

Minutes of the Meeting of the Expert Group on Definition of Forests at MoEF New Delhi, on 30th April and 1st May 2007.

List of participants is enclosed as annexure

Monday, 30th April:

Chair: Sri GK Prasad, DGF&SS, MoEF

In his welcome address, Dr. Kamal Bawa, President ATREE mentioned that defining forest is a complex issue. However, we must be able to view the natural habitat and manage it. He felt that there are divergent concepts with respect to use, conservation, management and function of forests. He felt there must be proper legislative framework for the terrestrial landscape.

Dr. S.N.Rai made a presentation regarding the definition of forest study and while referring to the progress made so far through various meetings and consultations, he presented that the emerging views have been in three main aspects.

1. To secure whatever is already notified as forest land,
2. To have enabling policy initiatives to promote planting of trees on private lands.
3. The definition should be so simple and unambiguous that it should be clearly understood by a common man .

He presented the definition evolved by the team:

“An area under Government control notified or recorded as forests under any Act for the conservation and management of ecological and biological resources.”

Explanation: Such forests will include areas with trees, scrubland, grasslands, wetlands, water bodies, deserts, glaciers, geomorphic features or any other area that is necessary to maintain ecological security.

Sri G K Prasad, DGF & SS MoEF in his address referred to the orders of the Supreme Court in respect of forest. He also referred to the discussions of the Core Group meeting of 9th April chaired by Secretary MoEF and said that most of the issues were covered on that day. He also mentioned about the special meeting for the Northeast region. In summing up, he said that efforts must be made in such a manner that the forest lands should be secured, the trees outside forest area should also be protected and plantation of trees outside forest areas should be encouraged. He mentioned that the areas planted around the road sides and railway lines were declared ‘Protected Forest’ with noble intentions to keep them intact, however, now this declaration has become a hindrance for expansion and developmental activities.

Dr. J.P.L. Srivastava PCCF Haryana said that private and community lands should be kept free from application of Forest Conservation Act. He questioned the issue of

defining forest on private and community lands. He was of the view that an enabling environment was more important than the law. He mentioned that out of the 2.1 million cubic meters of annual production of timber in Haryana, only 0.15 million cubic meters (7.1 %) comes from the Government owned lands. Dr.Srivastava also narrated the case of Aravallis where private and Govt lands were brought under plantations in an ecological restoration project and the Supreme Court has taken a view that although these are man made plantations on private lands, yet as they have been raised for ecological purposes, the FCA will apply there.

Dr. J.V.Sharma, DIG (FP) MoEF informed that there are excellent private forests in the Mussoorie hills which have been playing a very important role in the ecological security and they should be continued to be kept as forests, and also suggested the following definition:

“An area notified or recorded as forests under any Act for the conservation and management of ecological and biological resources.”

Dr.R.V.Singh supported Dr. Srivastava’s point of view and reiterated that FCA should be applied only on Govt owned land. He further elaborated that there could be three definitions, one for FCA, other to cover the orders of the Supreme Court and yet another one to meet the International commitments. He said the objectives of the management today were livelihood, water conservation and water supply, and we should take this into account while defining forests.

Sri. M.C.Ghildiyal mentioned that FCA applies to land, not to trees. He was of the view that definition should have a minimum unit area on which the FCA should apply and there should be flexibility regarding the area which will vary under different situations from state to state. The determination of the minimum area should be done in consultation with the states.

Dr. S.K. Khanduri Director Planning Commission mentioned that there are state and national Forest Acts and the FCA talks of alienation of land or about the change in management practices. The Supreme Court had said that FCA is not applicable to man made forests. However, in the larger interest, the existing natural forests other than those notified should also be maintained as forests. Only diversion and management change should attract the provisions of FCA on such lands.

Dr.Pankaj Khullar PCCF Himachal Pradesh mentioned about how most of Govt waste lands were declared as Protected Forests in 1952 in Himachal Pradesh. However, they had been variously used and subsequent to the orders of the Supreme Court, there have been difficulties in their management. He was of the opinion that defining the forests only with legal perspective does not serve the purpose. It should be defined based on legal, administrative and the forest cover basis. He was also of the view that ecologically sensitive areas should be covered under forest without attracting the provisions of the FCA.

Dr.P.P.Bhojvaid Senior Fellow TERI was of the view that forest is a tree dominant ecosystem and it has three functions namely, conservation, production and ecological. He was of the view that a single definition will not be sufficient.

Sri Ray Choudhary APCCF West Bengal while deliberating on the suggested definition was of the view that the word 'for' used in the proposed definition to qualify the ecological and biological resources can be spun around in an argument and if the notification or records do not support these aspects, then it can become a matter of debate. He was of the view that privately used lands which contain the forest growth should be managed as such. But there should be some escape from application of FCA.

Dr. Balachandran Ganeshan Ford Foundation was of the view that we should have an open minded and practical approach on the definition and he felt that the socio- economic and cultural part should also be addressed. He was of the view that enabling environment is an economic incentive.

Dr. Bawa said that we should be thinking of post- Kyoto Protocol situation. He said that India and China will be under tremendous pressure on carbon sequestration related issues. He said that forests are very complex ecosystems and climate change will change the structure and boundaries of the forests. He further said that forests when degraded may become grasslands or deserts.

Prof.S.B.Roy Chairman IBRAD was of the view that forests should be defined within the Indian Forest Act and he was of the view that we can not afford to exclude the areas which are recorded as forests and therefore we must take them into consideration. He suggested that we should think of various definitions.

Mr. Subhash Chandra Director Horticulture Delhi mentioned that there has to be a general definition and he said that a forest is a forest, which is a dynamic system. He was of the view that Arunachal Pradesh has 30,000 sq km as Un-classed State Forest and a community can encroach upon such areas. He felt that they can claim the area to be theirs. He expressed that a forest is an inter-generational resource. He was of the view that protection needs were non negotiable and by defining certain areas only as forests we should not dilute it. He was of the view that exceptions for the situation like those in Haryana can be made but it should not become a part of the law.

Dr.Khullar mentioned that plantations and natural forests should be dealt separately.
Dr. Sanjeev Pandey Winrock International was of the view that there can be more than one definition.

Dr. Srivastava while once again reiterating his point mentioned that out of the 31 million ha under agro-forestry, 25 million ha is outside the forest areas in Haryana.

Dr.J.V.Sharma talked about the spirit of the National Forest Policy being 33% as forest and tree cover. He mentioned that the main aspects of NFP was Sustainable Forest Management and social, economic and ecological aspects. He clarified that objective of

the present study is to remove the fear among the minds of the people from the application of FCA in agro- forestry and other plantation areas.

Dr. Bhojvaid was of the view that if the plantation has an ecological function, as in case of Haryana, then it should come under the FCA.

Sri Prasad was of the view that we must aim at inclusion, exclusion and also exceptions in respect of forest areas.

Dr. R.C Sharma was of the view that there are lands under the control of the Revenue department in parts of Madhya Pradesh, Chattisgarh and other states which are variously described, but they do have forest vegetation and they should be secured as forest lands. He was simultaneously of the view that entitlement regime of the people should not be interfered with.

Sri. Ghildiyal was of the view that community held land should be covered by the definition.

Dr.Ravi Chellam Director ATREE mentioned that forest and tree cover both should be taken into consideration to meet the target.

Dr.Manoharan WWF- India suggested that the definition should not be so simple and it must have wider consultation. He wondered for how long we are going to have this definition.

Chair: Dr. Pankaj Khullar, PCCF Himachal Pradesh

Prof. S. B. Roy made a presentation on social, cultural and economic issues and he felt that they are all intricately linked and it is difficult to separate them. He felt that the definition will be influenced by the perceptions of the people. He was of the view that ecology and social systems have evolved together. He also felt that all the forests cannot be used for extractive practices. While discussing about the values, norms, cultural and traditional practices in his conclusion, he said that the definition should be a universal definition, understandable by common man without any ambiguity. He further argued that forests have to be defined in the natural form as a system, be it under Govt control or not. The natural system can be defined as a forest and explanation can be given for different purposes.

Dr.Khanduri raised doubts whether social and cultural attributes can be brought into a definition.

Dr. Bhaskar Sinha observed that these norms change with time.

Dr. Bawa mentioned that we should go into the question why the Supreme Court judgment was made and take that into consideration.

Sri. R.K. Upadhyaya CF Tamil Nadu informed that if we want to make it justiciable then a simple definition would be better.

Prof. V B Sawarkar made an excellent presentation tracing the evolution of life on this planet and moved on to the present situation. He emphatically stated that the forest

departments have the stewardship of nearly 25% of the land of this country, which is part of an evolutionary process. He very strongly pleaded for securing the forests that we already have. There were some discussions on these aspects but a larger agreement was reached that whatever forest we have must be secured and at the same time there must be a clarity that private people and Govt. is clear about their respective territories and in respect of FCA what is a violation must be made clear.

Dr. Khanduri observed that the list of norms should be illustrated and trees on private lands on eco-sensitive areas should be preserved. He was of the view that Revenue land should also be protected and some of which can also go for other purposes. He was of the view that we can not wish away the development process and land has to come from the forests in some cases.

Sri M P Rai CCF Punjab narrated the case of Punjab Shivaliks which are ecologically very fragile areas and which are also largely privately held . He was of the view that these areas must be secured as forest lands for their ecological considerations.

Sri Ghildiyal mentioned that whatever has been notified as forest must be secured and this will solve 95% of the problems that we have. He was of the view that the dictionary meaning of forest should be applied to community held areas, and he also felt that a minimum area must be mentioned.

Tuesday, 1st May:

Ms. Amarjeet Ahuja, Addl. Chief Secretary Rajasthan

A presentation was made by Dr.R.C.Sharma on NTFP and he described the forests as open access resource. He mentioned that more than 400 million people depend on NTFP. He said that if well managed, it can be an excellent resource. He discussed about PESA, 1996 and mentioned that under this, people have been give endowment of MFP and not ownership of MFP. He mentioned that NTFP has been defined both by the ministry and the Madhya Pradesh Govt. He drew attention to the Forest Rights Bill and also to the Biodiversity Act. He talked about 'ABC' of forestry and he said that: A- stood for appropriate entitlement regime, while B- stood for benefit sharing arrangement and, C- stood for conservation. He was of the view that without addressing the first two, the third was not achievable. He also mentioned that we do not have models of sustainable use of NTFP anywhere in the world.

Dr. Sinha was of the view that we should adopt the conventional methods while working on the sustainable use model.

Dr. Manoharan informed that he has planned a wider consultation with his field officers and will get back to us on the matter. He also raised a point whether definition was only for India or for the planet as such.

Dr.J.V.Sharma informed that every country has sovereign right over her forest produce. Ms Amarjeet Ahuja mentioned that even though there is definition of MFP, there is a need to reconcile the divergence resulting due to competitive extraction or due to non allocation. She was of the opinion that sustainable harvest must be looked at with respect to locally validated practices. She felt that there was a need to generate sensitivity and sense of security among the users.

There was another presentation by Sri. R.K. Upadhyaya. He dealt with evolution of Forest Policies and the ownership status during the policies of 1894, 1952 and 1988. He also mentioned that in the normal course, statutes should follow the policy, but in case of 1894 and 1988 policy, the laws had come ahead of the policy. Regarding a single and simple definition, Upadhyaya said that Tamil Nadu has 52 enactments on forests. And in this way, the country will have a very large number of enactments. If we want to simplify the matter and make it justiciable, then we need a single and simple definition. He said although one would be tempted to have three definitions, namely functional, legal and ecological, but at the grassroots level, both among the functionaries of the forest department and at the level of common people, it can cause confusion.

Ms.Ahuja was of the view that a standard definition should be for all and specific areas should be dealt with in proviso. She was of the view that the Govt system must be empathetic so that people can conserve resources on their land.

Sri.Ghildiyal was of the view that we should keep a proviso for the ordinances.

Sri Manoj Dabas made a presentation on agro forestry and plantations. He was of the view that India is not oriented towards production. He said that plantations can help natural forests. He informed that the world over, plantations extended to only about 5%. He was of the view that the laws had not been enacted to reach 33% forest and tree cover as envisaged by the 1988 forest policy.

Sri Ghldiyal mentioned that there was no embargo on raising plantations and the plantations were exempt from the FCA.

Dr. R.V. Singh said that restrictions on felling and transport of material from privately owned land was a hindrance in the spread of agro-forestry.

Chair: Sri G K Prasad

A presentation was made by Dr. R.V. Singh on a revised definition.

‘An area owned by Govt and notified as forest under any act or recorded as a forest in any Govt record functioning as ecological, biological, livelihood-support and/or social resource’

Explanation: such forests will include areas having trees, scrub, grasslands, wetlands, water bodies, deserts, glaciers, geomorphic features or any other area fulfilling the functions of a forest.

In the concluding session, Sri R.K.Upadhyaya articulated about the Public Trust doctrine and mentioned that air, water and forests have to remain in the public domain. He talked about the fundamental rights in the constitution and mentioned that ours is the only constitution in the world where Writ is a fundamental right. He said that ecology has a direct bearing on human life. He mentioned that forest law is a special law and he did not see any major conflict between the National Environment Policy and the Forest Policy.

There were some discussions on the newly proposed definition. However the majority view was more in favor of Govt control than Govt owned.

Sri.G.K.Prasad once again reiterated his views of the previous day regarding securing forest land and once again narrated his experience of roadside plantations being notified as forest and the difficulties being caused because of that. He also said that the interactions will continue and suggested to put up the definition (all three options suggested by ATREE, R.V.Singh and J.V.Sharma) on the website of the Ministry and also write to all the PCCFs and have their views on the same. It would also be appropriate to have separate consultation on this issue with NE states.

Sri. Manoj Dabas proposed a vote of thanks and the meeting ended with thanks to the chair.

Subsequent to the Meeting:

The members of the team had a meeting for about an hour after the formal closing of the meeting in order to chart the future course of action. The definition suggested by Dr.R.V.Singh was discussed and also the need for introduction of a proviso to provide for statutes and ordinances as an explanation was considered. However, the consensus was to retain the earlier definition suggested by the team but with a minor modification suggested by Dr.Singh [the word appearing as 'scrubland' in the definition proposed by the team to be changed as 'scrub']. It was also agreed that State governments are fully empowered to bring any ecologically sensitive areas under their control under the existing laws and therefore a proviso as an explanation to the definition does not appear to be necessary.
