

CHAPTER

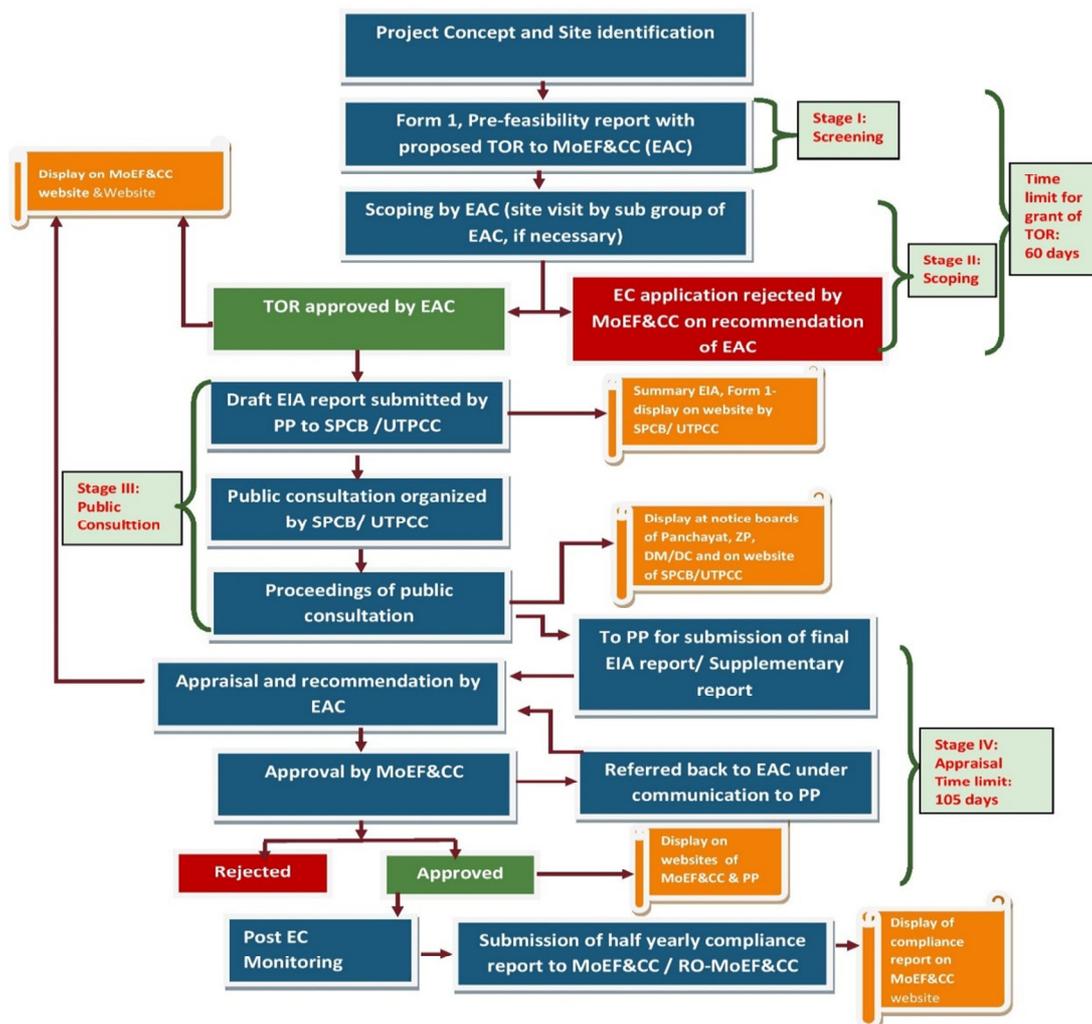
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Process of grant of Environment Clearance

2.1 Introduction

Environment Impact Assessment (EIA) exercise is to be carried out before any project is undertaken. EIA Notification of 2006 and its amendments define Environmental Clearance (EC) process. This comprises of a maximum of four stages, all of which may not apply to a particular case. These four stages in sequential order are Stage 1: Screening (Only for Category 'B' projects and activities); Stage 2: Scoping; Stage 3: Public Consultation; and Stage 4: Appraisal. The process of granting ECs and post EC monitoring for Category A projects is illustrated in the **Chart 2.1**.

Chart 2.1: Process of grant of EC



SPCB: State Pollution Control Board, UTPCC: Union Territory Pollution Control Committee, EIA: environment Impact Assessment, PP: Project Proponent, EAC: Expert Appraisal Committee, TOR: Terms of Reference, EC: Environmental Clearance

The present chapter deals with deficiencies noticed in EIA processes. We scrutinised 216⁸ projects relating to seven sectors which were granted EC between 2011-2015. **Chart 2.2** shows the percentages of delay in various EIA processes details of which are described in succeeding paragraphs.

Chart 2.2: Delay of EIA processes (in per cent)

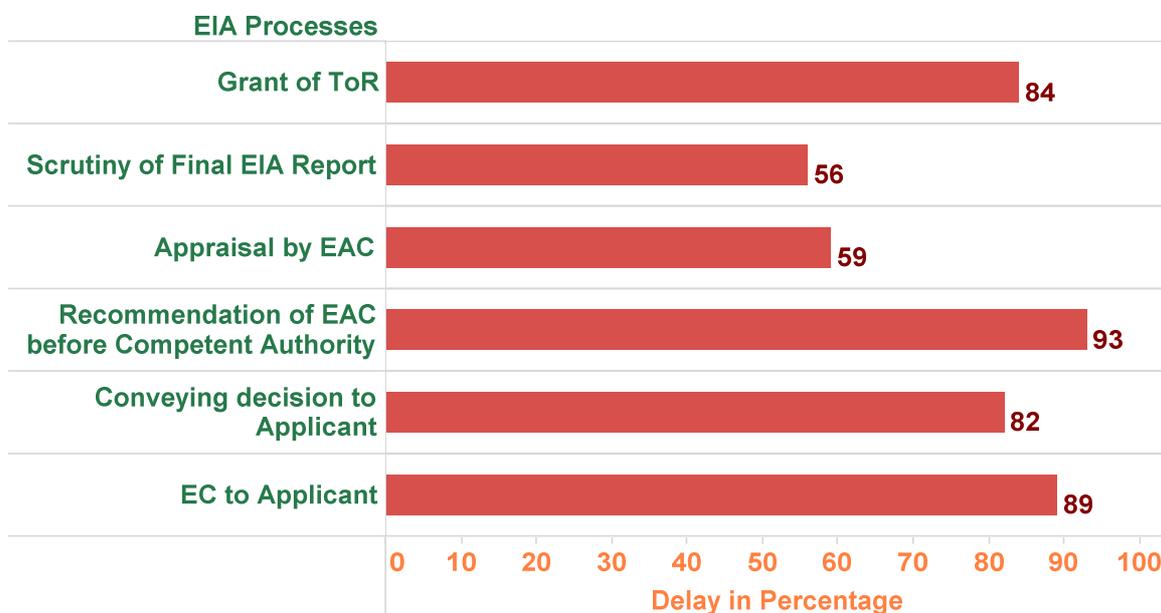


Chart 2.2 shows that overall delay in grant of EC to the applicant is in 89 *per cent* cases. In terms to various EIA processes, maximum delay (93 *per cent* cases) occurred in giving recommendations of EAC before the Competent Authority whereas the least delay occurred in scrutiny of final EIA Report.

2.2 Inconsistencies noticed in respect to database of Environmental Clearances

The information relating to the number of projects (6,765) granted EC during the period January 2008 to July 2015 pertaining to seven sectors namely Coal Mining, Industry, Non Coal Mining, Construction, Infrastructure, Thermal and River Valley was provided by NIC cell (August 2015) of MoEF&CC. We noticed the following discrepancies in the database:

- a. Category 'B' projects were included in the database of Category 'A' projects.
- b. Projects granted EC by SEIAA were also included in the database.
- c. Projects were misclassified under a different sector. For example, the list of Non Coal mining sector included some projects from industrial sector, Coal mining etc.
- d. Location of projects was also wrongly depicted.

We attempted to reconcile the discrepancies in the database with MoEF&CC. The Ministry furnished (June 2016) database maintained by them for Thermal Power Projects granted EC during the period January 2008 to July 2015 which differed

⁸ We selected a sample of 249 projects out of 2,917 projects granted EC during 2011 to July 2015. We received 216 files only.

significantly with the figures provided by NIC, Cell. The Ministry did not furnish reply in respect of other remaining sectors. Further, the database does not contain the time taken at each stages of EIA process. The detail findings of audit relating to delay are contained in subsequent paragraph.

MoEF&CC further stated (October 2016) that the figures appearing in the Audit Report do not match with the data made available by the NIC⁹, According to MoEF&CC's reply, 4,534 ECs were granted during 2008 to July 2015.

However, during the course of Audit, the EIA division of MoEF&CC was repeatedly asked to confirm the figures of projects granted EC and point out the inconsistencies, if any. But the Ministry did not furnish reply¹⁰. MoEF&CC provided only the year wise figures of project granted EC (October 2016) and which significantly differed from database furnished earlier by NIC to audit. MoEF&CC did not provide State wise and sector-wise database of the projects granted EC.

2.3 Adherence with the timelines of EIA process

According to Para 7(i) II of the EIA Notification 2006, the EAC concerned determine the Terms of Reference¹¹ (ToR) on the basis of the information furnished by the applicant in the prescribed form. The ToR has to be conveyed to the applicant by the concerned EAC within 60 days of the receipt of the prescribed form. Depending on the sector the validity of the ToR ranges between four to five years.

Further, to obtain EC, the Project Proponent (PP) submits the Final EIA report, the outcome of the public consultations including public hearing proceedings to the MoEF&CC for appraisal by the EAC. The EAC concerned has to make categorical recommendations to the regulatory authority concerned either for grant of prior EC on stipulated terms and conditions, or for rejection of the application for prior EC, together with reasons for the same.

As per the EIA Notification 2006, the Final EIA Report and the other relevant documents submitted by the applicant should be scrutinized in MoEF&CC within 30 days from the date of its receipt. The appraisal of an application has to be completed by the EAC concerned within 60 days of receipt of the final EIA report. The recommendations of the EAC had to be placed before the Competent Authority for a final decision within the next 15 days. The regulatory authority has to consider the recommendations of the EAC concerned and convey its decision to the applicant within 45 days of the receipt of the recommendations of the EAC concerned. The EC has to be conveyed to the applicant within 105 days of the receipt of the final EIA Report.

⁹ NIC is responsible for maintaining the website and online system for applications for environmental clearance of the Ministry.

¹⁰ except the Thermal Power Projects

¹¹ ToR prescribes detailed and comprehensive terms addressing all relevant and environmental concerns for preparation of an EIA Report.

We scrutinised 216¹² projects which had been granted EC between 2011-15 to examine whether prescribed time limit had been observed by MoEF&CC in grant of EC.

Year wise delays in grant of EC for the sampled projects is given in Table 2.1 below.

Table 2.1: Year wise delay in grant of EC

Year of Grant of EC	Number of projects	Number of projects with delays	Maximum delay (days)	Average delay (days)
2011	61	45	944	86
2012	56	54	588	184
2013	24	23	820	231
2014	25	25	761	316
2015 (upto July)	42	38	1,002	238
Total	208	185		

Note: Out of sampled 216 projects delay could not be ascertained in eight projects (Coal-1, Non-Coal – 3, Infrastructure – 3, River Valley – 1) due to insufficient information.

From the above table it is evident that in 185 projects (89 *per cent*) the EC was not granted within the prescribed time limit of 105 days. The average delay in grant of EC increased from 86 to 316 days during 2011 to 2014. In 2015, the average delay declined to 238 days. We observed that the delay was attributable to delay in processing of EC application at various stages, which are highlighted in the succeeding paragraphs.

The number of projects with delays are depicted sector wise and stage wise in the Table 2.2 & 2.3.

Table 2.2: Sector wise delay in grant of EC

Sector	Grant of ToR	Scrutiny of Final EIA Report	Appraisal of the application by the EAC	Placing recommendations of the EAC before the competent authority for a final decision	Conveying recommendations of EAC and the decision of the MoEF&CC to the applicant	Overall time for grant of EC excluding ToR
Number of cases	180	168	202	207	210	208
Sector wise delays						
1. Coal Mining	22	13	32	34	28	34
2. Industry	30	18	22	34	29	30
3. Non Coal Mining	26	26	28	33	34	33
4. Construction	-	14	8	16	15	19
5. Infrastructure	31	15	18	34	33	31
6. River Valley and Hydro Electric	5	5	4	6	6	6

¹² Coal – 39, Industry - 34, Non-Coal – 37, Construction – 20, Infrastructure – 38, River Valley – 7, Thermal – 41.

Sector	Grant of ToR	Scrutiny of Final EIA Report	Appraisal of the application by the EAC	Placing recommendations of the EAC before the competent authority for a final decision	Conveying recommendations of EAC and the decision of the MoEF&CC to the applicant	Overall time for grant of EC excluding ToR
7. Thermal Power	38	3	8	36	28	32
Total	152	94	120	193	173	185
Percentage of selected cases	84	56	59	93	82	89

Details are given in the **Annexure IV**. The number of projects showing stage wise delay in grant of EC is given in Table 2.3 below.

Table 2.3: Stage wise delay in grant of EC

Stages of EC process	Prescribed time limits in days	Projects where the EC was conveyed to the applicant within the prescribed time limit	Projects with delay of 0-30 days	Projects with delay of 31-90 days	Projects with delay of 91-180 days	Projects with delay of 181- 365 days	Projects with delay beyond 365 days
Grant of ToR	60	28	47	60	33	12	0
Scrutiny of Final EIA Report	30	74	37	46	9	1	1
Appraisal of the application by the EAC	60	82	16	37	25	28	14
Placing recommendations of EAC before the Competent Authority	15	14	54	88	38	11	2
Conveying recommendations of EAC and the decision of the MoEF&CC to the applicant	45	37	44	72	36	17	4
Overall time for grant of EC	105	23	12	38	56	47	33

As would be seen from the tables above the Sector wise delay ranged from 55 to 91 *per cent* and in only 23 cases EC was granted within the prescribed time limit.

MoEF&CC stated (October 2016) that the reasons for delay were because of delay in moving documents from Central Registry sections to concerned Impact Assessment section, opening of specific files for submitting to the Member Secretary concerned, insufficient skilled hands in Impact Assessment Division, large influx of projects for EC during 2011-14, delays on part of PP from whom additional information/clarification was

sought and deficiencies in awareness about the impact process among PPs and consultants.

MoEF&CC further stated (October 2016) that it had taken important initiatives to streamline the process of grant of EC. Online submission of EC had been introduced (July 2014) which had increased transparency and speed of disposal of cases through better monitoring. These steps have delegated more powers to the States. The Ministry had made efforts to constitute more committees and also to organize frequent meetings to reduce backlog of projects received for ToR/EC. It had also amended EIA Notification (April 2015) and introduced provision of deemed ToR approval for projects within 30 days failing which the PP can commence preparation of EIA/EMP report as per the standard ToR.

However, audit noticed that the average days taken for processing the EC has increased in case of offline projects in the last two years.

2.3.a Instances of delay in grant of ToR

In a Coal Mining project in Chhattisgarh, viz **Kuchena Washery of M/s Aryan Coal Beneficiation Ltd.** of 5 Million Tons Per Annum of washed coal in an area of 9.311 ha, the letter for ToR was received in Ministry on 14 August 2007. The project was considered by the EAC twice i.e. on 28-29 November 2007 and 28-30 July 2008. The ToR for the project was finally issued on 25 August 2008. The Ministry sought some clarification from the PP on 17 January 2008. The PP took 139 days to furnish the clarification sought by the Ministry. MoEF&CC took 377 days from 14 August 2007 to 25 August 2008 to grant the ToR. Thus, there was a delay of 178 (377-139-60) days due to delay in processing of file by MoEF&CC. The MoEF&CC stated (October 2016) that the actual processing time to grant ToR was 130 days. However, the reply of the Ministry was not supported by any document.

Another industrial project in Andhra Pradesh viz **Expansion of Induction Furnace & Rolling Mill, Anantapur of M/s Hindupur Steel & Alloys Pvt. Ltd** was granted EC on 22 June 2015. The application for ToR was received at MoEF&CC on 20 June 2012. A letter was issued by the Ministry on 22 November 2012 informing the PP about consideration of the proposal in the 3rd Reconstituted EAC. After consideration of the proposal in the said EAC, the file was put up again on 1 February 2013 whereby a notification about the project being in notified industrial area was to be sought from the PP. The said letter was issued to the PP on 14 February 2013. The information was received from the PP on 11 March 2013. The ToR was granted on 29 April 2013. In all, MoEF&CC took 313 days from 20 June 2012 to 29 April 2013 to scrutinize the Form 1¹³. The PP took 25 days to furnish the desired information. Thus EAC took 288 days (313-25) to scrutinise the Form 1. Thus, there was a delay of 228 days (288-60) due to delay in processing of file by MoEF&CC.

¹³ Form 1 is a prescribed application form for seeking prior EC.

2.3.b Instances of delay in scrutiny of Final EIA Report

In a Coal Mining project in Odisha namely, **Bhubaneswari Opencast Coal Mining Project of M/s Mahanadi Coalfields Ltd**, the request for grant of EC along with final EIA/Environment Management Plan (EMP) report was received in MoEF&CC on 18 August 2010. On 2 November 2010, MoEF&CC sought the additional information and the reply of the same was received on 20 November 2010 i.e. after 18 days. On 9 March 2011, the MoEF&CC intimated to PP that the Project would be considered in the EAC meeting held on 28-29 March 2011. Thus, a total of 222 days were taken from the date of receipt of EIA report to the date of intimating the PP about the EAC meeting and a delay of 174 (222-30-18) days was noticed and no reason was found for such delay.

The MoEF&CC stated (October 2016) that the proposal was put on hold from its receipt till 20 November 2010 for bonafide reasons. However, no such reasons were furnished by the Ministry.

Similarly, in a River Valley and Hydro Electric project in Madhya Pradesh, namely, **Kundaliya Major Multipurpose Project of Water Resources Department**, the EIA report was received on 20 May 2013 and was put up by the concerned division of MoEF&CC on 25 July 2013. It was first considered in the 77th EAC meeting held on 10-11 December 2013. Mainly, on account of this there was a delay of 175 days.

2.3.c Instances of delay in appraisal of the application by the EAC

An Industrial project in Bihar, namely, **Grain and Molasses based Distillery Unit, Co-generation Plant, Darbhanga of M/s Tirhut Industries Ltd** was granted EC on 16 May 2015.

The final EIA report was received in MoEF&CC on 4 June 2012. The project was first considered in the 2nd Reconstituted EAC Meeting held on 31 October 2012. The project was finally considered in 34th Reconstituted EAC Meeting held on 17-19 February 2015. The EAC on 26 February 2015 recommended the project for EC. On 13 March 2013 i.e. 133 days after the EAC Meeting, a letter was issued by the MoEF&CC to Bihar SPCB to seek clarification whether the public hearing meeting conducted in May 2012 was supervised/presided as per EIA Notification 2006. The information was received on 2 April 2013 and Bihar SPCB on 11 April 2013 was requested to conduct the fresh public hearing for the project concerned. The same was conducted on 11 July 2014 and the minutes of the public hearing/photographs were received in the Ministry on 27 January 2015. The total time taken by MoEF&CC for appraisal of the project was 997 days from 4 June 2012 to 26 February 2015. There was a delay of 937 days (997-60). MoEF&CC in its reply (October 2016) stated that the total time consumed after submission of correct and complete document was 113 days. The reply is not tenable as the Ministry initially took five months to consider the project in the first EAC conducted on 31 October 2012. Further, a clarification regarding supervision of public hearing as per EIA Notification was sought from SPCB after 133 days from the conclusion of 2nd EAC meeting. This

clarification should have been sought before the EAC meeting or in the EAC meeting itself. Taking this into consideration, the delay stands at 937 days.

Similarly, in respect of a **Limestone Mine of M/s Adhunik Cement Ltd, Meghalaya**, the EIA report was received in MoEF&CC on 27 April 2012. The said report was placed before the 30th EAC Meeting held on 29– 31 August 2012. On 7 September 2012, the Committee recommended the project for issuance of EC subject to an appropriate conservation plan for the cited Schedule-I species. There was no movement of file from 7 September 2012 to 11 March 2013 (i.e. for 166 days). On 11 March 2013, MoEF&CC intimated the PP to submit the required conservation plan and on 16 April 2013 the PP submitted the conservation plan. The proposal was examined in the 8th EAC meeting held on 26– 28 June 2013 wherein the Committee recommended (5 July 2013) the proposal for grant of EC and also added that since the conservation plan had already been approved by the Competent Authority at the State level, such conservation plan need not be placed before the EAC. Thus, a total of 434 days were taken. Out of 434 days, PP took 35 days to furnish additional information. Therefore, there was a delay of 339 days due to processing of file at the MoEF&CC. The reply of Ministry (October 2016) was silent about delays in the project.

2.3.d Instances of delay in placing recommendations of EAC before the Competent Authority

In Tamil Nadu a project, namely, **Construction of Novotel Hotel and Commercial block, of M/s Srilanad Mansions Pvt. Ltd**, the EAC recommended the project on 16 December 2011. However, the recommendations of the EAC were submitted to the Competent Authority on 4 July 2012 after lapse of 201 days. Thus, there was a delay of 186 days in submission of recommendations of EAC to the Competent Authority.

Similarly, in an Infrastructure Project in Jharkhand, namely, **Widening and improvement from 2-lane to 4/6 laning of Barhi to Hazaribagh of M/s National Highway Authority of India**, the recommendations of the EAC were to have been placed before the Competent Authority for a final decision within the next 15. However, there was a delay of 137 days (10 February 2012 to 10 July 2012 i.e. 152-15). No justification was on record in the notings for the same.

2.3.e Instances of delay in conveying the EC to the Applicants

In a Construction Project in Kerala, namely, **Construction of IT park project, of M/s L&T Tech Park Ltd**, a total of 1,049 days were taken in granting of EC, against mandated time of 105 days. Thus, delay of 944 days was observed. Reason for delay could be attributed to multiple references to State authorities for ascertaining infrastructure, Coastal Regulation Zone (CRZ) applicability and assembly elections, in addition to procedural delays.

Similarly, in a Thermal Power Project in Odisha, namely, **2x660 MW Imported Coal Based Thermal Power Plant, of M/s Visa Power Pvt Ltd**, EIA Report was received from

PP on 21 June 2010 and EC was granted by MoEF&CC on 17 January 2012. Thus, 575 days were taken in place of prescribed 105 days for issue of EC to PP. Thus, there was a delay of 470 days in issue of EC to PP.

2.4 Illustrative cases of delay in grant of EC

Box 2.1 illustrates cases of delay by the Competent Authority.

Box 2.1: Illustrative cases of delay by the Competent Authority

Non Coal Mining Sector

1. Expansion of Slate Mining Project of M/s Ashok Somany, Haryana: The recommendations of the EAC were submitted by the Secretary, MoEF&CC to the Competent Authority on 19 July 2012. However, the Competent Authority gave approval on 4 October 2012 (i.e. after 77 days). No reasons were found on the file to justify this delay of 77 days.

Industrial Sector

2. Manufacturing of Manmade fibres at Surangi, Silvassa of M/s DNH Spinners Pvt. Ltd, Dadar & Nagar Haveli: The file was forwarded to the Competent Authority on 18 April 2012 for approving the recommendations of the EAC. The EC was granted to the project on 12 July 2012. The Competent Authority took 80 days to approve the recommendations of the EAC. No valid reason for the delay was found in the file.

3. Exploratory Drilling (offshore) Blocks of M/s Oil and Natural Gas Corporation Ltd, Andaman: The file was forwarded to the Competent Authority on 9 June 2014 for approving the recommendations of the EAC. The Competent Authority gave approval on 20 July 2014. The Competent Authority took 41 days to approve the project. No valid reason for the delay was found in the file.

4. Expansion of Cement Plant at Bennibari Industrial Estate of M/s Kailashpati Cement Pvt Ltd, Assam: The file was forwarded to the Competent Authority on 7 February 2012 for approving the recommendations of the EAC. The Competent Authority took 50 days to approve the proposal for environmental clearance. No valid reason for the delay was found in the file.

Box 2.2 illustrates cases of delay in issue of EC letter after grant of EC by Competent Authority.

Box 2.2: Illustrative cases of delay in issue of EC letter after grant of EC

Coal Mining Sector

1. Expansion of Kakatiya Khani Opencast Sector I Coal Mining Project of M/s Singareni Collieries Company Ltd, Telangana: The EC was approved by the Competent Authority on 17 March 2015. On 19 March 2015 the Ministry granted the EC. However, the EC letter was issued on 11 May 2015 i.e., after 53 days.

2. Cluster 8 (Group of 7 mines) of M/s Eastern Coalfields Ltd, West Bengal: The EC was submitted to the Competent Authority on 16 March 2015. The Ministry granted the EC on 19 March 2015 but the EC letter was issued on 11 May 2015 i.e. after 53 days.

3. Pit head captive wet washery of M/s Jayaswal Neco Industries Ltd, Chhattisgarh: It was observed that the EC was approved by the Competent Authority on 18 May 2013. The EC was granted on 10 June 2013, however, EC letter was issued to the PP on 8 July 2013 i.e. after 28 days.

2.5 Adequacy of EIA reports

According to Para 7 and Appendix III of the EIA Notification 2006, the Generic Structure of EIA Report consists of Chapters pertaining to Introduction, Project description, Description of environment, Anticipated environmental impacts and mitigation measures, Analysis of alternative¹⁴, Environmental Monitoring Program, Additional studies, Project benefits, Environmental Cost benefit analysis¹⁵, EMP, Summary and Conclusion, Disclosure of Consultants engaged. The EIA Report should be in compliance with ToR.

Out of 216 cases scrutinised in audit, we found non-compliance of EIA report with ToR which is given in Table 2.4.

Table 2.4: Non-compliance of EIA Report with ToR

EAC	Projects where the EIA report did not comply with ToR	Number of EIA reports not conforming to the Generic structure
1 Coal Mining	In 9 projects the baseline data was collected before the grant of ToR which was irregular. In another 2 projects namely Manuguru Opencast IV Extension Project and Ananta OCP Expansion Project, the EIA reports partially complied with the ToR.	In 15 Projects, the EIA report was not according to Generic Structure.
2 Industry	In 21 projects, the EIA report did not comply with ToR.	In 19 projects EIA reports not conforming to the Generic Structure
3 Non Coal Mining	1 project	4 projects
4 Building/ Construction	Not Applicable as ToR and EIA is not prepared.	
5 Infrastructure Development	8 projects	6 projects
6 River Valley and Hydro Electric	6 projects	6 projects
7 Thermal Power	8 projects	-
Total	55	50
Percentage of cases	25	23

¹⁴ In case, the scoping exercise results in need for alternatives.

¹⁵ If recommended at the scoping stage.

Details of cases of non-compliance of EIA Report and ToR are given in Box 2.3.

Box 2.3: Illustrative cases of non-compliance of EIA Report with ToR

Coal Mining Sector

Collection of baseline data before the grant of ToR /

collection of data for one month as against one season of three months

a. In respect of **Sheetaldhara-Kurja and Kapildhara Group of Underground Mine, Madhya Pradesh**, the ToR was granted on 20 March 2009. However, base line data was collected between October 2008 and December 2008 i.e. before the issue of ToR, which was irregular.

b. As per ToR conditions, collection of one-season primary baseline data on environmental quality should be collected for air, noise, water and soil. However, in respect of Cluster 1 coal mining area of Jharkhand, it was observed that in respect of water, noise and soil instead of three months, only one-month data was collected.

c. In **Jamunia UG Project of M/s. Western Coal Fields Ltd, Madhya Pradesh**, as per ToR dated 15 April 2009, baseline data collection can be for any season except monsoon. As per final EIA report base line data was collected in the pre-monsoon season of 2005 .i.e. more than four years before the date of EIA.

However, the MoEF&CC did not raise any objection on these points. It was observed in other project files that MoEF&CC asked the PP to collect the fresh baseline data i.e. after the grant of ToR.

Industrial Sector

Non-insertion of essential condition in ToR

a. Drilling of Development well and Exploratory Well of M/s Oil India Ltd, Arunachal Pradesh: It was observed that permission from State Forest Department regarding the impact of the proposed plant on the surrounding Reserve Forests namely Namsi, Chongkham, Manabhumi and Tengapani that were located within 10 km of the projected area, had not been obtained at time of submission of the EIA Report.

b. Manufacturing of MS Ingots at Sirmour, Himachal Pradesh of M/s Ambika Alloys:

- It was observed that the Reserved/Protected Forests Bhabarwala and Shisamwala (5 km) were within 10 km from the project site. The ToR did not contain the condition wherein the PP needs to take permission from the State Forest Department regarding the impact of proposed expansion on the surrounding reserve forests.
- The ToR did not mention the season for which the data for all environmental parameters was to be taken by the PP.

c. Zinc & Lead Metal Melting & Casting Unit at Pantnagar, Uttarakhand of M/s Hindustan Zinc Ltd: It was observed that the Reserved/Protected Forests namely Dhimri, Gangapur, Patiya and Tanda were within 10 km from the project site. The ToR did not contain the condition wherein the PP needs to take permission from the State Forest Department regarding the impact of proposed expansion on the surrounding reserve forests.

d. Integrated Steel Plant along with Captive Power Plant and associated facilities at Bodundakala Industrial Area, Balaghat of M/s. Rashmi Cement Ltd, Madhya Pradesh: The condition of public hearing was not included in the ToR. The information towards public hearing was not available in the file as well as in the EIA report. Hence, the information related to public hearing could not be ascertained in audit. It also could not be ascertained whether the project was exempted from the public hearing.

MoEF&CC replied (October 2016) that the consultants also certify that the EIA was as per the ToR and it had covered all the topics prescribed in ToR. The same was also examined by the EAC while appraising the projects. Baseline data was collected by the consultants by carrying on study at the site.

Audit is of the opinion that the Ministry has just explained the procedures of scrutinizing the EIA reports. However, the fact remains that there have been shortcomings in the preparation of the EIA reports with respect to the ToRs, still the projects have been granted ECs.

2.6 Lack of cumulative impact assessment

As per para 9 of Appendix I (Form I) of the EIA Notification 2006, the PP has to provide information regarding the factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality. As per para 9.4, the PP has to provide the cumulative effects due to proximity to other existing or planned projects with similar effects.

We observed that either no information was given regarding cumulative effect or very general information was given by the PPs without any substantive cumulative impact studies in the EIA reports. Audit noticed that in most of the EIA reports the PPs have indicated that they have not carried out cumulative studies. Also, there was no mandatory requirement of cumulative impact studies before preparing the EIA reports.

MoEF&CC stated (October 2016) that the ToR prescribed area or parameters on which the PP had to conduct the study for preparing the EIA/EMP. The study area is 10 km from the boundary of the project site. Data is collected for one season to make it representative. Thus, every EIA report shows the cumulative impact on the environmental parameters of all activities affecting that parameter.

However, the fact remains that in most of the EIA reports, the PPs had not indicated that they had carried out cumulative studies.

2.7 Changes of EIA processes by issue of Office Memorandum

The EIA Notification 2006 was issued by MoEF&CC under the provisions of Section 3 of Environment (Protection) Act 1986. The changes in the notification was a legal process which also require opinion of the stakeholders and Gazette notification.

Ministry issues Office Memoranda (OMs) from time to time to explain the office procedure or to define processes where there was no express provision or clarity in the EIA notification.

We observed that MoEF&CC had issued 181 OMs till October 2014 relating to EIA notification. Some of these OMs had the effect of diluting the provisions of original notification as detailed in the Box 2.4 given below.

Box 2.4: Dilution of EIA Notification 2006 by OM

MoEF&CC vide its OM dated 12 December 2012 and 27 June 2013, had provided for considering the applications of the project where construction had been done/started without prior EC. The purpose of EIA is to identify, examine, assess and evaluate the likely and probable impacts of a proposed project on the environment and thereby, to work out remedial action plans to minimize these adverse impacts on the environment. All this is required to be done at a stage before the commencement of the project. The EIA notification does not visualise such examination post-commencement and upon completion of the project, in relation to the covered projects and activities. The OM issued by MoEF&CC was challenged and was quashed by National Green Tribunal in July 2015, with the observation that these OMs were *ultra vires* the provisions of the Act of 1986 and the Notification of 2006 and suffered from the infirmity of lack of inherent jurisdiction and authority.

MoEF&CC stated (October 2016) that after quashing of OMs by NGT, the Ministry was in the process of establishing procedures/system for dealing with such cases of violation for environment clearance through notification.

2.8 Grant of fresh EC for expansion without checking of earlier EC conditions

As per MoEF&CC circular (May 2012), while submitting the application for consideration for grant of EC of all expansion projects under the EIA Notification 2006, the PP should submit a certified report of the status of compliance of the conditions stipulated in the EC for the ongoing/ existing operation of the project by the ROs of MoEF&CC.

Scrutiny of files revealed that in three cases in Coal Mining Sector, fresh EC was granted to the PPs without checking the compliance of the conditions mentioned in the previous EC, details of which are given in Table 2.5.

Table 2.5: Details of cases where EC was granted without checking compliance of previous EC

Sector	Project	Details
Coal	Expansion of Samaleswari OCP (from 11 MTPA to 15 MTPA)	<p>The RO, MoEF&CC, conducted the monitoring of the Project on 16 April 2013 and gave report of non-compliance of prior EC conditions viz,</p> <ul style="list-style-type: none"> • No plantation work had been taken by the project after 2009-10; • There were illegal felling in some places by the locals and project had to take up gap plantation in these open patches; the Geo-reference Map of the lease area duly authenticated by the State Government was not submitted; • The Rehabilitation work was yet to be initiated; • No efforts had been made to develop the laboratory with required number of instruments to make it functional; • The compliance status of the stipulated EC conditions, was yet to be uploaded;

Sector	Project	Details
		<ul style="list-style-type: none"> The monitoring data of environmental quality parameters and the six monthly compliance reports were yet to be submitted. <p>The EAC did not seek any explanation from the PP for such non-compliance and recommended the project for grant of EC.</p>
Coal	Expansion of Paunderpauni Coal Washery	<ul style="list-style-type: none"> The EC was granted for expansion of the project, without the independent inspection to verify compliance with the stipulated conditions mentioned in the earlier EC by RO of MoEF&CC. It was mentioned in the minutes of the EAC meeting that "the Ministry should have obtained the details on the equipment and technology to be adopted with justification for the enhancement of capacity of the washery from the PP before award of EC". However, it was observed that the Ministry issued the EC letter without obtaining such information from the PP.

MoEF&CC stated (October 2016) that it was an established process that for the project which comes for expansion, the certified copy of the last monitoring report is submitted and examined and that recently orders have been issued to all the Member Secretaries to clearly mention about this in the note submitted for approval of EC.

However, MoEF&CC did not offer specific comments on the cases mentioned in the Table 2.4.

2.9 Non-operation of projects that have been granted EC during 2008-12

Para 9 of the EIA Notification contains provisions for validity of EC. MoEF&CC was asked to provide information¹⁶ about the projects that were granted EC by MoEF&CC during 2008-2012, but did not commence production operations or complete all construction operations (in case of construction projects) before the expiry of the validity of EC. MoEF&CC did not furnish any reply to these queries.

Audit had selected a sample of 352 projects granted EC during 2008-12 for joint physical verification along with respective SPCBs/UTPCCs. During the joint physical verification or as per information provided by SPCBs/UTPCCs, it was observed that in 159 projects (44 per cent) for which EC had been granted by MoEF&CC, the projects were either not in operation or had not started for reasons such as forest clearance, financial constraint, market viability, land dispute, technical reason etc.

The above indicated that MoEF&CC did not have compiled information related to these projects. Lack of information about closed/non-operational projects indicates poor coordination among MoEF&CC, SPCBs/UTPCCs and PPs. This also indicates that MoEF&CC had not maintained online database of current status of all the projects granted EC.

¹⁶ Audit memo Number 137(PA) dated 27 April 2016

2.10 EC of the linked coal mine for Thermal and Metallurgical projects

MoEF&CC circular (November 2010) stipulates that for Thermal power and Metallurgical projects, the availability of requisite quantity of coal is essential to ensure viability of the project. In order to access the likely adverse environmental impact of such projects, it was desirable to have information about the quality of coal to be used in the project, its source and distance with respect to the location of the project. The quality of coal, besides environmental loading, also has bearing on the land requirement for the project. It was also necessary that the status of environment and forest clearance of linked coal source was ascertained well in advance. All the proposals relating to thermal power projects, steel, sponge iron and any other such project, which are largely dependent on availability of coal as raw material, shall be considered only after the firm coal linkage was available and the status of environment and forestry clearance of the coal sources i.e. the linked coal mine/coal block was known.

We examined the EC letter for the sampled projects issued after November 2010 and checked whether the linked coal mine was specified in the EC letter/EIA report. Subsequently, during the site visit, it was checked whether the Thermal Power Project was using the coal as specified in the EC letter.

A total of 43 projects, with EC granted during 2008-11 and another 41 projects, with EC granted during 2011-15 were examined from this perspective. Of these projects, nine each from these two periods were granted EC after issuance of the direction in November 2010.

During scrutiny of these projects, we observed the followings:

- a. In three projects, spread across Bihar and Chhattisgarh, EC specified the name of the company, from where the proposed coal was to be procured. However, it did not specify the name of the block or the mine, therefore the location or distance of the source could not have been forecasted, details of these projects are shown in Table 2.6.

Table 2.6: Missing coal link mine of Thermal Projects

State	Project	Date of EC	Coal linkage
1. Bihar	Nabinagar STPP	27 December 2010	Central Coalfield Limited
2. Chhattisgarh	Expansion of Coal Based Thermal Power Plant	18 March 2011	South Eastern Coal Field Limited
3. Chhattisgarh	Coal based Thermal Power Plant	24 January 2012	South Eastern Coal Field Limited

- b. In a project (**Vindhaychal STPP**) in **Madhya Pradesh**, EC (granted on 02 May 2012) had specified coal to be procured from Pakri Barwadih Coal Block in Jharkhand. However, citing delay in mining of coal from the specified block, coal from a different mine was being utilised. Further the change in source of coal had not been communicated to MoEF&CC, which was in gross violation of the directives.

- c. In a project (**Super-Critical Technology Coal Based TPP**) in Maharashtra, EC was granted on 27 November 2012). However, no firm linkage with coal block or mine for supply of coal was specified in EC, which was in violation of the directives.
- d. In four projects spread across Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal, though EC specified the coal block from where coal was to be sourced, however it could not be established whether EC to these coal blocks for operation has been granted. Details of these five projects are given in Table 2.7

Table 2.7: Non establishment of EC of coal linkage mine

State	Project	Date of EC	Coal linkage
1. Rajasthan	Expansion by addition of 1x250 MW Lignite Based Barsingsar Thermal Power Plant	30 July 2012	Hadla coal block was given EC on 21 January 2013 but no details about EC granted to Palana coal block could be found.
2. Tamil Nadu	Expansion of Coal Based TPP at village Peria Obulapuram and Papankuppam, in Gummidipondi Taluk	18 May 2011	Mahanadi coal fields. No details about EC granted to linked coal mine.
3. Uttar Pradesh	Feroz Gandhi Unchahar Thermal Power Project	10 May 2013	Talaipalli coal block and Pakri Barwadih Coal Block in Jharkhand. EC had been granted to coal block on 19 May 2009. No details of EC granted to Talaipalli coal block could be found.
4. West Bengal	Sagardighi Thermal Power Projects at Sagardighi	18 May 2011	EC for the project did not specify the exact details of the coal block linked with the project.

MoEF&CC stated (October 2016) that such precise linkage with any particular coal mine was not required if a coal PSU prescribes coal linkage from a group of mines of a particular area. The coal was imported in case the PP files a copy of the MoU entered for imports and that if coal was purchased in e-auction then also no specific linkage was required.

However, the reply of Ministry was silent as to why in the above mentioned cases, the EC was granted without specifying the block/mine in contravention of the provisions contained in the Circular of November 2010.

2.11 Appointment of a National Regulator

As per Section 3(3) of the Environment (Protection) Act 1986, the Central Government may appoint a National Regulator for appraising projects, enforcing environmental conditions for approvals and to impose penalties on polluters.

In the ruling given in the case of Lafarge Umiam Mining Pvt. Ltd (6 July 2011) the Hon'ble Supreme Court had also emphasized the need for such a Regulator. In its judgement in the case of T.N. Godavarman Thirumulpad, Hon'ble Supreme Court observed (6 January 2014) that the Central Government was required was a Regulator at the national level having its offices in all the States which can carry out an independent, objective and

transparent appraisal and approval of the projects for environmental clearances and which can also monitor the implementation of the conditions laid down in the ECs.

We observed that the Central Government constituted State Level Environment Impact Assessment Authority (SEIAA) for each State/UT under section 3(3) of the Environment (Protection) Act 1986 for granting ECs to Category B projects. However, no such authority was there at the National level and MoEF&CC was itself granting ECs to Category A projects.

MoEF&CC constituted a high level committee to review various Acts administered by the Ministry. The committee in its report (November 2014) suggested for creation of National Environment Management Authority (NEMA) and State Environment Management Authority (SEMA) as the pivotal authorities to process applications for composite EC (one window), for Category A cases through NEMA and for Category B projects through SEMA. These would be standing technical organizations, manned with professionals, supported by appropriate technology, which would have the primary responsibility for processing all environmental clearance applications in a strictly time-bound manner. The NEMA and SEMA would also be responsible for formulating the conditions to be imposed on project components before 'consent' is accorded, along with assessment of quantum/nature of potential environmental damage. These would be agencies responsible for monitoring the compliance of the conditions imposed, ensuring that transgressions are addressed effectively and for effective follow up of punitive measures.

MoEF&CC stated (October 2016) that it has appointed a technical consultant to examine the recommendations of the committee, identify gaps in India's Environmental laws in view of land mark judgements of the Supreme Court and best practices in other countries in implementation and management of environmental laws.

2.12 Accreditation of consultants for preparing EIA reports

The Environmental appraisal of Development Projects is undertaken as per the provisions of the EIA Notification, 2006 based on the EIA and EMP reports prepared by the PP in assistance with their Consultants. Good quality EIA Reports are a pre-requisite for improved decision making. It was felt that there was a need to enhance the quality of EIA Reports as the Consultants generally undertake preparation of EIA/ EMP Reports in many sectors and in some instances without requisite expertise and supporting facilities like laboratories for testing of samples, qualified staff etc. Therefore, in December 2009, MoEF&CC issued an Office Memorandum¹⁷ mandating that EIA/ EMP Reports prepared by such Consultants who are not registered with Quality Council of India (QCI) or National Accreditation Board for Education and Training (NABET), shall not be considered by the Ministry after 30th June 2010.

¹⁷ F.No.J-11013/77/2004-IA II(I) dated 2nd December 2009.

Further, in March 2016, MoEF&CC amended the EIA Notification 2006, and included the provision that the Environmental consultant organisations which are accredited for a particular sector and the category of project for that sector with the QCI or NABET or any other agency as may be notified by the MoEF&CC from time to time shall be allowed to prepare EIA report and EMP of a project in that sector and category and to appear before the concerned EAC.

We observed that EIA report and EMP were prepared by the consultants who were not accredited for the particular sector with the QCI or NABET, as detailed in Table 2.8.

Table 2.8: Consultants of the Project not registered with NABET

EAC	Our observations
1. Coal Mining (39 cases)	<ul style="list-style-type: none"> ➤ 17 projects were not applicable/expansion projects. ➤ Five projects were provisionally accredited/the accreditation was under process. ➤ The EIA report of one project was not found in the scanned file. ➤ Accreditation of consultants for the remaining 10 projects could not be ascertained.
2. Industry (34 cases)	<ul style="list-style-type: none"> ➤ Consultant was said to be accredited but certificate of accreditation was not attached in 27 projects.
3. Non Coal Mining (37 cases)	<ul style="list-style-type: none"> ➤ Five projects were provisionally accredited/the accreditation was under process/ waitlisted. ➤ Consultant was said to be accredited but certificate of accreditation was not attached in three projects. ➤ 11 projects, the EIA report was silent about the accreditation of the consultant
4. Construction (20 cases)	<ul style="list-style-type: none"> ➤ Not Applicable as ToR and EIA are not prepared.
5. Infrastructure (38 cases)	<ul style="list-style-type: none"> ➤ In 13 projects, the consultants preparing the EIA Report were not registered with NABET for said project activity. ➤ In 9 projects, the consultants preparing the EIA Report stated that they were registered with NABET for said project activity but certificates were not attached for verification.
6. River Valley and Hydro Electric (7 cases)	<ul style="list-style-type: none"> ➤ In 5 projects, the consultants preparing the EIA Report were not registered with NABET for said project activity
7. Thermal Power (41 cases)	<ul style="list-style-type: none"> ➤ In 10 projects, the consultants preparing the EIA Report were not registered with NABET for said project activity

MoEF&CC stated (October 2016) that the accreditation of consultants was done by QCI and the qualification criteria, eligibility for different sectors and their process of training and renewal was handled by QCI.

However, the reply of Ministry was silent on the issue of EC being granted in cases where the consultant was not registered or was provisionally registered.

2.13 Non uniformity of EC conditions

The EC letter contains general and specific conditions to be complied with by the PP. The general conditions pertain to EMP, Enterprise Social Responsibility¹⁸ (ESR), location of monitoring stations, monitoring of environmental parameters by RO/SPCB etc. The specific conditions pertain to a particular project, sector and site.

We observed that there was non-uniformity in the terms and conditions in the various ECs. We noticed cases of varying terms and conditions for similar projects granted clearance during comparable/similar time frames.

Variation in EC conditions were noticed with regards to EMP/costs relating ESR, condition to obtain Consent to Operate/Consent to Establish (CTO/CTE), variation in the Particulate emission, uploading the compliance of EC conditions on the PPs website, Rainwater harvesting, groundwater, consultation with forest department for plantation works, top-soil etc. The details are given in the **Annexure V**.

MoEF&CC stated (October 2016) that although the uniformity of EC conditions was desirable, it cannot be made 100 *per cent* as some of the conditions are project and site specific.

The reply is not tenable as some of the general conditions applicable to all sectors were found missing from the ECs and also variations were noticed in the ECs of similar kinds of projects.

2.14 Public Consultation

As per EIA Notification, Public Consultation was a process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate.

The Public Consultation comprised of a public hearing at the site or in its close proximity-district wise, to be carried out in the manner prescribed, for ascertaining concerns of local affected persons.

The concerned SPCB or UTPCC was to finalize the date, time and exact venue for the conduct of public hearing and advertise the same in one major National Daily and one Regional vernacular Daily / Official State Language. A minimum notice period of 30 days was to be provided to the public for furnishing their responses.

The District Magistrate/District Collector/Deputy Commissioner or his or her representative not below the rank of an Additional District Magistrate assisted by a

¹⁸ MoEF&CC has also been using Corporate Social Responsibility (CSR) in place of ESR in the ECs granted.

representative of SPCB or UTPCC, was to supervise and preside over the entire public hearing process.

The summary of the public hearing proceeding accurately reflecting all the views and concerns expressed was to be recorded by the representative of the SPCB or UTCC and read over to the audience at the end of the proceedings explaining the contents in the local/vernacular language and the agreed minutes were to 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.

The public hearing was to be completed within the period of 45 days from the date of receipt of the request letter from the applicant. Thereafter the SPCB/UTCC concerned was to send the public hearing proceedings to the concerned regulatory authority within eight days of the completion of the public hearing.

The issues of public hearing, time-bound plan for implementation of the commitments by the PP, analysis of cases of adverse public hearing, the commitments made by the PP being in alignment with the statutory requirements of CPCB/SPCB, videography of the proceeding of the public hearing, were to be included in the EIA Report.

2.14.1 Review of Public Consultation process in EIA Reports

We examined 216 projects in MoEF&CC granted EC between 2011-July 2015, for evaluating the process of Public Consultation as stipulated in EIA Notification 2006. Public Consultation was not applicable to Building/Construction sector as ToR and EIA are not prepared. In 196 projects where Public Consultation was to be conducted, we found irregularities in 62 projects (32 per cent), summary of which is given in Table 2.9.

Table 2.9: Summary of sector wise irregularities in Public Consultation

EAC	Projects examined	Projects with irregularities	Percentage of Non-Compliance
1. Coal Mining	39	6	15.38
2. Industry	34	12 ¹⁹	35.29
3. Non Coal Mining	37	7	18.91
4. Construction	20	Not Applicable as ToR and EIA is not prepared	
5. Infrastructure	38	21	55.26
6. River Valley and Hydro Electric	7	7	100
7. Thermal Power	41	9 ²⁰	21.95
Total	216	62	

Table 2.8 shows that the due diligence process as prescribed in the EIA Notification for the conduct of Public Consultation was not followed in any of the seven sectors examined in Audit. The non-compliance was maximum in case of River Valley and Hydro Electric projects.

¹⁹ Advertisements in respect of public hearing were missing from the file.

²⁰ Absence of records related to press clippings.

The irregularities included delay in conduct of public hearing, missing advertisements, advertisement not in vernacular language, not taking views of public into account etc.

A few interesting cases of non-compliance with EIA Notification are given below:

In case of **Binkara Underground Coal mine Project of M/s SECL in Chhattisgarh**, we observed that EC was granted without any mention of the reservations expressed by public during public hearing and subsequent complaint letters received from Sarpanch, Gram Panchayat, Adhyaksh, Gram Sabha, Vidhayak, Ambikapur etc. against the setting up of the Project.

In another case of **Coal Mine Expansion Project of M/s. Jindal Steel & Power Limited in Chhattisgarh**, we observed that there was delay of 318 days in completing the public consultation proceedings.

We noticed other shortcomings in the process of public consultation such as related documents and dates of advertisement by SPCBs, date of public hearing, date of forwarding of proceedings by the SPCBs etc were not available in the files. Hence, it was difficult to check that the process of public consultation had been adhered to.

2.14.2 Non-fulfillment of the commitments made during the Public Consultation

We carried out site inspection of 352 sampled projects granted EC between 2008-2011, pertaining to various sectors, 125 projects were exempted from public hearing, the condition for Public Hearing was not stipulated in 11 projects by MoEF&CC. Out of the remaining 216 projects we observed compliance in fulfilment of the commitments made during Public Hearing in respect of 92 projects. In case of 44 projects, information was not furnished by PPs and in 20 projects, the condition in respect of public hearing was not applicable as no major commitments were made or the projects were yet to commence.

We observed shortfall in fulfilment of the commitments made during Public Hearing in respect of 60 projects. The shortfalls were in respect of following commitments:

- Compensatory afforestation and green belt plantation.
- Installation of instruments for air, water, noise quality monitoring not done.
- Employment to local population.
- Establishment of hospital and medical facilities for local population.
- Installation of Rain Water Harvesting and Dust Management System.
- Construction of Effluent Treatment Plant.
- Implementation of activities under ESR.
- Education facility for local population.

A few cases of shortfall in fulfillment in commitments made during public hearing are given below:

Nabinagar STPP in Bihar of M/s Nabinagar Power Generation Company Ltd: commitments included installation of instruments to control air, water, noise and dust pollution, development of green belt and recycling of treated effluent. There was 100 *per cent* shortfall in fulfillment of commitments as installation of instruments for air, water and noise quality monitoring was not done. Dust management was not done. Green belt was not created. ETP was under construction.

Construction of new Passenger Terminal building at Chandigarh airport of M/s Airport Authority of India: commitments included planting of trees on periphery, employment to local residents, waste water treatment, free education and medical facilities. We observed that there was 100 *per cent* shortfall as plantation of trees was not done; no detail was provided by PP regarding employment, STP of 600 KLD was installed instead of 930 KLD and no activities under ESR was carried out.

Open Cast Coal Mines Project (Sikni) of M/s Jharkhand State Mineral Development Corp. Ltd: commitments made during public hearing included road development, plantation, distribution of plants, protection against water logging, arrangement of drinking water, providing medical facility and employment to displaced persons. The Company committed to build hospital at Latehar, free plants distribution and nursery for plants and looking after of Shasang school. We observed that only Bal Samagam and Bal Diwas were organised. No commitment of public hearing was fulfilled by the PP.

Sheetaldhara Kurja and Kapildhara group of mines in Madhya Pradesh of M/s SECL: commitments included construction of road, school building, plantation and provision of drinking water. Provision of drinking water was made through tanker. Commitments towards construction of road, school building and plantation of trees were not fulfilled by the PP.

Mawmluh Limestone Mine of M/s Mawmluh Cherra Cement Ltd in Meghalaya: commitments during public hearing included installation of effective pollution control devices and green belt development. The PP stated that sufficient funds had been earmarked for improving the environmental conditions under the expansion programme. We observed that there was 100 *per cent* shortfall as green belt had not been developed and Pollution control systems were also not installed. No expenditure was incurred by the PP towards socio-economic development and ESR.

Grain Based Distillery and Cogen Power Plant of M/s BCL Industries and Infrastructures Ltd in Punjab: commitments included opening of a primary school for free education to the children of the area. There was 100 *per cent* shortfall as the commitment was not fulfilled by the PP.

Sandstone Mine in Rajasthan of M/s Thekeder Ravinder Bhardwaj: commitments included employment to local people, Plantation in mining lease area, systematic waste dumping, safety measures for labourers and ₹ 0.25 lakh per year was to be earmarked

for socio-economic upliftment of local villagers. There was shortfall as no such funds for upliftment were earmarked and no expenditure was incurred.

Shankarpur Underground Coal Mine Project in West Bengal of M/s Eastern Coalfields Ltd: commitments included sprinkling of water on road, formation of committee to look after the problem of vibration, development of green barriers around quarry, intensive tree plantation, and initiation of activities under ESR. During onsite visit it was found that progressive afforestation plan had not been prepared, portion of approach road was found damaged, water sprinkling system was not installed at loading site, conveyor system, transfer points and railway siding. The project authority stated that mobile water tankers were used for dust suppression at these points. However, the same were not found at those sites during joint onsite visit.

2.14.3 Shortcomings in the EIA notification of 2006

We noticed the following shortcomings in the EIA Notification with regard to public consultation:

- a. For the commitments made in the public hearing, there was no provision that the PP would fulfil the commitments in a time bound manner.
- b. There was no provision to ensure that the concerns of the local people were addressed in the final EIA report/EC letter.
- c. There was no monitoring as to whether the PP fulfilled the commitments made during public hearing.
- d. As per the EIA Notification of 1994, all persons including bona fide residents, environmental groups and others located at the project site/sites of displacement/sites likely to be affected can participate in the public hearing. Though, as per EIA Notification of 2006, there is no such condition but it is mentioned that there shall be no quorum required for attendance for starting the proceedings. However, to encourage participation of project affected families so as to take into consideration their views and concerns, a quorum for their participation may be necessary.

2.15 Conclusion

There were delays at each stage of the EC process namely granting of ToR, scrutiny of final EIA Report, appraisal of the application by the EAC, placing recommendations of the EAC before the Competent Authority for a final decision and conveying recommendations of EAC and the decision of the MoEF&CC to the applicant.

There were cases of non-compliance of EIA reports with ToRs and non-conformity of EIA reports with the Generic structure as prescribed in the EIA Notification. Other inadequacies noticed were EIA reports framed on baseline data collected before grant of ToR or with data collected for one month as against prescribed period of one season of three months and non-insertion of essential conditions in ToR.

PPs had not indicated that they had carried out cumulative studies in the EIA reports, therefore, assurance could not be derived on cumulative effect of existing and planned activities on the environment.

ECs were granted to the PPs without checking the compliance of the conditions mentioned in the previous ECs and recommendations of the Regional Office. There was also non-uniformity in EC conditions in similar kind of projects.

MoEF&CC did not compile information about closed/non-operational projects which indicated poor coordination among MoEF&CC, SPCBs/UTPCCs and PPs. During the joint physical verification or as per information provided by SPCB, we observed that a lot of projects were either not in operation or had not started for reasons such as forest clearance, financial constraint, market viability, land dispute, technical reason, etc.

EIA reports were prepared by the consultants whose accreditation were provisional or not complete or whose accreditations were not verifiable.

A National Regulator to carry out an independent, objective and transparent appraisal and approval of the projects and also to monitor the implementation of the conditions laid down in the ECs was yet to be appointed by MoEF&CC.

Mechanism to ensure redressal of the concerns of the public in the final EIA report/EC letter and implementation of the commitments made by the PP during public consultation in a time bound manner were also not firmly in place. Besides, shortcomings were noticed in the conduct of public hearings.

2.16 Recommendations

We recommend that,

- i. MoEF&CC may take suitable action in consultation with NIC for revalidation of database and arrive at correct picture of the projects which have been granted EC by the Ministry.
(Paragraph 2.2)
- ii. In order to increase transparency and fairness in grant of EC, MoEF&CC may streamline the processes including adhering to the timelines as per the EIA Notification.
(Paragraph 2.3)
- iii. MoEF&CC, while scrutinising the EIA reports, may ensure that they are as per the ToR, comply with the generic structure, baseline data is accurate and concerns raised during the public hearing are adequately addressed.
(Paragraph 2.5)
- iv. MoEF&CC may evaluate the entire process of EIA by involving all stakeholders, following legal processes and make suitable amendments in EIA Notification 2006 rather than resorting to Office Memorandums.
(Paragraph 2.7)

v. MoEF&CC may grant fresh EC to the PPs only after verifying the compliance to the earlier EC conditions.

(Paragraph 2.8)

vi. MoEF&CC may adhere to its circular of 2010 on EC of coal linked mine for Thermal and Metallurgical projects so that firm coal linkage is available and the status of environment and forestry clearance of the coal sources i.e. the linked coal mine/coal block is known.

(Paragraph 2.9)

vii. MoEF&CC may consider bringing conditions of EC compatible with the nature and type of project in order to avoid non-uniformity in similar kind of projects.

(Paragraph 2.13)

