EIA 2020: Advantage Industry

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Concept of EIA

• EIA is a tool to **assess** the upcoming/expansion industrial or commercial projects in terms of their environmental impact and **measures** to mitigate the damage as much as possible.

• It is a tool to help build a balance between environment and development.

• **It is a decision making tool**
History of EIA

January 1994

MoEF introduced an EIA notification making Environmental Clearance (EC) mandatory for expansion or modernization of any activity or for setting up new projects listed in Schedule 1 of the notification.

Amendments in 1994 notification

• April 10, 1997- Environmental public hearing introduced
• June 13, 2002- exempted industries on the basis of level of investment.
• 28th February, 2003- took into consideration location-sensitivity into the environment clearance process
• 7th May 2003- the lists of activities involving risk or hazard included
• August 4th 2003- location-sensitive projects to obtain clearance from the Central Government.
History of EIA

• **September 2003**- Site clearance made mandatory for green field airport, petrochemical complexes and refineries. No public hearing was required for offshore exploration activities,

• **7th July, 2004**- EIA mandatory for construction and industrial estate

• **4th July 2005**- projects related to expansion or modernization of some sectors could be taken up **without prior** environmental clearance.

**September 2006**

• EIA made mandatory for specific projects; Introduction of EACs and SEACs

• **Decentralization**: Onus of clearing projects on state government based on the size/capacity of the project.

• EIA 2006, has 59 types of projects/activities that require EIA.

• These are classified into two categories—**A (31 type; appraised by Centre)** and **B (28 type; appraised by state)**- B1 and B2.
EIA process in India

Project concept and site selection

Proposal of project

Project 'A', Get clearance from MOEF

Project 'B', Get clearance from SEAC

Submission of Form & relevant information to Expert Appraisal Committee (Both for project 'A' & 'B')

Screening (Applicable for 'B' category project)

EIA required (called 'B1' project)

EIA not required (Called 'B2' project)

Scoping (For both 'A' & 'B' category project)

Impact assessment

Not approved

Draft EIA followed by public consultation

Approved

Submission to appraisal committee and decision

Post monitoring
EIA 2020: Makes it worse

- Number of changes in processes and categorizations
- Projects/activities that requires EIA increased to 110
- Predefined B1 and B2
- The Exempted 40: solar thermal power plants, metal sector (having cupola furnace)
- Ignored project affected people and made them powerless: No provision for people to file a complaint if a project starts without EC or if a project has obtained clearance but is not complying with EC conditions.
- Compliance report filing frequency revised from 6 months to one year.
- Unit enhancing its capacity by up to 50 per cent through modernization does not require public consultation.
- Three fundamental changes that requires detailed deliberation
#1 STRATEGIC CONSIDERATIONS

- 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”.

- The notification does not define “strategic”.

- Government can undertake any project anywhere without assigning a reason or having to explain anything later.
Fundamental change 2

#2 PREDEFINED PROJECTS: MORE EXEMPTIONS/LESS SCRUTINY

- 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.

- Many projects in the new B2 category have potential to harm the environment
Violations can be brought to the government’s notice in four ways:

- **Through a *suo motu* application by the project proponent**
  - There is a late fee of Rs.1,000/day from date of violation to the date of application for Category B2;
  - Rs. 2,000/day for Category B1; and
  - Rs. 5,000 per day for Category A projects.

- reporting by any government authority

- during appraisal and while processing of the application by any regulatory authority.

- No provision for people to report a violation.
# Alterations and Dilutions

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

<table>
<thead>
<tr>
<th>Parameter</th>
<th>EIA 2006</th>
<th>Draft EIA 2020 Notification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Categorisation of projects that require Environment Impact Assessment</td>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td>Projects exempted from the clearance process</td>
<td>No exemptions</td>
<td>40 projects have complete exemption</td>
</tr>
<tr>
<td>Obligation to provide a project’s draft EIA report</td>
<td>Summary and the complete report must be in English and the regional language</td>
<td>Summary to be in the regional language and English, complete report only in English</td>
</tr>
<tr>
<td>Time for public to respond to draft EIA report</td>
<td>30 days</td>
<td>20 days</td>
</tr>
<tr>
<td>Exemption to projects from public consultation</td>
<td>All projects going for increase in production capacity or modernisation require public consultation</td>
<td>Projects going for modernisation without increase in production capacity or up to 50% increase in capacity do not need public consultation</td>
</tr>
<tr>
<td>Post-clearance compliance mechanism</td>
<td>Project proponent to submit compliance reports every six months</td>
<td>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</td>
</tr>
<tr>
<td>Post-facto clearance (when a project starts without environmental clearance)</td>
<td>No provision</td>
<td>Provision of a daily fine depending on the project category and the complainant (a <em>suo motu</em> acceptance of violation attracts lower fine)</td>
</tr>
</tbody>
</table>

*EAC: Expert Appraisal Committee; **SEAC: State Expert Appraisal Committee; Source: Ministry of Environment, Forest and Climate Change*
EIA 2020: Opportunity to fix the gap lost

• Too many permissions required from different agencies: CTE etc
• EAC/SEAC members: Huge Conflict of interest
• EC conditions which cannot be monitored or no manpower to monitor, what if conditions are violated
• EIA consultant paid by industry
• Poor scrutiny of EIA documents
• No compassion for project affected people: more protest
• No consideration of cumulative impact assessment
Is there anything for industry to worry?

**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.

- **88%**
- **7%**
- **2%**
- **2%**
- **1%**

*Number of projects*

- <12 months
- 12-18 months
- 18-24 months
- 24-36 months
- >36 months

*Source: Ministry of Environment, Forest and Climate Change*
CSE analysis shows that between July 2015 to August 2020

Only 2.9% projects not recommended for clearance (even this may be less because projects may come back with new names)

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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