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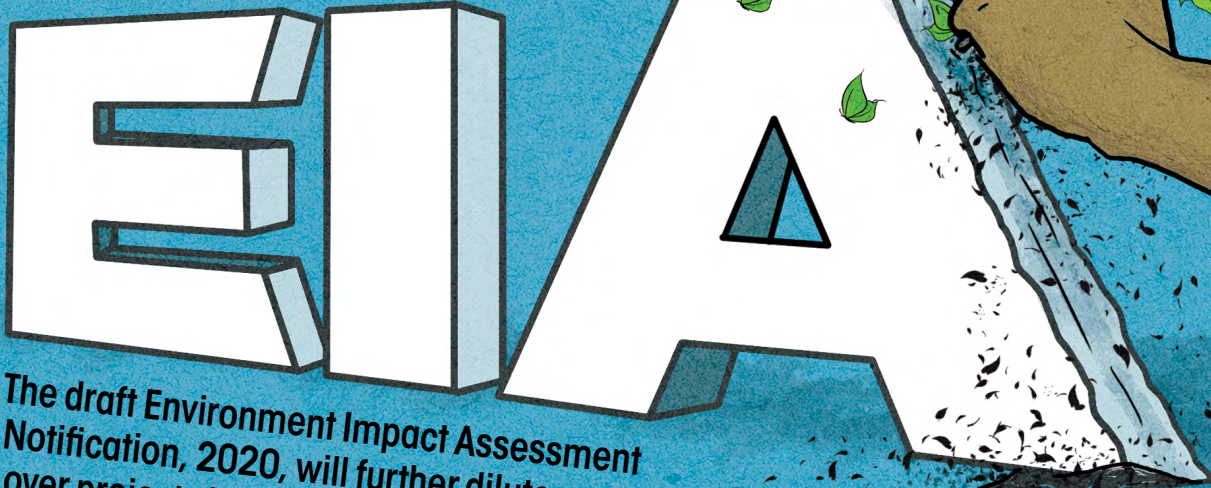
FORTNIGHTLY ON POLITICS OF DEVELOPMENT, ENVIRONMENT AND HEALTH

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BREAKING DOWN



The draft Environment Impact Assessment Notification, 2020, will further dilute scrutiny over projects impacting the environment



The Panama disease is destroying banana plantations. Forgotten varieties may hold the key

P16

Economic interests hasten development of COVID-19 vaccines, notwithstanding their efficacy

P42



EIA 2020

...others, MoEFCC and SEIAA...

...of 12 functional area experts. Each expert...

...assesses impacts from the proposed project, provides...

...monitoring plans for his/her respective functional area...

...for three months excluding the monsoon season.

...EIA 2006, the draft EIA report and its summary should be available in...

...national language for use in public hearing. But draft EIA 2020 has no provision...

...in regional languages; only its summary. The summary cannot possibly...

...of the project and its impacts. This indicates an effort to not share the...

...information with the affected stakeholders. It will be public hearing without informing the...

...third stage is public hearing. This is organised by the State Pollution Control Board. It...

...publish the project details and the draft EIA report on its website. It must also publish...

...public hearing in one national and one local newspaper. In the hearing, people can...

...concerns or objections within a stipulated period. EIA 2006 gave people 30 days to...

...the publication of draft EIA report, but EIA 2020 has reduced this duration to 20 days...

...lack of empathy towards the public, which in most of the cases have to take great...

...information about the project by visiting the concerned office for the draft EIA...

...technical experts to understand the impact of the projects and preparing responses.

...step is the preparation of final EIA report by the proponent after incorporating...

...objections raised in the public hearing. The final EIA is submitted to EAC/SEAC.

...step is the appraisal by EAC/SEAC. At the Centre, there are seven different EIA...

...of chairperson, member secretary and other members to assess the EIA reports of...

...sectors while states has one SEAC each. These committees can approve the project, give...

...for more information. But rejection is quite rare. Projects are given multiple opportunities...

...clearance, or become "environmentally sustainable" by using different technologies.

...MoEFCC website provides stage-wise information about projects but does not give the number of...

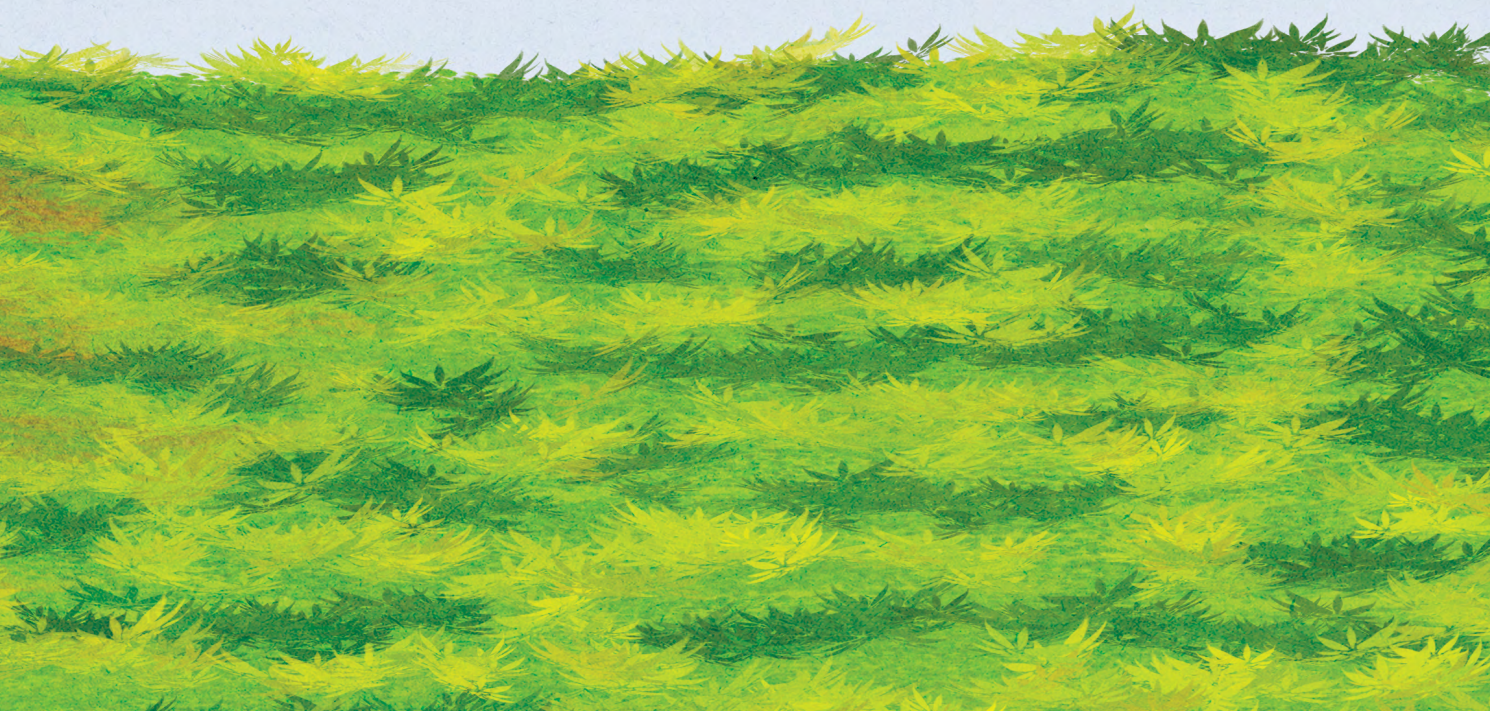
...projects that have been rejected. "Proposals not recommended" stand at 3.4 per cent. When the...

...percentage of not recommended projects is so small, the number of rejected projects is usually...

ADVANTAGE INDUSTRY

Government after government has diluted the environment impact assessment process, effectively making it a ritual practised without any reverence to the environment. The draft Environment Impact Assessment 2020 Notification is the latest proof. An analysis by

NIVIT KUMAR YADAV & ISHITA GARG



At the headquarters of the Ministry of Environment, Forest and Climate Change (MOEFCC) in New Delhi, the 21-odd staff members of the three Environment Impact Assessment Divisions had an impossible task: to scrutinise some 1.7 million suggestions, comments and objections received through e-mails and by post in the past five months. Technically, and by law, every correspondence has to be carefully studied to cull out the ideas and feedbacks that will form the basis of India's environmental governance in the days to come. MOEFCC has, by media accounts, allocated this work to the Nagpur-based National Environmental Engineering Research Institute.

The communications received are in response to the Union government's draft Environment Impact Assessment (EIA) 2020 Notification. Arguably, no other environment-related notification has gathered such a response. Most of the comments are against the proposed provisions.

On March 12, two weeks before the national lockdown was imposed to counter the COVID-19 pandemic, MOEFCC published the draft EIA 2020 Notification on its website for public feedback. Some 15 years ago, in 2006, the government had adopted a new set of EIA procedures and mandatory requirements. The proposed notification will replace the EIA 2006 Notification.

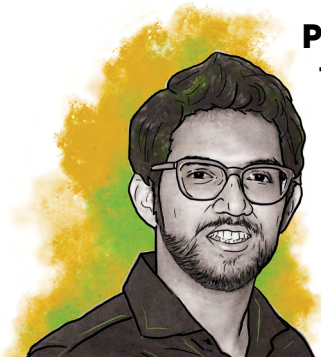
Issued under the Environment (Protection) Act, 1986, the notification is the country's only set of legally binding regulations to "make a scientific assessment of the likely impacts" of projects such as industrial units, waste treatment plants, mining and dams. It has provisions for mandatory public consultation and public hearing for clearance by local communities.

For five months after the draft was uploaded for public scrutiny, India witnessed protests, mostly online, against it. Environmentalists and even politicians from various parties joined civil society groups to oppose the notification. They say it weakens the 2006 version in favour of industry and legitimises projects running



The notification is disgraceful and dangerous, and might lead to widespread environmental destruction and mayhem across India

RAHUL GANDHI
INDIAN NATIONAL CONGRESS



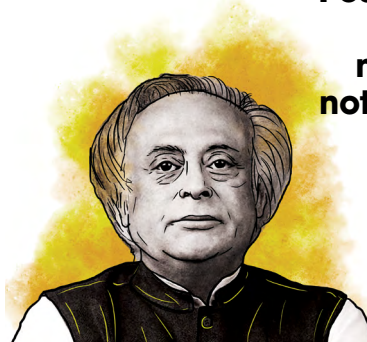
Public participation is must for inclusive development. Projects that enhance capacity by up to 50 per cent do not require public consultation?

AADITYA THACKERAY
SHIV SENA



EIA 2020 has provisions to 'pay and pollute', which is dangerous. We need to strengthen the environmental clearance process and not dilute it. 98 per cent of the projects have got cleared in last six years and not a single violator has been awarded jail sentence

ASADUDDIN OWAIISI
ALL INDIA MAJLIS-E-ITTEHAD-UL-MUSLIMEEN



Post-facto approval must be opposed. Environmental management plan should not be prepared for projects under the B2 Category without conducting Environment Impact Assessment

JAIRAM RAMESH
INDIAN NATIONAL CONGRESS

without mandatory environmental clearances. More importantly, it dilutes community scrutiny or consent provisions. In 2019, the government circulated a zero draft of a similar EIA notification. That time too huge protests followed.

This year, the time given to the public for feedback itself triggered a campaign. First, the government gave 60 days to the public to react and after a backlash from civil society groups, who said the lockdown made wider consultation impossible, it extended the deadline to June 30. A few environmentalists appealed to the Delhi High Court for a further extension and publication of the draft in regional languages. On June 30, the court extended the deadline to August 11, and ordered that the draft notification be published in the 22 official languages. The Karnataka High Court passed a similar verdict.

The government foresaw the opposition to the latest draft notification. In March, MOEFCC quietly amended Clause 5 (3) of the Environment Protection Rules that govern the Environment (Protection) Act, 1986. This amendment gives the ministry 725 days, instead of 545 presently, to finalise the draft notification process from the day of opening it up for public comments. "It will take us some time to consider the issues raised by these comments and suggestions. Letters have gone to the minister; many have come to me and to other officials. Many of them are repetitive," said R P Gupta, environment secretary, to the media, indicating an overwhelming response to the draft.

People protesting the draft did not just target MOEFCC. Over 100 environmental groups, organisations and individuals sent e-mails to the 785 members of Parliament. Union Environment Minister Prakash Javadekar lodged a complaint with the Delhi Police against three environmental groups for clogging his e-mail inbox. These groups were temporarily booked under anti-terror laws.

The protests against the proposed changes to the EIA process have led to a



political furore. The first charge on the government came from Sonia Gandhi, the interim president of the Congress party, who wrote an op-ed piece in a national newspaper demanding withdrawal of the draft. "Simply put, the government must stop dismantling India's environmental regulations. An essential first step is to withdraw the draft EIA 2020 Notification. What is essential is widespread public consultation to shape a national agenda that will place India at the forefront of the battle against global warming and pandemics," she wrote. Her son and former Congress president Rahul Gandhi joined the call for its withdrawal. Jairam Ramesh, chairperson of the Parliamentary Standing Committee on Science and Technology and former Union environment minister, initiated deliberation on draft

EIA 2020 in the standing committee despite objections raised by the ruling Bharatiya Janata Party-National Democratic Alliance (NDA) members. Members from the ruling party wanted discussion only once the draft was notified, but Ramesh went ahead.

Asaduddin Owaisi, a Lok Sabha member from the All India Majlis-e-Ittehad-ul-Muslimeen, opposed the dilution of provisions and the bypassing of rigorous assessment by officials for the projects going for expansion. He is also in the same standing committee. Vandana Chavan, a Rajya Sabha member from the Nationalist Congress Party, raised questions over the approval given to building and construction projects which are destroying the aquifers.

Comments by political parties show that they recognise the substantive and procedural issues with draft EIA 2020 as raised by people, says Kanchi Kohli, senior researcher at the Centre for Policy Research, a Delhi-based non-profit. “Everyone knows that when it comes to the environment, all political parties are on the same page. But this time, public protests forced them to take a stand against the changes,” says Shilpa Chohan, advocate and partner, Indian Environment Law Organisation, Delhi.

There have been many changes in the last EIA notification, both in letter and spirit, since it was adopted. There have been numerous dilutions and political manoeuvring to bypass the stringent environmental clearance process. The proposed notification seems to be an official stamp on these.

CONCEPT OF EIA

Activities, such as mining, industrial production and building dams and roads, which are necessary for economic and social development of a country, are also harmful to the environment. Therefore, governments across the world first assess the projects in terms of their environmental impact and based on this cost-benefit

analysis, work towards measures to mitigate the damage if possible. EIA is a tool to do this—it is about creating a balance between environment and development. This requires rigorous assessment of all technical and scientific issues and needs to account for the concern of local communities. The environment clearance (EC) process—a four-stage approval regime that includes appraisal and public consultation—has been mandatory for developmental projects since 1997. The government decides the kinds of projects that require EIA and can change the rules by an executive order under the Environment (Protection) Act of 1986.

EIA 2006, which is in force currently, has 59 types of projects/activities that require EIA. These are classified into two categories—A and B, with category A (31 types of projects) appraised by the Centre, while category B (28 types of projects) appraised at the state level. There are seven Expert Appraisal Committees (EACS) at the Centre for assessing Category A projects, while for Category B, each state has one State Expert Appraisal Committee (SEAC). Projects under Category B are subdivided into B1 (which require EIA) and B2 (which do not require EIA). It is at the discretion of SEACS to decide whether a project should be under B1 or B2 category, which they do on the basis of the size, location, impact and ecological significance of the area of the project.

Draft EIA 2020 proposes changes in most of these processes and categorisations. The projects/activities that require clearance under EIA 2020 have been increased to 110, purportedly for greater clarity. But in reality the new draft lists every project as a separate activity; hence, the increase. For instance, projects/activities listed under Serial Number 1 in EIA 2006 feature mining of minerals, offshore and onshore oil and gas exploration, river valley projects, thermal power plants and nuclear power projects together. But in draft EIA 2020, most of these are listed as separate projects/

CLAUSES OF CONCERN

Apart from structural changes and exemptions, there are a few other clauses in draft EIA 2020 that have led to protests

THE EXEMPTED 40

Clause 26 of draft EIA 2020 lists 40 projects that do not require any clearance. Some of these exempted projects are potentially harmful. For instance, solar thermal power plants. Unlike wind facilities, solar power plants provide little opportunity to share land for agricultural uses. The selection of site for these projects is, therefore, important to minimise land loss. Also, solar thermal plants that use wet-circulating technology require water for the cooling towers and may withdraw up to 2,200 litres per megawatt hour of electricity produced. Thin-film PV cells contain toxic materials including gallium arsenide, copper-indium-gallium-diselenide and cadmium-telluride. If not handled and disposed of properly, they are a threat to public health.

Draft EIA 2020 exempts cupola furnaces, used to melt metals, of up to 60,000 tonne per annual (TPA) capacity.

These are extremely polluting because they use dirty fuels like pet coke or coal and must not be exempted from the EC process. The cupola furnace is an outdated and inefficient technology that generates considerable greenhouse gases and particulate matter.

The notification also exempts dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for maintenance, upkeep and disaster management. Dredging activities affect not only the site but also the surrounding areas through sedimentation, resuspension and release of contaminants.

PEOPLE CAN'T COMPLAIN

Draft EIA 2020 has no provision for people to file a complaint if a project starts without environmental clearance. Neither does it have a provision for people to file a complaint if a project

has obtained clearance but is not complying with conditions mentioned in them.

COMPLIANCE REPORT FILING FREQUENCY REDUCED

Under EIA 2006, project proponents had to submit a report every six months to verify that they were complying with the conditions listed in their clearance, but Clause 20 (4) of draft EIA 2020 requires them to do so once a year.

CAPACITY ENHANCEMENT NEEDS NO PUBLIC CONSULTATION

Clause 14(2) says that a unit enhancing its capacity by up to 50 per cent with or without modernisation does not require public consultation. Capacity enhancement can result in increased use of resources, such as water. If capacity enhancement can be done without public consultations, why has it been limited to 50 per cent?

activities. Draft EIA 2020 also has predefined B1 and B2 categories, taking away the discretionary power of SEACs. Category A will now have 39 projects, B1 will have 42 projects and B2 will have 29 projects. Apart from these, the draft EIA 2020 proposes three fundamental changes that have the potential to completely undermine the EIA process. These are:

#1 STRATEGIC CONSIDERATIONS

In August, when the Board of Control for Cricket in India wanted an extension in the tenures of its president and secretary, in contravention of the Board's constitution, it asked for the Supreme Court's permission to do so in "national interest". Phrases like national interest and public welfare can be a great tool to justify any

action. Draft EIA 2020 too makes use of one such phrase. Clause 5(7) of the notification empowers the Union government to grant permission to any project in all categories for "strategic considerations" and says that "no information relating to such projects shall be placed in public domain". Since the notification does not define "strategic", the government can undertake any project anywhere without assigning a reason or having to explain anything later. For instance, it can allow a project in the Northeast—an area rich in biodiversity as well as in gas and oil reserves—without any assessment or public consultation. It reminds one of the "eminent domain" power of the government, under the contentious land acquisition laws, that make it the sole authority to decide what is "public goods".

ALTERATIONS AND DILUTIONS

Draft Environment Impact Assessment (EIA) 2020 departs from EIA 2006 in many ways, mostly for the worse

Parameter	EIA 2006	Draft EIA 2020 Notification
Categorisation of projects that require Environment Impact Assessment	Projects divided into A (31 projects) and B (28 projects), as per the threat they pose. EAC* at the Centre to appraise Category A. Category B divided into B1 and B2; SEAC** in the state decide if a project goes to B1 or B2	All categories predefined: Category A has 39 projects, B1 has 42 projects and B2 has 29 projects. EAC to appraise Category A; SEACs to appraise B1; no appraisal for B2, only online clearance required
Projects exempted from the clearance process	No exemptions	40 projects have complete exemption
Obligation to provide a project's draft EIA report	Summary and the complete report must be in English and the regional language	Summary to be in the regional language and English, complete report only in English
Time for public to respond to draft EIA report	30 days	20 days
Exemption to projects from public consultation	All projects going for increase in production capacity or modernisation require public consultation	Projects going for modernisation without increase in production capacity or up to 50% increase in capacity do not need public consultation
Post-clearance compliance mechanism	Project proponent to submit compliance reports every six months	Compliance report to be submitted annually . Non submission to attract a fine of ₹500/day for B2; ₹1000/day for B1; ₹2,500/day Category A projects
Post-facto clearance (when a project starts without environmental clearance)	No provision	Provision of a daily fine depending on the project category and the complainant (a <i>suo motu</i> acceptance of violation attracts lower fine)

*EAC: Expert Appraisal Committee; **SEAC: State Expert Appraisal Committee; Source: Ministry of Environment, Forest and Climate Change

EIA 2006 also allowed the government to clear projects for strategic reasons without public consultation. But it did not say that the government was free to withhold information from the public domain. Yet, there is no information on MOEFCC website regarding the number of projects that have been cleared for strategic reasons under EIA 2006. "Draft EIA 2020 goes a step further from the 2006 regulation by preventing all information of such projects being put in public domain. This, on one hand, would empower the government to decide arbitrarily areas where a large number of projects could be exempted, and on the other hand, weaken public participation in the decision-making process," says Parul Gupta, lawyer at the National Green Tribunal.

#2 PREDEFINED: EASY CLEARANCE?

The second big change that draft EIA 2020 introduces is a predefined lists of projects in all categories and a less stringent level of assessment, called environment permission (EP), for Category B2. The entire process to get an EP—from application to clearance—will be online, says draft EIA 2020. As per Clause 3 (41), the clearance will come from the State Environment Impact Assessment Authority (SEIAA) or Union Territory Environment Impact Assessment Authority (UTEIAA). Many projects in the new B2 category have a huge potential to harm the environment and should not be cleared without appraisal. B2 now has at least three projects that were in Category A earlier (and would have required EIA), and nine projects that were in B (and could have

been assigned by the SEAC to Category B1, which requires EIA). Sample these:

Expansion or widening of National Highways by 25 km to 100 km: In EIA 2006, these were under Category A. An amendment in 2013 exempted them from the EC process. The impact of the amendment was seen in the Char Dham project undertaken in Uttarakhand. As per a 2018 case with the National Green Tribunal, about 900 km of roads were constructed under the project without EC. The government argued that it was not a single 900-km project, but a combination of 53 individual segments, all shorter than 100 km. This was a clear misuse of the provision and the same can happen with projects under draft EIA 2020.

Construction of aerial ropeways: These were in Category A in EIA 2006. Such projects need region-specific studies on avalanches and landslides. They can cause habitat fragmentation and block migratory corridors for wildlife. Ropeways in forest areas, can lead to soil erosion, change drainage patterns, generate waste water, increase risk of disasters due to technical failures and increase vulnerability during natural hazards.

Exploration of offshore/onshore oil and gas, if it involves drilling: Such explorations were in Category A in EIA 2006. The drilling process generates effluents that carry trace metals and oil, and get disposed off in the nearby areas. The emissions due to flare may damage the land, vegetation or wildlife if the project is close to forestland.

#3 POST-FACTO CLEARANCE

This is the third major change proposed in draft EIA 2020. Clause 22 deals with cases of violations—when a proponent starts the project without obtaining EC—and provides for rectification on payment of a fine. It says that violations can be brought to the government's notice in four ways: through a *suo motu* application by the project proponent; reporting by any government authority; during appraisal;

and while processing of the application by any regulatory authority. In *suo motu* cases, there is a late fee of ₹1,000 per day from the date of violation to the date of application for Category B2; ₹2,000 per day for Category B1; and ₹5,000 per day for Category A projects. The amounts are doubled in case the violation is found by a government authority or during appraisal. This clause could lead to a situation where the violation will be identified by the regulators, but they will, in lieu of bribe, ask the project proponent to file an application *suo motu* and pay a reduced fine. It is also not clear why there is no provision for people to report a violation.

Moreover, why should a unit, which is aware of EIA provisions, be given the benefit of post-facto clearance? In 2017, MOEFCC provided one-time amnesty to all cases of violation till September 2018. This was done to allow operations of units which predate the order that made EC mandatory. Draft EIA 2020 could result in encouraging project proponent to violate and then seek EC by paying a fine. There are other similar provisions that raise concern (see “Clauses of concern” on p33). The key question is do these changes aid decision-making and streamline the EC process?

EC PROCESS

A project goes through four stages during the typical EC process. First is screening, applicable only to Category B, where SEAC decides if the project should be in B1 or B2. Second is the scoping stage where the proponents get the project's terms of reference (ToR) approved by MOEFCC or the State Environment Impact Assessment Authority (SEIAA), as the case may be. ToR is a detailed guideline document which lists all the information a project proponent needs to provide while carrying out EIA. MOEFCC has developed sector-specific standard ToRs. MOEFCC and SEIAA can approve a ToR, ask for more information or reject it. Draft EIA 2020 proposes no changes in this. After ToR has been approved, the proponent prepares a draft



EIA. The preparation of EIA report requires involvement of 12 functional area experts. Each expert assesses the baseline conditions of the site, identifies impacts from the project, and suggests mitigation, management and monitoring plans. The baseline data is to be collected for three months excluding the monsoon season.

As per EIA 2006, this draft EIA report and its summary should be prepared in English as well as the regional language for use in public consultation, which is the third stage. But draft EIA 2020 has no provision to provide the EIA report in regional languages; only its summary. The

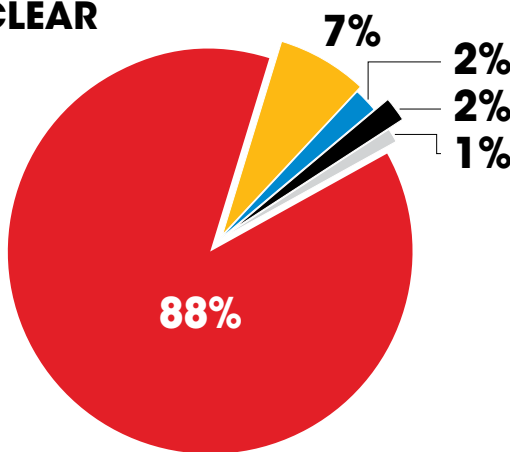
summary cannot possibly provide a complete understanding of the project and its impacts and indicates an effort to not share the complete information.

The third stage is public consultation. It has two components: on-site public hearing and inviting written responses. These are organised by the State Pollution Control Board for which it must publish the project details and the draft EIA report on its website. It must also publish details of the public hearing in one national and one local newspaper. EIA 2006 gave people 30 days to comment after the publication of draft EIA report, but EIA 2020 has reduced this duration to 20 days. This shows a lack of empathy towards the public, which in most of the cases has to take great pains to gather information about the project. After this, the final EIA report is prepared incorporating the suggestions and objections raised in the public consultation.

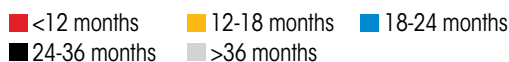
The last step is the appraisal of the project's final EIA report by EAC/SEAC. These

QUICK TO CLEAR

It should take a project a year to get environmental clearance, if there are no objections. In 2014-20, 88 % of the projects have been cleared in lesser duration



Number of projects



Source: Ministry of Environment, Forest and Climate Change



committees can approve the project, reject it or ask for more information. But rejection is quite rare (see “Never say never”). Projects are given multiple opportunities to get the clearance, or become “sustainable” by using different technologies. Between July 2015 and August 2020, only 2.9 per cent of the proposals were not recommended.

Data also suggests that MOEFCC has been quite fast in granting ECs (see “Quick to clear”). Experts estimate that if a project clears every stage of the EC process in a single attempt, it should take about a year to get the clearance. But in 2014-20, nearly 90 per cent of the projects were given EC in less than 12 months. This indicates that projects are rarely rejected or delayed on the basis of EIA.

The EC comes with a set of conditions that the project proponent must fulfil while operating the projects. For instance, they might be asked to take steps for improving the surroundings or build public facilities in nearby areas. EIA 2006 required project owners to send a six-monthly compliance report on meeting the conditions. Draft EIA 2020 requires them to do so once a year.

Throughout the EC process, the project proponents are aided by EIA consultants approved by the National Accreditation Board for Education and Training. Hiring consultants was made mandatory in 2011 because projects proponents were often found to lack the skills for preparing ToRs and EIA reports. In practice, the consultants do everything on behalf of the proponents. They often misrepresent data and use all means to get the clearance. Instead of improving the process, the use of consultants has helped project proponents avoid accountability. Lack of regulatory provisions has made it difficult for the government to blacklist consultants. This is one area where draft EIA 2020 scores over its predecessor. Clause 17 (7) has a provision to debar/blacklist consultants who mislead or misrepresent data.

STRENGTHEN, NOT WEAKEN

It is clear that EIA has become a convenient bogey—something that inconveniences businesses and impedes economic growth—for all governments. The fact is that clearances are almost always given. The so-called rejection rate of projects, even as per governments own data, is a mere 2.9 per cent. (And even these rejections may not be permanent. The project could be cleared later, with changed technology or at a different site.) The fact also is that there is hardly any real scrutiny of the projects. People are heard but not listened to, and monitoring of the conditions set at the time of clearance just happens on paper. The process has already been whittled down and made ineffective. It could be argued that there is hardly any real purpose behind it and that it should be done away with. This is the direction of draft EIA 2020.

However, it is also a fact that EIA is an important procedure for scrutiny and for finding the balance between environmental safeguards and developmental needs. It can be argued that if the EIA process is strengthened, it will ensure that environmental damages are mitigated and managed. It will also minimise risks, delays and even closures of projects. If the process is not rigorous or reliable it will impinge development because people who are affected by a bad industrial project—one that pollutes their water or land, or displaces them without compensation—will protest. They will go to court. The democratic framework of the country will assist them to get justice. Similarly, if the project leads to environmental damage—destroys forest ecosystems, biodiversity gene pools—environmentalists will protest. Again, the project will be contested, delayed. An abused process will lead to abused outcomes, in the interest of none.

It is also a fact that projects are cleared with the full knowledge that there is no capacity to monitor the conditions that have been imposed at the time of clearance.

NEVER SAY NEVER

Expert Appraisal Committees rarely refused environmental clearance to projects between July 2015 and August 2020

Proposals submitted

3,100

Proposals cleared

2,431 (78.4%)

Proposals returned due to shortcomings

393

Proposals not recommended

91 (2.9%)

Proposals pending

185

Source: Ministry of Environment, Forest and Climate Change

This defeats the purpose of management as projects continue to pollute and degrade the environment. It, in turn, adds to people's anger, triggers protests and makes clearance more contentious.

India clearly needs second-generation reforms to safeguard its environment, ensure economic growth and to build a process of development which is less contested and more inclusive. Delhi-based non-profit Centre for Science and Environment (CSE) has critiqued the EC process and recommended, not once but many times, ways in which it can be both streamlined (to aid ease of doing business) and strengthened (for environmental and social integrity). Following are the elements of this proposal:

Consolidate all clearances—environmental, forest, wildlife, coastal—and make the document public so that project impact is fully understood and timely decisions taken. To do this, we should ask for one comprehensive impact assessment document covering all aspects for all clearances. There must be an effort to openly scrutinise the assessment so that people's concerns are taken care of.

Make EACS accountable for their decisions. Currently, these committees have no responsibility to ensure that the projects cleared do not have a serious environmental impact. They simply delay the clearances by repeatedly asking for information, or they clear with a list of conditions, knowing that these conditions will not be monitored, or may not even be feasible. It is important to review their role and make them more transparent (see "Committees of conflict").

Integrate the processes and procedures followed by the state pollution control boards under the air and water Acts, and MOEFCC under the Environment (Protection) Act, 1986. Currently, we have a situation where there is a serious lack of capacity and personnel on the one hand and duplication of work on the other. The same clearances are given by different agencies, under different legislations and there is nobody responsible for monitoring compliance of conditions.

Deepen public assessment and scrutiny by putting all data of public hearings in public domain. The public consultation process is important but decisions taken

Committees of conflict

Appointments to appraisal committees are increasingly suspect, and often there are cases of conflicts of interest

Expert Appraisal Committees (EAC) at the Centre and State Expert Appraisal Committees (SEACs) at the state level play a critical role in safeguarding the environment. They analyse the impacts of the projects and recommend them. An EAC/SEAC has 10-15 members (subject specialists and retired government officials), under a chairperson who should be an environment policy expert/public administrator. The members are appointed by the environment ministry for a term of three years. They can be in office for two terms and cannot be

removed without an inquiry.

Appointments to these committees have created controversies for a couple of reasons. One, governments have increasingly appointed retired bureaucrats and academicians with no experience in the field of environment. Two, there have been numerous cases of conflict of interest. The Thermal Power Plant Appraisal Committee, for instance, has 14 members of whom four are retired bureaucrats, four government officials, five academicians, and only one expert with ground experience who was a

former director of National Thermal Power Corporation. Moreover there are many cases of conflicts of interest. What's worse, conflicting roles of EAC members remain unmonitored. In 2017, activists filed a complaint to remove Sharad Kumar Jain, chairperson of the EAC for river valley and hydroelectric projects because he also held the charge as Director General, National Water Development Agency, which is involved in preparing detailed project reports for river projects. But no action was taken. He still is the chairperson.



at public hearings are rarely considered by EACS. Two steps can be taken to make this process stronger: one, the mandatory videography of the proceedings should be streamed real-time on the Internet. Two, all monitoring conditions and compliance pertaining to the concerns raised in public hearings should be put in public domain.

Review effectiveness of SEIAA, particularly in clearance of multitude of urban projects—the building and construction sector. Under EIA 2006, the state agencies were given responsibility for clearance of building and construction projects. There is little evidence to suggest that these agencies have been effective in controlling pollution or degradation caused by urban projects. The building and construction sector projects within municipal limits should not require environmental clearance. Instead, the focus should be to strengthen municipal guidelines for assessment and to monitor large-scale urban projects for compliance.

Strengthen data for assessment and monitoring of projects. This will ensure that the scrutiny is scientific and there is baseline data available for monitoring. The Achilles heel of the entire process is the lack of credible and up-to-date data on environmental parameters and the ecological importance of the site. Without

this, every EIA report, done by a faceless consultant, paid by the proponent company, is just an exercise in paperwork. **Strengthen MOEFCC's capacity** and focus on monitoring of compliance, not on clearance of projects. Currently, there is no capacity to monitor projects, once cleared. This leads to projects that have adverse impacts on the environment. It also leads to the decline of credibility of the regulatory institutions and their ability to sanction projects which safeguard the environment.

The question is if the governments—previous, present or next—really value the scrutiny of the projects, and whether they believe this assessment will improve decision-making and help mitigate impacts that could damage the environment, irreversibly. If they do not, then EIA 2006 or EIA 2020 are all just futile exercises. The governments better stop the semblance of this pretence. Taking it down bit by bit is just prolonging the charade. It is not protecting the environment.[DTE](#)