects could be same even if the product mix and process details are similar if they were located at different places. If that be so, prescription of a general TOR with the expectation that the project proponent would address all the environmental concerns relevant to the project would be farfetched since in most cases the project proponent would be least concerned about the environmental consequences of his activity. In the absence of a TOR it would be impossible for the SEAC to evaluate the EIA report with respect to its inadequacies. If an EAC is to make decision on a poor/misleading EIA report, it will either keep asking for more information, thereby delaying the project further as well as increasing its own workload or clear the project without considering critical environmental and social issues.

vi. The principal notification dated 14/09/2006 in para 5 and 7 there at clearly lays down scoping to be an integral component in respect of both category 'A' and category 'B' projects. If that be so it would be impermissible in the eye of law to have the provisions of EIA notification contradict each other. The exclusion of scoping for 3 years would attract the vice of arbitrariness if the amendment were to come under the glare of legal scrutiny for any reason in future since the period prescribed would have no nexus with the purpose of issuance of EIA notification, 2006.

vii. In the event of exclusion of scoping the role played by the SEACs would become redundant and their continuance would not be justified. Under such circumstances all projects could be appraised by SEIAA alone.

viii. it is suggested that the proposed amendment could be rephrased as follows: In para 4, in sub-para (iii), for the words and letters "In the absence of a duly constituted SEIAA or SEAC, a category 'B' project shall be treated as a Category 'A' project", the words and letters "In the absence of a duly constituted SEIAA or SEAC in respect of a particular State or Union Territory, A Category 'B' project pertaining to such State or Union Territory shall be considered by the SEIAA /SEAC of a State or Union Territory located geographically closest to the site where the project is proposed."

ix. The stage of Scoping should be eliminated altogether for both Category 'A' and Category 'B' projects. Instead specific TORs should be issued for all the items in the Schedule along with region specific guidelines. If Scoping is still proposed for Category 'A' projects, it should altogether be eliminated for Category 'B' projects.

x. What could be the relevance of exempting such projects from scoping for only 3 years from the date of issue of this Notification? A larger period could be considered.

xi. The Category 'B' projects should be exempt always or not at all. The three year time period is not understood here.

xii. We propose that scoping for both Category 'A' projects as well as Category 'B' projects should not be made applicable at the time of seeking EIA clearance. Instead Terms of Reference (TOR) should be made applicable for both Category 'A' as well as Category 'B' projects to be submitted by the project proponent at the time of seeking EIA clearance. A schedule of Standard Terms of Reference which are project specific and site specific should be provided for such purpose. This will help the project proponent know the scope of TOR to be submitted to the concerned regulatory authority as well as provide the correct data therein without carrying out futile exercises in which the regulatory body may not be interested.

xiii. Clear guidelines for 'B2 projects' may be defined to avoid small projects from the harassment of screening and scoping.

xiv. Draft Amendment should read as under "However Category "B" coal projects are exempted from Scoping (7 (i) II Stage (2) – Scoping) and Public consultation (7 (i) III Stage (3) – Public consultation) and would be considered by SECAA or Central level committee on the basis of Form – 1 and or EMP submitted for Environmental Clearance".

xv. The existing provisions in clause (ii) of sub-para II relating to stage (2)- Scoping in Para 7 sub-para (i) is sufficient to avoid any delay provided project proponents too submit TOR along with their application in Form 1/Form 1A as the case may be therefore, submission of TOR by applicants along with their application in prescribed form, as the case may be, should be insisted upon and no project proposal should be accepted for consideration of the project proponent fails to furnish TOR along with his application. It will be effective in avoiding any delay.

xvi. In the absence of duly constituted SEIAA or SEAC, category B project should be exempted from scoping and instead a model TOR could be introduced activity wise, such as mining, construction etc.

Analysis:

Industry has welcomed it and in some cases has suggested that there is no need for scoping. However the civil society has reservations against the proposed amendment. The scoping process which was introduced in the EIA Notification, 2006 has definitely helped in improving the quality of EIA report. Since it took considerable time for the SEAC and SEIAA to be set up in the States and Union Territories, the process of scoping of Category 'B' project was taken up at the central level. This has naturally delayed the process of early approval of Terms of Reference (TOR). Now since the issue of this notification, 23 States and Union territories have their own SEAC/SEIAA. This has enabled the project proponent to get the proposal processed without delay. The proposed amendment to dispense with the provision of TOR has lost its relevance after SEIAAs / SEACs have been setup for 23 States / UTs during the intervening period when this proposal was conceived originally. In addition, standard TOR though available for some sectors, it cannot be a substitute to a detailed scoping which inter alia involves not only the size/magnitude of the activity but also the site/location. A standard TOR accompanied by scoping exercise would only help in early examination/consideration of the proposal and help in integrating the site specific environmental issues in the EIA. Additionally issue of

guidelines in due course for classification of projects into B1 and B2 would also help in this regard.

Recommendations:
The Ministry is in the process of evolving sector specific TORs and guidance manual. Further, SEIAAs / SEACs have now been setup in 23 States /UTs, there may not be any need to dispense with the provision of TORs for Category 'B' projects. The amendment is revised as follows:

In para 4, in sub-para (iii), for the words and letters

"In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project", the words and letters "In the absence of a duly constituted SEIAA or SEAC, a Category "B" project shall be considered at the Central Level as a Category 'B' project" shall be substituted.

3.4 <u>Amendment IV</u>:

(IV) in para 7(i), in sub-para III Relating to Stage (3) - Public Consultation, in clause (i),—

(i) after item (c), the following item shall be inserted, namely:—

"(cc) dredging provided the dredged material shall be disposed or dumped within port limits."

(ii) for item (d), the following item shall be substituted, namely:—

"(d) All Building or Construction projects or Area Development projects (which do not contain any category 'A' projects and activities) and Townships (item 8)."

Comments:

(i) during rainy season, the material again going to enter into the water body and thus it shall not be included;

(ii) There is no basis for exempting dredging and dumping of material, if within port limits, from the process of public consultation. Ports are located in areas where livelihoods of several communities are linked to the seashore for activities such as fishing, aquaculture, clam collection, salt panning and so on. Further these areas are also adjoining marine areas supporting ecologically fragile flora and fauna including algae and coral reefs. Dredging and dumping, even within port limits, can cause added impacts in the adjoining areas. It is also likely that the current level of dredging and dumping might be causing difficulties to the communities living in the area and negatively impacting the coastal ecology. Local communities and concerned civil society groups as well as researchers/scientists need to have an opportunity to

respond to the potential impacts of continued dredging and dumping during an EIA process. While it is a positive step that dredging inside and outside the ports or harbour and channels have been included in the schedule, their EC process must include public consultation as well.

(iii) Exempting "dredging, provided the dredged material shall be disposed or dumped within port limits" from the process of public consultation is puzzling, as it is unclear as to why dredged material would be dumped back into port limits. The entire point of dredging is that it allows for ports and waterways to be cleared from silt and sediments. What exactly would be achieved if such material were deposited back within the port limits? Or is the plan for port authorities to ask for larger amounts of land for the port project, so that they can dump dredged material, within the port limit, without public consultation? This, in turn, will lead to only more conflict with local communities as their land will have to be acquired or with forest agencies as this land will be needed by the port authorities

(iv) Dumping within port limits might result in return of a significant quality of the dumped material back to the port area. Hence, the exemption clause under (cc) may be considered for the following:"(cc) dredging provided the dredged material is disposed or dumped within the port limit and / or to be disposed off/ pumped ashore for reclamation or dumped at designated dumping ground duly recommended.

(v) Most of the inland waterways also need capital dredging as well as maintenance dredging for ensuring effective navigable channels by making Environment Clearance mandatory including public hearing may only result in delays in effecting timely commencement of works. It could suggest that the State level authorities concerned with Waterways may exempt such dredging work so that it does not hamper the environment. As such this point could be dropped. At many jointures, sometime due to low draft and rocky beds, it necessitates the authorities from timely dredging such bottlenecks. Such need to be encouraged and not plagued with additional requirements. We fear that there are hurdles for development, then development would cease thereby increasing costs of operations.

(vi) As per EIA Notification 2006, the building/construction projects/area development projects and townships are categorised as B projects, based on the built up area of the project. The notification also exempts these projects (III (i) (d)) from holding public consultation. We therefore, understand that the amendment proposes that any project, within this category B township of area development, contains a category A project, it will also require public consultation. We have no serious objection to this amendment, however, we would revise it as follows:

"All building or construction projects or area development projects or townships, which contain any Category A projects and activities will be automatically classified as category A project".

(vii) The Phrase within brackets "which do not contain any category 'A' projects and activities" should be removed. The proposed amendment implies that if any building or construction projects or area development project or township has a power plant in it, then the township will have to get a public consultation done. While under the purview of the act, the power plant would be getting the public hearing done. Hence, a public hearing for the development/township project is not required.

Analysis:

The industry has preferred the status quo, however the comments/suggestions expressed the concerns which mainly relate to flow back of dumped material in to the sea or the apprehension that the port authorities may come back with a larger area The first amendment is specifically for avoiding maintenance dredging to come under public consultation as it is regular/routine activity of the ports. However, if it is capital dredging and involves dumping of material outside the port limits either in the sea or on land requires public consultation. The second amendment is to ensure that if the site is proposing to have the activity other than building construction, it should be brought to the notice of the public for eliciting their views. This has been necessitated because such Category 'A' projects, besides the change in land use have significant potential to adversely affect the environment in terms of pollution load.

Recommendation:

The amendment is revised as follows:

"(cc) maintenance dredging provided the dredged material shall be disposed within port limits.";

"(d) All Building or Construction projects or Area Development projects (which do not contain any category 'A' projects and activities) and Townships (item 8)."

3.5 <u>Amendment V:</u>

in para 7(ii) relating to prior environmental clearance (EC) process for expansion or modernization or change of product mix in existing projects, the following shall be inserted at the end, namely:—

"However in case of expansion projects involving enhancement of production by more than 50%, holding of public consultation shall be essential and no exemption in this regard shall be provided"

Comments:

i. Everybody tries to show that it is less than 50% and avoid the public consultation. The expanded product may be more hazardous product then even 10% increase is dangerous. There are some products, the production may be in kgs, but the pollution

load that it generates will be far more than that of a product that produces tonnes. This was encountered while we are in task force committee of APPCB. Therefore, this must not be included and thus, all such expansions shall hold public consultation before Expert Committee process.

ii. This amendment will only work, if the proposed amendment in para 2, after sub-para (iii) is deleted.

iii. What about the impact of production increased less than 50%? Do not they have any impact?

iv. The project proponents when they submit the proposal for Environmental Clearance at the stage of TOR should mention the full capacity of the project and they may suggest phase wise implementation. In such a case the public consultation could be held as per the procedures laid down for the full capacity of the project.

b) They could implement the clearance given in phases as in most of the power projects and they need not go to the public consultation again of the remaining phases.
c) It is also to be noted that Environmental Clearance is given for a specific period and the validity is five years. The project proponents may be requested to submit an EMP and revised modelling exercise based on the post project monitoring database taking in to account the development and establishment of other industries within the impact area during the five years if the expansion is not taken up with in the EC validation period of five years. This is to ensure that proper safeguards could be introduced in regard to pollution control systems, so that the resultant ground level concentrations remain within the stipulated limits.

d) Holding of public consultation could then be recommended if the above mentioned studies indicate a requirement due to high levels of ground level concentrations.

v. However, in case of expansion projects involving enhancement of production up to 50%, holding of public consultation shall not be required. For projects involving enhancement of production capacity beyond 50% exemption in Public Consultation can be considered by concerned SEAC or EAC for cases which don't involve additional land acquisition and pollution load, with adequate mitigatory measures to achieve the ambient environmental standards. In case of on-site expansion even more than 50% of production capacity where adequate pollution mitigation measures taken, no public consultation is required.

vi. This can be seen in conjunction with the amendment given in para 7 (ii). There is a contradiction in statements that EC is not required for no change in pollution load, whereas para 7 (ii) insists on a public hearing for more than 50% increase in production capacity.

vii. This defeats the very purpose of setting the industry in a notified industrial complex. Further if the exemption is really to go away for some reasons then the possibility of state authorities' role in objectively deciding the need of public hearing can be stipulated.

viii. if para (I) of the proposed amendment were to be notified then the above amendment would be in direct contradiction of para (I)

ix. In regard to Para 7 (ii) relating to prior environmental clearance (EC), the process for expansion / modernization or change of product mix in existing projects, public consultation shall be essential only for new projects and not for existing projects. Accordingly, the Clauses should be amended to state that respective of percentage of enhancement of production a New EC may be insisted upon, however doing away with public consultation

x. As regards expansion projects involving enhancement of production by more than 50% necessitating public consultation, it is proposed that the insertion should altogether be deleted/ removed as in any case if the proposal does not add to the pollution load and or additional water and or additional land; it would be illogical to impose restraint on enhanced production

xi. The decision on whether a public consultation is required depends on the project or activity. The decision of whether public consultation is needed or not needed should be left to the EAC or SLEAC rather than putting a mandatory condition of expansion beyond 50% as is the case in the 2006 EIA notification. This para should be deleted.

xii. This would be in conflict with the proposed amendment at Para2, sub-Para (iii). Moreover, this provision will only delay modernization/ cleaner technology implementation programs in existing projects.

xiii. Industries located in Notified Petrochemicals Complex area may be excluded from Public Hearing as such units are falling in the approved and dedicated industrial belt, intended for the growth of industries

xiv. Nevertheless in the event of non-acceptance of Amendment No. (1), the last para be modified as under: "However in case of expansion projects involving enhancement of production, local public consultation restricted to the villages/population involved in the additional land intake, if any, shall be essential and undertaken".

xv. This clause should be made applicable only for Chemical manufacturing companies who are mandated to obtain environmental clearance as per main Notification. It should not be applicable for expansion of infrastructure such as Chemical warehouses, Chemical storage installations, Chemical transfer Pipelines (Outside Factory) etc.

b) The meaning of word "Public Consultation" should be clarified. Does it mean public hearing?

xvi. In Para 7 sub-Para (ii): should add at end "However Expert Appraisal Committee may exempt in some specific cases depending upon the significant impact on environment".

Analysis:

The intention of this amendment is to appraise only those projects which cause significant impacts and avoid time delays. However during the discussion it was brought out even within the same activity 50% means different for different base capacities and ultimately it may not serve the purpose. In addition, in certain sectors even very small quantity expansion would create environmental problems. Further other than industry and mining sector there is a problem of quantifying activities in terms of capacities. If the intention of the amendment is to appraise only the projects

with significant impacts, then merely specifying a limit of more than 50% for the production enhancement will not serve the purpose.

Recommendation:
The existing provision as contained in the original Notification of 2006 be retained.

3.6 Amendment VI:

In para 10 relating to Post Environmental Clearance Monitoring**,-**

(a) The existing sub-para (i) shall be renumbered as sub-para (ii) and before sub-para (ii) as so re-numbered, the following sub-para shall be inserted namely;

"(i) It shall be mandatory for the project proponent to make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by advertising it at least in two local newspapers of the district or State where the project is located. The Ministry of Environment and Forests and the State or UT Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Government portal. Further, copies of the environmental clearance shall be endorsed to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government";

(b)existing sub-para (ii) shall be renumbered as sub-para (iii).

Comments:

i. The existing provision of informing the public about grant of EC and proposed amendment to endorse copies of EC to Heads of local bodies, etc should serve the purpose. Publication of all EC conditions in newspaper may not add further value but will involve more expenditure.

ii. Publication of EC conditions in newspaper is not a very good idea as it may lead to confusion amongst general public. Further it is hard to comprehend what value this information on EC conditions adds for general public.

iii. The advertisement may be prepared in the name of the issuing authority and the cost of publication shall be reimbursed by the project proponent.

iv. Instead, a notice could be published making this information available on the project proponent's, MoEF's, or any public domain on Government portal.

v. The last sentence, "Further, copies ..... to the relevant offices of the Government" should be omitted. This is not required as whenever any information is placed on

public domain on Government portal, endorsing to the local offices, may not be required, further it would cause confusion as to which authority should endorse.

vi. Endorsing the copies of environmental clearance to the heads of local bodies, Panchayats and Municipal bodies need to be reviewed and it is preferred if such documents are available with the regulatory agencies and should be given on their discretion.

vii. We strong object as this will increase the cost to SME and also the victimization of the newspaper not receiving the advertisement. The EC content is also sometime very lengthy and unclear. This will lead to lots of hassles to the industry. In any case the same is available to the public on the MoEF website

viii. Further, copies of the environmental clearance shall be endorsed to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government by the concerned SPCB or UTPCC as the case may be.

ix. It shall be mandatory for the project proponent to advertise at least in two local newspapers of the district or State where the project is located, one of which shall be vernacular language of the locality concerned, within 15 days of receipt of clearance letter informing that the project has been accorded environmental clearance and a copy of the clearance letter is available with the state pollution control board and also at website of the Ministry of Environment and Forests at http;//envfor.inc.in and a copy of the same shall be forwarded to the concerned regional office of the Ministry.

x. Advertising environmental conditions and safeguards in two local newspapers of the district/state may be exempted for cross-country pipeline which passes through several states. Alternately project proponent may advertise stating that details would be available at owners place for reference.

xi. The Ministry of Environment and Forests and the State or UT Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Government Portal.

xii. The advertisement shall be prepared in the name of issuing authority and the cost of publication shall be reimbursed by the project proponent.

xiii. It shall be mandatory for the project proponent to advertise into local newspapers stating that environmental clearance has been granted for their project vide MOEF letter No. and details of the website which is available to the public by project proponent for viewing the environmental conditions and safeguards.

xiv. It would be appropriate to send it to the concerned District Magistrates for being circulated to the proposed Bodies.

xv. The project proponent shall inform the public that the project has been accorded environmental clearance by the Ministry and copies of the clearance letter are available with the SPCB/Committee and may also be seen at Website of Ministry at http://envfor.nic.in. This shall be advertised within seven days from the date of issue of the clearance letter, at least in two local news papers that are widely circulated in the region of which one shall be in the vernacular language of the locality concerned

and a copy of the same shall be forwarded to the concern Regional Office of the Ministry".

xvi. It is a positive change because the conditions on which environmental clearance have been granted will now be available to the public. But it is not likely to make any major improvements in the compliance of the environmental conditions. We say this because even if the clearance condition is made available to the public, we will still need a properly functional regulatory authority to ensure that clearance conditions are compiled with. Also, we will need a prompt regulatory authority to address public complain. The regional offices of the MoEF will not be able do this job because of the sheer lack of capacity. Unless and until, we strengthen the regulatory capacity, this condition will not be effective in improving the compliance of the environmental conditions like some previous notification on disclosure, this proposed disclosure is also likely to become inconsequential, without the added effort to increase scrutiny and compliance. For instance, in the 2006 notification, it is clearly stated that all the latest compliance report on environmental conditions shall be displayed on the website of the concerned regulatory authority. The fact of the matter is that no "concerned regulatory authority" displays the latest compliance report on their website.

xvii. Compliance report should be made available at all public places where the EIA were displayed at the time of public hearing.

Analysis:

The civil society generally supports the amendment, but it has also sought that compliance report should also be displayed. However the industry is opposing for the reasons of cost, and hassles involved. The clearance letter is already being placed in the website of the MoEF. However this appears to be not sufficient. Even large organisations which obtain the clearance letter do not display it in their website. Publication of this in the newspaper particularly in local language/vernacular/state language would make the public aware. While for small entrepreneur it is an expensive proposition, it is very small amount for large and medium scale enterprises. For small entrepreneur the cost of having their own web site is also significant as compared to the cost of the project.

Recommendation:

The amendment may be modified by stipulating the condition that the project proponent should display in their portals permanently for Category 'A' projects. This is in addition to an advertisement in the newspaper indicating that the project has been accorded environment clearance along with EC conditions and the details of the website where it can be seen. In case of Category 'B" projects, the Ministry / SEIAA, as the case may be, exempt them from having their own web site but the newspaper advertisement indicating that the project has been accorded environment clearance and details of MoEF website where it is displayed.

(a) The existing sub-para (i) shall be renumbered as sub-para (ii) and before sub-para (ii) as so re-numbered, the following sub-para shall be inserted namely;

"(i) In respect of Category 'A' projects, it shall be mandatory for the project proponent to make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the district or State where the project is located. In addition, this will also be displayed in the project proponent's website permanently. In respect of Category 'B' projects, irrespective of its clearance by MoEF / SEIAA, the project proponent shall prominently advertise in the newspapers indicating that the project has been accorded environment clearance and the details of MoEF website where it is displayed. The Ministry of Environment and Forests and the State or UT Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Government portal. Further, copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 (thirty) days from the date of receipt.";

(b) existing sub-para (ii) shall be renumbered as sub-para (iii).

3.7.1 <u>Amendment (VII) (i):</u>

for item 1(a) and the entries relating thereto, the following item and entries shall be substituted, namely:—

(1)	(2)	(3)	(4)	(5)
"1(a)	(i)Mining of minerals.	**≥50 ha of mining lease area in respect of non- coal mine lease.** >150 ha of mining lease area in respect of coal mine lease. Asbestos mining irrespective of mining area.	**< 50 ha ≥ 5 ha of mining lease area in respect of non coal mine lease.** ≤ 150 ha ≥ 5 ha of mining lease area in respect of coal mine lease.	General Condition shall apply. Note: Mineral prospecting is exempt.
	(ii)Slurry pipelines (coal lignite and other ores) passing through			

	national parks/ sanctuaries/ coral reefs, ecologically sensitive areas.			

Comments:

i. With such numerical lower limits, the act missing the basics, namely illegal encroachment of water bodies, eco-sensitive zones, public inconvenience, etc, etc. Therefore, delete the lower limit of > 5 ha.

ii. The amendment to item 1 (a), significantly lightening the regulation of coal mining, will further increase air pollution and destruction of the ecology. This mining will also have a devastating impact on hilly areas and river beds.

iii. This amendment should not be allowed for and if possible then coal mining more than 20hectare should be included in 'A' category project.

iv. As per the proposed amendment the threshold for coal mining leases to be evaluated as Category A projects has been massively raised from > 50 ha to > 150 ha. As per the basis for categorisation of projects as 'A' or 'B' mentioned in the EIA notification 2006, there appears to be no justification for allowing such a large lease size area (upto 150 ha) of coal mines to be considered as Category 'B' projects. Over the years coal mining has destroyed some critical ecosystems and agricultural lands, as well as displaced lakhs of people. Moreover, still untapped coal deposits overlap with some of the country's most ecologically and culturally sensitive areas. There are no environmental grounds on which such large coal mining leases should be exempted from scrutiny as Category 'A' projects. This exemption together with other changes proposed in this amendment (e.g. exemption of Category 'B' projects from Scoping) will seriously undermine the environmental decision-making process for coal mining projects. Therefore, this amendment should not be allowed for.

v. Major changes have been proposed in mining projects, which are likely to have far reaching implications on the environment and on local communities. Firstly, it is proposed that coal mining projects with lease area of upto 150 hectares will be appraised by the SEIAA as Category 'B' Project (against the previous limit of 50 hectares). No such relaxation has been made for non-coal mining projects. This is completely unscientific and illogical as it is not clear, why coal should be given such an exemption. In fact, in our recent study of mining projects in the country (see our book, Rich Lands, Poor People: Is sustainable mining possible) we have found that coal-mining projects have the most adverse environmental impact, as compared to other mining projects. From mine fires to land subsidence; from water pollution to air pollution and solid waste generation, coal mining comes out worse on all environmental parameters. Today, all major coal mining areas of the country have been declared as "critically polluted areas". It is also a fact that of all mining projects, coal mining has displaced the largest number of people and has destroyed the largest amount of forest land. With these facts in background, putting coal mining projects of upto 150 hectare in Category 'B' would be most unwise and destructive for the environment. We seriously object to this relaxation (Category 'B' projects are supposed to be projects with less environmental impacts) and this

proposal should not be entertained. The other damaging proposal is that all mineral prospecting is being exempted from the EIA notification. This again shows the limited view that the notification has taken on the scope of environmental impact. It is well known, that large mineral prospecting with the use of invasive technologies like drilling etc. have significant environmental impacts. They can destroy forest, pollute water bodies with chemicals and oil and even fracture geological structures. By exempting all mineral prospecting from the EIA notification, the ministry is actually losing the chance to direct the prospectors to undertake even the basic safeguards and mitigation measures. We strongly suggest that mineral prospecting should not be exempted. Instead, we propose that in place of a full-fledged EIA, mineral prospecting should be screened and based on the scale of prospecting and findings of the screening exercise, the prospectors should be asked to implement a proper Environmental Management Plan. One positive change that has been proposed in the mining projects is that slurry pipelines passing through national parks/sanctuaries/coral reefs, ecologically sensitive areas have been bought under the ambit of the notification. However, there is confusion on whether these projects will fall in Category 'A' or Category 'B'. As is currently written in the draft notification, it seems that these projects have been linked with the mine lease area, which is completely illogical. We suggest that like oil and gas transportation pipeline (6 (a) in the schedule), all slurry pipeline projects should be considered as Category 'A' project. But there is also a question about those pipeline projects that are not passing through national parks/sanctuaries/coral reefs, ecologically sensitive areas. Currently, they are exempted from the EIA notification. We suggest that these projects, which are no different than any linear project as far as environmental impact is concerned, should be bought under the ambit of the EIA notification.

vi. There appears to be no justification for allowing such a large lease size area (upto 150 ha) of coal mines to be considered as Category B projects.

vii. There are no environmental grounds on which such large coal mining leases should be exempted from scrutiny as Category A projects.

viii. Therefore, this amendment should not be allowed for and if possible then coal mining more than 20hectare should be included in A category project.

ix. Coal is a Central subject, thus all coal projects irrespective of the size should be appraised at MoEF, New Delhi where experts from the Ministry of Coal are members of the Expert Committee or are special invitees. It may not be possible for Ministry of Coal to send its representative to the SEACs of various states, if invited.

x. Under category A the EC should be considered for cluster of coal mines in line with the guidelines for preparation of cluster mining proposal (Annexure IX) of hand book of Forest conservation Act 1980 and Forest Conservation Rules 2003 published by MOEF. 2. In case of coal projects with integrated coal washery unit the EC should be a combined one.

xi. In the mining and construction sectors project, due to the prescription of limits, the proponents get their areas reduced to get away with the provision of the 2006 notification.

xii. Minor minerals should be excluded from seeking environment clearance.

xiii. In Item VII of amendments in the Schedule of projects, column 2 should read as " (1) Mining of major minerals and column (4) should read as < 50 ha > 20 ha of mining lease area in respect of non coal mine lease.

xiv. In the said notification, para No. (VII) in the Schedule for the item 1 (a) (i) and the entries relating thereto, the following item and entries should be substituted, namely:(1)- 1(a)

(2) - (i) Mining of major minerals

(3) - > 50 ha. of mining lease area in respect of non-coal mine lease

(4) - < 50 ha. > 5 ha. of mining lease area in respect of non-coal mine lease

(5) - General condition shall apply. Note: Mineral Prospecting is exempted"

The proposed amendment will result that the minor minerals will be out of the ambit of the notification of 2006. Mining of marble, sand stone and even granite does not generate any toxic or hazardous substance which is harmful to the environment or society in contrast to certain major minerals like Asbestos and Sulphide ore of all metals

xv. The mining of minor minerals, [such as sand, murum, hand braking stone gitti, simple earth etc] involving un-mechanized mining activities do not have substantial impact on the Environment. it is suggested that either such minor minerals having lease area below 25 hact may be solely exempted from the provisions of the notification or some simplified procedure may be adopted for early clearance.

xvi. In the proposed amendment as mentioned in Para-(VII) of draft amendment to EIA Notification, 2006, following should be considered.

• Mining of minerals-

(a) 'B' category - < 75 ha > 10 ha of mining lease area in respect of non coal mine lease.

(b) 'B' category - <150 ha > 10 ha of mining lease area in respect of coal mine lease.

(c) 'A' category - > 75 ha of mining lease area in respect of non coal mine lease.

(d) 'A' category - > 150 ha of mining lease area in respect of coal mine lease

xvii. Limits for Limestone mining be defined as – Cat A: > 150 ha of mining lease area and Cat B < 150 ha of mining lease area > 5 ha of mining lease area.

xviii. After non coal mine lease the words "including stones, stone-chips, sand and bajri" may be added. Explanation: In the state of Sikkim the above items of produce are also extracted from the land and river sides. Since it is extracted on a very large scale affecting the fabric of environment it may also be necessary, so it is averred.

xix. the conditional exemption as provided in EIA notification 14/09/06 should continue for "Mineral prospecting" as mineral prospecting and its associated activities are generally polluting in nature

xx. Threshold limits for slurry pipelines not specified

xxi. All slurry pipeline projects should be considered as Category 'A' project. These projects, which are no different than any linear project as far as environmental impact is concerned, should be bought under the ambit of the EIA notification. Whether it is passing through sensitive area or not.

xxii. Such pipelines could be considered only in the notified national parks/sanctuaries /Coral Reefs.

xxiii. It is well known, that large mineral prospecting with the use of invasive technologies like drilling etc. have significant environmental impacts. They can destroy forest, pollute water bodies with chemicals and oil and even fracture geological structures. We strongly suggest that mineral prospecting should not be exempted. Instead, we propose that in place of a full-fledged EIA, mineral prospecting should be screened and based on the scale of prospecting and findings of the screening exercise, the prospectors should be asked to implement a proper Environmental Management Plan.

xxiv. The Committee recommended that the existing provision be retained without any separate categorisation for increasing the lease area of coalmines of upto 150 ha as Category 'B' projects for the following reasons:

i. The rational for the increase is not clear. There are very few coalmine projects that are <150 ha. In case of coalmines, for better conservation of coal, and for proper operation and reclamation of coalmines, large leaseholds of > 150 ha are more pragmatic.

ii. The SEIAAs/SEACs, which have been recently established, do not presently have the requisite capacity to appraise the existing Category 'B' projects under the existing Notification dated 14.09.2006 and there is no reason why more sectors should be delegated without first assessing their present capacity and how it can be strengthened for apprising the projects presently under Category 'B'.

xxv. for item 1 (a), the entry be substituted, in column (2), Slurry Pipelines (coal, lignite and other ores) passing through National Parks/Sanctuaries/ coral reefs, ecologically sensitive areas. The Committee did not agree to the proposed amendment, as the activity, particularly during laying of the pipelines would lead to severe impacts in the above-mentioned areas.

Analysis:

The amendment has been generally opposed by the NGOs and SEAC. The reasons inter-alia include immense damage to environment due to coal mining and non availability of expertise in the States to examine proposals with large lease area. The proposal for exempting mineral prospecting and excluding slurry pipelines which do not pass through ecologically sensitive area have also been objected to as it is similar to any linear project like petroleum pipelines and highway projects. On the other hand the mineral industry has suggested that similar exemption be given for limestone and minor minerals may be exempted totally. Some state governments have sought to include minerals obtained from the river bed. The amendment suggested in respect of coal mines is mainly due to present size of coal mine area.

Whereas in respect of limestone small mines are opened up to meet local needs, feed small/mini cement plants and supplement the requirement of bigger plants. Minor minerals have been included in the Notification on account of large environmental damages which they have already caused and continuing to damage the eco system without adequate environmental management. The environmental management plan could not be drawn up due to lack of proper environmental appraisal of their impacts. Typical example is the mining of marble stones in Rajasthan. The activities involved in mineral prospecting, though impact the environment, their magnitude may not be very significant due to their limited operations in terms of their spatial and temporal extent. While, there is a merit in suggestion for assessing all slurry pipelines as its impacts are similar to other pipelines such as Petroleum crude and product pipeline. However, transportation through pipeline is relatively an environmentally benign process as compared to any other mode of transportation. It has, therefore, been felt that the pipelines which are not passing through any ecologically sensitive areas need not be brought under the ambit of the EIA Notification. However, slurry pipelines passing through ecologically sensitive areas be covered under the ambit of EIA Notification and all such projects be treated as Category 'A' projects on the lines similar to oil and gas transportation pipelines under item 6(a) of the schedule.

Recommendations:

The amendment be modified as follows:

(1)	(2)	(3)	(4)	(5)
"1(a)	(i)Mining of minerals.	**≥50 ha of mining lease area in respect of non- coal mine lease.** >150 ha of mining lease area in respect of coal mine lease. Asbestos mining irrespective of mining area.	**< 50 ha ≥ 5 ha of mining lease area in respect of non coal mine lease.** ≤ 150 ha ≥ 5 ha of mining lease area in respect of coal mine lease.	General Condition shall apply. Note: Mineral prospecting is exempt.
	(ii)Slurry pipelines (coal lignite and other ores) passing through national parks/	All projects.		

	sanctuaries/ coral reefs, ecologically sensitive areas.			

3.7.2 <u>Amendment (VII) (ii)</u>

Against item 1(c), for the entries in column (5), the following entries shall be substituted, namely:—

"General Condition shall apply.

"Note: Irrigation projects not involving submergence or inter-state domain shall be appraised by the SEIAA as Category 'B' Projects.";

Comments:

i. Even though this is the proactive noting, the suggested modifications should ensure that the said projects in the irrigation sector, even though dealt with by the SEIAA should ensure the implications of eco sensitive areas like sanctuaries and other eco sensitive areas which are in the peripheral zone of the irrigation project. In such an event the clearance is to be accorded by the Central Authorities.

ii. It is important to realise that a river valley project, may or may not be an irrigation project. This amendment will add to confusion and transaction costs. However, it is clear that even if a river valley project does not involve submergence, it could have environmental impact because of the lack of flow in the river.

iii. (i) As per chapter IV of NRRP, 2007, the development projects which involve involuntary displacement of 400 or more ST families en masse in plain areas or 200 or more ST families en masse in tribal areas will require Social impact assessment study to be carried out in the proposed affected areas.

(ii) As per chapter IV of NRRP, 2007, there is also a need for Environmental impact assessment Study when (i) above is involved. It is requested that provisions in chapter IV of NRRP, 2007 may be taken into account while carrying out the proposed amendment to EIA notification, 2006

Analysis:

The note at the end of the schedule takes in to account the apprehensions above.

Recommendations:

The amendment be retained as proposed.

3.7.3 Amendment (VII) (iii)

Against item 1(d),—

(a) in column (3), for the entries, the following entries shall be substituted, namely—

"≥ 500MW (coal/lignite/naphtha and gas based);
≥ 50MW (Pet coke diesel and all other fuels except biomass);
>50MW (based on biomass as fuel)."

(b) in column (4), for the entries, the following entries shall be substituted, namely:—

"50MW (coal/lignite/naphtha and gas based);
<50 MW ≥ 5 MW (Pet coke, diesel and all other fuels except biomass)."

(c) in column (5), for the entries, the following entries shall be substituted, namely:—

"General Condition shall apply.

Note:

(i) Power plants up to 50 MW, based on biomass and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt.

(ii) Power plants up to 50 MW, based on non-hazardous municipal waste are exempt.

(iii) Power plants using waste heat boiler without any auxiliary fuel are exempt."

Comments:

General issues:

i. The move to relax regulation of power plants, up to 50 MW, will drastically increase the danger posed by fly ash and other particulates. The power plants not completely pollution free and hence should not be exempted

ii. it appears currently projects between 50 – 500 MW (coal/lignite/naphtha and gas based)" will not require any environmental clearance at all (neither A nor B). This is clearly unacceptable as these projects can have very substantive environmental impacts

iii. In the schedule against item 1 (d) in column (4) the proposed substitution is "50 MW (Coal/lignite/naphtha and gas based)". It seems a typographical error, it should be "500 MW" the spelling of naphtha to be corrected

iv. Power plant up to 10 MW (Pet coke, diesel and other fuels) should be exempted. Power plant <100 MW and greater than 10 MW (Pet coke, diesel and other fuels) should be in Category 'B'\

v. It is completely unscientific to assume that a 500 MW TPP based on coal or lignite has lower environmental impact than a 50 MW TPP based on pet coke and diesel. Therefore, categorising a coal/lignite TPP of 500 MW in 'B' and more than 50 MW

pet coke/diesel based TPP in category 'A' is illogical. We suggest that this should be modified as follows:

• Category A : More than 50 MW Coal/Lignite/Naphtha/Gas/Pet Coke/Diesel based Thermal Power Plants

• Category B : 5-50 MW Coal/Lignite/Naphtha/Gas/Pet Coke/Diesel based Thermal Power Plants

vi. When (coal/lignite/naphtha & gas based) produces of 50 MW or above power plant will be applicable to general condition then why those having less than 50 MW will be free from these conditions, (will not they make pollution?)

vii. Following changes are suggested

Thermal Power Plants –

(a) 'B' category - < 250 MW > 7.5 MW (coal/lignite/naphtha and gas based).
(b) 'B' category - < 50 MW > 7.5 MW (Pet coke, diesel and all other fuels except bio mass).
(c) 'B' category - <50 MW > 15 MW (Biomass based using auxiliary fuel such as coal/lignite/petroleum products up to 15%).

(d) 'B' category - <50 MW >20 MW (Industrial wastes such as sponge iron wastes Char/Dolochar, Municipal Solid Wastes having fuel value and using auxiliary fuel such as Coal/lignite/petroleum products up to 15%).

(e) 'A' category – projects should amended accordingly.

viii. There is still no clarification on whether the DG sets are included or exempt or whether they are treated as "thermal power plant.

ix. 5 of Item 1 (d) of the Schedule, the following note can be inserted after (iii) "(iv) DG sets based on internal combustion engines are exempt".

x. Diesel Generating Sets of 50 MW capacity and above shall not be included under the category of Power Plants, using Petroleum products, for the following reasons: Diesel Generating sets are used only at the time of Power Outages; Diesel Generating sets are large internal combustion engines which should not require Environmental Clearance.

xi. The threshold limit prescribed for TPP in Category B is 5 MW; it may be raised to 25 MW to encourage Captive Power Plants (CPP) including D.G. sets.

xii. Captive power plants up to 50 MW being established in industries exempted from environmental Clearance

xiii. Refinery Residual Oil Waste based Power plants should also be included and categorized in the Item 1 (d)

xiv. Against item 1 (d) in column 5 of the Schedule: Strike off the word "non-hazardous". should be substituted, as "Power plants using waste heat boiler or 15% of auxiliary fuels are exempt".

Biomass Power Plants:

i. Naphtha is highly pollution potential material, it shall not form part of this, and it can only act as a transit use for shorter than 30 days during fuel emergency and not for permanent use. Biomass power plants are misusing the consent and cutting & using forest/fruit trees to increase calorific value and thus government shall reconsider permitting biomass power plants; Therefore, the naphtha & biomass based power plants shall not be permitted but naphtha shall be used during emergency for a shorter period not exceeding 30 days.

ii. Biomass based power plants may continue to get environmental clearance for the sustainable development.

iii. Such power plants are generally not sustainable due to lack of continuous supply of raw material. Further, the problem of storage of highly inflammable biomass such as rice straw is a major risk involved. Even for 5MW power plant, the land required for storage of raw material is fairly large. In light of the above, it is not advisable to amend the existing provision.

iv. The exemption should be kept as 5MW as it is highly polluting industry require to install ESPs to control air pollution

v. Several categories of biomass when used as fuel in power plants produce many unintended consequences on the ecosystem and environment largely and the biotic community more specifically In high biodiversity rich areas like North East which has been listed as one of the biodiversity hot spots in the World, permission to use biomass as fuel in power plants up to 50 MW would sound death knell to the floristic diversity of these States.

vi. A biomass-based TPP, more than any other TPP, has huge impact on land and water. To sustain a 50 MW biomass-based TPP, as much as 30,000 hectares of plantation will be required. Also, considering the land intensity of biomass-based TPPs, in all likelihood, we should not expect biomass project with more than 50 MW capacity to come up in the country. Companies will misuse the auxiliary fuel condition – use coal, lignite or petroleum products to run the plant. We have found instances where this practice is prevalent in the CDM certified projects.We propose the following for the biomass-based TPPs based on their land and water intensity:

• Category A: More than 20 MW TPP based on biomass and using auxiliary fuel such as coal/lignite/petroleum products up to 15%

• Category B : 5-20 MW TPP based on biomass and using auxiliary fuel such as coal / lignite / petroleum products up to 15%

vii. Biomass based thermal power plants beyond 1 MW are rarely energy efficient the project proponents may christen their projects as biomass based but actually intend to run them on other fossil fuels

viii. Except biomass shall be deleted in column 3 and 4 Explanation Biomass requirement is huge for running the power plants hence it would have effect on Traditional use. Shortage of fodder for animal, handicraft and also household user. These plants needs appraisal on the availability of biomass, impact on the surroundings.

ix. It has been found that 50 MW Biomass Based Power Plant could generate more than 20,000 tons of Fly ash every year. Assume minimum 20 industries in a year established. It means 4, 00,000 tons of fly ash. fly ash generated by these industry is not suitable for Cement industries or brick manufacturing.

Municipal Waste based Power Plants:

i. The amendment proposes to exempt power plants up to 50 MW, based on 'non-hazardous' municipal waste from the EIA notification. This amendment cannot be accepted because:

• Firstly, there is nothing called as 'non-hazardous' municipal waste in our statutes. Power plants based on municipal wastes will use whatever they can get – whether hazardous or non-hazardous. And, this is a major reason why we should approach municipal waste-based power plants with caution.

• Secondly, most municipal waste-based power plants will come up within our city limits – next to people's homes, schools and playgrounds. These projects will potentially affect the lives and health of far larger number of people.

• Thirdly, we should not expect even 20 MW capacity municipal waste-based power plant at one location. A 10 MW municipal waste-based power plant will require at least 1500 tonnes of municipal waste everyday. This means that the daily municipal waste generated in Delhi is sufficient to sustain just about 50 MW power plant. This essentially means that all future municipal waste-based power plants will go through without any environmental and health assessment.

We suggest following changes to draft notification considering the potential environmental and health impacts of the municipal waste-based power plants:

- Category A : More than 5 MW TPP based on municipal wastes
- Category B : Up to 5 MW TPP based on municipal wastes.

Exemption of power plants up to 50MW based on non hazardous Municipal waste is not desirable as the track record of most of the MSW based power plants is not up to the expected levels.

ii. We suggest that the proponents establishing the project with Municipal Solid Waste (MSW) may be permitted to use coal as auxiliary fuel to an extent of 30 % with exemption of public hearing considering the following factors.

• The calorific value of MSW is low hence requires supporting fuel with high calorific value.
• The normal moisture content in MSW create fluctuation in the boiler temperature hence, requires support of auxiliary fuel with considerable calorific value.
• The burning of MSW during rainy season is not possible.
• For establishing power project based on MSW the MoEF has allowed use of biomass up to 25% of the fuel requirement. However, the availability and price of biomass have become uncertain because of monsoon and agriculture and also due to competition among biomass based power units. Considering the above it is suggested that the use of coal as auxiliary fuel for MSW projects may also be permitted to an extent of 30% on the same lines as has been permitted to biomass projects to an extent of 15%.

Analysis:
The major issue is limited to threshold size and the division between category 'A' and Category 'B' project. The threshold limits for biomass plants and power plants based on solid waste is analysed separately below. The limit for the other type of thermal power plant is based on technology levels and the impacts that they are likely to cause. The limits proposed takes these into account. (The typographical error has been noted for its rectification). As regards Diesel generating sets, these are not essentially a thermal power plant. They are mainly used as stand by. However in certain cases they are also used as power plants. There is also a case for refinery residual oil waste to be included as they do not find a place.

On biomass the objections mainly centres around unintended consequences on the bio resources of ecologically sensitive area adjoining these plants, need for a large area for storage of raw material and their fire hazard potential, competing demand such as fodder for animals, availability of biomass at an economic distance and price, efficiency of the plant, disposal of ash which doesn't have any other use and misuse of the clause on auxiliary fuel. The meeting held with MNRE has indicated that while a 6 MW capacity can be economical one, there is a limitation on higher capacity due to constraints in the availability of raw material and competing requirements. MNRE is of the opinion that, keeping in view the availability of biomass on sustainable basis and considering the economic viability, biomass based power plants upto 15 MW could be exempted from the purview of EIA Notification. It has also been stated that a radial distance of at least 50 km may be maintained between two biomass based power plants to ensure sustainable supply of biomass for these plants. It may not be possible to set up any plant with sizes more than 12 to 15 MW. It means that the plants are being set up either to reap benefits from CDM or with the long term intention of misusing the facility. In addition, in any case auxiliary fuel has to be used to control the flame temperature. This would result in problems of emission particularly in rural areas. Hence there is a need for EC for setting up such plants. Keeping in view the economic viability as explained by MNRE, a capacity of 15 MW may be considered for exemption from the purview of EIA Notification.

In respect of power plants based on Municipal solid wastes there are two issues; firstly the availability and character of waste and hence the size of the facility that could be set up. Secondly the requirement of auxiliary fuel considering the moisture content of the waste. MNRE has although recommended for exemption from the purview of EIA Notification, the municipal solid waste based power plants upto 20 MW, it seems, given the above facts, MSW based power plants need to be appraised for even much lower capacity as it is more or less semi coal based power plants which will be set up in a municipal area. It is recommended that such power plants upto 15 MW be exempted from the purview of EIA Notification.

Recommendations:
The amendment is modified as follows:

(a) in column (3), for the entries, the following entries shall be substituted, namely—

"≥ 500 MW (coal/lignite/naphtha and gas based);
≥ 50 MW (Pet coke, diesel and all other fuels including refinery residual oil waste except biomass);
≥ 20 MW (based on biomass or non hazardous municipal solid waste as fuel)."

(b) in column (4), for the entries, the following entries shall be substituted, namely:—

"<500MW (coal/lignite/naphtha and gas based);
<50 MW ≥ 5 MW (Pet coke, diesel and all other fuels including refinery residual oil waste except biomass);
<20MW > 15MW (based on biomass or non hazardous municipal solid waste as fuel)."

(c) in column (5), for the entries, the following entries shall be substituted, namely:—

"General Condition shall apply.

Note:
(i) Power plants up to 15 MW, based on biomass and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt.
(ii) Power plants up to 15 MW, based on non-hazardous municipal waste and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt.
(iii) Power plants using waste heat boiler without any auxiliary fuel are exempt."

3.7.4 Amendment (VII) (iv):

Against item 3(a), in column (5), for the entries, the following entries shall be substituted, namely:—

"General condition shall apply.

Note:
(i) The recycling industrial units covered under HSM Rules, which require registration are exempted.
(ii) In case of secondary metallurgical processing industrial units only those projects involving operation of furnaces such as induction and electric arc furnace, submerged arc furnace, pre heating furnace, cupola and crucible furnace with capacity more than 5 tonnes per heat would require environmental clearance.
(iv) Plant / units based on municipal solid waste (non-hazardous) are exempted."

Comments:

i. Under note (i) "exempted" is a dangerous clause basically because many industries are getting permission under recycling but in fact they are dumping indiscriminately. Therefore, delete this clause; (ii) the limit more than 5 tonnes is mischievous clause basically because if a plant less than 5 tonnes is located in civilian areas, eco-sensitive areas, water bodies, then what happens?; and (iii) in pollution, there should not be any "exempted" clause. It is a hazardous clause. We must take into account the reality under the existing conditions.

ii. Under schedule 3(a) a) primary metallurgical industries. At present all small units are in the purview of the EIA Notification. Smaller projects up to 50 TPD may be exempted. Projects up to 200 TPD may be placed in Category 'B' as in the case of sponge iron units

iii. Against item 3 (a), in column (5), for the entries, the following entries should be substituted, namely: - "General condition shall apply.
Note i) The recycling industrial units covered under Hazardous Wastes (Management, Handling and Trans boundary Movement) Rules, 2008, which require registration from Ministry of Environment & Forests as recyclers are exempted.

iv. Secondary metallurgical processing plants (toxic and heavy metal producing units) up to 500 tonne per annum should be exempted from EC. As these plants will not have any significant pollution load due to its smaller size. For plants > 500 tonne per annum, the proposed criteria may be applicable.

v. Under schedule 3(a) process involving preheating furnace, where change in metallurgy of product is not taking place (rolling mill, wire drawing etc.) may be exempted from EIA process

vi. For item (ii), Cupola Furnace and Crucible Furnace should be exempted irrespective of its capacity. Foundry operation which involves use of furnace of electric arc type will be exempted from EC process which is having very less pollution in comparison to the cupola furnace. I would suggest you to exempt the foundry operation involving electric furnace from the EC process with some guideline to follow for the occupational health and safety of the workers.

vii. Induction Furnace, Electric Arc Furnace the threshold limit should be 10 T/heat.

viii. In the above under (ii), furnace capacity mentioned as 5 tonnes per heat should be as 5 tonnes per hour following the normal convention of specifying plant capacity.

ix. We would like to mention that Induction Melting Furnaces produce steel, using iron & steel scrap and sponge iron as input material and as such it does not generate substantial amount of pollution which will make considerable impact on environment.

x. In Induction & Electric Arc Furnace, submerged arc furnace etc. electric energy is used. As such these units are less polluting and State Pollution Control Boards are competent to process proposals of such units having capacity 5 Tonnes per Hour.

xi. Schedule 5 (k) – Induction/Arc/Cupola furnaces
Comments: This schedule has been omitted in the proposed notification and has been put as part of the conditions (column (5)) in Schedule 3 (a), which deals with Metallurgical industries (ferrous and non-ferrous). However, this change has bought in some confusion regarding the EIA of Induction /Arc/Cupola furnaces In the 2006 notification, Induction/Arc/Cupola furnaces of more than 5 tonne per hour (TPH) capacity was put under Category 'B' project. In the proposed amendment following has been mentioned: "In case of secondary metallurgical processing industrial units

only those projects involving operation of furnaces such as induction and electric arc furnace, submerged arc furnace, pre heating furnace, cupola and crucible furnace with capacity more than 5 tonne per heat (sic) would require environmental clearance". From this statement it is not clear whether these projects will fall under Category 'A' or Category 'B'.

xii. The Science and Technology of winning metals and purifying metals; sometimes referred to as chemical metallurgy. Its two chief branches are extractive metallurgy and refining. From this it seems that Metallurgical process involves only extraction of metals from minerals and ores. Hence primary process is the extractive metallurgy during which the ores are concentrated by removing the impurities and the secondary process involves refining the ore concentrates to obtain the metal. From this it seems that Metallurgical process involves only extraction of metals from minerals and ores. Hence primary process is the extractive metallurgy during which the ores are concentrated by removing the impurities and the secondary process involves refining the ore concentrates to obtain the metal. Induction melting on the other hand is a manufacturing process by which metallic scrap (which is not a naturally occurring material) is melted and other metallic products like Ferro alloys are added to the melt and cast into different shapes. In other words it is simply transforming one shape of metal to another by melting and cooling. Hence if category 5 (k) will be merged with category 3 (a) then it will create lot of confusion.

Analysis:

The purpose of this amendment is to avoid duplication of work in respect of hazardous industries as well as to ensure that all secondary metallurgical processes are brought in one schedule and harmonized. The Schedule 3(a) already covers thresholds of both toxic and non toxic metals. It is logical to bring the other metallurgical process namely induction furnaces, Electrical arc furnaces submerged arc furnaces and cupolas which are separately indicated at 5 (k) also under 3(a). However, Induction furnace, Electric arc furnace, submerged arc furnace and Cupolas have pollution potential. These furnaces are used to process both ferrous and non ferrous metals. The capacities of furnaces are fixed in terms of quantity charged per heat. Different capacities of furnaces are available. The annual capacity of a plant depends on the number of heats per day which in turn depends on demand/supply, availability of raw material and electricity supply etc. The threshold capacity for environmental assessment keeping in view their environmental impact is to be based on the maximum annual capacity of the plant which is about 30,000 TPA.

Recommendation:

The amendment is modified as follows:

"General condition shall apply.

Note:

(i) The recycling industrial units registered under the HSM Rules, are exempted.

(ii) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces only such as induction and electric arc furnace, submerged arc furnace, and cupola with capacity more than 30,000 TPA would require environmental clearance.

(iii) Plant / units other than power plants (given against entry no. 1(d) of the schedule), based on municipal solid waste (non-hazardous) are exempted."

3.7.5 Amendment (VII) (v):

Against item 4(b), in column (5), for the entry, the following entry shall be substituted, namely:—

"General conditions shall apply."

Comments and Analysis:
There are no specific comments.

Recommendation:
The amendment is retained as proposed in the draft.

2.7.6 Amendment (VII) (vi):

Against item 4(d),—

(a) in column (4), for the entry, the following entry shall be substituted, namely:—

"(i) All projects irrespective of the size if it is located in a Notified Industrial Area/Estate.
(ii) < 300 TPD and located outside a Notified Industrial Area/ Estate."

(b) in column (5), for the entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply."

Comments:

i. In schedule against 4 (d) column (3) there is a typographical error where in replace "or" by "and". This correction will also provide clarity when read in conjunction with proposed amendment in column (4).

ii. It is mentioned that: "Specific condition shall apply. No new mercury cell based plants will be permitted and existing units converting to membrane cell technology are exempted from this notification". However, in the proposed amendment, column (5) has been substituted with: "General as well as specific conditions shall apply". The amendment should read as: "General as well as specific conditions shall apply. No new mercury cell based plants will be permitted and existing units converting to membrane cell technology are exempted from this notification".

iii. It is suggested that the sites of the existing industries which may be outside the Notified Industrial Area/Estate but has the approval of the competent authority may also be included. Some industries are working at present outside the Notified Industrial Area/Estate but have approval of the site by the competent authority for operating the plant

Analysis:
The amendment takes in to account the present levels of technology and also the site requirement. There is no typographical error. The suggestion at para (ii) above is accepted.

Recommendations:
The amendment is modified as below;

(a) in column (4), for the entry, the following entry shall be substituted, namely:—

"(i) All projects irrespective of the size if it is located in a Notified Industrial Area/Estate.
(ii) < 300 TPD and located outside a Notified Industrial Area/ Estate."

(b) in column (5), for the entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply.

No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempt from the notification."

3.7.7 <u>Amendment (VII) (vii):</u>

Against item 4(f), in column (5), for the existing entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply."

Comments:
There were no specific comments.

Recommendation:
The amendment is retained as proposed in the draft.

3.7.8 Amendment (VII) (viii):

Against item 5(a),—

(a) in column (3), for the existing entry, the following entry shall be substituted, namely:—

"All projects except Single Super Phosphate."

(b) in column (4), for the entry, the following entry shall be substituted, namely:—

"Single Super Phosphate."

Comments:

i. Customised / Mixed fertilizers may also be categorised in the Schedule.

ii. Single Super Phosphate to be kept in A category: The process involved in this industry is quite hazardous and should not be given relaxation

Analysis:
Single superphosphate is a category by itself and mostly undertaken by small and medium sized undertakings. The pollution is mainly due to emissions and poor maintenance of the plant and equipment. This can be handled by SEAC itself, hence Category 'B'. There is no need to make any other separate classification.

Recommendation:
The amendment is retained as proposed in the draft.

3.7.9 Amendment (VII) (ix);

Against item 5(e), in column (5), for the existing entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply."

Comments and Analysis:
There are no specific comments.

Recommendations:
The amendment is retained as proposed in the draft.

3.7.10 Amendment (VII) (x):

against item 5(f), in column (5), for the existing entry, the following entry shall be substituted, namely:—

"General and specific conditions shall apply. "

Comments and Analysis:
There are no specific comments.

Recommendations:
The amendment is retained as proposed in the draft.

3.7.11 Amendment (VII) (xi):

item 5(k) and the entries relating thereto shall be omitted;

Comments and Analysis:
Comments and analysis are dealt in Amendment (VII) (iv).

Recommendations:
The amendment is retained as proposed in the draft.

3.7.12 Amendment (VII) (xii):

against item 7(a),—

(a) in column (3), for the entry, the following entry shall be substituted, namely:—

"All projects including airstrips, which are for commercial use."

(b) in column (5), for the entry, the following entry shall be substituted, namely:—

"Note:

1. **Air strips, which do not involve bunkering/ refueling facility and or Air Traffic Control, are exempted.**
2. **Modernization of airport is exempted provided there is no increase in pollution load."**

Comments:

As it has been mentioned that modernization of air port will be exempted from general pollution conditions provided that they do not add to pollution levels, how one decides it? Airports have environmental impacts. The very reason for modernisation is to allow more aeroplanes to operate and to increase the traffic flow. This will consequently increase the air and noise pollution. So there cannot be any modernisation project with 'no increase in pollution load'. If this proposal is allowed then it will invariably lead to situation wherein developers will use fudged data and self-certification to show that there is no increase in pollution load. We suggest that this proposal should be done away with.

Analysis:

Air Strips without bunkering / refueling facility and / or without air traffic control are not likely to have regular air traffic on commercial basis and as such may not have any significant adverse impacts on environment. However, modernization of airports may lead to increase in air traffic and its associated environmental impacts. Accordingly, the entry against point no. 2 under sub heading 'Note', as proposed in the draft, be dropped.

Recommendation:

The amendment is modified as under:-

(a) in column (3), for the entry, the following entry shall be substituted, namely:—

"All projects including airstrips, which are for commercial use."

(b) in column (5), for the entry, the following entry shall be substituted, namely:—

"Note:

Air strips, which do not involve bunkering/ refueling facility and or Air Traffic Control, are exempted.

3.7.13 <u>Amendment (VII) (xiii):</u>

Against item 7(c), in column (5), for the entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply.

Note:

1. **Industrial Estate of area below 500 ha. and not housing any industry of category A or B does not require clearance.**
2. **If the area is less than 500 ha. but contains building and construction projects > 50,000 Sq. mtr. and or development area more than 100 ha it will be treated as activity 8(a) or 8(b) as the case may be.**

Comments:

i. The exemption to industrial areas under 500 ha where industries are not in category A or B or where the building stipulation is > 50,000 sq. mtr. and / or development area more than 100 ha is unacceptable. We would like to point to the Ministry that setting up of an industrial area irrespective of the nature of activity to take place within it requires a clear change of land use and can lead to irreparable environmental damage. Industrial areas are being set up on grazing lands, agricultural lands, wetlands, grasslands and many such areas. Such change of land use impact ground water, soil fertility in neighbouring areas and also lead to species and habitat destruction / fragmentation. Such a blanket exemption, which has no justification in of lack of environmental impacts or damage due to the proposed activity, should not be allowed for.

ii. The people may lose farms, beaches, forest, wetlands, pastures and the open spaces. In this manner the proposed amendments have also widened the scope of exemptions to real estate which is based on size. As the projects less than 50,000 square metres or with a built-up area of less than 100 hectares will not need to procure a clearance after assessing environmental impacts. This kind of changes in land use will have to seek expertise but it will be cause suffering of climate and people in our country.

iii. A development area of 100.00 hects. is a very large area and may even be adequate for establishing large industries like a refinery or a fertilizer unit. Keeping these aspects in view perhaps it is desirable to reduce the respective areas to 250.00 hects. and developmental area of 80.00 hects. as it would unable to provision of 30% for green belt.

iv. 500 hects. area for establishing an industrial estate undoubtedly covers large areas and necessarily involve the issues of rehabilitation and resettlement as well as occurrence of eco sensitive areas within the impact area of 10 kms. from the location. So is the case of 50,000 sq.mts. of construction which is a very large construction space for establishment of an industry.

v. Suggested Provisions: If the area is less than 500 ha, but contains building and construction projects > 20,000 Sq. mtr and or development area more than 50 ha it

will be treated as activity 8 (a) or 8 (b) as the case may be. Existing threshold limit should be retained.

Explanation:
The projects needs case-to-case basis appraisal based on environmental settings, and availability of water, treatment proposal for wastewater, disposal of solid waste, utilization of treated water etc. Therefore, general exception up to 50,000 sq.mtr is not correct and not based on any scientific evidence.

vi. The point no. 2 given in the note will be leading to duplication of work. Since all construction projects which are more than 50,000 sq. m. or development area more than 100 ha would anyway be taking an environmental clearance. Thus, prescribing another environmental clearance for the industrial estates below 500 ha and having the above would be duplicating the environmental clearances of the same area. This would lead to further confusions if one clearance is to be taken from State and one from the Centre. Thus, this point should be removed entirely.

vii. In column 1 at entry No.7 (c) of Schedule I the Industrial Areas established before 1986/1994/2006 be introduced such that modernisation or expansion proposal of the Industries established before 1986/1994/2006 in these areas are not required to go for public consultations and therefore not required to prepare EIA, provided there is no change in emission standards or increase in water effluent discharge and or land requirement

viii. SEZ type of development covered under 7(c) should not be linked/ equated with building construction as under item 8(a/b), if any individual unit construction in the industrial estate/ SEZ is beyond 50,000 sq. meter, it will be anyway automatically covered under 8(a) and have to obtain prior EC. Hence it is suggested that the proposed Note (2) may be deleted.

Analysis:

The aim of this amendment is to make this clause consistent with 8(a) and 8(b). Since, the Committee has not recommended for enhancement of threshold limit for construction projects and area development projects against entries no. 8(a) and 8(b) of the schedule for the reasons explained therein (proposed amendment VII(xvii)), we may accordingly, make this amendment consistent with the same by changing the limits here as well.

Recommendation:

The amendment is modified as follows:

"General as well as specific conditions shall apply.

Note:

1. Industrial Estate of area below 500 ha. and not housing any industry of Category 'A' or 'B' does not require clearance.

2. If the area is less than 500 ha. but contains building and construction projects > 20,000 Sq. mtr. and or development area more than 50 ha it will be treated as activity 8(a) or 8(b) as the case may be.

3.7.14 <u>Amendment (VII) (xiv)</u>

against item 7(e),—

(a) in column (2), for the entry, the following entry shall be substituted, namely:—

"Ports, harbors, break waters, dredging.";

(b) in column (5), for the entry, the following entry shall be substituted, namely:—

"General Condition shall apply.

Note:
Dredging inside and outside the ports or harbors and channels are included.";

Comments:

i. Breakwaters and dredging may be deleted from Schedule 7 (e) because ports and harbours have already been placed under Category 'A' or 'B' depending on cargo handled. No port/harbour can be built without extensive dredging and hence clearance for dredging would invariably be covered under the project report of ports and harbours. Specifying dredging separately without giving the type of dredging or the amount of dredging might amount to taking repeat clearances.

ii. We submit that generalizing 'break waters and dredging' under column 2 will be difficult for EC when you are concerned with small issues like 100 M break water on 1 lakh M3 of dredging material. We therefore recommend that 'for small break waters less than 100 M and dredging less than 1 lakh M3 this does not apply'. We therefore submit that maintenance dredging should be exempted under Column 5 – as long as dredged material is disposed off within harbour plot area.

iii. The threshold dredging volume should be specified otherwise for dredging even 1m3 an agency will have to seek environmental clearance which would be inappropriate.

iv. Just as recycling industrial units covered under the Haz Waste Rules 2008 which require registration from the CPCB have been exempted from EC (Schedule, Item 3(a), Note (i), similarly ports, harbours, break waters and dredging which seek clearance under the CRZ Notification should be exempted and vice versa.

v. Dredging may be avoided in Column 2. The entire clause should not be made applicable if dredging in inland waterways where navigation is presently undertaken. such dredging work in inland waterways adds up to efficient transportation,

vi. This may be made applicable only to Capital dredging works only and not for maintenance dredging. Maintenance dredging is a routine activity which is undertaken by port authorities periodically for removing the siltation material to maintain the design depth of the water way to facilitate safe passage of shipping.

vii. In regard to sub item – 14 - item-7 (e) dealing with Ports & Harbours it is desirable to mention the construction/development and operation of berths and different facilities like Container terminals and Bulk Cargo Terminals as these are the items that are being implemented under private participation. These are being proposed in the existing major ports. Further the stipulations made under 7E should also indicate that the handling capacities would be applicable to the existing ports as well. If the existing capacities go beyond the 5 million tones per annum level the requirement of clearance from the Centre would be applicable or the party has to take the clearance at the State level.

Analysis:

Dredging activity has significant potential to adversely affect the marine eco system. There is need to distinguish between capital and maintenance dredging. While capital dredging should be included within the purview of EIA Notification in any case, however, in case of maintenance dredging, if it forms part of the original proposal for which EMP was prepared and environmental clearance obtained, separate clearance for carrying out dredging for the purpose of maintaining the depth may not be necessary.

Recommendations:

(a) in column (2), for the entry, the following entry shall be substituted, namely:—

"Ports, harbours, break waters, dredging."

(b) in column (5), for the entry, the following entry shall be substituted, namely:—

"General Condition shall apply.

Note:

1. **Capital dredging inside and outside the ports or harbors and channels are included."**

2. **Maintenance dredging is exempt provided it formed part of the original proposal for which EMP was prepared and environmental clearance obtained.**

3.7.15 Amendment (VII) (xv):

Against item 7(f), in column (4), for the entry, the following entry shall be substituted, namely:—

"All State Highway projects and State Highway expansion projects in hilly terrain or in ecologically sensitive areas."

Comments:

i. There is necessity to preserve the requirement of environmental clearance in respect of roadways building projects in the hill States of North East India since execution of such projects introduce fragmentation in hitherto virgin habitats posing a serious threat to the survival of several threatened and endemic species thriving in the area apart from causing land erosion etc that could destabilize huge land masses. Therefore, the proposed amendment could be rephrased as below "All National Highway expansion projects, State Highway projects and State Highway expansion projects in hilly terrain, hill States of North East India or in ecologically sensitive areas.";

ii. The following should be substituted, namely:-

(i) New National Highways or National Expressways; and

(ii) Widening/ Expansion of National Highways or National Expressways greater than 30 km involving land acquisition for additional Right of Way ≥ 20 m in plains or Right of Way ≥ 10 m in Hills, and passing through One or more States.

iii. In the column (4), for the entry, the following should be substituted, namely:-
(i) New State Highways or State Expressways or Major District Roads or Peripheral Ring Roads; and

(ii) Widening/ Expansion of State Highways or State Expressways or Major District Roads greater than 30 km involving land acquisition for additional Right of Way ≥ 20 m in plains or Right of Way ≥ 10 m in Hills, and passing through One or more Districts.
(iii) New Peripheral Ring Roads with in or out side Municipal Corporation Limits, greater than 30 km involving land acquisition for Right of Way ≥ 20 m.

iv. In the column (5), for the entry, the following should be added as note: Note:- Individual Bypasses/Realignment ≥ 10 km length involving land acquisition for Right of Way ≥ 60 m shall be treated as independent project and will require Environmental Clearance separately.

v. Repairs work of existing highways should be considered to be dropped and only NEW State highway projects in hilly terrain or in ecologically sensitive which are yet to be constructed could be considered.

vi. Item 7 (f), relegating environmental clearance to only hilly or ecologically sensitive areas, will cause the destruction of otherwise valuable land. It will have an adverse

impact on religious or sacred areas. Rishikesh, Hardawar, Mathura, Vrindavan, Puri and other historical cities and towns will be affected.

vii. The substitution of the language in item 7(f), narrowing the scope of state wide environmental clearance to only hilly or ecologically sensitive areas, ignores large portions of the country and will encourage further destruction of trees / green cover

viii. Tunnelling projects for Roadways and Water supply have not been included and perhaps these could be considered under infrastructure. With expansion of urban areas and towards improvement of road networks for connectivity tunnelling is being resorted to even within the city limits. These have far reaching implications during the construction phase on the environment particularly in regard to noise and disposal of tunnel wastes.

ix. in the Schedule, (xv) against item 7 (f) in column (4), for the entry, the following entry shall be substituted, namely:- "All State Road projects, State Highway projects and State Roads and Highways expansion projects in hilly terrain or in ecologically sensitive area irrespective of road building agencies." The provision of 14th September, 2006 Notification vide page 51, 7 (f) column (4), (ii) for the National Highways may also be retained

x. In the column (2) , for the entry, the following entry should be substituted, namely:- "Roads, Highways, Expressways".

xi. The criterion of 20m appears to be arbitrary and is not based on IRC specifications. The IRC prescribes 60m as the right of way for the national highways in plain areas. Therefore, the criteria of land acquisition of more than 20m should be replaced by the widening of highways beyond 60m. The following amendment in Item No.7 (f) of the schedule of EIA Notification, 2006 may be considered. The present stip be replaced by "Expansion of National Highways greater than 30 km involving additional right of way beyond 60m and passing through more than one State."

xii. All state highways including expansions should be covered in column (4) of Item 7 (f). A specific reference to "Expressways" should be made.

xiii. Against item 7(f), in column (4) the proposed amendment may also include Districts Roads, Roads under PMGSY and rural roads under any other scheme in the hilly terrain or ecologically sensitive areas in the State of Assam and therefore, a suitable entry may be made accordingly. This insertion is considered necessary as such roads may cause fragmentation of habitats, and trigger erosion/land slide in hitherto unaffected areas and may become the focal point of considerable future damage if impacts are not mitigated early.

xiv. Border Roads Organization (BRO) being a National Agency involved in road/infrastructure development projects in border states/areas of country, should be exempted from taking prior Environmental Clearance from concerned regulatory authorities for roads/highways construction projects in Border Areas i.e. upto 50 Km."

xv. Four / six laning of State Highway expansion projects are having similar environmental impacts as National Highways expansion projects. EC requirement should not depend on the National or State Highway / any other type of the road

expansion. EC requirement should classify on the basis of road expansion activities for all type of the road expansion / new projects in the State and National Highway

Analysis:

The main suggestion relates to expansion of the scope of the notification by including expressways, bypasses, Major district roads, tunnelling for roads within city limits, peripheral roads around municipal corporation limits. There is also a request for expanding the right of way limit from 20 metres to 60 metres. BRO has sought exemption of their projects up to 50 kilometres. From the comments received, it is perceived that Expressways are different from Highways. However, keeping in view the objective of the Notification, it needs to be explicitly clarified in the Notification that Highways include Expressways. In regard to other items these may be considered separately. In regard to the proposal for enhancing the right of way limit from 20 metres to 60 metres, this may not be accepted as it would involve significant changes in land use and issues of rehabilitation.

Recommendations:

The amendment may be modified as follows:

Against item 7(f),

(a) In column (4), for the entry, the following entry shall be substituted namely:-

"(i) All State Highway Projects; and
(ii) State Highway expansion projects in hilly terrain (above 1,000 m AMSL) and or ecologically sensitive areas.

(b) in column (5) for the existing entry, the following entry shall be substituted, namely:-

"General Condition shall apply.

Note:
Highways include expressways.

3.7.16 <u>Amendment (VII) (xvi):</u>

Against item 7(g),—

(a) in column (3), for the entry, the following entry shall be substituted, namely:—

"(i) All projects located at altitude of 1,000 metre and above.

(ii) All projects located in notified ecologically sensitive areas.";

(b) in column (4), for the entry, the following entry shall be substituted, namely:—

"All projects except those covered in column (3)."

Comments:

i. Most of human activities, which are detrimental to environmental degradation, take place below the altitude of 1000 metres. Therefore, it is pertinent to include all projects irrespective of altitude under environmental clearance.

ii. The rationale behind prescribing 1000 m is not understood.

iii. There should also be an additional note under column (5) regarding integration of aerial ropeway with the base project while seeking clearance. In case the base project is exempt from EC and is not passing through notified ecologically sensitive areas, then the ropeway should also be exempt from EC.

Analysis:

The idea is to encourage the SEAC/SEIAA to handle such projects which have lesser impacts. In addition the criterion of altitude is to take care of the hill / mountainous eco systems which are not specifically covered under ecologically sensitive areas. Ropeways include the facilities and infrastructure including the base projects. There is no need for clarification.

Recommendation:

The amendment is retained as proposed in the draft.

3.7.17 & 18 <u>Amendment (VII) (xvii) & (xviii):</u>

(xvii) against item 8(a), in column (4), for the entry, the following entry shall be substituted, namely:—

"<u>≥</u> 50000 sq.mtrs and
<1,50,000 sq.mtrs. of built up area";

(xviii) against item 8(b), in column (4), for the entry "<u>≥</u>50 ha", substitute the entry "<u>≥</u>100ha.";

Comments:

i. In the schedule list under 8 (b) a restriction may be imposed for the construction of new towns or townships, settlement colonies within the one Km. Radius of Industrial, notified industrial areas to avoid "Bhopal like situation". Appropriate note may be inserted.

ii. in schedule list under 8 (b) a "construction of new towns or townships, settlement colonies, slums within the five Km. Radius of Industrial, notified industrial areas may be prohibited.

iii. Construction projects containing built up area > 20,000 sq. mt. and or developing area more than 50 ha shall be treated as activity 8 (a) or 8 (b) as the case may be, instead of increasing it as > 50,000 sq. mt. for construction purposes and area 100 ha for developing area.

iv. The North Eastern states are severely earthquake prone. Construction projects carry a propensity to fragment virgin habitats and destroy endemic populations of species thereat. There is, therefore, a requirement to prescribe different standards insofar as these States are concerned. The amendment may therefore be reworded as follows:

against item 8 (a), in column (4), for the entry, the following entry shall be substituted, namely:-

" >50000 sq. mtrs and

<1,50,000 sq mtrs of built up area

Note: In the hill States of North East India the following prescription shall apply:
>10000 sq. mtrs and

<50,000 sq mtrs of built up area

v. The limit may be marginally enhanced to 25,000 m2 of built up area without any enhancement of the land area from 50 Ha.

vi. In fact, building/ construction projects are not same as land development projects. So it should not be linked with Land development projects as given at 8 (b). Therefore, it is suggested that item 8 (a) may be notified simply as "all building/ construction project more than 50,000 sq. meter" under column 4.

vii. Each of the State Governments is launching major construction projects and development of townships as well as multi-storeyed constructions going up to 30 floors and above as prestigious land marks. In this context the provisions of the item 8a and 8b are to be considered. 20,000 sq.mts. itself is a fairly large area in the Indian conditions and it almost amounts to 200 apartments in a composite apartment building and the project population would be 1000 which would require

140000 ltrs. /day of water supply and inturn sewage treatment requirement of 112000 ltrs. /day of sewage. As such we feel that there is a need to mention that the stipulations made in the earlier guidelines for construction projects of 50,000 ltrs. of sewage, 5000 population and 50.00 crores of construction to be continued as a requirement. Similarly the built up area of 1,50,000 and above sq.mts. has to be better regulated and clearance given at the Central level. This has not been mentioned in the column-3 of item – 8a.

viii. There is also a need to clarify that requirements such as quantity of sewage construction cost and population that would be utilizing the particular complex are definitive requirements and only for the level of clearance the built up area limitations are provided in the notification.

ix. clarifications are also required in respect of 8b particularly in regard to areas of above 50 hectares and built up areas of above 1,50,000 sq.mts. This clarification would also ensure that the various Real Estate organizations do not take advantage of the limiting factors.

x. In suggesting modifications to this clause the Ministry has to consider the implementation of JNNURM programme where most of the projects that are sanctioned for various cities are not being addressed at all for environmental implications.

xi. Our track record in managing urban areas has been quite poor. Not even one-third of wastewater from our cities is treated to acceptable levels. The energy and water efficiencies of our buildings are very poor. Our cities are choking with pollution and congestion. If we want to make our urban areas habitable, then we will have to ensure that our new building, construction, township and area development projects are designed in an environmentally-sound manner. The proposed relaxation is only going to make the matter worse. Currently, environmental clearance is the only process in which the regulator can put conditions on water and energy efficiency, water harvesting, waste management, wastewater treatment etc. on new projects. The municipal authorities/town planning departments in most cities are ignoring these issues while granting the building/site clearance. We know that the currently process of granting clearances to building, construction, township and area development projects by SEIAA is not satisfactory. But instead of relaxing the conditions, we need to strengthen the condition and the clearance process and make it better. We believe that the built-up area/land area criteria are not sufficient to capture the true environmental impact of these projects. We need to add criteria on water consumption, wastewater generation, solid waste generation etc. to decide the extent of environmental appraisal required. We also believe that we need to make differentiation between projects coming up within a city limit and those being constructed outside of the city limit. For the projects outside the city limits, where there is no land use plan or zoning regulation, much stricter conditions should be imposed in terms of water, waste and energy and much more rigorous assessment should be done. Lastly, we believe that the proposed amendments in building, construction, township and area development projects will be counter-productive and should be done away with.

xii. In the proposed amendment, the Item No. 8a has been relaxed (S. No.XVII, Page - 23). It is doubtful how much the building industry will be benefited; but undoubtedly, due to this relaxation, environment will be a great sufferer. In my

opinion, before implanting the proposed amendment mentioned in the draft notification, following aspects should be duly considered.

1. Construction industry is playing a very important role in overall global market economy, especially in a third world country like India. This industry is also growing quite fast, whereas the prevailing infrastructure in and around the development in most of the cases are inadequate to carry the increasing pollution load. Also, the municipal authorities in most of the cases are not capable enough to provide required infrastructural support for these upcoming constructions. In that case, Environmental Clearance is considered as most important in order to control/prevent the haphazard development in the country. Due to the proposed relaxation, most of the projects will go out from Environmental Department's surveillance and may not bother about the possible detrimental impact on the surrounding biotic and abiotic environment.

2. In the draft notification, threshold limit of built up area for any construction project for obtaining environmental clearance has been expended from 20,000 sq.m to 50,000 sq.m. It can easily be appreciated that due to this relaxation, the incremental water pollution load from the upcoming construction projects, unless properly treated or taken care of, will be difficult for the surrounding environment to absorb. Also, in the absence of Environment or equivalent statutory authority, developers may not bother to adopt necessary environmental management measures. The same holds good for Solid Waste Management system also.
3. Groundwater abstraction is increasing very rapidly in the country to cater the potable as well as non-potable water need of the growing population. Most of the urban area are still not equipped with surface water supply network. They are mostly dependent on the groundwater. As a result, groundwater table in and around the urban area is depleting very fast, which not only creates the water scarcity in the long term, but also leads to the subsidence, arsenic prone area etc. Thus, it is high time to regulate and control and use of groundwater and the same has to be monitored by the concerned authority. As environmental clearance may not be required for the upcoming projects having built up area upto 50,000 sq.m, there will be hardly any monitoring authority to prevent or control the careless abstraction of groundwater by installing deep tubewells without permission from CGWB or Concerned State Groundwater Authority, as the case may be.

4. It is established that the non-potable water requirement can be easily fulfilled from the alternate water resources, like RAINWATER and TREATED WASTEWATER. For obtaining Environmental Clearance, RAINWATER HARVESTING and S.T.P. installation is mandatory. By harvesting rainwater, not only the non-potable water requirement like landscaping, site-maintenance etc can be fulfilled, but also the groundwater aquifer gets replenished through rainwater recharging with prior treatment. Due to this relaxation mentioned in the notification, there will be no legal bindings on the developers for implementing Rainwater Harvesting and upcoming projects having built up area upto 50,000 sq.m may not go for Rainwater Harvesting. If at all they go, adopted measures for recharging may not be appropriate.

5. Similarly, without environmental clearance or equivalent statutory bindings, the developers may not adopt proper Sewage Treatment Facilities for their projects.

6. Cutting of Existing trees and filling of existing water bodies also may not be prevented without environmental clearance for upcoming projects having built up

area 50,000 sqm or less. Thus, in my opinion, this relaxation mentioned in the proposed amendments should be withdrawn. General Conditions apply.

Note : Construction projects applying for Leed Certification or Green Building Shall be exempted from obtaining environmental clearance

xiii. A residential project having 20000 Sqm of built up area would mean a project consisting of about 150 to 200 residential apartments, while 50000 Sqm would mean about 500 plus residential apartments I am sure that large majority would be projects between 20000 Sqm to 50000 Sqm. Thus, project more than 50000 Sqm would be few and far between. Needless to mention that implementation can be ensured only by statutory provision in any country. If suddenly the limit is raised from 20000 Sqm to 50000 Sqm all these environmental awareness developed amongst the professionals in last two years will evaporate in no time. We were not aware that Rain Water Harvesting is not a very expensive proposal. Creating an artificial water body would not only enhance landscaping but also be able to increase the Rain Water Harvesting potential. Many of us were not aware of the harmful effects of concreting the sides of the water body. Even large municipalities like Kolkata Municipal Corporation do not have the infrastructure to go into the detail of the structural design of a proposal. Therefore, for them to implement environmental guidelines will not only be additional burden but also beyond their expertise. At the first place they will not find it necessary to implement these guidelines upto 50000 Sqm. Resulting in more than 90% of plans sanctioned during a year will not come under purview of any concern for environment

xiv. Even with the present limit of 20,000 sq.mtrs most of the construction projects have not been required to seek environmental clearance as many of the project proponents avoid it by carrying out construction in phases with each phase having Built up Area less than 20,000 sq.mtrs. this has given the builders and contractors an "open space" to play with and hence needs to be controlled through further rules and regulations in this regard.

We reiterate that rather than extending the threshold limits to construction which logically cannot have any limits, the prudent approach would be to strictly apply the existing limits as also to include environmental considerations into the construction activity itself, so that impacts are automatically minimized.

Unregulated and unchecked hap hazard construction activities are to accelerate the same, in our opinion, to which you too may not differ from. Building & construction activities are invariably impinging upon natural greens, open spaces as also the mangroves or water bodies that presently are almost extinct in many of the cities. It is a well known fact that un-regulated construction activity has large impact in altering the population density becoming a burden of inadequate basic services and thus impacting the various parameters of health.

xv. It is felt that, if at all the condition of environment clearance has to be relaxed to the construction activities having less than 50,000 sq. mtrs., then at least the installation of their own infrastructure for sewage collection and treatment as well as tree plantation etc. should be imposed on the construction activity about 20,000 sq. mtrs

and consent of SPCB should be made obligatory on such construction project. It is further felt that, the big construction activity should have its own wastes management system.

xvi. Construction activities on a very large scale all over metro cities are causing irreparable damage to the environment. The situation is causing irreparable damage to environment in the light of increasing F.S.I. being allowed by state government under various considerations.

xvii. Built up area is rising dis-proportionally in big cities resulting in congestion, traffic hazard, air, water and land pollution and living conditions are becoming miserable. This assumes particular significance as basic infrastructure services like transportation, water supply, sewage, drainage facilities cannot grow as required. In the light of the above, critical examination of construction project by environmental committee can put a check on uncontrolled growth. The area of 20,000 sq. m. proposed in existing notification if relaxed to 50,000 sq. m. as suggested in draft notification may further deteriorate environmental situation. By examining the proposal by SEAC closely, it is possible to bring certain check on the factors affecting the environment.

xviii. We have objection for these amendments for following reasons: -

Such huge proposals are coming up in big/metro cities where there is already a concrete jungle. Most of the open areas are cemented and/ or paved hence rain water cannot percolate in the soil at all and hence water level is very low. Existing rules of Municipal Corporations are not effective to control such situations. Most of the Municipal Corporations do not have drainage system and hence huge amount of severe is released in nearby nalla or river, which affect health of the villagians and residents very adversely. Traffic hazards and its emission is another great problem for cities. Existing policies of Municipal Corporations are not sufficient to prevent these conditions. Even 20,000 sq. mtrs. development projects are very huge projects because sometimes FSI allowed is more than 5.50 times. Therefore, it is not desirable for cities to have construction projects less than 50,000 sq. mtrs. without Environment Clearance (EC).

xix. Even with existing limits as mentioned in EIA notification, 2006, The project proponents are unable to provide proper environmental management plan say for waste disposal and utilization of treated waste water. Considering the scarcity of available land, the proposed enhancement in the area figures will provide an easy exemption to almost all the building/townships and area development projects coming up in NCT-Delhi thereby resulting over exploitation of the environmental resources without check and deterioration of environmental quality

xx. Uncontrolled urbanization and massive pollution load resulting from construction activities is a major environmental concern. It is very necessary to environmentally examine such projects. The lower limits for the requirement of environmental clearance for building and construction projects under item 8 (a) should not be increased to >=50,000 sq.m, rather keeping in view the alarming state of falling water tables, pollution of rivers by untreated sewage, choking traffic situations, loss of bio-diversity, increasing SPM menace due to construction activities etc, it should be decreased to >=10,000 sq.m.

xxi. The proposed amendments further increase the parameters for construction project to > 50000 sq. mtrs and <1, 50,000 sq. mtrs. of built-up area and for townships etc to be covering an area > 100 ha and or built up area of 1, 50,000 sq. mtrs ++. It is ironic that the parameters for construction projects and townships are being increased without keeping in mind that they might be put up in areas where the change of land use or large construction could be environmentally detrimental. A project of more than 50000 sq. mtrs or over 100 ha in or adjoining forest and hill regions can fragment and destroy wildlife habitats, disturb spaces that communities have been using for their traditional access to the sea or forests or add additional pressure on an area already geologically or tectonically fragile. Yet again this shows the bias towards the interest of the construction sector and thus making the EC process for these projects a farce.

Therefore, this amendment should not be allowed for

xxii. The built up area of 20000 sq. mt. for the building projects may not be increased especially in the NCR to avoid haphazard development in the areas. It is also pointed out that the area even though less than 50 hec., but housing construction, commercial projects under item no. 8 (b) should require prior environment clearance because the pollution load after its development will be such which will require post clearance monitoring.

xxiii. if at all it is felt that construction activity should exceeding and involving built up area of 50000 m2 or more be kept within the scope of the EIA Notification for obtaining prior Environmental Clearance (E.C.), then it is to be submitted that the powers to issue E.C. may be delegated to the Local Authority on the basis of the guidelines of implementing the Environment Protection norms that may be fixed by the State / Central Government. Local Authority has adequate infrastructure, manpower, and technical expertise to manage & oversee the construction project periodically. Construction projects do not cause pollution like the pollution caused by industries, industrial processes, Chemical factories manufacturing activities etc. In any case there are adequate State Legislations to monitor the pollution aspect of construction activity and hence the Local Authority can control the same as suggested above. In fact this would assist in eliminating the lengthy and herculean task of the State / Central Governments to scrutinize and process the applications of E.C.

xxiv. The proposed 50,000 sq. mtr. translates into only 4 acres of Group Housing in Haryana, considering 1.75 available FAR +4 basements of .35 FAR each (free of FAR). In Haryana, the minimum area for group housing is 10 acres in important cities and 5 acres in low potential cities. This implies that all group housing projects of Haryana have to obtain necessarily the environmental clearance

xxv. For commercial buildings/projects with 1.5 FAR plus 4 permissible basements of 0.5 FAR, the permissible FAR, works out to 3.5 i.e. 14164 sq. mtr. This implies that all commercial projects above 3.5 acres would require environmental clearance, if the proposed limit of 50,000 sq. mtr is adhered to. The barest minimum area of plotted colony projects being sanctioned in Haryana is 100 acres with 4% commercial area. Normally any good colony will cover more than 500 acres and have 20 acres of commercial space. This again will not fall in the exempted limit. The minimum area ideally should have been 1, 50,000 to 2,00,000 sq. m.

xxvi. For plotted colonies, threshold limit now proposed is 100 Ha., i.e. 247 acres, whereas any residential colony of reasonable size will be over 500 acres i.e. 200 Ha (Palam Vihar 633 acres and Sushant Lok 602 acres are the examples). The enhanced limit will not be helpful here too

xxvii. The Distance of 10 KM from Inter-State Boundaries, though not included in the notification, needs to be done away with in respect of item 8 (a) &8(b) projects

xxviii. it is requested that the built up areas mentioned in Sr. No. 8 (a) of the Schedule relating to construction activity needs to be explicitly defined as the principal use built up area of construction and it shall not include the constructed area of accessory captive uses like covered parkings, parking basements, service floors, fire safety refuge areas and fire escape passages in all the Residential / Commercial developments / complexes

xxix. Currently, environmental clearance is the only process in which the regulator can put conditions on water and energy efficiency, water harvesting, waste management, wastewater treatment etc. on new projects. The municipal authorities/town planning departments in most cities are ignoring these issues while granting the building/site clearance. We also believe that we need to make differentiation between projects coming up within a city limit and those being constructed outside of the city limit. For the projects outside the city limits, where there is no land use plan or zoning regulation, much stricter conditions should be imposed in terms of water, waste and energy and much more rigorous assessment should be done. Lastly, we believe that the proposed amendments in building, construction, township and area development projects will be counter-productive and should be done away with.

xxx. Threshold limit for the construction/area development projects:-

The threshold limit for the construction projects and area development projects need to be retained at the existing limits of 20,000 sq.m. and 50 ha. respectively. This will enable the regulatory authorities to have a check on use of natural resources and ensure minimum impact on the local environment especially with regard to issues related to disposal of liquid and solid wastes, establishment of sewage treatment plant and recycling of treated water with dual plumbing line, maintenance of greenery, incorporation of green building concepts, energy minimization, water harvesting, etc.

xxxi. In case the Government of India decides to increase the threshold limit to 50,000 Sqm. and 100 Ha. then it shall go with a rider clause that the construction should follow the norms that are being enforced by the regulatory authorities. This can be done by the CPCB while issuing broad guidelines to the State Pollution Control Boards and these conditions to be made mandatory while issuing consent for Establishment by the State Pollution Control Boards.

xxxii. In case of township, there exist no local bodies to provide common municipal services. It is therefore, necessary to examine such proposals meticulously. The SEAC therefore, compels such developers to provide STP, sewage, SWM, rainwater harvesting etc. and to take up the responsibility for the management of township up to at least 10 year from the date of possession. Increasing the area under exemption from 50 ha to 100 ha will leave out number of townships from such

approval and will have adverse impact on environment. The built up area should be constructed area and should include area free of FSI, such as podium, basement etc. The RG area open to mother earth and sky shall be as per the Development control rules exclusively. RG area shall not be adjusted on podium, terrace etc. Podium and terrace area shall be additionally utilized for beatification.

xxxiii. Why 50 ha has been increased to 100 ha in case of township and area development projects, where projects in area less than 100 Ha are potential enough for all sort of environmental pollution and mega project proponents will deliberately divide their project area in to several smaller units of less than 100 Ha to evade pollution norms

xxxiv. The North Eastern states are severely earthquake prone. Townships development projects carry a propensity to fragment virgin habitats and destroy the endemic population of species. There is therefore a requirement to prescribe different standards insofar as these States are concerned. The amendment may therefore be reworded as follows:

against item 8 (b), in column (4), for the entry "> 50 ha" substitute the entry ">100 ha"; and insert the following note in column (4) thereat:

"Provided that in hill States of North East India the townships projects > 50ha shall require prior environmental clearance";

xxxv. Against item 8(b), in column (4) the existing entry "≥50 ha" should be retained for the State of Assam as because of constraint on land availability and other infrastructural limitations only small townships are expected to come up and mushrooming of such townships will impact environment with regards to depletion of groundwater/surface water, solid waste and sewage disposal etc.

xxxvi. Item 8 (b) - as stated above, townships/area development projects are separate projects and not building projects and should not be linked with built up area/ building construction. If construction in the area development project is beyond 50,000 sq. meter, it will be anyway automatically covered under 8 (a) and have to obtain prior EC. Under item 8 (b), for townships and area development projects, the criteria should be only area viz. 100 Ha and not built up area under column 4.

Therefore the suggested changes under 8(a) and 8 (b) as given below for ready reference:
8 Building/ construction projects/ Area development projects and Townships
8(a) Building and construction projects (4) ≥ 50,000 sq. mtrs of built up area (5)

Note:

1) Built up area for covered construction; in the case of facilities open to the sky, it will be the activity area.

2) If the built up area is ≥ 50,000 sq. mtrs, it shall be appraised as Category B1.
8(b) Townships and area Development Projects (4) Covering an area ≥ 100 ha. (5)
Note:
1) All projects under Item 8(b) shall be appraised as Category B1.

xxxvii. We request that this limit should be at least doubled. Further, the upper limit for projects to come under category B has been maintained at 1,50,000 sq m, which we

feel is too low. This should be increased as well. Clauses 8 (a) and 8 (b) should be removed entirely from the Notification.

xxxviii. As regards Armed Forces are concerned, it is felt that construction of entire military infrastructure/ projects under Defence Works Procedure-2007/Operational works/any such procedure or rules as approved by the Government from time to time, should be fully exempted since these assets have strategic significance and cannot be delayed /dispensed with due to any reason whatsoever, including the environmental impact.

xxxix. Area Considerations

(i) The Building Plans are approved by the State Town and Country Planning Organization (TCPO in terms of FAR. Hence, the categorization should be in terms of FAR to keep parity.

(ii) Lower limit of Built-up Area (BUA) in 8 (a) has been increased proportionately in the same ration (20,000:50,000). So also the increase in BUA for 8 (b) is proposed in Category 8 (b) as shown in Table below.

Amendment Suggested in Draft MoEF Notification dated 19.01.2009

Project Category A Category B Suggestions

Alternative Criteria

Item 8 (a) (i) BUA > 50,000 sq m < 1,50,000 sq m No EIA. No Scoping No TOR Environmental Clearance (EC) on the evaluation of Form 1, Form 1A and Conceptual Plan

(ii) BUA>1,50,000 sq m EIA. No Scoping No TOR Environmental Clearance (EC) on the evaluation of Form 1, Form 1A, Conceptual Plan and EIA Report

Item8(b) (i) Area > 100 ha and / or BUA < 3,00,000 sq m EIA

Scoping TOR Environmental Clearance (EC) on the evaluation of Form 1, Form 1A,

Conceptual Plan and the EIA Report

(ii) Area >100 ha and/or BUA >3,00,000 sq m EIA

Scoping TOR Environmental Clearance (EC) on the evaluation of Form 1, TOR, Scoping,

Form 1A, Conceptual Plan and the EIA Report

Abbreviations:
BUA - Built-up Area

GC - General Conditions as specified in the Draft Notification

EIA - Environmental Impact Assessment Study

TOR - Terms of Reference for EIA under Scoping

(iii) Expansion to be permitted to certain percentage (%) without requiring fresh Environmental Clearance through usual procedure as one-time relaxation, since expansion without increase in pollution load is impractical.

Analysis:

Building construction and township establishment over a period of time has become an industry. This is mainly due to non availability of suitable/sufficient land in the cities and towns and inability of local bodies to provide for minimum infra structure like drinking water and sewage disposal. In addition there are isolated places which are away from cities where apartments are put up either to avoid the congestion of the city or availability of land at a reasonable price or both. This has thrown up new issues which are more than the routine building approval and approval for particular land use. These inter-alia include; change in topography, leading to change in drainage pattern and water logging, availability of groundwater, disposal of solid and liquid wastes, pressures on transport system, adequacy of road infrastructure, parking facility and recreation. These were never examined from environmental angle till this was included in the EIA process. Neither the regional plan/master plan of development authorities comprehensively included these issues nor did the institutions developed capacities to examine these issues. The local bodies also do not have the capacities/resources to do any justice for this type of examination. It is further aggravated by State Governments which continuously raise the FSI/FAR. In respect of projects which are outside the municipal limits/away from cities/towns there is complete chaos with project authorities drawing more ground water than what is available, dumping the sewage in the local stream, waste in government land etc. Encroachments develop around these projects/townships which result in the congestion of highways. Not only the civil society but also many of the State Governments have objected to the amendment. Some States such as Haryana have suggested that threshold should be reduced in the areas of National Capital Region. The north-eastern states such as Assam and Meghalaya have also suggested reduction in the threshold limit to 10,000 square metres for building construction. The limit of 20,000 square metres itself is a fairly large area in the Indian conditions and it almost amounts to 200 apartments in a composite apartment building and the project population would be 1,000 which would require 140 kilolitres/day of water supply and sewage treatment requirement of 112 kilolitres/day of sewage. In respect of the township area 100 hectares is very large. A modern petroleum refinery can be set up in such a big area. Increasing the threshold limits for building construction and township and area development projects would result only in chaos as there is no examination of these proposals from for their environmental impacts. In addition it is also to be noted that even now many project proponents whose projects have built up area more than 20,000 square metres, split their project into 2 or 3 parts (For e.g. A 45,000 square metre project is split into three 15,000 square metre project) to avoid environmental appraisal.

As far as delays in EC process, encountered by project authorities these have now been largely minimized/ eliminated as the SEAC/SEIAAs have already been set up in 23 States and Union Territories which can expeditiously examine the proposal. Building Industry since they are also now exposed to this type of appraisal should be able to provide all the necessary information and get their proposals examined fast. It may, therefore, not be prudent to enhance the threshold limit for construction and area development projects. The limits already given in the EIA Notification, 2006 be retained.

Recommendations

The proposed amendment be dropped.

3.7.19 Amendment (VII) (xix):

After the Schedule, in the 'Note', for sub-heading relating to 'General Condition (GC)', the following shall be substituted, namely:—

> **"Any project or activity specified in Category 'B' will be treated as Category 'A', if located in whole or in part within 10 km from the boundary of: (i) Protected areas notified under the Wildlife (Protection) Act, 1972; (ii) Critically polluted areas as notified by the Central Pollution Control Board from time to time; (iii) Eco-sensitive areas as notified under section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, etc., and (iv) inter-State boundaries and international boundaries:**
>
> **Provided that the requirement regarding distance of 10 km of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or U.Ts sharing the common boundary.**

Comments:

i. An evaluation of the impacts of the project on multiple states by the MoEF based on detailed studies and expert opinion cannot be replaced by an agreement between two states doing away with this process. Although the neighbouring state/s may give their consent through an agreement, this cannot be a substitute for a proper environmental decision-making process looking at impacts of the project on multiple states. As part of the environmental clearance process it is important that the MoEF examines critical interstate issues which could impact ecosystems and livelihoods (e.g. projects impacting interstate river basins and forests).If this amendment goes through, projects impacting interstate natural resources could also get environmental clearance without an EIA report and public consultation (if the concerned SEIAA categorises the project as B2). This is clearly unacceptable. Therefore, this amendment should not be allowed for.

ii. It may be desirable to have No Objection Certificate from the respective departments which are of concerned to Environmental Conservation from the involved states on either side of the interstate boundary. The No Objection Certificates would come from the respective State Department of Forest, State Pollution Control Board, State Industries Department and not through agreements between the States as mentioned. As this procedure would take a long time for implementation.

iii. State boundary clause should be removed/amended: Clause treating projects within 10 Kms of state boundaries as category A should be modified. This is not applicable in urbanised areas close to state borders, like the National Capital Region (NCR) where the development potential near state boundaries is high. We also suggest that these issues be resolved by inter-state agreements.

iv. In regard to the Note after the schedule for the subheading relating to general conditions should be totally done away with.

v. After the schedule, in the 'Note' for the sub heading relating to the "General condition (GC) distance of 10 km should be changed to 7 km.

vi. Distance may be kept as 3 km in place of 10 km. In (v), interstate boundaries may be deleted.

vii. Exempting activities of minimum environmental impact from applying General Condition: - For the activities that have minimum impact on the environment such as mining of molding sand, the distance be reduced to 5 km for the application of general conditions considering the local developmental needs of such activities.

viii. After the schedule, in the 'Note': should add as (v) Area of 10 km radius should be technically evaluated and actual area of radius can be reviewed on the basis of EIA study along with Modelling.

ix. The aspect of 10 km mentioned in the 'Note' for sub-heading relating to 'General Condition (GC)' after the Schedule should be done away with as regards Goa considering its area limitations. More so when the Hon'ble Supreme Court of India is ceased with the issue of 10 km as far as the territory of Goa is concerned.

x. Subject to the local laws in force from time to time

Analysis:

There are objections as well as demand for reduction of distances. The danger involved in such arrangement between the states, the each one agrees to other only on a reciprocal basis. In addition the issues such as water logging, ground water, drainage, waste disposal, migratory routes of animals are not likely to be addressed. Only issues such as water and air pollution and rehabilitation of people in case of submergence will be attended to.

Recommendation:

The amendment is modified as follows:

"Any project or activity specified in Category 'B' will be treated as Category 'A', if located in whole or in part within 10 km from the boundary of: (i) Protected areas notified under the Wildlife (Protection) Act, 1972; (ii) Critically polluted areas as identified by the Central Pollution Control Board from time to time; (iii) Eco-sensitive areas as notified under section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, and (iv) inter-State boundaries and international boundaries:

Provided that the requirement regarding distance of 10 km of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or U.Ts sharing the common boundary in case the activity does not fall within 10 kilometres of the areas mentioned at item (i), (ii) and (iii) above.

3.8 <u>Amendment VIII:</u>

in the Appendix I, in Form I,—

(a) for item (I) relating to the Basic Information, the following shall be substituted, namely:—

"(I) Basic Information

S. No.	Item	Details
1.	Name of the project/s	
2.	S.No. in the schedule	
3.	Proposed capacity/area/length/tonnage to be handled/command area/lease area/number of wells to be drilled	
4.	New/Expansion/Modernization	
5.	Existing Capacity/Area etc.	
6.	Category of Project i.e. 'A' or 'B'	
7.	Does it attract the general condition? If yes, please specify.	
8.	Does it attract the specific condition? If yes, please specify.	
9.	Location	
	Plot/Survey/Khasra No.	
	Village	
	Tehsil	
	District	

	State	
10.	Name of the applicant	
11.	Registered Address	
12.	Address for correspondence :	
	Name	
	Designation (Owner/Partner/CEO)	
	Address	
	Pin Code	
	E-mail	
	Telephone No.	
	Fax No.	
13.	Details of Alternative Sites examined, if any. Location of these sites should be shown on a topo sheet.	Village-District-State 1. 2. 3.
14.	Interlined Projects	
15.	Whether separate application of interlined project has been submitted	
16.	If yes, date of submission	
17.	If no, reason	
18.	Whether the proposal involves approval/ clearance under: (a) The Forest (Conservation) Act, 1980 (b) The Wildlife (Protection) Act, 1972 (c) The C.R.Z Notification, 1991	
19.	Forest land involved (hectares)	
20.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up (a) Name of the Court (b) Case No. (c) Orders/directions of the Court, if any and its relevance with the proposed project.	

(b) the following shall be inserted at the end, namely:—

"I hereby given undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance give, if any to the project will be revoked at our risk and cost.

Date: _____
Place: _____

Signature of the applicant
With Name and Full Address
(Project Proponent / Authorised Signatory)

NOTE:

1. The projects involving clearance under Coastal Regulation Zone Notification, 1991 shall submit with the application a C.R.Z map duly demarcated by one of the authorized agencies, showing the project activities, w.r.t. C.R.Z and the recommendations of the State Coastal Zone Management Authority. Simultaneous action shall also be taken to obtain the requisite clearance under the provisions of the C.R.Z Notification, 1991 for the activities to be located in the CRZ.

2. The projects to be located within 10 km of the National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals, the project proponent shall submit the map duly authenticated by Chief Wildlife Warden showing these features vis-à-vis the project location and the recommendations or comments of the Chief Wildlife Warden thereon.";

Comments

i. In the table include as "21. Whether there are any location specific G.O.s & Notifications, etc that are applicable to the site in question and if so specify.

ii. The following additional items may be added:-

Nearest City (Distance in kms):

Nearest Railway Station (Distance in kms):

Nearest Airport (Distance in kms):

Details of Local bodies (complete postal address and phone nos. etc.):

Zilla Parishad/Municipal Corporation/Village Panchayat:

iii. In S. No. 20 of Basic Information where there is a query regarding any litigation pending against the project and /or land in which the project is proposed, further details of litigation related to Environmental Regulatory Acts or Authorities may be indicated.

iv. The Notification may also mention that "In the absence/non availability of the required maps, the EAC/SEAC may help the project proponent seek the same from the authorities.

v. The submission of details of interlinked projects is beyond control of the project proponent, hence may be deleted

vi. Many times, the maps of National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals are not readily available. Further, obtaining the recommendations or comments of the Chief wildlife Warden is also a long process. Therefore, at the time of application for scoping of EIA and approval of Draft TOR, these details should not be insisted upon.

vii. The requirement of recommendations of Chief Wildlife Warden and submission of authenticated map in case of the Projects to be located within 10 km of the National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals, the project proponent may be allowed time until the project is taken up for final Environmental Clearance. If this requirement is made mandatory at the time of submission of Form-1, this will cause a significant delay in the project clearance process.

viii. Item 19. - Forest land involved: This information needs to be transparent as per the data in Land Records which is the certified Government agency which indicates such lands.

ix. Both points in Note to be deleted. There is a need for a single window clearance rather than making it a conditional approval. Introducing these para's would only ensure delay for obtaining EC clearance ------.

x. Points 14 and 15 in the table should have the word "interlinked" instead of "interlined".

xi. As regard to the 10 Kms area around the National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals etc., The Environment Assessment should take into consideration the project as per the Report submitted by the State Level Committee of respective states to the MoEF, as per the orders of the Hon'ble Supreme Court, with regard to the Buffer Zone around such areas.

xii. We suggest MoEF to make correspondence with the concerned authorities as regards to authenticated maps, recommendations or comments in respect of CRZ & CCF.

xiii. It is request the authorities to re-look into the above specification and designate few additional competent bodies to certify the same in addition to the Chief Wildlife Warden to avoid delay in approval of project. Additionally it may be brought to the notice of the authorities that "Wildlife Zoning" as is the case of CRZs – Coastal of Regulatory Zone shall also be implemented.

xiv. Location of sites should be shown on the village map may be covering one single village or 2 or 3 villages with Khasra / Survey no. of the village in respect of the land generally being considered. At this stage of initiative the promoters may not be able to obtain the full boundary of the site which they would acquire on acceptance of the site by the committee. It is very difficult for projects in the coastal states to obtain topo sheets. Whereas village and district maps would be available. District map from survey of India is also available which could be utilized. These could be supplemented by 1:250,000 scale maps of Survey of India which are available and which could be enlarged to present the details more clearly. What could be sought from the project proponent is the a preliminary assessment of the sites selected of the Coastal Zone maps that are available with village Khasra and Survey nos. for all the states. Super positions of the envisaged sites on those maps which are generally referred as the CRZ maps and as available with the District Collectors or Developmental Authorities. So also the certification could be obtain, a preliminary desk level certification could be obtained from the respective District Conservative of Forest. Insistence on CRZ and recommendation of Coastal Zone Management

Authority would delay the projects inordinately and it is also not possible to obtain the NOC without firming the site.

xv. In absence of availability of CRZ maps duly demarcated by one of the authorised agencies and the map related to 10 km of National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals authenticated by the Chief Wildlife Warden with recommendations for comments with the project proponent the request made to the concerned authorities shall be attached. EAC/SEAC shall seek the same from the authorities.

xvi. In HP, no area outside this extended WLPA (after application of 10 km distance criteria) would be left/available; all the projects would thus not only fall in Category 'A' but would entail obtaining recommendation of the Chief Wildlife Warden along with a map of the WLPA. As all the projects in HP of all sectors and all categories will be required to obtain the above recommendation with map, the Wild Life Department/wing will be heavily burdened particularly the office of Chief Wildlife Warden. With the ensuing staff shortages in general and in wildlife wing in particular, cases are likely to be delayed or remain pending for long.

xvii. Would request you to clarify whether the second note i.e. Note II (relating to map authentication by Chief Wild Life Warden) of Form I is applicable to Construction Projects i.e. Items under Schedule 8 of notification. Please note that general conditions don't apply to construction projects.

xviii. In the absence of certified CRZ maps of any particular area mentioned in Note 2, maps prepared by project proponent duly marking National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals authenticated by the Chief Wildlife Warden should be acceptable. EAC/SEAC may accept these documents.

xix. Column No 19 'Forest land involved (hectares)'. The term 'Forest land' is not defined and therefore leads to ambiguity. In the Note No 2 the aspect of 10 Km should be done away with as regards Goa considering its area limitations. More so when the Hon'ble Supreme Court of India is ceased with the issue of 10 Km as far as the territory of Goa is concerned.

xx. Requirement of distance of 10 km can also be reduced to the actual extent of buffer zone of Wild life Sanctuary

xxi. note 2: projects located within 10 km of the …….defence establishment, the project proponents shall submit…

xxii. It should be clarified that the information sought in the litigation are related to EP Act only.

Analysis:

Generally there is an acceptance in the modification of the application form. However there is a concern in getting the area demarcated either from CRZ or from wild life aspects or both in a timely manner. However if the project proponent starts this exercise along with submission of TOR this can be avoided. Further the suggestion considered in point no xiii may be examined by the respective sections in

MoEF and action taken accordingly as may be considered appropriate. Litigations are not only under EP act but also Land acquisition act is relevant. In respect of States like Goa and Himachal Pradesh though it covers all the projects this is required in view of the ecological sensitiveness of the area.

Recommendations:

The amendment be accepted with marginal changes in the note regarding the time of submission of the information, CRZ map, recommendations of SCZMA, Wildlife Map and recommendations of Chief Wildlife Warden. In addition, another entry has been recommended for obtaining the documentation in support of the authorized person. Ministry has already issued a circular dated 4.8.2009 in this regard, which is on the website of the Ministry. The modified information is given hereunder:-

"**(I) Basic Information**

S.No.	Item	Details
1.	Name of the project/s	
2.	S. No. in the schedule	
3.	Proposed capacity/area/length/tonnage to be handled/command area/lease area/number of wells to be drilled	
4.	New/Expansion/Modernization	
5.	Existing Capacity/Area etc.	
6.	Category of Project i.e. 'A' or 'B'	
7.	Does it attract the general condition? If yes, please specify.	
8.	Does it attract the specific condition? If yes, please specify.	
9.	Location	
	Plot/Survey/Khasra No.	
	Village	
	Tehsil	
	District	
	State	
10.	Nearest railway station/airport along with distance in kms.	
11.	Nearest Town, city, District Headquarters along with distance in kms.	
12.	Village Panchayats, Zilla Parishad, Municipal corporation, Local body (complete postal addresses with telephone nos. to be given)	
13	Name of the applicant	
14.	Registered Address	
15.	Address for correspondence :	
	Name	
	Designation (Owner/Partner/CEO)	
	Address	

	Pin Code	
	E-mail	
	Telephone No.	
	Fax No.	
16.	Details of Alternative Sites examined, if any. Location of these sites should be shown on a topo sheet.	Village-District-State 1. 2. 3.
17.	Interlinked Projects	
18.	Whether separate application of interlinked project has been submitted?	
19.	If yes, date of submission	
20.	If no, reason	
21.	Whether the proposal involves approval/clearance under: if yes, details of the same and their status to be given. (a) The Forest (Conservation) Act, 1980 ? (b) The Wildlife (Protection) Act, 1972 ? (c) The C.R.Z Notification, 1991 ?	
22	Whether there is any Government Order/Policy relevant/relating to the site?	
23.	Forest land involved (hectares)	
24.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders/directions of the Court, if any and its relevance with the proposed project.	

(b) the following shall be inserted at the end, namely:—

"I hereby given undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance give, if any to the project will be revoked at our risk and cost.

Date: _____
Place: _____

Signature of the applicant
With Name and Full Address
(Project Proponent / Authorised Signatory)

NOTE:

1. The projects involving clearance under Coastal Regulation Zone Notification, 1991 shall submit with the application a C.R.Z map duly demarcated by one of the authorized agencies, showing the project activities, w.r.t. C.R.Z (at the stage of TOR) and the recommendations of the State Coastal Zone Management Authority (at the stage of EC). Simultaneous action shall also be taken to obtain the requisite clearance under the provisions of the C.R.Z Notification, 1991 for the activities to be located in the CRZ.
2. The projects to be located within 10 km of the National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals, the project proponent shall submit the map duly authenticated by Chief Wildlife Warden showing these features vis-à-vis the project location and the recommendations or comments of the Chief Wildlife Warden thereon (at the stage of EC)."
3. All correspondence with the Ministry of Environment & Forests including submission of application for TOR/Environmental Clearance, subsequent clarifications, as may be required from time to time, participation in the EAC Meeting on behalf of the project proponent shall be made by the authorized signatory only. The authorized signatory should also submit a document in support of his claim of being an authorized signatory for the specific project.

3.9 <u>Amendment IX:</u>

for Appendix IV, the following shall be substituted, namely:—

"**APPENDIX IV**

(See paragraph 7)

PROCEDURE FOR CONDUCT OF PUBLIC HEARING

1.0 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District-wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).

2. 0 The Process:

2.1 The applicant shall make a request through a simple letter to the Member Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is covering more than one District or State or Union Territory, the public hearing is mandated in each District, State or Union Territory

in which the project is located and the applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.

2.2 The applicant shall enclose with the letter of request, at least 10 hard copies and an equivalent number of soft (electronic) copies of the draft EIA Report with the generic structure given in Appendix III including the Summary Environment Impact Assessment report in English and in the local language, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the Summary EIA report to the following authorities or offices, within whose jurisdiction the project will be located:

(a) District Magistrate/s
(b) Zila Parishad or Municipal Corporation
(c) District Industries Office
(d) Urban Local Bodies (ULBs) / PRIs Concerned
(e) Concerned Regional Office of the Ministry of Environment and Forests

2.3 On receiving the draft Environmental Impact Assessment report, the above-mentioned authorities except the Regional Office of MoEF, shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over.

2.4 The SPCB or UTPCC concerned shall also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or any other suitable location etc. They shall also additionally make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices as given in para 2.2.

3.0 Notice of Public Hearing:

3.1 The Member-Secretary of the concerned SPCB or UTPCC shall finalize the date, time and exact venue for the conduct of public hearing within 7 (seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional vernacular Daily / Official State Language. A minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses;

3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing. In

places where the newspapers do not reach, the Competent Authority should arrange to inform the local public about the public hearing by other means such as by way of beating of drums as well as advertisement / announcement on radio / television.

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and then only on the recommendation of the concerned District Magistrate, the postponement shall be notified to the public through the same National and Regional vernacular dailies and also prominently displayed at all the identified offices by the concerned SPCB or Union Territory Pollution Control Committee;

3.4 In the above exceptional circumstances, fresh date, time and venue for the public consultation shall be decided by the Member – Secretary of the concerned SPCB or UTPCC only in consultation with the District Magistrate and notified afresh as per procedure under 3.1 above.

4.0 The Panel

4.1 The District Magistrate / District Collector / Deputy Commissioner or his or her representative not below the rank of an Additional District Magistrate assisted by a representative of SPCB or UTPCC**,** shall supervise and preside over the entire public hearing process.

5.0 Videography

5.1 The SPCB or UTPCC shall arrange to video film the entire proceedings. A copy of the videotape or a CD shall be enclosed with the public hearing proceedings while forwarding it to the Regulatory Authority concerned.

6.0 Proceedings

6.1 The attendance of all those who are present at the venue shall be noted and annexed with the final proceedings.

6.2 There shall be no quorum required for attendance for starting the proceedings.

6.3 A representative of the applicant shall initiate the proceedings with a presentation on the project and the Summary EIA report.

6.4 Persons present at the venue shall be granted the opportunity to seek information or clarifications on the project from the applicant. The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the vernacular language and the agreed minutes shall be signed by the District Magistrate or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned**.**

6.5 A Statement of the issues raised by the public and the comments of the applicant shall also be prepared in the local language or the Official State language, as the case may be, and in English and annexed to the proceedings~~:~~

6.6 The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction the project is located, office of the concerned Zila Parishad, District Magistrate, and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. Comments, if any, on the proceedings, may be sent directly to the concerned regulatory authorities and the applicant concerned.

7.0 Time period for completion of public hearing

7.1 The public hearing shall be completed within a period of forty five days from date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned shall sent the public hearing proceedings to the concerned regulatory authority within eight days of the completion of the public hearing. The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations incorporating the concerns expressed in the public hearing along with action plan and financial allocation, item-wise, to address those concerns.

7.2 If the SPCB or UTPCC fails to hold the public hearing within the stipulated 45 (forty five) days, the Central Government in Ministry of Environment and Forests for Category 'A' project or activity and the State Government or Union Territory Administration for Category 'B' project or activity at the request of the SEIAA or project proponent, shall engage any other agency or authority to complete the process, as per procedure laid down in this Notification.";

Comments:

i. We would like to bring to your notice that there are a variety of reasons why a public hearing is not completed within the stipulated 45 day period. There have been instances where local communities have clearly rejected the setting up of the project in their area as it would negatively impact the environment and livelihoods of the

region or a public hearing has to be postponed as the EIA consultant could not satisfactorily respond to the queries at the public hearing. In such instances the public hearing cannot be completed within the stipulated time and the principles of natural justice require the regulatory authorities to give the process adequate time. This clause presupposes the delay is because of the inefficiency on the part of SPCB or UTPCC, but in reality there could be socio-political concerns which need to be considered. In light of the above concerns, we would like to state that the solution is not to engage alternative authorities to hold the public hearing at the lapse of 45 days, but address the reasons which are causing the delay. While the existing EIA notification already allows for the state government to engage an alternative agency to hold the public hearing on the request of the SEIAA, the proposed amendment now makes room for the project proponent to make such a request for engaging an alternative agency for holding the public hearing. We see no reason why the project proponent should have a role in suggesting the need for alternative agencies to hold a public consultation on the environmental impacts of their own project. This will interfere with the conduct of a free and proper public consultation process. It is unfortunate that the MoEF seeks to build in the request of the project proponent to avoid delays in the clearance to their projects on the one hand; but on the other, fails to provide similar space to locally affected people. At present locally affected people have no recommendatory or decision making role except for giving suggestions on improving the draft EIA report. Therefore, this amendment should not be allowed for.

ii. we have the following observations regarding two critical changes proposed:
Unlike the 2006 notification, the summary of the EIA report and the draft EIA report will now not be available with the Ministry of Environment and Forests (MoEF). MoEF is also not required to put the EIA summary on its website and provide access to the draft EIA report to the public in Delhi. This proposed change will be inevitably lead to a situation, where information will get disaggregated, disorganised and difficult to access. If the state agency is remiss in putting up the information it will not even be available. We need a centralised repository of all EIA reports in the country to track the performance of the environmental clearance process in long run; to improve decision-making; to improve public access and scrutiny; to enable research on regional and cumulative environmental impact and finally, to develop baseline data on environmental and social parameters for different parts of the country (a good EIA report can be an excellent source of primary data). We also need to ensure that all information regarding the process of EIA – from the time the application is made, till the final clearance, is available on a web-enabled system. The database must be centrally organised, even if the data is fed through state agencies. In addition, all the public hearing proceedings – from the minutes of the meeting to the video of the meeting – must be available on the website. This will increase public scrutiny as well as the credibility of the process. We would suggest the following:

1. Restore the earlier provision for (2.2) for "copies, hard and soft of the EIA report along with the summary of the EIA report to the Ministry of Environment and Forests".

2. Include a new provision, which stipulates that all minutes of the public hearing and the video, will also be put on the website.

3. Include a new provisions, which stipulates that all conditions laid down by the clearance authority and safeguards will also be put on the same website, so that affected communities can track the project and its compliance.

iii. The proposed amendment (Appendix 4/7.2), allows the regulatory authority to engage other agency of authority to complete the process of public hearing. This amendment, we understand is based on the recommendation of the Expert group to examine the schemes of statutory clearances for industrial and infrastructure projects in India. We do not believe that regulatory functions can be outsourced. It will lead to lack of accountability and increase public conflict.

iv. Compliance report should be made available at all public places where the EIA were displayed at the time of public hearing

v. The change is to "delete" the last sentence of Para 2.3 of Appendix IV of the main Notification; Rationale of "this deletion" is not understood. It would be preferable not to delete this sentence

vi. To conduct public hearing in each district will be time taking and difficult process for a project proponent where the project site is situated beyond one district. It should be confined to each State and UT and as such, the provision of the EIA Notification, 2006 should be maintained in this case.

vii. We would like to bring to your notice that during recent April/May 2009 National Elections, none of the State Collector machinery will be willing to conduct PH and a number of Projects will be held up for long periods. We therefore recommend that if SPCB/UTPCC is not able to organize within 45 days of submission of Report, the Project Proponent will be exempted from the purview of PH.

viii. The Public hearing need to be restricted for the people affected by the project within a radius of 10 kms and not result in an window for vested groups of different taluka's , Districts or even States to sent their vocal chords on issues wherein such are not affected but raised for ---------- motives.

ix. Notice of Public Hearing: As the public hearing is required to be held in the respective state is there a need to advertise the same in a National Daily? Advertising in the local daily in English as well as one local language should be sufficient. This would however reduce unnecessary expenditure. There is no relevance in publishing the advertisement in the National daily especially when the Project has no relevance beyond the local area.

x. Kindly add the phrase "project proponent" in the list of people who receive a copy of the proceedings. This is an operational difficulty faced often at site, thus inclusion of the same would be highly appreciated .

xi. The agency who needs to bear the financial implications due to advertisement in national and local news papers, on-site meeting expenditure etc need to be spelt very clearly in the notification.

xii. In some of EIA studies, Public is not allowing public hearing to be conducted. Even public has become violent in some cases. This has happened even number of times (2 to 3 time) in one particular case. In some cases, District Administration and State Pollution Control Board have informed to Ministry of Environment & Forests (MOEF) about their inability to conduct the public hearing due to law and order reasons. Still, MOEF is asking them to conduct the same. Due to this reason, State Pollution Control Boards are not recommending the similar type of cases to MOEF. We expect from MOEF to provide more clear guidelines to deal with such issues to avoid delay in the execution of project. Or Door to door public consultation as per World Bank operating procedure may be considered in place of present system of public hearing.

xiii. After submission of draft EIA report along with the summary report to these authorities. The authorities should also put these reports to their own departmental websites for general public

xiv. In this point notice of public hearing should also be advertise on concerned SPCB or UTPCC websites for information of general public

xv. While the words 'District Magistrate' appearing in Para 4.1 under Appendix IV, dealing with the Procedure for Conduct of Public Hearing, have been proposed to be substituted by the words 'District Magistrate/District Collector/Deputy Commissioner', the corresponding change in Paras 6.4 and 6.6 has not been proposed. It is suggested to carry out the said modification in Paras 6.4 and 6.6 also

xvi. (Para 1.0): should be revised as "common public hearing should be arranged in a systematic, time bound and transparent manner and conducted for districts hosting the project (if project area is covering more than one district) in the presence of public from the districts . District Officers of the concerned State Pollution Control Board or the Union Territory Control Committee (UTPCC), as the case may be

xvii. The provisions regarding reading of the summary of public hearing proceedings to the audience at the end of proceedings and signing of agreed minutes on same day by concerned District Magistrate(s) should be deleted, as it is very difficult and impractical to exercise the above before audience, which causes law and order problem most of the time.

xviii. If public hearing could not be held within 45 days from the date of receipt of the request letter from the applicant, then the public hearing may be conducted even after within 45 days from the date of receipt of the request letter from the applicant, when the project proponent so requests. The provision for time period for completing the public hearing within 45 days should be objected/ challenged only be project proponent and not by the plausible stakeholders and local affected persons.

xix. Following should be considered.(a) The application for public hearing should be submitted to concerned District Magistrate(s) with a copy of Member Secretary, State Pollution Control Board.

(b) The concerned District Magistrate(s) shall finalize the date, time and exact venue for conduct of public hearing. The Member Secretary, State Pollution Control Board or his authorized representative shall assist the concerned District Magistrate(s) in this regard.

(c) The provisions regarding reading of the summary of public hearing proceedings to the audience at the end of proceedings and signing of agreed minutes on same day by concerned District Magistrate(s) should be deleted, as it is very difficult and impractical to exercise the above before audience, which causes law and order problem most of the time.

(d) The expenditure incurred for conducting public hearing should be chargeable to the project proponent, (subject to appropriate upper ceiling).

(e) If public hearing could not be held within 45 days from the date of receipt of the request letter from the applicant, then the public hearing may be conducted even after within 45 days from the date of receipt of the request letter from the applicant, when the project proponent so requests. The provision for time period for completing the public hearing within 45 days should be objected/ challenged only be project proponent and not by the plausible stakeholders and local affected persons.

(f) Summary of the public hearing proceedings should conform to a format with the following essential components:-

1. Date and time of public hearing and name of officer presiding and officers assisting.

2. Names of up to two representatives of the company attending the public hearing.

3. Brief summary of presentation made by the project proponents and steps taken by the company to mitigate any adverse impact on environment on account of the

project.
4. Brief account of comments and or objections made by members of the public present in the meeting.
5. Brief summary of replies if any given by the project proponent to objections raised.

Analysis:
Ministry of Environment & Forests, while recognising the need and importance of public consultation in the development process has mandated the requirement of public hearing to ascertain the views of the locals about the anticipated development. However, it is also recognized that the developmental process does not get delayed and derailed because of the procedural requirements in decision making. It is the endeavour of MoEF to ensure that the public hearing which is part of consultation is completed in time. There may, however, the exceptions when public hearing cannot be completed within the specified time frame due to certain activities such as scheduled election, natural calamities etc. This will continue to be so. Holding a public hearing by an agency other than SPCB either at the request of project proponent or any other public may not be appropriate as ultimately district authorities have to provide logistic support including security aspects if any. Besides, project proponents are wary of public hearing due to presence of vested interests during the hearing and the public hearing encompassing everything whether it is relevant to the project or not. While the notification has structured the public consultation, no separate guidelines or some such things have been provided so far. The Ministry may consider providing guidelines, which would not only enable the hearings completed in time but also provide a useful material for the EAC/SEAC to take a considered decision.

Further, as regards the sub heading of para 4.0 namely; 'the Panel', it may be pointed out that the Notification does not provide for any panel for conduct of public hearing. It is only to be supervised and presided over by District Magistrate or his/ her representative not below the rank of ADM. The sub heading thus needs to be modified appropriately. It is recommended that the sub heading may be changed to 'Supervision and Presiding over the Public Hearing'.

The Committee also took note of the observations made by the Ministry of Panchayati Raj regarding (i) inclusion of a member of the District Panchayat in the panel for supervising and presiding over the public hearing and (ii) addition of a new clause in para 7(i), in sub para III relating to Public Consultation. To provide for obtaining recommendatory resolution in favour of the project from the Gram Sabha concerned, duly passed by a quorum of at least half the member of the Gram Sabha. The opinion of the Additional Director(Legal) in MoEF was obtained on the same. According to the same, the suggestion no. (i) Does not appear to be in accordance with the spirit of the Notification and is a new suggestion, while suggestion no. (ii) is a new suggestion and does not flow from the proposed draft Notification for which the objections were invited. Hence, these suggestions may be considered by MoEF separately for their incorporation while making subsequent amendments in the EIA Notification, 2006.

Recommendation:
The amendment is modified by changing the sub heading the 'Panel', retaining para 7.2 in its original form and a few other modifications as given hereunder:-

"**APPENDIX IV**

(See paragraph 7)

PROCEDURE FOR CONDUCT OF PUBLIC HEARING

1.0 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District-wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).

2. 0 The Process:

2.1 The applicant shall make a request through a simple letter to the Member Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is covering more than one District or State or Union Territory, the public hearing is mandated in each District, State or Union Territory in which the project is located and the applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.

2.2 The applicant shall enclose with the letter of request, at least 10 hard copies and an equivalent number of soft (electronic) copies of the draft EIA Report with the generic structure given in Appendix III including the Summary Environment Impact Assessment report in English and **in the official language of the state**/local language, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the Summary EIA report to the following authorities or offices, within whose jurisdiction the project will be located:

(a) District Magistrate/**District collector/Deputy commissioner/s**
(b) Zila Parishad or Municipal Corporation **or Panchayats Union**
(e) District Industries Office
(f) Urban Local Bodies (ULBs) / PRIs Concerned/**Development authorities**
(e) Concerned Regional Office of the Ministry of Environment and Forests

2.4 On receiving the draft Environmental Impact Assessment report, the above-mentioned authorities except the Regional Office of MoEF, shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available

the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over.

2.4 The SPCB or UTPCC concerned shall also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or any other suitable location etc. They shall also additionally make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices as given in para 2.2.

3.0 Notice of Public Hearing:

3.1 The Member-Secretary of the concerned SPCB or UTPCC shall finalize the date, time and exact venue for the conduct of public hearing within 7 (seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional vernacular Daily / Official State Language. A minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses;

3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing. In places where the newspapers do not reach, the Competent Authority should arrange to inform the local public about the public hearing by other means such as by way of beating of drums as well as advertisement / announcement on radio / television.

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and then only on the recommendation of the concerned District Magistrate/District collector/Deputy commissioner, the postponement shall be notified to the public through the same National and Regional vernacular dailies and also prominently displayed at all the identified offices by the concerned SPCB or Union Territory Pollution Control Committee;

3.4 In the above exceptional circumstances, fresh date, time and venue for the public consultation shall be decided by the Member – Secretary of the concerned SPCB or UTPCC only in consultation with the District Magistrate/**District Collector/Deputy Commissioner** and notified afresh as per procedure under 3.1 above.

4.0 Supervision and Presiding over the Hearing:

4.1 The District Magistrate / District Collector / Deputy Commissioner or his or her representative not below the rank of an Additional District Magistrate assisted by a representative of SPCB or UTPCC**,** shall supervise and preside over the entire public hearing process.

5.2 Videography

5.3 The SPCB or UTPCC shall arrange to video film the entire proceedings. A copy of the videotape or a CD shall be enclosed with the public hearing proceedings while forwarding it to the Regulatory Authority concerned.

6.0 Proceedings

6.3 The attendance of all those who are present at the venue shall be noted and annexed with the final proceedings.

6.4 There shall be no quorum required for attendance for starting the proceedings.

6.3 A representative of the applicant shall initiate the proceedings with a presentation on the project and the Summary EIA report.

6.5 Persons present at the venue shall be granted the opportunity to seek information or clarifications on the project from the applicant. The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the **local**/vernacular language and the agreed minutes shall be signed by the District Magistrate **District Collector/Deputy Commissioner** or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned**.**

6.5 A Statement of the issues raised by the public and the comments of the applicant shall also be prepared in the local language or the Official State language, as the case may be, and in English and annexed to the proceedings÷

6.6 The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction the project is located, office of the concerned Zila Parishad, District Magistrate / **District collector / Deputy Commissioner**, and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. Comments, if any, on the proceedings, may be sent directly to the concerned regulatory authorities and the applicant concerned.

7.0 Time period for completion of public hearing

7.1 The public hearing shall be completed within a period of forty five days from date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned shall sent the public hearing proceedings to the concerned regulatory authority within eight days of the completion of the public hearing. ***Simultaneously, a***

copy will also be provided to the project proponent. The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned along with the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations incorporating the concerns expressed in the public hearing along with action plan and financial allocation, item-wise, to address those concerns.**"**

7.2 If the SPCB or UTPCC fails to hold the public hearing within the stipulated 45 (forty five) days, the Central government in Ministry of Environment and Forests for Category 'A' project or activity and the State Government or Union Territory Administration for Category 'B' project or activity at the request of the SEIAA, shall engage any other agency or authority to complete the process, as per procedure laid down in this Notification.

3.10 Amendment X:

in Appendix V, for para 3, the following para shall be substituted, namely:—

"3. Where public consultation is not mandatory, the appraisal shall be made on the basis of the prescribed application Form I and EIA report, in the case of all projects and activities other than item 8 of the schedule. In the case of the item 8 of the schedule, considering its unique project cycle, the EAC or SEAC shall appraise all Category B projects or activities on the basis of Form I, Form IA and the conceptual plan and make recommendations on the project regarding grant of environmental clearance or otherwise and also stipulate the conditions for environmental clearance"

Comments:

i. In case of a project located in an industrial area, public consultation and EIA both are not required. Hence this stipulation is confusing and not required.

ii. Point 3, Appendix V of EIA Notification 2006 leaves the decision of the degree of scrutiny of the project for grant of EC to the EAC and SEAC. It can seek a formal EIA report if necessary to appraise the project. If the project does not cause as much environmental impact as to warrant a detailed EIA, the EAC or SEAC can take a decision based on Form 1 and pre-feasibility report. However mandating the submission of a formal EIA report along with Form 1 for consideration even when a public consultation is not mandated is like imposing conditions on the EAC/SEAC, which is not appropriate

iii. EIA report was not necessary for category B project. Hence it is proposed that EIA/RA study may not be compulsory for category B projects.

Analysis:

The question whether an EIA report is required or not is based on the nature and size of the project and its location. It is only the Category 'B2' projects, which do not require EIA. The proposed amendments make the provisions of EIA Notification mutually consistent.

Recommendation:
The amendment is retained as proposed in the draft Notification.

4.0 Comments / observations outside the mandate of the Committee:

During the hearings, the Chairman had stated that though the mandate of the hearings was for finalization of the proposed amendments contained in the draft Notification dated 19.1.2009, yet there may be other comments / observations which are beyond the scope of this Notification. Out of these, the ones which could be resolved administratively could be taken care of through administrative order/ circular while the remaining ones could be considered subsequently when preparing future amendments. Accordingly, such comments / observations have been separately collated and are given at Annexure X and XI respectively.

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Annexure-I

No. J-11013/56/2004-IA.II(I)
Government of India
Ministry of Environment and Forests

Paryavaran Bhavan
CGO Complex, Lodi Road,
New Delhi-110003

Dated: 3rd July, 2009

ORDER

Sub: Committee to examine the comments received on the proposed draft amendments issued vide S.O. 195(E) dated 19.1.2009 to Environment Impact Assessment Notification, 2006.

Ministry of Environment & Forests had issued a Notification vide S.O. 195(E) dated 19.1.2009 inviting comments / suggestions on the draft amendments proposed to be made in the Environment Impact Assessment Notification, 2006. The comments / suggestions have since been received on the draft Notification from various stakeholders including the Central Ministries / Departments, the State Governments, the Civil Society including NGOs and the Industry Associations. The comments so received are required to be considered and discussions to be held with the various stakeholders before finalizing the Notification in accordance with the provisions of the Environment (Protection) Act, 1986. For the purpose, it has been decided to constitute a Committee having the following composition:

(i)	Shri J.M. Mauskar, Additional Secretary, MoEF	-	Chairman
(ii)	Dr. S.P. Gautam, Chairman, Central Pollution Control Board	-	Member
(iii)	Shri R. Anandakumar, Advisor (Retd.) DG 2/109 B, Vikas Puri, New Delhi – 110 018	-	Member
(iv)	Dr. B. Sengupta, Former Member Secretary, CPCB 161, Medha Apartment, Mayur Vihar Phase-I, Delhi – 110 091	-	Member
(v)	Dr. Nalini Bhat, Advisor, MoEF	-	Member
(vi)	Dr. S.K. Aggarwal, Director, MoEF	-	Member Secretary

2. The Committee will consider all the comments received on the draft Notification, have meetings with the various stakeholders and thereafter give its recommendations for finalization of the said Notification.

3. The Committee will complete its task within three months.

4. The non official members will be paid sitting fee @ Rs 1,000/- for each day of the meeting and TA/DA for attending the meeting as per rules.

5. This issues with the approval of the Competent Authority and with the concurrence of IFD vide their diary no. 1382/IFD/09 dated 1.7.2009.

Sd/-
(Dr. S.K. Aggarwal)
Director

To

All the Members of the Committee

Copy to:

1. PS to MEF
2. PPS to Secretary (E&F)

No. J-11013/56/2004-IA.II(I)
Government of India
Ministry of Environment and Forests

Paryavaran Bhavan
CGO Complex, Lodi Road,
New Delhi-110003

Dated: 30th September, 2009

ORDER

Sub: Committee to examine the comments received on the proposed draft amendments issued vide S.O. 195(E) dated 19.1.2009 to Environment Impact Assessment Notification, 2006.

In continuation to this Ministry's earlier Order of even no. dated 3rd July, 2009, constituting the above mentioned Committee, the tenure of the said Committee has been extended upto 31st October, 2009.

This issues with the approval of the Competent Authority.

Sd/-
(Dr. S.K. Aggarwal)
Director

To

1. Shri J.M. Mauskar, Additional Secretary, MoEF
2. Dr. S.P. Gautam, Chairman, Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Shahdara, Delhi-32.
3. Shri R. Anandakumar, Advisor (Retd.), DG 2/109 B, Vikas Puri, New Delhi – 110 018.
4. Dr. B. Sengupta, (Former Member Secretary, CPCB), 161, Medha Apartment, Mayur Vihar Phase-I, Delhi – 110 091.
5. Dr. Nalini Bhat, Advisor, MoEF
6. Dr. S.K. Aggarwal, Director, MoEF

Copy to:

1. PS to MEF
2. PPS to Secretary (E&F)

Annexure -II

Ministry of Environment & Forests
(IA Division)
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Sub: Summary record of the 1st Meeting of the Committee constituted to examine the comments received on the proposed Draft Amendments issued vide S.O. 195(E) dated 19.1.2009 to EIA Notification, 2006.

The above meeting was held on 30th July, 2009 under the Chairmanship of Shri J.M. Mauskar, Additional Secretary. The list of participants is enclosed. Leave of absence was granted to Dr. S.P. Gautam, Chairman, CPCB and Member of this Committee as he could not attend the meeting due to some other commitments. In addition to the members, Dr. G.K. Pandey, Advisor, MoEF and Shri Ishwar Singh, Additional Director (Legal), MoEF were invited as special invitees for the meeting. Shri Ishwar Singh could not attend the meeting.

Welcoming all the participants, the Chairman gave a brief background regarding the proposed Draft Amendments to the EIA Notification and constitution of the Committee to finalize the Draft Notification which was issued on 19.1.2009, after taking into consideration the comments / responses received from various stakeholders. The Chairman also brought to the notice of the Committee, the orders dated 27.1.2009 passed by CIC while hearing an appeal in the RTI matter, wherein it has been desired that the Civil Society Groups may be included in the list of inter-state groups for interaction before finalizing the Notification. The summary of the comments received from various stakeholders were circulated to all the participants. Based on the discussions held, the following decisions were taken:

(i) The comments received from various stakeholders be grouped into four categories namely (i) Central Ministries, (ii) State Government, (iii) Industries and Industry Associations and (iv) Civil Society including NGOs.

(ii) The Committee will meet various stakeholders even though their inputs were received a bit late, upto 30th July, 2009, the date of the meeting of the Committee, due to various causes of delay.

(iii) The stakeholders may be invited for presenting their views in groups, category-wise.

(iv) The consideration of the comments on the proposed amendments may be limited to only those sections / issues which have been specified in the draft Notification. Any observation / comments beyond the issues covered in the draft Notification may be listed out and put up to the Government for their consideration separately.

(v) The tentative dates for hearing were decided as August 26-29, 2009.

The meeting ended with a vote of thanks to the Chair.

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List of Participants

1. Shri J.M Mauskar, Additional Secretary, MoEF - Chairman
2. Shri R. Anandakumar
3. Dr. B. Sengupta
4. Dr. G.K. Pandey
5. Dr. Nalini Bhat
6. Dr. S.K. Aggarwal

Annexure-III

Ministry of Environment & Forests
(IA Division)
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Summary record of the Meeting with Civil Society / NGOs regarding the proposed Draft Amendments issued vide S.O. 195(E) dated 19.1.2009 to EIA Notification, 2006 held on 26.8.2009 at 1000 hours.

Ministry of Environment & Forests had issued a Notification vide S.O. 195(E) dated 19.1.2009 for inviting comments / suggestions from all the stakeholders on the proposed amendments to EIA Notification, 2006. The comments received were categorized into four categories namely; (i) Central Government Ministries / Departments, (ii) State Governments and State Agencies, (iii) Civil Society / NGOs and (iv) Industries and their Associations. In accordance with the procedure prescribed under Environment (Protection) Act, 1986 and the Rules made there under, it was decided to have a hearing of various stakeholders, category-wise, from whom comments were received on the draft Notification for its finalization. Further, as the number of responses received in the Category of (i) Civil Society / NGOs and (ii) Industries and their Associations were large, it was decided to meet them in two groups each. Accordingly, the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary, MoEF held a meeting with Civil Society Groups / NGOs on 26.8.2009 at 1000 hours in Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi. The list of participants is annexed.

Shri J.M. Mauskar, Additional Secretary and Chairman of the Committee welcomed all the participants and gave a brief overview about the proposed amendments and the scope of the meeting. He said that while interacting, the participants may like to bring out comparatively more important items from amongst their written communications. Further, he also stated that though the mandate of this hearing is for finalization of the proposed amendments contained in the Draft Notification dated 19.1.2009, yet there may be other comments / observations which are beyond the scope of this Notification. Out of these, the ones which could be resolved administratively could be taken care of through administrative order / circular while the remaining ones could be considered subsequently when preparing future amendments. Thereafter, each of the participants was heard one by one. A summary record of the views expressed by various participants from Civil Society / NGOs is as under:-

Shri M.S.K.V.N. Rao, Bangalore:

With respect to the proposed amendment no. I, relating to modernization or expansion of projects without increase in pollution load, Shri Rao stated that modernization and expansion of projects are generally associated with enhancement of production which

in turn will have the associated increase in pollution, how so ever small it may be. The term 'pollution load' need to be clarified i.e. whether it refers to absolute pollution or relative pollution load in the context of per unit of the product produced.

With regard to public hearing (proposed amendment no. IX), it was stated that some more clarity needs to be brought into about the public hearing arrangements such as who will bear the cost of advertisement and who will make arrangements for public hearing.

Shri Deepak Malik:

Shri Malik made observations regarding the items which are neither presently covered under EIA Notification, 2006 nor included in the proposed amendments. It was mentioned that item no. 7(f) of the schedule of Notification talks about highways only, while other types of roads such as Express Ways, major District Roads, Peripheral Roads and even bypasses involving huge land acquisition should also be covered under the EIA Notification. Further, it was also mentioned that the hilly areas have their own problems. The projects requiring hill cutting may have serious environment implications. Some norms relating to hill cutting for the purpose of road making may be prescribed to determine the applicability of EIA Notification to such projects. It was suggested that projects involving hill cutting upto 5 mtr and above may be brought within the ambit of EIA Notification.

It was also suggested that qualifications for the environmental consultants should also be prescribed for preparing the EIA reports.

Shri Sujeet Kumar Singh, Centre for Science and Environment:

With regard to the proposed amendment no. I relating to modernization and expansion proposals without increase in pollution load, the provision of self certification as proposed should be dropped. The term pollution load has to be defined unambiguously. It was also stated that the project proponent have a tendency to acquire more land and get more water allocated right in the beginning and thereafter keep on expanding the activity utilizing these resources. Further, emission norms have not been prescribed for NOx and SOx. As a result, the proposed amendment based on pollution load and water requirement is likely to be misrepresented and misused.

With regard to proposed amendment no. III, to exempt category 'B' project from scoping for three years, these should not be made. It was emphasized that non existence of SEIAAs cannot be justification to exempt TORs.

The proposed amendment no. IV(i) to dispense public hearing for dredging provided the dredged material shall be disposed or dumped within port limits is not acceptable as

dredging has bearing on quality of water and in turn on the fisherman and local coastal community.

With regard to proposed amendment no. VII(i) relating to modification of schedule, it was stated that the proposed amendment to increase the threshold for mine lease for coal mine projects to determine category 'A' projects is not desirable. The existing threshold levels should continue. Further, exemption from the purview of EIA Notification for mineral prospecting should not be granted.

With regard to proposed amendment no. VII(iii), relating to biomass based power plant, it was apprehended that biomass may be misconstrued as bio fuel. The term biomass should be properly define. Further, apprehension were also raised with regard to power plants based on non hazardous municipal wastes as municipal wastes are known to contain hazardous material as well such as plastic wastes.

With regard to proposed amendment no. VII(xii), relating to exemption to modernization of airports provided there is no increase in pollution load is illogical and cannot be agreed as modernization of airport will lead to increase in air traffic, passenger load and pollution load.

Ms Kanchi Kohli, Kalpvriksh:

With regard to the proposed amendment no. I relating to modernization and expansion proposals without increase in pollution load, the provision of self certification as proposed should be dropped. It was further stated that environment is not limited to pollution aspects only but has to be seen in a comprehensive manner including change of land use and ecological usage of the land.

With regard to proposed amendment no. II, it was stated that the said amendment should be dropped and the existing provision to take decision in the SEIAAs by consensus should continue.

With regard to proposed amendment no. III, relating to dispensation from scoping for three years in respect of category 'B' projects, it was stated that the provision of TOR was introduced in the EIA Notification, 2006 in conformity with the International EIA practice and this provision should continue.

The proposed amendment no. IV(i) to dispense public hearing for dredging provided the dredged material shall be disposed or dumped within port limits is not acceptable as dredging has bearing on quality of water and in turn on the fisherman and local coastal community.

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects involve change of land use. Other aspects of water availability, provision for rain water harvesting, solid waste management, energy efficiency, provision of adequate parking, adequacy of road infrastructure etc. are important issued which require careful consideration.

With regard to proposed amendment no. VI, relating to making the full text of the clearance letter in the public domain was supported.

With regard to proposed amendment no. IX, relating to procedure for conduct of public hearing, para 7.2, time period for completion of public hearing, the proposed amendment to provide for engaging any other agency at the request of the project proponent, in the eventuality that SPCB fails to complete public hearing within the prescribed time limit of 45 days should be dropped. The existing provision in this regard should continue.

Dr. A.K. Shyam, Bangalore:

The proposed amendment no. VII(iii) relating to exemption from the purview of EIA Notification for biomass based power plants upto 50 MW is welcomed and supported. The term biomass may be clarified as any vegetable matter/agricultural residue.

Additionally, it was suggested that while dealing with the expansion projects, the environmental norms should be applied only based on the proposed expansion capacity rather than the combined capacity. In this regard, the example of stack height for thermal power plants was quoted.

Shri Deepak Gupta, Mohali, Punjab:

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects have significant environmental concerns. The Ministry should rather consider reducing the threshold limit.

With regard to amendment no. VII(iii) relating to exemption from the purview of EIA Notification for biomass based power plants upto 50 MW, it was stated that this requires a careful consideration to ensure that no fodder is used in disguise of biomass as fuel for the power plant.

As there was no further item for hearing, the meeting ended with a vote of thanks to the Chair.

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LIST OF PARTICIPANTS

1. Shri J.M. Mauskar, Addl. Secretary, MoEF
2. Shri. R. Anandakumar, Advisor (Retd.)
3. Dr. B. Sengupta, Former Member Secretary, CPCB
4. Dr. G.K. Pandey, Advisor, MoEF
5. Dr. Nalini Bhat, Advisor, MoEF
6. Dr. S.K. Aggarwal, Director, MoEF
7. Shri Bharat Bhushan, Director, MoEF
8. Dr. P.L. Ahujarai, Director, MoEF
9. Shri W. Bharat Singh, Deputy Director, MoEF
10. Dr. Rita Chauhan, MoEF
11. Dr. A.K. Shyam, Banglore
12. Shri M.S.K.V.N. Rao, Banglore
13. Shri Deepak Malik, Gurgaon
14. Shri Sujit Kumar Singh, Centre for Science and Environment (CSE), Delhi
15. Ms. Kanchi Kohli, Kalpavriksh, Delhi
16. Shri Deepak Gupta, Mohali

Annexure-IV

Ministry of Environment & Forests
(IA Division)
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Summary record of the Meeting with Civil Society / NGOs regarding the proposed Draft Amendments issued vide S.O. 195(E) dated 19.1.2009 to EIA Notification, 2006 held on 26.8.2009 at 1430 hours.

Ministry of Environment & Forests had issued a Notification vide S.O. 195(E) dated 19.1.2009 for inviting comments / suggestions from all the stakeholders on the proposed amendments to EIA Notification, 2006. The comments received were categorized into four categories namely; (i) Central Government Ministries / Departments, (ii) State Governments and State Agencies, (iii) Civil Society / NGOs and (iv) Industries and their Associations. In accordance with the procedure prescribed under Environment (Protection) Act, 1986 and the Rules made there under, it was decided to have a hearing of various stakeholders, category-wise, from whom comments were received on the draft Notification for its finalization. Further, as the number of responses received in the Category of (i) Civil Society / NGOs and (ii) Industries and their Associations were large, it was decided to meet them in two groups each. Accordingly, the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary, MoEF held a meeting with Civil Society Groups / NGOs on 26.8.2009 at 1430 hours in Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi. The list of participants is annexed.

Shri J.M. Mauskar, Additional Secretary and Chairman of the Committee welcomed all the participants and gave a brief overview about the proposed amendments and the scope of the meeting. He said that while interacting, the participants may like to bring out comparatively more important items from amongst their written communications. Further, he also stated that though the mandate of this hearing is for finalization of the proposed amendments contained in the Draft Notification dated 19.1.2009, yet there may be other comments / observations which are beyond the scope of this Notification. Out of these, the ones which could be resolved administratively could be taken care of through administrative order / circular while the remaining ones could be considered subsequently when preparing future amendments. Thereafter, each of the participants was heard one by one. A summary record of the views expressed by various participants from Civil Society / NGOs is as under:-

Shri Vinod Tiwari, Shimla:

With regard to the proposed amendment no. VII(xix), relating to general conditions that the projects located within 10 km of the protected areas will be treated as category 'A',

it was stated that it is detrimental to the States to maintain good green cover and notify various areas in the category of protected areas.

Further, with regard to proposed amendment no. VIII, under the heading note at serial no. 2 requiring authenticated map and recommendations of Chief Wildlife Warden in respect of project to be located within 10 km of the protected areas, it was stated that this may not be insist upon as getting the authenticated map and recommendations of Chief Wildlife Warden is time consuming due to limited infrastructure available with them.

Shri Manoj Kumar Ranchi, Jharkhand and Shri Niranjan Lal Agarwalla, Asansol, West Bengal:

With regard to the proposed amendment no. I, relating to modernization and expansion proposals without increase in pollution load, the provision of self certification as proposed should be dropped.

With regard to proposed amendment no. III, to dispense with TOR for category 'B' projects, it was stated that guidelines for B2 Category should be evolved to avoid such projects from TOR.

With regard to proposed amendment no. VII(iv), under the heading note, para (ii), the threshold limit of 5 tonnes per heat for pre heating furnace is not in conformity with the threshold limit provided for secondary metallurgical processing industries given in the schedule to the EIA Notification. The said limit needs to be enhanced.

Further, with regard to proposed amendment no. VIII, under the heading note at serial no. 2 requiring authenticated map and recommendations of Chief Wildlife Warden in respect of project to be located within 10 km of the protected areas, it was stated that this may not be insist upon in the beginning at the stage of TOR as getting the authenticated map and recommendations of Chief Wildlife Warden is time consuming. This could be made as a requirement at the time of EC Clearance.

Shri Mahesh Pandya, Paryavaran Mitra, Ahmedabad:

With regard to the proposed amendment no. I, relating to modernization and expansion proposals without increase in pollution load, the provision of self certification as proposed should be dropped. It was also stated that the project proponent have a tendency to acquire more land and get more water allocated right in the beginning and thereafter keep on expanding the activity utilizing these resources. As a result, the proposed amendment based on pollution load and water requirement is likely to be misrepresented and misused.

With regard to proposed amendment no. III, relating to dispensation from TOR for category 'B' projects as SEIAAs have been not setup is not logical. The issues relating to pollution and environment cannot be under mind. The original provision should continue.

With regard to proposed amendment no. VII(iii), relating to exemption from the purview of EIA for biomass based power plants upto 50 MW is not acceptable as these power plants have their own problems from environmental angle.

Dr. Vijay Verma and Smt. Varsha Verma, Citizen Council of Haridwar, Uttranchal:

With regard to proposed amendment no. VII(i), relating to mining projects, it was stated that the present threshold limit for 5 ha should be reviewed and even projects less than 5 ha size should be brought under EIA if located within 10 km of the Sanctuary.

It was stated that before taking up any review / amendment of EIA Notification, 2006, it may be ensured that the said Notification is implemented in letter and spirit. The proposed amendments are opposed in toto.

Shri Chowdhary Raees Alam, Environment Protection Group:

A general observation was made for taking all necessary steps for protection of the environment. No specific comment was made.

As there was no further item for hearing, the meeting ended with a vote of thanks to the Chair.

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LIST OF PARTICIPANTS

1. Shri J.M. Mauskar, Addl. Secretary, MoEF
2. Shri. R. Anandakumar, Advisor (Retd.)
3. Dr. B. Sengupta, Former Member Secretary, CPCB
4. Dr. G.K. Pandey, Advisor, MoEF
5. Dr. Nalini Bhat, Advisor, MoEF
6. Dr. S.K. Aggarwal, Director, MoEF
7. Shri Bharat Bhushan, Director, MoEF
8. Dr. P.L. Ahujarai, Director, MoEF
9. Dr. Rita Chauhan, MoEF
10. Ms. Varsha Verma, Citizen Council of Haridwar, Uttaranchal
11. Dr. Vijay Verma, Citizen Council of Haridwar, Uttaranchal
12. Shri Mahesh Pandya, Paryavaran Mitra, Ahmedabad
13. Shri Niranjan Lal Agarwalla, ECO Care, W. Bengal
14. Shri Manoj Kumar, ECO Care, Jharkhand
15. Shri Vinod Tiwari, HP Power Corporation Ltd., Shimla
16. Shri Chowdhary Raees Alam, Environment Protection Group

Annexure-V

Ministry of Environment & Forests
(IA Division)
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Summary record of the Meeting with Central Ministries / Departments regarding the proposed Draft Amendments issued vide S.O. 195(E) dated 19.1.2009 to EIA Notification, 2006 held on 27.8.2009 at 1030 hours.

Ministry of Environment & Forests had issued a Notification vide S.O. 195(E) dated 19.1.2009 for inviting comments / suggestions from all the stakeholders on the proposed amendments to EIA Notification, 2006. The comments received were categorized into four categories namely; (i) Central Government Ministries / Departments, (ii) State Governments and State Agencies, (iii) Civil Society / NGOs and (iv) Industries and their Associations. In accordance with the procedure prescribed under Environment (Protection) Act, 1986 and the Rules made there under, it was decided to have a hearing of various stakeholders, category-wise, from whom comments were received on the draft Notification for its finalization. Further, as the number of responses received in the Category of (i) Civil Society / NGOs and (ii) Industries and their Associations were large, it was decided to meet them in two groups each. Accordingly, the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary, MoEF held a meeting with Central Ministries / Departments on 27.8.2009 at 1030 hours in Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi. The list of participants is annexed.

Shri J.M. Mauskar, Additional Secretary and Chairman of the Committee welcomed all the participants and gave a brief overview about the proposed amendments and the scope of the meeting. He said that while interacting, the participants may like to bring out comparatively more important items from amongst their written communications. Further, he also stated that though the mandate of this hearing is for finalization of the proposed amendments contained in the Draft Notification dated 19.1.2009, yet there may be other comments / observations which are beyond the scope of this Notification. Out of these, the ones which could be resolved administratively could be taken care of through administrative order / circular while the remaining ones could be considered subsequently when preparing future amendments. Thereafter, each of the participants was heard one by one. A summary record of the views expressed by various participants from Central Ministries / Departments is as under:-

Ministry of Micro, Small and Medium Enterprises:

It was stated that they are in support of the proposed amendments.

West Bengal Pollution Control Board (SEIAA, West Bengal):

With regard to the proposed amendment no. VII, sub paras no. (iv), (v) and (vii), which provide for applicability of general condition as given in the EIA Notification, 2006 is not necessary. The original formulation should continue.

With regard to the proposed amendment no. VII(iv), relating to threshold limit of 5 tonnes per heat in respect of projects involving operation of furnaces, it was stated that the term 5 tonnes per heat would be applicable to submerge arc furnace and pre heating furnace while in respect of induction and electrical arc furnace the term will be 5 tonnes per hour. Further, the threshold limit of 5 tonnes per heat proposed for pre heating furnace is not in conformity with the threshold limit given for secondary metallurgical processing unit in the main Notification of 2006. This aspect needs to be looked into carefully.

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects have their associated environmental implications. The Chairman requested them to send a supplementary note on the subject.

Directorate General of Mines Safety, Dhanbad, Ministry of Labour & Employment:

No specific comments were made on the proposed amendments.

DGFASLI, Mumbai, Ministry of Labour & Employment:

No specific comments were made on the proposed amendments.

Ministry of Coal:

With regard to proposed amendment no. I, relating to modernization and expansion proposals, it was stated that in respect of expansion of coal mine projects without any increase in pollution load should be exempted from EIA irrespective of additional land and / or water requirement.

With regard to proposed amendment no. III, relating to exemption from scoping for Category 'B' projects for three years, it was stated that Category 'B' coal mine projects should be permanently exempt from scoping.

The public hearing for the expansion projects should be strictly limited to expansion area only and the issues relating to the area already granted environmental clearance should not be raised during public hearing.

With regard to proposed amendment no. VI, relating to putting the entire environment clearance letter in public domain through newspapers, it was stated that putting the complete letter with conditions in the newspaper may not be necessary rather it may be available on website of the company.

A typographic mistake was also pointed out in relation to the proposed amendment no. VII(iii) relating to threshold limit for thermal power projects wherein the 50 MW as mentioned for coal / lignite / naphtha / gas based power plant for category 'B' project should be 500 MW.

Additionally, the following suggestions were made:

- A representative of the concerned Nodal Ministry may be inducted as a Member in the EAC.
- Coal and coal washery projects should be considered as an integrated proposal.

Ministry of Panchayati Raj:

With regard to proposed amendment no. IV, relating to public consultation, it was stated that in respect of projects to be located in Scheduled Areas, the Gram Sabha should be consulted and their resolution obtained.

With regard to proposed amendment no. VIII, relating to procedure for conduct of public hearing, a member of the District Panchayat should be included in the "panel" for public hearing.

SEIAA, Karnataka:

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects have their associated environmental implications.

In respect of amendment no. VII(xviii), relating to threshold limit for area development projects, it should be retained at the existing level of 50 ha.

Guidelines for categorization of Category 'B' projects into B1 and B2 should be issued.

With regard to proposed amendment no. VII(xix), relating to applicability of general condition, it was stated that in respect of projects relating to removal of sand from river bed, category 'B' projects should be categorized as category 'A' if located within 5 km of the protected area instead of 10 km as given in the GC.

Department of Environment, Government of Maharashtra (SEIAA):

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects have their associated environmental implications.

With regard to the proposed amendment no. I relating to modernization and expansion proposals without increase in pollution load, the provision of self certification as proposed should be dropped. Instead certification should be got done by SPCB or some reputed technical institution like IIT.

SEAC, Meghalaya:

With regard to the proposed amendment no. I relating to modernization and expansion proposals without increase in pollution load, the provision of self certification as proposed should be dropped. Instead certification should be got done by some government recognized reputed technical institution.

With regard to proposed amendment no. III, relating to dispensation from TOR for category 'B' projects, it was stated that it should not be given.

With regard to proposed amendment no. VII(iii), relating to exemption from the purview of EIA for biomass based power plants to 50 MW, such a dispensation should not be given as these power plants will consume lot of biomass and it will be difficult to monitor on their actual use of biomass and other auxillary fuels. In this context, it was also stated that the distinction may be made with regard to agro biomass and any other type of biomass.

With regard to proposed amendment no. VII(xv), it was stated that no highway projects, either National Highway or State Highway in hilly terrain or Hill States or ecologically sensitive area should be exempted from purview of EIA.

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects have their associated environmental

implications. It was further stated that in respect of Hill States and hilly areas, the said limit may be rather brought down to 10,000 sq.m.

Ministry of Urban Development:

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the Ministry of Urban Development supports the proposed enhancement from 20,000 sq.m to 50,000 sq.m.

In respect of amendment no. VII(xviii), relating to threshold limit for area development projects, it was stated that Ministry of Urban Development supports the proposed enhancement from 50 ha to 100 ha.

The Chairman requested that a note may be provided giving statistical information regarding the built up area of various construction projects, based on data available with TCPO, which have come up in the country in the recent past and the trend on the size of projects under construction.

Punjab Pollution Control Board:

With regard to the proposed amendment no. VII(iv), relating to threshold limit of 5 tonnes per heat in respect of projects involving operation of furnaces, it was stated that the term 5 tonnes per heat would be applicable to submerge arc furnace and pre heating furnace while in respect of induction and electrical arc furnace the term will be 5 tonnes per hour. Further, the threshold limit of 5 tonnes per heat proposed for pre heating furnace is not in conformity with the threshold limit given for secondary metallurgical processing unit in the main Notification of 2006. It was suggested that the secondary metallurgical processes involving reheating furnace, the capacity may be changed to 10,000 - 15,000 TPA instead of 5,000 TPA.

With regard to the proposed amendment no. I relating to modernization and expansion proposals without increase in pollution load, the provision of self certification as proposed should be dropped. Instead certification should be got done by SPCB.

With regard to proposed amendment no. VII(iii), relating to exemption from the purview of EIA for biomass based power plants to 50 MW, it was stated that they are supportive of be said amendment. It was further mentioned that they already have 34 cases pending for environmental clearance for biomass based power plants of capacity ranging between 5 – 50 MW. The total capacity of these proposals amount to about 400 MW. Under the situation when there is a lot of power shortage, setting up of these power plants would be very useful. The Chairman asked them to send a note giving an estimate

of the availability of total biomass in terms of how much of MW capacity it can support, existing capacity and capacity in pipeline.

SEIAA, Haryana:

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects have their associated environmental implications. It was further stated that particularly in NCR region i.e. Gurgaon, Faridabad and Ballabhgarh, availability of water is a big issue as these areas are already in the dark zone from the point of view of groundwater availability.

With regard to proposed amendment no. VII(iii), relating to exemption from the purview of EIA for biomass based power plants to 50 MW, such a dispensation should not be given as these power plants are polluting and should be covered under EIA Notification.

With regard to proposed amendment no. VII(xix), relating to up scaling of category 'B' projects to category 'A' projects based on location in proximity to protected areas, it was stated that the list of eco-sensitive areas, critically polluted areas and protected areas may also be given in the Notification.

With regard to proposed amendment no. II, relating to decision of SEIAA by majority, it was stated that they support the proposal.

National Highway Authority of India, Ministry of Shipping, Road Transport and Highways:

No specific comment was made on the proposed amendments.

SEAC, Andhra Pradesh:

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects have their associated environmental implications. It was further stated that after the concept of green building start getting implemented and norms defined in this regard, the proposal could be considered at a later date.

With regard to proposed amendment no. IV, relating to public consultation, the mining projects upto 25 ha may be exempted from public hearing as was provided in the EIA Notification, 1994.

With regard to proposed amendment no. VII(iii) regarding exemption for biomass and non hazardous municipal waste based power plants upto 50 MW, it was stated that no exemption should be given. Further, it was also stated that a different category may be made for poultry litter based power plants.

With regard to proposed amendment no. V, relating to holding of public consultation for expansion projects involving enhancement of production by more than 50%, it was stated that some threshold limit should be provided rather than 50% as the absolute number is also very significant in terms of pollution potential.

Madhya Pradesh Pollution Control Board (SEIAA):

With regard to proposed amendment no. VII(xvii) relating to threshold limit for construction projects, it was stated that the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done as such projects have their associated environmental implications.

With regard to proposed amendment no. VII(iii) regarding exemption for biomass and non hazardous municipal waste based power plants upto 50 MW, it was stated that no exemption should be given.

With regard to proposed amendment no. III, relating to exemption from scoping for Category 'B' projects for three years, it was stated that mining projects should not be exempted from scoping.

As there was no further item for hearing, the meeting ended with a vote of thanks to the Chair.

****

LIST OF PARTICIPANTS

1. Shri J.M. Mauskar, Addl. Secretary, MoEF
2. Shri. R. Anandakumar, Advisor (Retd.)
3. Dr. B. Sengupta, Former Member Secretary, CPCB
4. Dr. G.K. Pandey, Advisor, MoEF
5. Dr. Nalini Bhat, Advisor, MoEF
6. Dr. S.K. Aggarwal, Director, MoEF
7. Dr. P.L. Ahujarai, Director, MoEF
8. Shri W. Bharat Singh, Deputy Director, MoEF
9. Dr. Rita Chauhan, MoEF
10. Shri M.R. Rajput, Deputy Director (IH), DGFASLI, Ministry of Labour and Employment, Mumbai
11. Shri B.P. Singh, Director of Mines Safety, DGMS, Dhanbad, Ministry of Labour & Employment
12. Shri D. N. Prasad, Director (Technical), Ministry of Coal
13. Shri Kanwer Pal, Secretary (Ecology & Environment), Govt. of Karnataka, SEAC, Bangalore
14. Shri G. N. Mohite, Technical Advisor, Department of Environment, Govt. of Maharashtra, SEAC, Mumbai.
15. Dr. B.K. Tiwari, Professor, NEHU, Shillong, SEAC, Meghalaya
16. Shri Rajeev Goyal, Punjab Pollution Control Board, SEAC, Punjab
17. D.R. Goyal, Punjab Pollution Control Board, SEAC, Punjab
18. Shri A.K. Mehta, Secretary, SEAC, Haryana
19. Dr. B. Mukhopadhya, NHAI, Ministry of Shipping, Road Transport and Highways, New Delhi
20. Shri J.P. Agrawal, Ministry of Urban Development
21. Shri S.K. Agarwal, Asst. Director, Ministry of Micro, Small and Medium Enterprises
22. Dr. Tapas Kr. Gupta, Chief Engineer, W. B. Pollution Control Board, SEAC, West Bengal

23. Ms. Susan George, Director, Ministry of Panchayati Raj
24. Shri H.G. Upreti, Consultant, Ministry of Panchayati Raj
25. Prof. M. Anji Reddy, JNTUH, Chairman, SEAC, Andra Pradesh
26. Prof. K. Bayapu Reddy, Member, SEAC, Andra Pradesh
27. Shri Mukund Phatak, Nodal Officer, SEIAA, Madhya Pradesh

Annexure-VI

Ministry of Environment & Forests
(IA Division)
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Summary record of the Meeting with State Governments and State Agencies regarding the proposed Draft Amendments issued vide S.O. 195(E) dated 19.1.2009 to EIA Notification, 2006 held on 3.9.2009 at 1100 hours.

Ministry of Environment & Forests had issued a Notification vide S.O. 195(E) dated 19.1.2009 for inviting comments / suggestions from all the stakeholders on the proposed amendments to EIA Notification, 2006. The comments received were categorized into four categories namely; (i) Central Government Ministries / Departments, (ii) State Governments and State Agencies, (iii) Civil Society / NGOs and (iv) Industries and their Associations. In accordance with the procedure prescribed under Environment (Protection) Act, 1986 and the Rules made there under, it was decided to have a hearing of various stakeholders, category-wise, from whom comments were received on the draft Notification for its finalization. Further, as the number of responses received in the Category of (i) Civil Society / NGOs and (ii) Industries and their Associations were large, it was decided to meet them in two groups each. Accordingly, the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary, MoEF held a meeting with State Governments and State Agencies on 3.9.2009 at 1100 hours in Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi. The list of participants is annexed.

Shri J.M. Mauskar, Additional Secretary and Chairman of the Committee welcomed all the participants and gave a brief overview about the proposed amendments and the scope of the meeting. He said that while interacting, the participants may like to bring out comparatively more important items from amongst their written communications. Further, he also stated that though the mandate of this hearing is for finalization of the proposed amendments contained in the Draft Notification dated 19.1.2009, yet there may be other comments / observations which are beyond the scope of this Notification. Out of these, the ones which could be resolved administratively could be taken care of through administrative order / circular while the remaining ones could be considered subsequently when preparing future amendments. Thereafter, each of the participants was heard one by one. A summary record of the views expressed by various participants from State Governments and State Agencies is as under:-

Government of Punjab:

With regard to the proposed amendment no. VII(iii) relating to exemption of biomass based power plants upto 50 MW and using auxillary fuel upto 15%, the State Government supported the proposal. It was stated that as per their estimate, about 22.65 million tonnes of agro residue and agro industrial / processing waste is generated annually,

which can meet the fuel requirement for about 1500 MW of power generation. In addition, it was also stated that the co-generation power plant based on utilization of excess steam from high pressure boilers should also be exempted from EIA clearance.

Government of Jammu & Kashmir:

It was stated that EIA Notification, 2006 provides for obtaining environmental clearance for mining projects having lease area of 5 ha and above and the proposed amendment does not envisage any change in the cut off limit; however, it would be desirable to cover projects with lease area less than 5 ha as well within the ambit of EIA Notification.

It was stated that cement plants upto 50 TPD capacity with vertical shaft kilns and stand alone grinding units should be exempted from the purview of EIA Notification.

With regard to the proposed amendment no. VII(iv), under the sub heading note, in para 2, the proposed exemption limit from EIA may be raised from 5 tonnes per heat to 8 tonnes per heat.

Government of Uttar Pradesh:

With regard to the proposed amendment no. I, relating to modernization and expansion proposals without any increase in pollution load to be exempt from the purview of the EIA Notification, the State Government is not in favour of the same.

A clarification was also sought whether mining of sand and gravel is also covered under the Notification.

With regard to the proposed amendment no. VII(iii) relating to exemption of biomass based power plants upto 50 MW and using auxillary fuel upto 15%, the State Government did not support the proposal.

With regard to the proposed amendment no. VII(xii) relating to Airport projects, it was stated that the entry as given in the EIA Notification, 2006 should be retained as it is and no amendment should be made in this regard.

With regard to the proposed amendment no. VII(xvii) & (xviii) relating to construction projects and area development projects, it was stated that the limits as given in the EIA Notification, 2006 should be retained and no amendment should be made in this regard.

It was also stated that the Notification should clearly state whether Expressways are also covered within the purview of EIA Notification as presently it talks about Highways only.

It was also stated that the linkage / relationship between SEAC and SEIAA should be clearly specified.

Government of NCT of Delhi:

With regard to the proposed amendment no. I, relating to modernization and expansion proposals without increase in pollution load, the provision of self certification as proposed should be dropped.

With regard to the proposed amendment no. VII(iii), relating to exemption of biomass based power plants upto 50 MW using auxillary fuel upto 15%, it was stated this exemption should not be provided because of the related issues inter-alia (i) continuous supply of fuel on sustainable basis, (ii) management of ash, (iii) water availability and water linkage, (iv) storage of fuel and its bio-degradation in the process in terms of its calorific value and (v) fire hazards in storage.

With regard to the proposed amendment no. VII(xvii) & (xviii), relating to enhancement of limits of construction projects and area development projects, it was stated that the State Government does not agree with the proposed amendment and the existing limits should continue. It was stated that particularly in the NCR Region, there are resource constraints in terms of water availability. The SPM levels are already high. The Municipal Authorities cannot take care of the environmental aspects due to lack of capacity and are already overloaded with other works.

Government of Gujarat:

With regard to the proposed amendment no. IX, relating to procedure for conduct of public hearing, it was stated that the status quo should be maintained in this regard and no amendment should be made.

With regard to the proposed amendment no. II, relating to decision of SEIAA by majority, the State Government has supported the proposal; however, in such cases the Central Government in the Ministry of Environment & Forests should be informed, case by case where consensus could not be arrived and decision has been taken by majority. It may also be necessary that all the three members should be present for taking a decision on the proposal.

With regard to the proposed amendment no. VII(iii), relating to exemption of biomass based power plant upto 50 MW, the State Government has supported the proposal.

With regard to the proposed amendment no. VII(xvii) & (xviii), relating to enhancement of limits of construction projects and area development projects, it was stated that the State Government does not agree with the proposed amendment and the

existing limits should continue. The issues relating to pollution due to parking and fugitive emissions are the issues of concern in such projects.

With regard to the proposed amendment no. VII(xii), under sub heading note, point no. 2 relating to exemption for modernization of airport projects, it was stated that the term modernization need to be defined carefully. It is more relevant as within the funnel area of the airport, restrictions is imposed on construction activities.

As there was no further item for hearing, the meeting ended with a vote of thanks to the Chair.

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LIST OF PARTICIPANTS

1. Shri J.M. Mauskar, Addl. Secretary, MoEF
2. Shri. R. Anandakumar, Advisor (Retd.)
3. Dr. B. Sengupta, Former Member Secretary, CPCB
4. Dr. Nalini Bhat, Advisor, MoEF
5. Dr. S.K. Aggarwal, Director, MoEF
6. Dr. P.L. Ahujarai, Director, MoEF
7. Dr. Rita Chauhan, MoEF
8. Shri Yogesh Goel, Chairman, Punjab Pollution Control Board.
9. Dr. Babu Ram, Member Secretary, Punjab Pollution Control Board, Patiala.
10. Shri Anurag Kumar Yadav, Assistant Director, Directorate of Environment, Uttar Pradesh
11. Shri C.R. Babu, SEAC, Delhi.
12. Dr. A.K. Ambasht, Member Secretary, Delhi Pollution Control Committee
13. Dr. Yashpal Singh, Director, Environment, Govt. of Uttar Pradesh, Lucknow.
14. Shri Vinod Ranjan, Chairman, J&K State Pollution Control Board, Srinagar.
15. Shri P.K. Ghosh, Gujarat SEIAA.

Annexure-VII

Ministry of Environment & Forests
(IA Division)
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Summary record of the Meeting with Industries and their Associations regarding the proposed Draft Amendments issued vide S.O. 195(E) dated 19.1.2009 to EIA Notification, 2006 held on 4.9.2009 at 1000 hours.

Ministry of Environment & Forests had issued a Notification vide S.O. 195(E) dated 19.1.2009 for inviting comments / suggestions from all the stakeholders on the proposed amendments to EIA Notification, 2006. The comments received were categorized into four categories namely; (i) Central Government Ministries / Departments, (ii) State Governments and State Agencies, (iii) Civil Society / NGOs and (iv) Industries and their Associations. In accordance with the procedure prescribed under Environment (Protection) Act, 1986 and the Rules made there under, it was decided to have a hearing of various stakeholders, category-wise, from whom comments were received on the draft Notification for its finalization. Further, as the number of responses received in the Category of (i) Civil Society / NGOs and (ii) Industries and their Associations were large, it was decided to meet them in two groups each. Accordingly, the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary, MoEF held a meeting with Industries and their Associations on 4.9.2009 at 1000 hours in Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi. The list of participants is annexed.

Shri J.M. Mauskar, Additional Secretary and Chairman of the Committee welcomed all the participants and gave a brief overview about the proposed amendments and the scope of the meeting. He said that while interacting, the participants may like to bring out comparatively more important items from amongst their written communications. Further, he also stated that though the mandate of this hearing is for finalization of the proposed amendments contained in the Draft Notification dated 19.1.2009, yet there may be other comments / observations which are beyond the scope of this Notification. Out of these, the ones which could be resolved administratively could be taken care of through administrative order / circular while the remaining ones could be considered subsequently when preparing future amendments. Thereafter, each of the participants was heard one by one. A summary record of the views expressed by various participants from Industries and their Associations is as under:-

Indian Association of Mini Cement Plants, Indore, Madhya Pradesh:

It was stated that guidelines for categorization of projects into B1 and B2 categories need to be issued on priority. The small cement plants upto 100 TPD capacity should be categorized as B2. The mining projects below 25 ha may be categorized as B2.

Goa Mineral Ore Exporters Association:

With regard to the proposed amendment no. I, it was stated that the term 'pollution load' need to be defined with more clarity particularly in the context of mining. Similarly, the term 'land requirement' in the context of mining relates to the lease area only and may be so specified in the Notification.

With regard to the proposed amendment no. IV(i), relating to exemption from public consultation for dredging, the proposal was supported by the Association.

With regard to the proposed amendment no. V, regarding holding of public hearing for expansion projects involving enhancement of production by more than 50%, it was stated that public hearing should be exempted even if expansion is more than 50%, as the process of public hearing delays the environment clearance. The requirement of public hearing or otherwise should be decided by the EAC.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that only information about grant of clearance to the said project should be given in the newspaper along with address of the website where the detailed EC letter with conditions could be seen. The EC letter may be placed on the website of the company as well as the regulatory agency.

With regard to the proposed amendment no. IX, relating to procedure for conduct of public hearing as given in Appendix IV, in para 1.0, the public participation should be restricted to project affected people only.

Sesa Goa Limited:

With regard to proposed amendment no. VII(i), relating to mining projects, it was stated that mining projects with lease area less than 25 ha should be exempted from public hearing.

With regard to the proposed amendment no. V, regarding holding of public hearing for expansion projects involving enhancement of production by more than 50%, it was stated that public hearing should be exempted even if expansion is more than 50%, as the process of public hearing delays the environment clearance.

Vedanta Aluminium Limited:

With regard to the proposed amendment no. V, regarding holding of public hearing for expansion projects involving enhancement of production by more than 50%, it was stated that public hearing should be exempted even if expansion is more than 50%, if no additional land and no increase in pollution load is involved, as the process of public hearing delays the environment clearance.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that only information about grant of clearance to the said project should be given in the newspaper along with address of the website where the detailed EC letter with conditions could be seen. The EC letter may be placed on the website of the company as well as the regulatory agency.

Federation of Indian Mineral Industries:

It was stated that they are generally in agreement with the proposed amendments; however, the following suggestions were made.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that this should be made applicable only for Category 'A' projects and not for Category 'B' projects as their impact is relatively small.

With regard to the proposed amendment no. V, regarding holding of public hearing for expansion projects involving enhancement of production by more than 50%, it was stated that public hearing should be exempted even if expansion is more than 50%, if there is no increase in mine lease area, as the process of public hearing delays the environment clearance. The issue regarding holding of public hearing or otherwise in such cases may be decided by EAC.

With regard to the proposed amendment no. X, relating to procedure for appraisal, in para 3, there is no clarity on whether TOR is required for preparing the EIA in those cases where public consultation is not mandatory. This aspect needs to be clarified in more details.

Reliance Industries Ltd.:

With regard to the proposed amendment no. I, relating to modernization or expansion proposals without any increase in pollution load, it was stated that this dispensation should be applicable to even change in product mix and further that the condition of without any increase in pollution load and additional land requirement may be replaced by without increase in pollution load and land requirement beyond already permitted limit.

With regard to proposed amendment no. VII, relating to public hearing for expansion projects for enhancement of more than 50%, it was stated that the term 50% is vague and it should be replaced by some realistic capacity particularly in relation to chemical industry.

In addition, it was stated that some of the other relevant paras of the main Notification also need modification / amendment. Particular attentions in this regard was drawn to para 10 on post environment clearance monitoring in which in sub para (i), in the

period for submission of reports may be changed from 1st June and 1st December to 31st March and 30th September respectively. It was also stated that the issues relating to delay in CRZ clearance should also be looked into.

Association of Indian Mini Blast Furnaces:

With regard to the proposed amendment no. I, relating to modernization or expansion proposals without any increase in pollution load, it was stated that this dispensation should be applicable to even change in product mix. After the applicant has submitted the documents in support of their claim that there is no increase in pollution load and there is no additional land and water requirement, the regulatory authority should give their decision within 60 days.

With regard to the proposed amendment no. VII(iii), relating to thermal power plants, a typographic mistake was pointed out i.e. for Category 'B' projects, power plants based on coal, lignite, naphtha and gas, the cut off limit should be 500 MW in place of 50 MW.

Standard TORs should be evolved and notified to avoid delay in the EC process.

Confederation of Indian Industry:

With regard to the proposed amendment no. I, relating to modernization or expansion proposals without any increase in pollution load, it was stated that this dispensation should be applicable to even change in product mix.

With regard to the proposed amendment no. V, regarding holding of public hearing for expansion projects involving enhancement of production by more than 50%, it was stated that the decision with regard to holding of public hearing or otherwise may be left to EAC.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that this should be made applicable only for Category 'A' projects and not for Category 'B' projects as their impact is relatively small.

Standard TORs should be evolved and notified to avoid delay in the EC process.

Hindustan Zinc Ltd., Udaipur, Rajasthan:

With regard to proposed amendment no. I, relating to modernization or expansion projects, it was stated that the term pollution load should be defined with more clarity and some flexibility should be provided for accounting for the pollution load.

With regard to the proposed amendment no. VII(iv), it was stated that the primary metallurgical processes with capacity upto 500 TPA should be exempted from the purview of EIA Notification.

DLF Limited:

With regard to the proposed amendment no. VII(xvii), relating to threshold limit for construction projects, the company welcomed the proposed enhancement from 20,000 sq.m. to 50,000 sq.m. It was further mentioned that the existing upper limit of 1,50,000 sq.m. may also be raised to 5,00,000 sq.m.

It was also stated that Ministry may notify certain guidelines with regard to solar lighting, rainwater harvesting, sewage treatment etc., which could be implemented in the project by all the developers.

The Chairman requested them to provide data, if any, available with them on the projects taken up in the country during the last three years under different area(size) brackets. The future projections as per the business projections (size wise projects distribution) may also be given.

With regard to the proposed amendment no. VI, regarding post project monitoring that giving information regarding clearance of projects to Panchayats, Local Bodies etc. and putting the EC letters in newspapers is very difficult and has lot of problems associated with it. It should not be insisted upon.

NAREDCO, New Delhi:

With regard to the proposed amendment no. VII(xvii), relating to threshold limit for construction projects, the company welcomed the proposed enhancement from 20,000 sq.m. to 50,000 sq.m. It was further mentioned that the existing upper limit of 1,50,000 sq.m. may also be raised to 5,00,000 sq.m.

It was also stated that Ministry may notify certain guidelines with regard to solar lighting, rainwater harvesting, sewage treatment etc., which could be implemented in the project by all the developers.

Ispat Industries Ltd.:

Shri Arnab Kumar Hazra who came to attend the meeting left without making any submissions / observations before the Committee.

Aparant Iron & Steel Pvt. Ltd., Panaji, Goa:

Shri Ashok K. Srivastava who came to attend the meeting left without making any submissions / observations before the Committee.

Ambuja Cement Ltd.:

With regard to the project amendment no. VII(i), relating to mining projects, it was stated that similar to coal mine projects, a separate category may be made for limestone mining projects and the projects upto mine lease area of 150 ha should be exempted from the purview of EIA Notification.

The stand alone cement grinding units should also be exempted from the purview of EIA Notification.

It was also stated that there are delays in holding of public hearings. Some other mechanism should be evolved and put in place to minimize these delays.

Indian Oil Corporation Ltd., Noida:

With regard to the proposed amendment no. I, relating to modernization or expansion projects without any increase in pollution load, it was stated that the term pollution load should be defined with more clarity or it may be replaced by emission less than prescribed standards.

With regard to the proposed amendment no. III, to exempt Category 'B' projects from TOR for three years, it was stated that Category 'B' projects should be totally exempted from TOR.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that only information about grant of clearance to the said project should be given in the newspaper along with address of the website where the detailed EC letter with conditions could be seen. The EC letter may be placed on the website of the company as well as the regulatory agency.

With regard to the proposed amendment no. VII(xix), relating to general condition, it was stated that in case of pipeline projects, the distance criteria of 10 km from the protected areas should be changed to 3 km distance.

Navi Mumbai Special Economic Zone (NMSEZ), Mumbai:

With regard to the proposed amendment no. VII(xvii), relating to construction projects, the proposed enhancement of threshold limit from 20,000 sq.m. to 50,000 sq.m

was welcomed. It was, however, stated that the upper limit of 1,50,000 sq.m may not be necessary.

National Thermal Power Corporation Ltd. (NTPC):

With regard to the proposed amendment no. I, relating to expansion and modernization of projects, it was stated that it should also include change in configuration of the unit size.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that only information about grant of clearance to the said project should be given in the newspaper along with address of the website where the detailed EC letter with conditions could be seen. The EC letter may be placed on the website of the company as well as the regulatory agency.

With regard to the proposed amendment no. VIII, relating to Form-I, it was stated that in column 14 & 15, the word 'interlined' should be replaced by the word 'interlinked'. Further, under the sub heading note, the requirement of CRZ Map, Wildlife Map and recommendations of SCZMA, Chief Wildlife Warden at the stage of TOR may be relooked and reconsider as it would affect the project cycle. An unrelated issue relating to charging of fee by SPCBs for conduct of public hearing was also raised.

Matri Sadan, Hardwar:

With regard to the proposed amendment no. VII(i), it was stated that the EIA Notification should be made applicable to mining projects of lease area even less than 5 ha. It was particularly important in view of mining of sand from river Ganges, which is adversely affecting the ecology and environment of the river.

Further with regard to amendment no. VII(xix), relating to mining within 10 km of the eco-sensitive zone, it was stated that river Ganges is a sacred river. For the purpose of mining, the Kumbh Mela area is being reduced which is also affecting the environment. The river Ganges should be excluded from mining.

Alkali Manufacturers Association of India:

With regard to the proposed amendment no. I, relating to modernization or expansion proposals without any increase in pollution load, it was stated that this dispensation should be applicable to even change in product mix.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that only information about grant of clearance to the said project should be given in the newspaper along with address of the website where the

detailed EC letter with conditions could be seen. The EC letter may be placed on the website of the company as well as the regulatory agency.

With regard to the proposed amendment no. VII(vi), under sub para (ii), the position with regard to existing industries of less than 300 TPD capacity need to be clarified.

Cement Manufacturers Association:

With regard to the proposed amendment no. VII(xiv), item 7(e), in the entry relating to dredging, a differentiation between maintenance dredging and capital dredging is require to be made. The maintenance dredging should be exempted from the purview of EIA.

With regard to the proposed amendment no. IX, regarding procedure for conduct of public hearing, under para 7.2, it should be provided that if public hearing is not completed within the prescribed time limit, it should be exempted.

UNITECH Ltd., Gurgaon:

With regard to the proposed amendment no. VII(xvii), relating to threshold limit for construction projects, the company welcomed the proposed enhancement from 20,000 sq.m. to 50,000 sq.m. It was further stated that the various SEIAAs have been adopting different procedures and the format of their ECs are also different. It would be desirable to issue necessary guidelines for uniformity.

As there was no further item for hearing, the meeting ended with a vote of thanks to the Chair.

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LIST OF PARTICIPANTS

1. Shri J.M. Mauskar, Addl. Secretary, MoEF
2. Prof. S.P. Gautam, Chairman, CPCB
3. Shri. R. Anandakumar, Advisor (Retd.)
4. Dr. B. Sengupta, Former Member Secretary, CPCB
5. Dr. Nalini Bhat, Advisor, MoEF
6. Dr. S.K. Aggarwal, Director, MoEF
7. Dr. P.L. Ahujarai, Director, MoEF
8. Dr. Rita Chauhan, MoEF
9. Shri O.P. Mittal, Indian Associatin of Mini Cement Plants, Indore, Madhya Pradesh.
10. Shri Glenn Kalavampara, Secretary, Goa Mineral Ore Exporters Association, Panaji, Goa
11. Shri Krishna Kulsarui, Manager, Sesa Goa Ltd., Panjim, Goa
12. Dr. J.K. Soni, Head (Env.), Vedanta Aluminium Ltd., New Delhi.
13. Ms. Sarmistha Das, Federation of Indian Mineral Industries.
14. Dr. Jitendra D. Desai, Vice President & Chief (Env.), Centre for HSE Excellence, Reliance Industries Ltd.
15. Shri R.K. Kapur, President, Association of Indian Mini Blast Furnaces.
16. Ms. Nidhi Ladha, Dy. Director, Centre of Excellence for Sustainable Development, New Delhi.
17. Ms. Seema Arora, Centre of Excellence for Sustainable Development, New Delhi.
18. Shri CSR Mehta, General Manager, Hindustan Zinc Ltd., Udaipur, Rajasthan.
19. Shri R.S. Sarupria, AGM, Hindustan Zinc Ltd., Bhilwara, Rajasthan.
20. Shir N. Datta Gupta, AGM (Env.), Unitech Ltd., Gurgaon.
21. Dr. S.P. Chakrabarti, Sr. Advisor (Env.), DLF Ltd., New Delhi.
22. Ms. N. Lanjana Rao, Manager (Env.), DLF Ltd., New Delhi.
23. Shri Jyotiraman Mukherjee, Manager (Env.), DLF Ltd., New Delhi.
24. Shri K.P. Nyati, CEO, FIMI

25. Shri Arnab Kumar Hazra, Economist, Ispat Industries
26. Shri Ashok K. Srivastava, Executive Director, Aparant Iron & Steel Pvt. Ltd., Panaji, Goa.
27. Shri Sandeep Shrivastava, Ambuja Cements Ltd.
28. Shri Rajeev Talwar, Group Executive Director, DLF, New Delhi.
29. Shri S.B. Chatterjee, DGM, Indian Oil Corporation Ltd., Noida.
30. Shri N.H. Hosabettu, Head (Env.), NMSEZ, Navi Mumbai.
31. Shri L.K. Jha, Sr. Project Manager, Indian Oil Corporation Ltd., Noida.
32. Shri K.K. Sinha, Chief Project Manager, Indian Oil Corporation Ltd., Noida.
33. Brig. R.R. Singh, DG, NAREDCO, New Delhi.
34. Dr. B.J. Prasad, AGM, NTPC, Noida.
35. Shri Brahmchari Dayanand, Swami Nigmanand Saraswati, Matri Sadan, Hadrwar, Uttarakhand.

Annexure-VIII

Ministry of Environment & Forests
(IA Division)
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Summary record of the Meeting with Industries and their Associations regarding the proposed Draft Amendments issued vide S.O. 195(E) dated 19.1.2009 to EIA Notification, 2006 held on 4.9.2009 at 1430 hours.

Ministry of Environment & Forests had issued a Notification vide S.O. 195(E) dated 19.1.2009 for inviting comments / suggestions from all the stakeholders on the proposed amendments to EIA Notification, 2006. The comments received were categorized into four categories namely; (i) Central Government Ministries / Departments, (ii) State Governments and State Agencies, (iii) Civil Society / NGOs and (iv) Industries and their Associations. In accordance with the procedure prescribed under Environment (Protection) Act, 1986 and the Rules made there under, it was decided to have a hearing of various stakeholders, category-wise, from whom comments were received on the draft Notification for its finalization. Further, as the number of responses received in the Category of (i) Civil Society / NGOs and (ii) Industries and their Associations were large, it was decided to meet them in two groups each. Accordingly, the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary, MoEF held a meeting with Industries and their Associations on 4.9.2009 at 1430 hours in Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi. The list of participants is annexed.

Shri J.M. Mauskar, Additional Secretary and Chairman of the Committee welcomed all the participants and gave a brief overview about the proposed amendments and the scope of the meeting. He said that while interacting, the participants may like to bring out comparatively more important items from amongst their written communications. Further, he also stated that though the mandate of this hearing is for finalization of the proposed amendments contained in the Draft Notification dated 19.1.2009, yet there may be other comments / observations which are beyond the scope of this Notification. Out of these, the ones which could be resolved administratively could be taken care of through administrative order / circular while the remaining ones could be considered subsequently when preparing future amendments. Thereafter, each of the participants was heard one by one. A summary record of the views expressed by various participants from Industries and their Associations is as under:-

Sanmar Speciality Chemicals Ltd., Chennai:

It was stated that the term 'product mix' used in the EIA Notification, 2006 needs to be defined and clarified.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that only information about grant of clearance to the said project should be given in the newspaper along with address of the website where the detailed EC letter with conditions could be seen. The EC letter may be placed on the website of the company as well as the regulatory agency.

Oil India Ltd., Assam:

With regard to proposed amendment no. I, relating to modernization or expansion proposals without increase in pollution load and without any additional land requirement, it was stated that the additional land should be qualified further as additional land outside the project or plant premises / outside the mine lease area.

With regard to the proposed amendment no. V, relating to public hearing for expansion project, it was stated that for the hydrocarbon industry, the expansion projects should be exempted from public hearing even if enhancement of production is more than 50%.

Tata Chemicals Ltd., Babrala, Uttar Pradesh:

With regard to the proposed amendment no. I, relating to modernization or expansion proposals without increase in pollution load, it was stated that the proposed exemption should be applicable to change in product mix as well. The term 'additional land' requirement may be further qualified as 'additional land over and above the land in possession of the company'. Further, it was also stated that in the event of a dispute between the claims of the company and the SPCB regarding increase in pollution load, there should be a resolution mechanism in place.

With regard to the proposed amendment no. V, the public hearing should be dispensed with even for enhancement of production by more than 50%.

It was stated that clarification may be given whether under item 5(f) of the schedule, bio-diesel require environmental clearance or not. It was also stated to clarify the other item 5(a), single super phosphate customized fertilizers also are covered or not.

Pharmaceutical Export Promotion Council (PHARMEXCIL):

With regard to the proposed amendment no. I, relating to modernization or expansion proposals without increase in pollution load, it was stated that the proposed exemption should be applicable to change in product mix as well. The proviso clause of 'without any increase in pollution load' should be qualified as 'without any increase in

pollution load after environment control measures'. Further, the condition of no additional water requirement should be dropped.

With regard to the proposed amendment no. V, the public hearing should be dispensed with even for enhancement of production by more than 50%, if no increase in pollution load in case of pharmaceutical products.

Oil and Natural Gas Corporation Ltd., Western Offshore Basin, Mumbai:

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that only information about grant of clearance to the said project should be given in the newspaper along with address of the website where the detailed EC letter with conditions could be seen. The EC letter may be placed on the website of the company as well as the regulatory agency.

It was stated that clarification need to be provided for conduct of public hearing in respect of off shore drilling project falling between 5 km and 22 km offshore.

Gujarat Alkalies & Chemicals Ltd., Baroda:

No specific comments for made; however, it was stated that clarification may be given whether their projects which are located in industrial areas are covered under the provisions of the EIA Notification.

SGS India Pvt. Ltd., Gurgaon:

With regard to the proposed amendment no. IX, relating to procedure for conduct of public hearing, clear guidelines should be issued as to what should be done when public hearing cannot be conducted due to law and order situation. The project should not suffer in such a situation. If public hearing cannot be done after 2-3 repeated attempts what should happen.

Guidelines should be issued for quality of EIA, use of software for impact assessment and risk assessment.

Confederation of Real Estate Developers' Associations of India (CREDAI):

With regard to proposed amendment no. VII(xvii), regarding the threshold limit of construction projects, it was stated that the proposed limit of 50,000 sq.m may be increased to 1,50,000 sq.m. It was also stated that guidelines / environmental norms may be issued which could be followed by all the developers while implementing the project.

It was stated that construction projects should be appraised by SEIAA rather it should be done by the respective Planning Authorities.

It was also stated that CRZ norms should not be applied to old buildings so as to enable them to rehabilitate such buildings.

The Chairman requested them to provide data, if any, available with them on the projects taken up in the country during the last three years under different area(size) brackets. The future projections as per the business projections (size wise projects distribution) may also be given.

Grasim Industries Ltd.:

With regard to the proposed amendment no. I, relating to modernization or expansion proposals without increase in pollution load, it was stated that the proposed exemption should be applicable to change in raw mix and product mix as well. The term no increase in pollution load may be replaced by the term no significant increase in pollution load. Further, in place of no additional water requirement some limit may be prescribed upto which additional water could be used for the expansion project.

With regard to the proposed amendment no. V, regarding holding of public hearing for expansion projects involving enhancement of production by more than 50%, it was stated that public hearing should be exempted even if expansion is more than 50%, as the process of public hearing delays the environment clearance. The requirement of public hearing or otherwise should be decided by the EAC.

With regard to the proposed amendment no. VI(i), relating to publication of EC letter in the newspaper, it was stated that only information about grant of clearance to the said project should be given in the newspaper along with address of the website where the detailed EC letter with conditions could be seen. The EC letter may be placed on the website of the company as well as the regulatory agency.

With regard to proposed amendment no. VII(iii), under the sub heading note in para (ii), in place of the term 'non hazardous municipal waste', the term 'municipal waste' may be used.

With regard to proposed amendment no. VII(xix), the condition of 10 km from the boundary of protected areas should be deleted.

With regard to proposed amendment no. IX, relating to procedure for conduct of public hearing, under para 1.0, the requirement of District-wise public hearing should be deleted. There should be only one public hearing.

Dalmia Cement Ltd.:

With respect to proposed amendment no. VII(iii), under sub heading note, in para (iii), the provision of auxillary fuel upto 15% should also be made for waste heat boiler power plants.

All India Steel Re-roller Association:

With regard to the proposed amendment no. VII(iv), it was stated that re-rolling steel mills should be exempted from the purview of EIA Notification.

Indian Chemical Council, Mumbai:

With regard to the proposed amendment no. I, relating to modernization or expansion proposals without increase in pollution load, it was stated that the proposed exemption should be applicable to change in product mix as well. Further, it was stated that for pipeline projects, the condition of no additional land should be dropped.

With regard to the proposed amendment no. V, relating to public hearing for expansion project, it was stated that the pipeline expansion projects should be exempted from public hearing.

With regard to the proposed amendment no. VII(iv), under the sub heading note in para (ii), the term 'tonnes per heat' may be replaced by 'tonnes per hour'.

Transtech Green Power Pvt. Ltd., Jaipur:

With regard to the proposed amendment no. VII(iii), regarding exemption of biomass based power plants upto 50 MW, the proposal is welcomed.

EMAAR MGF Developers:

With regard to the proposed amendment no. VIII, Form-I, in the sub heading note under para 2, the condition of 10 km distance from Wildlife Sanctuary and National Park should not be applicable to construction projects.

IDFC Ltd.:

With regard to the proposed amendment no. I, the self certification regarding no increase in pollution load should not be done. It should be by some government agency.

With regard to the proposed amendment no. III, the proposed exemption for 3 years from TOR for Category 'B' projects should not be done.

With regard to the proposed amendment no. VII(xiv), regarding dredging, there should be guidelines /clarifications for maintenance dredging and quantity of dredging. Further, more clarity needs to be given about break water.

With regard to the proposed amendment no. VII(xv), no dilution should be done for State Highways in hilly terrain. Expressways may also be included along with highways. The proposed criteria of 30 km may be raised to 100 km.

The proposed amendment no. VII(xvii), relating to threshold limit for construction projects, the proposed enhancement from 20,000 sq.m to 50,000 sq.m should not be done.

It was also stated that guidelines may be issued for SEIAAs / SEACs to avoid delays.

Malbros Impex Pvt. Ltd.:

In the proposed amendment no. VII(xiv), the term 'break water' should be clarified.

As there was no further item for hearing, the meeting ended with a vote of thanks to the Chair.

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LIST OF PARTICIPANTS

1. Shri J.M. Mauskar, Addl. Secretary, MoEF
2. Shri. R. Anandakumar, Advisor (Retd.)
3. Dr. B. Sengupta, Former Member Secretary, CPCB
4. Dr. Nalini Bhat, Advisor, MoEF
5. Dr. S.K. Aggarwal, Director, MoEF
6. Dr. P.L. Ahujarai, Director, MoEF
7. Dr. Rita Chauhan, MoEF
8. Shri M. Veluchamy, Sanmar Speciality Chemicals Ltd., Chennai.
9. Shri B.N. Sahoo, Oil India Ltd., Assam
10. Shri V.S. Mathur, Tata Chemicals Ltd., Babrala, Uttar Pradesh.
11. Shri Venkat Jasti, Chairman, Pharmexcil, Hyderabad.
12. Dr. P.V.N. Reddy, Pharmexcil, Hyderabad
13. Ms. Mridul Jain, Director, Department of Commerce, New Delhi.
14. Shri U. Samanta, DGM, ONGC, Mumbai
15. Shri B.C. Chokshi, Gujarat Alkalies & Chemicals Ltd.
16. Shri Sunil Gupta, SGS India Pvt. Ltd., Gurgaon.
17. Dr. Rahul Srivastava, SGS India Pvt. Ltd., Gurgaon.
18. Dr. K.V. Reddy, General Manager, Grasim Industries Ltd., Delhi
19. Dr. S.P. Ghosh, Advisor (Tech), Cement Manufacturers Association, Noida.
20. Shri Vinod Vashisht, President, All India Steel Re-Rollers Association, New Delhi.
21. Shri A.K. Bhargava, CEO, All India Steel Re-Rollers Association, New Delhi.
22. Dr. K.C. Narang, Dalmia Cement Ltd.
23. Shri Pradeep Jain, Chairman, Parsvnath Developers Ltd., New Delhi.
24. Shri Ashim Gandhi, Parsvnath Developers Ltd., New Delhi.
25. Shri Niranjan Hiranandani, CREDAI - Hiranandani Construction, Mumbai.

26. Shri G.P. Savlani, Resident Director, CREDAI, Mumbai
27. Shir Jyoti Prakash, Hiranandani Construction.
28. Shri S.K. Hazra, Chairman, Indian Chemical Council, Mumbai.
29. Shri Amitabh Tandon, Director, Transtech Green Power Pvt. Ltd., Jaipur.
30. Shri R.N. Pandey, EMAAR MGF Developers.
31. Shri Shishir Lal, EMAAR MGF Developers.

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Annexure-IX

Ministry of Environment & Forests
(IA Division)
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Summary record of the Meeting with the officials of Ministry of New & Renewable Energy regarding the proposed Draft Amendments issued vide S.O. 195(E) dated 19.1.2009 to EIA Notification, 2006 held on 7.9.2009 at 3.00 PM.

Ministry of Environment & Forests had issued a Notification vide S.O. 195(E) dated 19.1.2009 for inviting comments / suggestions from all the stakeholders on the proposed amendments to EIA Notification, 2006. The comments received were categorized into four categories namely; (i) Central Government Ministries / Departments, (ii) State Governments and State Agencies, (iii) Civil Society / NGOs and (iv) Industries and their Associations. In accordance with the procedure prescribed under Environment (Protection) Act, 1986 and the Rules made there under, it was decided to have a hearing of various stakeholders, category-wise, from whom comments were received on the draft Notification for its finalization. Further, as the number of responses received in the Category of (i) Civil Society / NGOs and (ii) Industries and their Associations were large, it was decided to meet them in two groups each. Accordingly, the Committee constituted under the Chairmanship of Shri J.M. Mauskar, Additional Secretary, MoEF held meetings with various stakeholders. During the course of consideration of the comments received, it was observed that in the context of one of the proposed amendments which seeks to provide exemption from the purview of EIA Notification for biomass based power plants upto 50 MW, the various State Governments have also given conflicting views. The Ministry of New & Renewable Energy being the nodal Ministry on the subject, it was decided to have a meeting with the officials of MNRE to discuss the matter and solicit their views before finalizing the recommendations of the Committee on the subject. Additionally, it was also felt that the views expressed by the Ministry of Panchayati Raj need to be examined in terms of their legal provisions. For the purpose, the matter has been referred to the Additional Director (Legal), MoEF for his views in this regard.

Accordingly, a meeting was held with officials of MNRE and Additional Director (Legal), MoEF on 7th September, 2009 at 3.00 PM in Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi. The list of participants is annexed.

Shri J.M. Mauskar, Additional Secretary, MoEF and Chairman of the Committee welcomed the participants and initiated discussion giving background of the whole matter. Thereafter, both the issues referred to in para 1 above were discussed.

Ms. Gouri Singh, Joint Secretary, MNRE stated that the various issues relating to biomass based power plants inter-alia include; (i) size of the power plant, (ii) availability of

required quantity of biomass fuel round the year, (iii) storage of fuel, (iv) degradation of fuel during storage and (v) fire hazards. It was informed that Indian Institute of Science (IISc), Bangalore has carried out a study on biomass fuel availability and prepared an atlas report giving information on the District-wise distribution of biomass fuel in the country. As per their estimates, about 50% of the biomass is used for fodder. Besides, availability in terms of its total quantity, it also needs to be ensured that it is available within a reasonable distance of the power plant to make it economically viable. A distance of about 30 km was considered to be a viable distance. It may be desirable to define a catchment area for a biomass power plant in terms of fuel availability and some guidelines may also need to be provided so that no two power plants come up within the catchment area of each other. As regards degradation of fuel, it was stated that only the top layer may get degraded in terms of its calorific value due to weathering effects. As per their estimate, the average unit size ranges between 6 – 10 MW. In addition, baggasse based cogeneration power plant also need consideration. Their size can be upto 30 MW. The issue of auxillary fuel for power plants based on non hazardous municipal solid waste also came up for discussion.

The Chairman requested the officials of MNRE to give their written inputs relating to biomass based power plants covering aspects relating to unit size, land requirement including fuel storage space, viable distance for collection of fuel, water requirement and its availability, ash management etc. A copy of the executive summary of the report of IISc was also requested. Similarly, input were also requested for the municipal solid waste based power plants including the necessity of auxillary fuel and their quantity in terms of percentage of fuel.

The issues raised in the submission of Ministry of Panchayati Raj were briefly discussed with Additional Director (Legal), MoEF. The Chairman requested him to give his written views in the matter.

As there was no additional item for discussion, the meeting ended with a vote of thanks to the Chair.

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List of Participants

1. Shri J.M Mauskar, Additional Secretary, MoEF
2. Ms. Gauri Singh, Joint Secretary, MNRE
3. Shri V.K. Jain, Director, MNRE
4. Shri J.R. Meshram, Director, MNRE
5. Shri R. Anandakumar, Advisor (Retd.), MoEF
6. Dr. Nalini Bhat, Advisor
7. Shri Ishwar Singh, Additional Director (Legal)
8. Dr. S.K. Aggarwal, Director

Annexure X

Other Issues for consideration of MoEF for their possible resolution through administrative circulars / orders

1. The guidelines for Classification of Category 'B' projects into Category B1 and B2 may be issued early. Till such time that these guidelines are issued, it is suggested that the projects may be designated as B-2 on case to case basis keeping in view their pollution potential vis-à-vis the mitigation measures proposed. However, small scale metallurgical industries (ferrous and nonferrous) upto 20 TPD may be categorized as category B-2 projects. Similarly, the projects preparing leather from blue wet leather simply by heating, pressing and spraying may also be designated into B-2 category as the pollution potential in such cases are low. In addition, small sugar industries, induction/arc furnaces up to 10 tonnes per hour capacity may be designated as B-2 categories.
2. Generic TOR should be published to help the project proponent and consultants.
3. It is suggested that in amended notifications, the list of eco-sensitive areas, critically polluted areas, protected areas under wildlife may also be specified in the note appended to notification.
4. Clarify regarding list of products for Man made fibres against entry no. 5(d) in the schedule to the EIA Notification, 2006.
5. Clean Development projects for GHG reduction may be exempted.
6. Restriction may be imposed for construction of new townships, settlement colonies within one kilometre of industrial/notified industrial area.
7. Under para 10 (i) on post environmental clearance monitoring in the EIA Notification, 2006, half yearly compliance report submission dates are 1st June and 1st December. For all practical purpose India is following financial year basis. Accordingly in the Hazardous waste Management Handing Rule, 2008 also necessary changes have been made. Therefore to be in line with other environmental regulations and to give clarity insert- after 1st June "for October to March" and after 1st December insert "for April to September".
8. Provision for scoping/TOR should be deleted.
9. Clarify whether tin containers and components require environmental clearance.
10. Monitoring Mechanism need to be reviewed and strengthened.
11. The working of SEIAAs need to be strengthened.
12. An environmental data base need to be established.
13. Regional EIA should be taken up.
14. There should be a provision to recognize the environmental consultants by the SEAC/SEIAA based on some criteria given by MoEF/SEAC/SEIAA.

15. The model terms of reference proposed by MoEF in April 2008 are highly theoretical, extensive, exhaustive and practically very difficult and too expensive for any mine owner since a lots of work and expenditure is involved. This may be modified.

16. There should be clear cut provisions for field visits by the subcommittees of SEAC/SEIAA and provision for their expenditure on TA and DA etc.

17. There is a need for provision for collection of fee for appraisal of projects under the EIA Notification which could be used for functioning of SEIAAs/SEACs.

18. Public hearing committees should have a representation of State Pollution Control Board, Dept. of Forest, Dept. of Environment, Civil Societies and general public.

19. It is also required to issue clarifications in regard to the consent for Establishment and Consent for Operation, which are now presently being carried out by the respective State Pollution Control Boards. The flow of instructions from the Central Environment Appraisal committees to the State level agencies for issue of CFE and CFO need to be clearly indicated. Otherwise, the committees constituted by the respective SPCB's are insisting on complete EIA presentation and are presenting their own stipulations, which some time are contradicting to the NEAC recommendation.

20. It is imperative certain mandatory requirements should be mentioned as categorical requirements and these include relief and rehabilitation plan as well as implementation schedule of R&R package to be in consonance with the construction schedule of the project, the NOC from the Fire Service Department as per National Building Code provisions and the Airport Authority Clearance, if required, as per NBC Code stipulations.

21. Web-enabled Environmental and CRZ clearances para 7(vii):

    a) The XGN system developed by the Gujarat Pollution Control Board through the National informatics centre is the best example of web-enabled decision-making system for environment and pollution control clearance and CRZ clearance also.

    It is recommended by the expert group that the EAC and SEACs at the state level should meet regularly as their interactions could be helpful. It is suggested that the regional meetings should also be held for sharing the experiences.

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Annexure XI

Other Miscellaneous Comments / Suggestions outside the scope of the proposed Draft Amendment dated 19.1.2009

1. The applicability of General Condition for more activities amounts to more centralization of power regarding Environmental Clearance procedure. This defeats the major objectives of EIA Notification (as the earlier one was thought to be ambiguous) for making Environmental Clearance procedure transparent, less time consuming as also decentralized as much as feasible. We once again reiterate the activities other than those, which have serious trans-boundary and strategic implications should come under State Environment Clearance Authority at least in those states, where SEIAA & SEAC are functioning satisfactory – like the State of West Bengal.

2. Inclusion of Diesel generating sets within the ambit of EIA Notification.

3. Thermal power plant up to 1,000 MW may be brought under Category 'B'

4. Inclusion of Power plants based on Hazardous wastes under the ambit of EIA Notification.

5. Expansion in the existing plants of primary metallurgical plants upto 50% (brown field) to be considered as Category 'B'. Sponge Iron up to 500 TPD under Category 'B'

6. Exemption from the purview of EIA Notification for standalone grinding unit. Technological up-gradation with improved energy efficiency and reduced pollution load in modern Cement Plants up to 3.0 MTPA capacity, permission for use of hazardous waste in cement industry.

7. Common Municipal Solid Wastes Management Facility with certain capacity to be exempted (B & C Class of local bodies) and in case of corporation and big 'A' class local bodies, the public consultation should not be made applicable. Similarly, the Common Hazardous Wastes Management Treatment, Storage and Disposal Facility and CEPTs can also be considered as environment improving facilities and applicability of the public consultation and EC should be reconsidered.

8. Bio-diesel plants may be included in the schedule. Capacity categorisation for A & B may also be added.

9. Just as recycling industrial units covered under the Hazardous Waste Rules, 2008 which require registration from the CPCB have been exempted from EC (Schedule, Item 3(a), Note (i), similarly ports, harbours, break waters and dredging which seek clearance under the CRZ notification should be exempted and vice versa.

10. A note should be appended to the notification that if a project falls under the jurisdiction of EIA Notification as well as Aravalli Notification than that the project has to seek environmental clearance under both the Notifications. There should be only one single clearance.

11. There is sufficient competency and experience in the State Level Experts while issuance environmental clearance for the projects with due consideration of environmental impact and examination of environmental management plan. Excepting those projects have trans-boundary and strategic importance, all the other projects requiring environmental clearance should be left to the State Authority,

12. Dairy Industry should be included in the schedule as it is highly polluting.

13. Electroplating should be included in the schedule.

14. Construction of new Railway line or expansion of existing railway line in hilly areas or eco-logically sensitive regions should be treated as category "A" project and should be required to take prior environmental clearance.

15. Composition of expert appraisal committee does not include experts with industrial experience. This has to be included.

16. There is no prescribed time limit mentioned in the notification of 2006 for the project proponent to submit final EIA after getting TOR. It is proposed to stipulate a time period of 90 days for the project proponent to submit final EIA after issuing of TOR.

17. All tourism projects between 200 m - 500 metres of High Water Line and at locations with an elevation of more than 1000 metres with investment of more than Rs 5.00 crores.
    This particular item is not seen in the list of projects or activities requiring prior environmental clearance

18. In regard to item-2a & 2b the dry coal beneficiation process is being introduced in the Country and these are mostly located at the pitheads. This item may also be introduced under 2b and included

19. Under schedule 2(a): Coal slurry washing for hard coke / briquette plant may be included / excluded separately. Smaller slurry washing units may be exempted from EIA process.

20. Exploration, development & production projects beyond tidal water i.e. 5 km from the coast should be exempted from public hearing because The Water (Prevention and Control of Pollution) Act is applicable only up to 5 km into the sea.

21. It is suggested that there shall be provision for extension of time for the Notice of Public Hearing from 7 days to 15 days due to the unforeseen reasons, from the date of submission of Draft Environmental Impact Assessment Report with all necessary documents required for the same.

22. CETPs are covered under Category 'B', which may be excluded to encourage environmental measures like CETPS.

23. Common Municipal Solid Waste management Facilities are covered under Category 'B' which may be excluded to encourage management of MSW.

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