



## Environmental Impact Assessment (EIA): Draft 2020

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### Environmental Impact Assessment (EIA)

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- **EIA as per UNEP:** The **UNEP** defines **Environmental Impact Assessment (EIA)** as a tool used to identify the environmental, social and economic impacts of a project prior to decision-making.
- **Aim of EIA:** It aims to **predict environmental impacts at an early stage in project planning and design**, find ways and means to reduce adverse impacts, shape projects to suit the local environment and present the predictions and options to decision-makers.

### Importance of EIA

- Provides a **cost effective method** to eliminate or minimize the adverse impact of developmental projects.
- Enables the decision makers to **analyse the effect of developmental activities on the environment** well before the developmental project is implemented.
- Encourages the **adaptation of mitigation strategies** in the developmental plan.
- Makes sure that the **developmental plan is environmentally sound** and within the limits of the capacity of assimilation and regeneration of the ecosystem.

### EIA and India

- **History:** The need first arose in 1976-77 when the Planning Commission asked the Department of Science and Technology to examine the river-valley projects from an environmental angle.

The first EIA notification was promulgated in 1994 by the then Ministry of Environment and Forests (now the Ministry of Environment, Forests and Climate Change).

The notification mandated Environmental Clearance (EC) for expansion or modernisation of any activity or for setting up new projects listed in Schedule 1 of the same.

- **Statute:** The Environment Impact Assessment in India is **statutorily backed by the Environment Protection Act, 1986** which contains various provisions on EIA methodology and process.

## **2006 Amendment to the EIA Notification**

- **Decentralisation of Project Clearances:** It classified the developmental projects in two categories:
  - **Category A (national level appraisal):** projects are appraised by Impact Assessment Agency (IAA) and the Expert Appraisal Committee (EAC)
  - **Category B (state level appraisal):** State Level Environment Impact Assessment Authority (SEIAA) and State Level Expert Appraisal Committee (SEAC) provide clearance to the Category B projects.
- **Introduction of Different Stages:** The Amendment introduced four stages into EIA Cycle; Screening, Scoping, Public hearing and Appraisal.
  - Category A projects require mandatory environmental clearance and thus they do not have to undergo the screening process.
  - Category B projects undergo a screening process and are further classified into B1 (Mandatorily requiring EIA) and B2 (Not requiring EIA).
- **Projects with Mandatory Clearance:** Projects such as mining, thermal power plants, river valley, infrastructure (road, highway, ports, harbours and airports) and industries including very small electroplating or foundry units are mandated to get environment clearance.

## **Draft EIA Notification 2020**

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The Ministry of Environment, Forest and Climate Change (MoEF&CC) has published the draft Environment Impact Assessment (EIA) Notification 2020, with the intention of replacing the existing EIA Notification, 2006 under the Environment (Protection) Act, 1986. The Key Proposals of the 2020 Draft include:

- **Reduced Time for Public Hearings:** One of the major steps of the EIA Mechanism is the public participation. The 2020 **draft proposes to reduce the notice period for public hearings from 30 days to 20 days.**

However, the MoEFCC has claimed it to be “in tune with the times”, given the growth of internet and mobile telephony.
- **Exemption of Projects:** Furthermore, by classifying a number of projects into A, B1 and B2, a host of **projects are exempted from public scrutiny.**
  - Category B2 projects do not require mandatory Environment Clearance (EC), unlike the Category A and B1 projects.
  - **Exempted Projects:** The projects under this exempted category include:
    - Offshore and onshore oil, gas and shale exploration.
    - Hydroelectric projects up to 25 MW.
    - Irrigation projects between 2,000 and 10,000 hectares of command area.
    - Small and medium cement plants.
    - Acids other than phosphoric or ammonia, sulphuric acid.
    - MSMEs in dye and dye intermediates, bulk drugs, synthetic rubbers, medium-sized paint units.
    - All inland waterway projects and expansion or widening of highways between 25 km and 100 km with defined parameters.

These include roads that cut through forests and dredging of major rivers.
    - Aerial ropeways in ecologically sensitive areas.
    - Specified building construction and area development projects; built-up area up to 1,50,000 sq. m.
- **Post-clearance compliance:** It implies that once a project gets approved by the concerned authority, the proponent projects are required to adhere to certain rules laid down in the EIA report in order to ensure that no further environmental damages take place.
- **Annual Submission of Reports:** The new draft EIA, **proposes the submission of compliance reports annually** whereas as per the 2006 notification, the compliance report was to be submitted every six months.

Environmental experts are of the view that allowing a longer period for filling the compliance report will give an opportunity to project proponents to hide disastrous consequences, which could go unnoticed.

- **Report Prepared Solely by Project Proponents:** Meanwhile, **submission of the compliance report will be solely prepared by the project proponents itself**, which, without oversight and review, may lead to inaccurate information submitted on the project.
- **No Public Reporting for Non-Compliance:** The EIA Notification 2020 excludes reporting of violations and non-compliance by the public.  
 Instead, the **government will take cognisance of reports only from the violator-promoter**, government authority, Appraisal Committee or Regulatory Authority.
- **Post-facto Clearance:** Another major proposal in the draft 2020 is granting 'post-facto clearance' where a **project that has been operating without environmental clearance, can be regularised or allowed to apply for clearance.**  
 The judiciary has held, as in the case of Alembic Pharmaceutical vs. Rohit Prajapati in April 2020 that "environment law cannot countenance the notion of an ex post facto clearance."
- **Penalty for Firms:** Firms found violating the terms of their establishment, if they have to get the clearance, however, will have to pay a penalty.

## Issues Associated

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- **Opens the Floodgates of Violations:** The environmental lawyers have argued that the Post-Facto Clearance of the Projects is likely to encourage industries to commence operations without bothering clearance and eventually get regularized by paying the penalty amount and thus opening the floodgates of violations.
- **Strengthens the Government but Weakens the Public:** The draft offers no remedy for the political and bureaucratic stronghold on the EIA process, and thereby on industries.
  - Instead, it proposes to bolster the government's discretionary power while limiting public engagement in safeguarding the environment.
  - Also, the draft, by limiting public consultation, is not in consonance with protecting the rights of tribals, among others.
- **Easy Clearance for 'Strategic' Projects:** While projects concerning national defence and security are naturally considered strategic, the government gets to decide on the "strategic" tag for other projects.  
 The 2020 draft says no information on "such projects shall be placed in the public domain". This opens a window for clearance for any project deemed strategic without having to explain why.

- **Reduced Time means Reduced Awareness:** The reduced notice period for public hearing from 30 days to 20 days will only make it difficult to study the draft EIA report, more so when it is not widely available or provided in the regional language.  
 Moreover, the reduction of time would particularly pose a problem in those areas where information is not easily accessible or areas in which people are not that well aware of the process itself.
- **Non-Conformity to International Frameworks And Conventions:** India's has been an active participant of the United Nations (UN) Conference on Human, Environment and Development in Stockholm in 1972, the Rio Summit in 1992, the United Nations Framework Convention on Climate Change (UNFCCC) and the **Paris Climate Accord** which has significantly strengthened its environmental governance.
  - After pledging allegiance to these international environmental instruments and now on the contrary proposing to weaken its EIA regime at the domestic level, India is in a position of cognitive dissonance.
  - Such a non-conformity to pledges made at international negotiations and agreements will weaken India's stance as a global leader in environmental governance and climate politics.

## Way Forward

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- The ministry, instead of reducing the time for public consultation, should focus on ensuring access to information as well as awareness about the public hearing and its impact upon the whole EIA process.
- In order to improve ease of doing business, the government should bring down the average delay of 238 days in granting environmental clearance, that emanates from bureaucratic delays and complex laws.
- Grow now, sustain later should not be the policy, as the notion is dangerously tilted against the concept of sustainable development.