

LEGAL DEMAND AND OPPORTUNITY FOR CIA

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June 2016

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SCOPE OF TODAY'S DISCUSSION

- What is Cumulative Impact Assessment/ Cumulative effects Assessment/Cumulative Environmental Impact Assessment?
- Why is there is need for CIA/CEA/CEIA?
- Where is CIA/CEA/CEIA in the present Legal framework?
- What has been the impetus for CIA/CEA/CEIA?
- Situating CIA/CEA/CEIA process in other legal frameworks
- What are the challenges and opportunity for CIA/CEA/CEIA?
- What is the way ahead?

What is Cumulative Impact Assessment/ Cumulative effects Assessment/ Cumulative Environmental Impact Assessment?

- Conceptual basis for “cumulative impacts/effects”- single development qua numerous individual developments
- Council on Environmental quality (CEQ) regulations defines cumulative impacts “*impact on the environment which results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions regardless of what government/agency or person undertaken such other actions*”
- In short CIA means “ *as a practice of systematically analyzing cumulative environmental change*”

Principles of CEIA

- are caused by the aggregate of past, present, and future actions
- are the total effect, including both direct and indirect effects, on a given resource, ecosystem, and human community of all actions taken, no matter who has taken the actions
- need to be analysed in terms of the specific resource, ecosystem, and human community being affected rather than from the perspective of the proposed action
- rarely correspond to political or administrative boundaries
- may result from the accumulation of similar effects or the synergistic interaction of different effects
- may **last for many years beyond the life of the project** that caused the effects
- should be **assessed in terms of the capacity of the affected resource, ecosystem, and/or human community** to accommodate additional effects

Why is there is need for CIA/CEA/CEIA?

- Narrow focus of EIA-inability to provide clarity on the criteria for **identifying** and **assessing** cumulative effects
- Need for viewing the broader spatial and temporal cumulative impacts to aid assessment of “*net result of environmental impact from a number of projects and activities*”-**siting of future projects-aiding Regulatory process**
- Present EIA processes assesses impact of a particular project on an environmental resource may be considered **insignificant** when assessed in isolation, but may be **significant** when evaluated in the context of the **combined effect**
- Resource Sustainability-minimize negative cumulative impacts
- Principle of Sustainable Development-balancing environment and development
- Precautionary Principle-embedded in our environmental law

- CIA provides valuable inputs as an element of Strategic Environmental Assessment (SEA)-sectoral planning-aids monitoring of environmental sustainability impacts of legislation, policies, programme and projects on health, social and economic aspects..
- SEA feeds in the larger 'regional' planning processes-strengthens ecosystem resource planning



Legal Framework and CEIA

- No law requires undertaking CEIA
- Recognition of concept of cumulative impacts in EIA, 2006- exercise of scoping and appraisal- **APPENDIX I- FORM 1-SI No. 9** – *“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”*



- CRZ, 2011-4.2 Procedure for clearance of permissible activities-*(c) Comprehensive EIA with cumulative studies for projects in the stretches classified as low and medium eroding by MoEF based on scientific studies and in consultation with the State Governments and Union territory* Administration-M.S Swaminathan report on draft CRZ, 2008-impact of port development on Coastal stretch- report by Integrated Coastal and Marine Area Management (ICMAM), Ministry of Earth Sciences
- OM dt . 3.11.2009-policy for port expansion and new projects
 - New projects shall be subjected to Comprehensive Environment Impact Assessment, based on a minimum of 3 seasons data
 - hotspots stretches viz. those areas which are prone for high erosion above 1 meter per year (identified by the concerned Central/State Government agencies),shall not be considered for locating ports and harbours.

What has been the impetus for CIA/CEA/CEIA?



- Judicial review of EIA process-Scoping and Appraisal
- Supreme Court-ongoing matter of Alaknanda hydro (CA 6736 OF 2013)-reports on CIA
- National Green Tribunal-Vimal Bhai vs. MoEf (Appeal No. 5 of 2011)- Vishnugad-Pipalkoti hydroelectric Project-Forest clearance-CIA- *report- frame appropriate conclusions and recommendations within a reasonable timeframe for consideration and final review by MoEF*
- Appeal no. 50/2012- T. Muruganandam and Anr vs. MoEF- assessment of CIA- *directions to conduct fresh Cumulative Impact Assessment Study of the project (Coal Based Thermal Power Plant in Cuddalore District, Tamil Nadu)*

Situating CIA/CEA/CEIA process in other legal frameworks

- *Canadian Environmental Assessment Act, 2012-definition of environmental effects and assessment-incorporates – cumulative impacts of the project*
- **U.S.National Environmental Protection Act (NEPA) (CEQ 1997)-**
cumulative impact assessment





Challenges and way Forward

- Capacity building to conduct CIA
- Tools and information to conduct CIA-preparing guidance manuals
- Mainstreaming CIA in Legal frameworks- not an ad-hoc approach –challenge to CIA reports



Thank You