

**REPORT OF THE TASK FORCE
ON
GOVERNANCE, TRANSPARENCY
PARTICIPATION, AND
ENVIRONMENTAL IMPACT
ASSESSMENT
IN THE
ENVIRONMENT AND FOREST SECTOR
FOR THE
XI FIVE YEAR PLAN**



PLANNING COMMISSION

December 2006

PREFACE

The task force on governance, transparency and participation in the environment and forest sector was set up by the Planning Commission vide its notification of 21 August 2006. The detailed TOR and the composition are given below. Vide its order of 31 August 2006, the Planning Commission notified the appointment of representatives of the Ministry of Environment and Forests (MoEF) to each of the task forces.

Vide their order of 8 November 2006 the Planning Commission merged the task force on environmental impact assessment with the task force on governance, transparency and participation and added on the terms of reference of the EIA task force to the combined task force. The original task force had the following membership:

1. Mr. Shekhar Singh, New Delhi Chairman
2. Dr. N.C.Saxena, (Member, National Advisory Council
and former Secretary to the Government of India,
Ministry of Rural Development & Planning
Commission)New Delhi Member
3. Ms. Anjali Bhardawaj, Satark Nagrik Sangathan &
National Campaign for People's Right to Information
(NCPRI), New Delhi Member
4. Shri Ashish Kothari, Kalpavriksh, Pune Member
5. Shri M K Jewrajika, Member Secretary, Central
Empowered Committee Member
6. Dr. Paritosh Tyagi, Ex Chairman, Central Pollution
Control Board, Noida Member

The task force on EIA was merged with this task force and the following members joined the merged task force.

7. Shri Dilip Biswas, Ex. Chairman, Central Pollution
Control Board Member
8. Shri Shyam Chainani, Bombay Environmental Action
Group, Mumbai Member

9. Ms. Manju Menon, Kalpavriksh, Pune

Member

The representatives of the MoEF nominated to the task force were:

10. Shri S. Jagannathan, Director, MoEF

11. Dr. E.V. Muley, Addl. Director, MoEF

12. Dr. G.V.S. Sdubramaniam, Director, MoEF

Terms of Reference of the Task Force were as follows:

1. To assess the current issues and systems of integrating environmental concerns into other sectors (ministries, departments) and to recommend required new or remedial measures.
2. To assess the mechanisms in positions (if any) for the MoEF and state environment and forest departments to interface with other departments/ministries in order to jointly carry out schemes and programmes, and recommends correctives.
3. To assess the institutional structures within the government of India and state governments, in terms of their ability to carry out their environmental mandate, and recommend correctives.
4. To assess the appropriateness of the staffing pattern and staff abilities, in terms training and systems, to perform the required environmental functions, within MoEF and the state environment and forest departments, and to recommend correctives.
5. To recommend ways in which the functioning of the sector can be made more transparent and participatory, from planning, through implementation and monitoring, to evaluation.

The following TOR were added from the EIA task force:

6. Review the current laws, policies, procedures and practices related to the EIA regimes in India, and recommend correctives.
7. Similarly review the institutional and individual capacities available for conducting and assessing EIAs, in consultation with the Task Force on governance, and recommend correctives.

8. Specifically, assess the measures in position, and their effectiveness, for ensuring transparency and level of participation in the EIA process, in consultation with the Task Force on governance, and recommend correctives.

The original task force had its first meeting on 16 October 2006 (minutes at annex 1). The combined task force met on 22 November 2006, when the first draft of the report was discussed. The third and final meeting was on 8 December 2006, where the task force discussed the detailed report and recommendations among themselves and finally with a larger group of invitees (report at annex 2). Based on this meeting and consultation, the report has been finalised.

The attendance of the members of the task force was as follows:

Name of Member	First meeting 16 Oct 2006	Second meeting 22 Nov 2006	Third meeting 8 Dec 2006	Remarks
Anjali Bhardawaj	Present	Present	Present	
Dilip Biswas	NA	Absent	Absent	Not a member for the first meeting. We understand he was subsequently taken ill
Shyam Chainani	Present	Present	Present	
M K Jewrajika	Absent	Absent	Absent	Gave prior intimation of his unavailability on 16 Oct
Ashish Kothari	Present	Present	Present	
Manju Menon	NA	Present	Present	Not a member for the first meeting
N.C.Saxena	Present	Present	Absent	Gave prior intimation of his unavailability on 8 Dec
Shekhar Singh	Present	Present	Present	
Paritosh Tyagi	Present	Present	Present	

Though invited, none of the MoEF representatives attended any of the meetings.

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MAJOR RECOMMENDATIONS

Integrating Environmental Concerns into other Sectors and Addressing Inter-sectoral Issues

1. The Government of India should set up an independent and statutory **Commission for Sustainable Development (CSD)**, with the specific responsibility of guiding government policies and programmes towards becoming more socially and environmentally sustainable, and to monitor the outcome.
 - a. The CSD would advise governments (at all levels) on how to achieve overall objectives in a manner that is optimal from the social and environmental point of view relating to both the natural and the built environment. It would do this both at the level of plans (five year and annual plans) and at the level of policies and specific programmes and schemes.
 - b. The CSD should also explore and advise governments, with the assistance of requisite expertise and in consultation with the concerned ministries and departments, ways and means by which schemes and programmes of various departments/ministries can be oriented to promote the objectives of environmental conservation and regeneration.
 - c. The CSD, in keeping with its mandate, also needs to focus on significantly strengthening the linkage between livelihood imperatives and environmental opportunities. Of special interest are schemes related to watershed development, soil conservation, joint forest management, farm forestry, eco-tourism, management of wildlife protected areas, and the recently initiated National Rural Employment Guarantee Act and related schemes.
 - d. Towards this end, it should have the ability to allocate a percentage of the plan funds (say 5%) as incentive for “greening” government initiatives. These funds should strictly be in addition to the funds ordinarily allocated to meet with the requirements of sustainability and in addition to the funds required to meet with legal and other obligations. In no case should such funds be used to replace the amounts that would otherwise have been allocated from sectoral and state budgets.
 - e. It should conduct (in a participatory and transparent manner) a strategic environmental assessment for all policies, plans, programmes and schemes, prior to their being approved, and clear them from the perspective of compliance with environmental policies and commitments, and also from the perspective of sustainability.
 - f. It should monitor the performance of the government, at various levels, from the perspective of sustainability, according to appropriate indicators and in a participatory and transparent manner.
 - g. The CSD should table every year, in the Parliament and in each respective State Assembly, and also make public, an annual report indicating the performance of various ministries and departments, in this respect,

- finalised in consultation with the concerned ministry/department and after public consultation,
- h. The experience of various intersectoral coordinating bodies in India, such as River basin authorities, FDAs, the Chilika Development Authority, SADAs, etc, along with some experience of people's initiatives towards this, such as the Arvari parliament in Alwar district, or the experience of villages like Mendha-Lekha where they force all govt departments to coordinate their schemes for the village, can be assessed, as can be similar commissions in the UK and in some other countries. Such an assessment could help develop detailed principles for the functioning of the CSD.
 - i. The CSD should be appropriately staffed with experts from all relevant fields and headed by a chairperson who should have at least 20 years of experience in environmental conservation.
 - j. The functioning of the CSD should be transparent and participatory.
2. The GoI should immediately activate or re-constitute the **National Land Use Board** and charge it with the responsibility of developing a policy and long-term perspective plans, which guides the process of conservation and sustainable use of land and water across the country. Such a National Policy and Perspective Plan on Land and Water Use (NPPPLWU) should be mandated by an appropriate law and specify and map lands/waters for specific uses, including biodiversity conservation, subsistence and domestic use by local communities, commercial use by communities, and industrial/urban use. Clear priority needs to be given to ensuring ecological security and the livelihood security of those most dependent on biodiversity. This policy should aim towards a demarcation of the following categories (of which categories 'a' to 'd' should not be subjected to large-scale industrial, infrastructural, or commercial development, but focus on the provision of basic livelihood and developmental amenities to resident communities- see annex 3 for more details):
- a) Areas critical for wild biodiversity conservation (e.g. most current protected areas, community conserved areas, biosphere reserves, ecologically sensitive areas, etc.), which should not be open for any large-scale development, or any form of destructive/damaging human activity, but would have flexible arrangements for micro-level management strategies determined locally by or with resident/user communities; such areas would also include strictly protected sites where no human intervention is to be allowed;
 - b) Areas critical for domesticated biodiversity conservation, sustainable agricultural systems; and local/national food security.
 - c) Areas critical for other ecosystem benefits, such as water flows and recharge, soil fertility, coastal protection, and others (including, for instance, all sources of major rivers, immediate catchments of lakes, mangroves/coral reefs, relatively intact forests and grasslands with high water retention and absorption abilities, etc.);
 - d) Areas critical for sustainable extraction and use of natural resources and cultural/livelihood security, including forest, wetland, marine, grassland,

- agricultural/pastoral and other ecosystems, with primacy given to the domestic and livelihood needs of traditional local communities; these would to some extent overlap with the above three categories;
- e) Areas other than the above, which can be used for producing industrial raw materials, locating industries, urban expansion, infrastructural development, and other such land/water uses;
 - f) Large ecoregions demarcated on biodiversity and cultural criteria, cutting across various land/water uses and some across state political borders, for integrated planning purposes, including Biosphere Reserves, river basins, etc. These areas should be demarcated clearly at national and state levels, and an overall land/water use atlas depicting them should be produced. It should be noted that there will be some overlap amongst categories (a) to (d) and (f) above.
 - g) The NPPPLWU should be evolved through a widespread process of consultation with diverse stakeholders and rightholders. At both micro and macro level, it should encourage a combination of community-based natural resource mapping incorporating cultural and customary rights, and perspectives with modern scientific tools and understanding.
3. The Government of India should post **Environmental Advisers** in key Ministries, on the pattern of Internal Financial Advisers. To begin with, an existing Joint Secretary may be entrusted with this task. Subsequently, a cadre might be developed. These officers should be empowered and trained to provide in-house advise to the ministry regarding the options available in order to make their activities/programmes environmentally sensitive. A similar institution may also be created among key departments in the states and, as in the case in IFAs, one officer can be attached to two or more ministries/departments. However, as in the case of the IFAs, the institution of internal environmental advisers would not in any way replace the laid down procedures for getting environmental and related clearances under various laws and regulations.
 4. In order to facilitate the integration of environmental concerns into the decision making process, **Advisory Committees on Environment** need to be constituted for key ministries and departments with adequate NGO representation. These committees could be on the lines of the Advisory Committee on Environmental Planning & Co-ordination constituted by the Department of Petroleum in 1981.
 5. As there is urgent need to strengthen donor coordination, the Ministry of E & F should immediately set up a **cell to closely monitor and coordinate donor activities** related to central/state governments, from the perspective of environmental sustainability.

Strengthening Individual and Institutional Capacities

6. Management of the environment is a complex task requiring a multiplicity of skills and expertise. However, experience shows that often officers and other functionaries (including members of expert committees) are given

responsibilities for which they do not have the experience, the aptitude and/or the training. For example, the evaluation of the pollution control boards done by the Planning Commission in 2000 pointed out, among other things, the inadequacy in terms of staff numbers and training in most of the PCBs. The GOI/MoEF should immediately set up a series of technical task forces that could, after due deliberations and public consultations, **specify (and periodically review) the detailed experience, qualifications and skill/aptitude required** or each of the positions in the sector. These should be incorporated as a part of the citizen's charter and every posting/appointment should be accompanied with a public statement detailing the suitability of the appointment, as required under section 4(1)(d) of the Right to Information Act of 2005. These task forces should also indicate the pattern and numbers of staff required in different institutions, and at all levels, from GoI to the panchayats.

7. Based on such an assessment, the GOI/state governments, in collaboration with external expert institutions, should organise focussed and up-to-date **training programmes** to ensure that adequate capacity is available in the required areas.
8. Similarly, the citizen's charter should contain the **prescribed tenure for each post**. Where a functionary is transferred/removed in violation of the prescribed tenure, such an order must be made public along with reasons why such an action has been taken, as required under the said section of the RTI act. Further, all relevant posts should get classified as A, B and C on the basis of their desirability from a multiplicity of standpoints. The rule should be that no officer can be shifted from a post before her prescribed tenure is over (unless it is on the basis of adverse findings) without being sent to a higher category post or, if she is already in the highest category, to an equivalent category post. This might not always ensure that officers will get enough time in each post to make an impact, but it would to a great extent take away the threat-potential of a transfer.
9. The citizen's charter should also contain the **duties and responsibilities of each functionary** along with the time frame within which the functionary is required to perform her functions or respond to public requests/enquiries, as appropriate. Any violation from these norms, without good reasons, must be inquired into and appropriate action taken.
10. The GoI and each state government must set up a legally empowered and independent **public grievance forum**, to which any citizen or group can appeal on matters relating to violations of the citizen's charter and other discrepancies relating to laws/rules/policies etc., in the environment sector. Such a legally empowered public grievance forum should have the ability to enquire into all such complaints and to hand out penalties, as appropriate.
11. It is important to not only punish those officers who do not perform well but to simultaneously reward those who perform well. For the purpose, it is essential that various **awards and rewards** be instituted that can be given to meritorious officers and staff, selected in a transparent and participatory manner.

12. The cadre of managers of natural ecosystems, including forests, wetlands, grasslands, coastal areas, mountains, deserts, oceans and rivers, and of wildlife protected areas, along with those working in the prevention and control of pollution, management of hazardous substances, and those handling the built environment and heritage, both natural and manmade etc., should be expanded to form **an all India service – called the Indian Environment Service**. Candidates could be selected and trained to specialise in one of the sub-streams, and get postings in their areas of specialisation till the senior levels. The sub-streams could include:
 - Biodiversity and natural ecosystem management.
 - Prevention and control of pollution.
 - Management of hazardous substances.
 - Land use.
 - Conservation of natural and human made heritage.
13. The Water (Prevention and Control of Pollution) Cess Act has a distortion that it is applicable only to water and it is a serious distraction in the working of the State Pollution Control Boards. To remedy these shortcomings, it should be replaced by an Environment Cess Act, and **the revenue should be collected by revenue collection agencies**.
14. The offences under environmental laws should be **classified from mild to severe** and procedures for dealing with them should be developed accordingly.

Making Environmental Governance Participatory and transparent

15. There should be **mandatory public notice and public hearings** regarding new (or modifications in existing) national policies, laws, notifications, and other important documents, with documentation being available in all the national languages (for documents at the national level) or relevant local/regional language (for documents at the local/regional level). No such document/decision should be considered valid without having gone through such a process, which itself should be documented and available for public review. This should include mandatory participation of *panchayat raj* institutions with full local community participation, in decisions affecting their lives and resources, including in EIA and clearance procedures for development projects, and in Forest Working Plans and protected area Management Plans, with a provision of feedback to the communities on how their inputs have been considered.
16. A **Manual on People's Participation in the Environment and Forest Sector** should be prepared, in a transparent and participatory manner, providing detailed guidelines on the modes and mechanisms of meaningful participation in each of the environment and forest (E&F) sector's functions. Among other things, this manual should lay down the principles of how public inputs to proposed policies, laws, notifications, and programmes should be considered.

17. There should be set up (at central and state levels) **citizens' councils** with full geographical and sectoral membership, to advise government on E&F matters, and to act as a sounding board for new policies/laws/notifications/schemes. These should also act as forums for regular and open dialogue with civil society and local communities, with the mandate to organize periodic (at least annual or bi-annual) open public hearings on E&F matters, including the environmental assessment of proposed activities and projects.
18. We view with concern the lack of adequate public participation in the 5-year plan process itself. This includes serious limitations on the time period within which the working groups and task forces are supposed to accomplish their work, as also the lack of forums for public discussion and consultation other than electronic inputs. It is strongly recommended that **the planning process should start at least a year in advance, and build in various steps mentioned above, including public hearings and consultations**, availability of information/documents in all key Indian languages, workshops with key sectors, special steps for consultation with local communities, community based organisations, and local bodies, both in the rural and urban areas, as defined in the 73 and 74 amendments to the Constitution of India.
19. Section 4 of the RTI Act of 2005 specifies a whole lot of information that public authorities have to make public suo moto. However, most forest and environment departments, pollution control boards, and other institutions in the sector have been very slow and unimaginative in meeting their obligations under this section.. Therefore, it is recommended that in the XI plan a special central and centrally sponsored scheme may be started to **develop templates and guidelines for all public authorities in the sector to make an increasing amount of information public** in a comprehensible and user friendly manner. The scheme could also provide for hiring or developing in-house capacity to advise the public authority on how to become increasingly transparent and to manage their information so that it is, as far as possible, put out in real time and is easily accessible even to the poor and the semi-literate, in cities and in rural areas.
20. In addition, it is recommended that there be initiated another central and centrally sponsored scheme to support the **setting up of information clearing houses in the area of forests and environment and forests**. These clearing houses could be set up within non-governmental agencies already working in the area who could, on behalf of the public, access relevant information from concerned public authorities, de-mystify and contextualise it, store it for quick retrieval, make it available through the web and through publications and other means and, on a selective basis, proactively draw the attention of the public to information that they need to be concerned about. The existing ENVIS could be linked to this but needs to be significantly reoriented to meet with the possibilities opened up by the RTI act. If and when a Commission for Sustainable Development is created, such schemes should be transferred to this commission and be operated by them, in order to avoid the conflict of interest that might occur if these schemes were operated by the MoEF/state departments of environment and forests.

21. A **national environmental monitoring system** is a pre-requisite for developing a programme for environmental protection and improvement, and there is urgent need to set up such a system as a new scheme. This system must integrate the best principles and practices of public participation and transparency, including those contained in this note.
22. In order to promote accountability, it is recommended that the Planning Commission stipulate that all relevant state, centrally sponsored and central schemes **incorporate the principles of social auditing** and that such social audits be enabled and conducted as a part of the audit requirement for these schemes, and for the EIA process. The social audit guidelines issued by the Ministry of Rural Development, for their recently enacted National Rural Employment Guarantee Act, could be used as a model.
23. The government needs to urgently move towards a **governance structure for natural resources that is truly decentralised and democratic**, sectorally coordinated, and able to work effectively at all scales from local to national. Such a structure should aim to shift from representative to participatory democracy, ensuring that citizens have a meaningful voice in all relevant decision-making forums. Briefly, the structure would consist of the following nested levels, each suitably empowered to take decisions regarding resources under their jurisdiction, starting from the basic village/urban ward or user group level:
 - a. Village assemblies or tribal councils in rural areas, and urban wards in cities
 - b. Ecologically or administratively defined clusters of villages and/or and cities
 - c. District Planning Committees or equivalent bodies
 - d. State environment forums, State Biodiversity Boards, etc.
 - e. Inter-state or ecoregional authorities
 - f. National institutions such as National Board for Wildlife, National Biodiversity Authority, and the National Development Council.

Strengthening the EIA Process

24. While taking note of the notification of 14 September 2006 of the MoEF concerning the EIA processes, the task force **recommends various additions and changes** to the said notification and to the EIA process in general.
25. It is recommended that, in addition to the state level institutional structures being set up, the GoI should immediately constitute an **National Environment Impact Assessment Authority (NEIAA)**, headed by a retired Supreme Court Judge and comprising scientists/ academics, professionals working in the relevant fields and NGO/community representatives. The NEIAA should be a statutory body independent of the government, and its chairman and members should be appointed by a Committee comprising of the Prime Minister, the Leader of the Opposition in the Lok Sabha, and the Chief Justice of India, after following the due process of identifying the qualifications/expertise, as specified in 5 above. The NEIAA should:

- a. Have the power to grant prior environmental and forest clearances under the Environmental Protection Act (as envisaged for the Government of India) and the Forest Conservation Act (and any successor acts) and to monitor the compliance of conditions of clearance, and to revoke clearances or impose penalties, as required.
 - b. Have the power to assess, in terms of their environmental impacts, plans, schemes, policies and laws of the government and to give clearance for them (or advise the CSD in this regard, once the CSD becomes functional).
 - c. Have the power to hear appeals against all decisions and orders of the State Environment Impact Assessment Authority (SEIAA).
 - d. Have the power to review the guidelines, notifications and requirements prescribed under the relevant acts and have them revised, as appropriate.
 - e. Have the power to require the setting up and proper administration of a system for accreditation of consultants authorised to prepare environmental impact statements and conduct related investigations and surveys.
 - f. Have the power to disqualify for a specified period individual consultants or consultancy firms for professional misconduct.
26. State governments (and other requiring agencies) should identify and keep ready a **portfolio of sites** that have been found suitable for specific types of projects. The process for site identification should include public hearings, an Options Assessment and a Least Cost Plan. The identification and development planning of sites should be based on a scientific understanding of the carrying capacity, and should include an analysis of the ecological footprint and a life cycle analysis. Project proponents should be given the option of locating a project with pre-approved specifications on a pre-approved site, thereby saving the time and costs of doing a fresh EIA exercise. A beginning has been made by the zoning process that was undertaken by Pollution Control Boards of some states, and the zoning atlas that was produced. This should be built upon.
27. As envisaged in the said notification, there should be **Expert Appraisal Committees** (EACs) at the national level that would assist the EIAA (as opposed to the MoEF, as envisaged in the said notification) in appraising projects and activities, and state EACs to assist the state level environmental impact assessment authorities (SEIAA).
28. Membership of the EACs should be broadly as specified in Appendix VI of the said notification, with **two critical changes**:
- a. The definition of an expert and a professional, in the said notification, is too restrictive and also internally contradictory. For one, it recognises as a professional or an expert only a person who has a university degree or a professional qualification in the said discipline, thereby totally ignoring those professionals/experts who have developed their expertise through practical experience manifested in their work and/or their publications, as also experts from various traditional knowledge systems. On the other hand, it is willing to accept as professional any one who has any university

- degree, as long he or she is in the IAS (or has done an MBA). Clearly an IAS officer (or a business management graduate) does not ipso facto become a professional in matters related to the environment. It is, therefore, recommended that apart from the categories already listed in appendix VI of the said notification, two more categories of professionals/experts should be added, namely **people who have been active in the studies in the relevant field, or in its management**, for five/fifteen years respectively; and holders of traditional knowledge.
- b. Similarly, unlike in the past, no provision has been made for the membership of NGO representatives in the EACs. It is important to have at least two members in each EAC who have experience in interacting with local communities and have credibility as **members of reputable NGOs** working in the area of environmental conservation, and the notification should be accordingly amended.
29. These changes should also be applicable to the composition of **state/UT level expert appraisal committees**, as envisaged in the said notification.
30. At the scoping stage (section 7(i)(2) of the said notification) it is envisaged that the EAC/SEAC would prescribe the terms of reference (TOR) for the required EIA report or statement. However, this would inevitably lead to a lot of subjectivity and consequent conflicts and allegations of favouritism. Therefore, the **MoEF should prescribe a generic TOR** that each EAC/SEAC must use as a starting point, separately for each type of project/activity. The EAC/SEAC must give a detailed public justification for any deviation (addition, deletion or modification of requirements) that they recommend.
31. The said notification envisages the holding of public hearings for most categories of projects and activities. For the purpose, it also lays down a procedure (appendix IV of the said notification). The task force **recommends certain additions/changes** to the said procedure, as detailed below.
32. In section 7(i)(III) of the said notification it is specified that public consultation is a process by which the concerns of local affected persons and others who have a “plausible stake” are ascertained. It is not clear if there is, or should be, a single person in the country or, for that matter, in the world who does not have a plausible stake in the well being of the environment. Besides, as most of these projects and activities involve the expenditure or use of public resources, surely every one has a stake in their proper planning and implementation. Therefore, **the term “plausible stake” should be deleted**, otherwise this unnecessary restriction could be used to exclude dissenting voices.
33. It is **unacceptable to exclude all defence and strategic projects from the necessity of having public hearings**. There could be some specific projects of the sort whose location must remain secret, which can be excluded. Besides, certain aspects of defence and security projects can be withheld from disclosure. However, a blanket ban is unacceptable as the armed forces and other security forces are often operating in very environmentally vulnerable areas and have in the past have been known to cause huge and avoidable damage to the environment.

34. In section 7(i)(III)(v) it is specified that the necessity of a public hearing can be done away with if it is determined that local conditions do not permit it. Whereas this should only be permitted where there is a credible security threat, in such a rare eventuality, and the rarity needs to be stressed, there must then be an obligation on the concerned authorities to **hold a series of consultations with representatives of groups holding all the diverse view points** and to videograph these consultations and to deal with the issues raised as they would have if they were made in a public hearing.
35. Though in section 3.1 it specifies that at least 30 days must be given for the public to furnish their responses, it would be desirable if there is an explicit statement that the public must be **given a clear 30 days notice of the public hearing** itself.
36. Nowhere in the said procedure or elsewhere has it been specified how to deal with the points and issues raised by the public in the process of the hearing. It is recommended that it be specified that whatever points are not accepted or issues not resolved, the project authorities must **provide detailed reasons** for the non-acceptance/non-resolution and these reasons must be made public within 30 days of the hearing.
37. For the purpose of a first hand understanding of the proposed project, the local situation in which the project is proposed to come up and the opinions and comments of the local people, **at least one member of the Expert Appraisal Committee (central or state, as relevant) should be present at the public hearing** as an observer.
Expert committees should also be required to **collectively visit** the project sites. Any reduction in the number of site visits and/or the number of Expert Committee members allowed to proceed on site visits is a false economy since it only results in greater delays.
38. **Public hearings need to be conducted in at least two phases/stages** for projects and activities to be located in sites not cleared in advance.
a. The preliminary hearing may be required at the scoping stage.
b. The second hearing is to for the purpose of presenting and discussing all aspects of the assessment's final findings, with the help of booklets/presentations in local languages and to record the views and objections of the people.
39. The said notification lays down various time lines for completing various steps and gives the project proponents the advantage if matters are delayed. However, there is no specification of the minimum time that must be spent in gathering field data relating to the ecological profile of the area where the project or activity is located. It is essential to discourage the growing tendency to do "quick EIAs" and the said guidelines must specify that **biodiversity profiles must be done over at least a one full year and, in areas that are particularly rich or vulnerable in terms of biodiversity, over two annual cycles**. The oft repeated objection that this would delay the clearance of projects can be adequately dealt with by prescribing that the process of seeking prior environmental clearances must start well in advance of project planning so that a proper EIA process does not delay project implementation.

Besides, the recommendation made elsewhere in this report to have a portfolio of sites appraised and ready should also mitigate against delays while ensuring an adequate EIA.

40. The current provision for an **Environmental Appellate Authority** should be adequate for hearing appeals against the decisions of the EIAA. However, it should be immediately activated and its rules and procedures rationalised, especially those mandating a time limit of 30 days for filing an appeal, which needs to be significantly increased, and those restricting the *locus standi* of those who can appeal.
41. The Act to set up an **Environmental Tribunal** was passed in 1995. However, to date the tribunal appears not to have been set up. This needs to be set up and activated at central and state levels, and their scope expanded to cover matters related to environmental and social impacts caused by development projects and activities. Though it has been reported in the press that the MoEF is in the process of amending the relevant act, the details of the proposed amendment were not available to the task force, therefore no comments on the proposed bill can be offered.
42. The parameters based on which projects/activities are required to get environment clearance have usually been investment, size or capacity. While these are not irrelevant, the vulnerability of the proposed site and the risk posed, by the project/activity, to the environment and people also need to be the deciding factors. Therefore, the classification of all building and construction projects and all townships and area development projects as category B projects in the schedule to the said notification is unacceptable. Many of our urban areas are among the most vulnerable areas needing the highest levels of concern especially as any degradation affects the largest number of people. **Therefore, all building and construction projects in major cities and in other urban areas that already have significant levels of environmental stress (to be separately classified by the MoEF) should be classified as category A projects**, as should be all township and area development projects within 20 km of the outskirts of such cities and towns.
43. All townships, regional development plans and industrial estates, should be assessed in terms of **their impact on the ecology of the region, perhaps through the use of the ecological footprint method.**
44. One common problem with the EIA process is that the consultants who prepare of the environmental assessment statement and conduct the related studies are usually employed and paid by the project proponents/requiring agencies. This leads to undue pressure being put on the consultants to produce a report that favours their employers and also involves a reputational risk for future employment opportunities, if they are not sympathetic to the interests of project proponents. Consequently, it would be desirable for an **independent agency, perhaps the MoEF, to select the consultant, sponsor the studies and pay for them.** The cost of the EIA process could be recovered, even in advance, from the project proponent/requiring body.
45. **Clearances should be granted for a period not exceeding two years** (as opposed to the five, ten and thirty years indicated in section 9 of the said

notification). All clearances must lapse at the end of the period unless renewed by the EIAA/SEIAA, and no clearance would be renewed unless the project proponents can establish that they have complied with the conditions of clearance and are in compliance with all environmental requirements. However, such hearings should not require a fresh EIA but only an establishment of compliance, and where necessary conditions of clearance can be reviewed and amended. No clearance should be extended without a public hearing on the status of compliance.

46. As per section 11 of the said EIA notification, environmental clearances can be transferred to another person or legal entity. However, while making such transfers, **the past environmental record, if any, of the intended transferee must be determined** and no such transfer must be made if the transferee or any of his/her associates have been in violation of any of the conditions of clearance in the past, or have had an application rejected or clearance cancelled under section 8(vi) of the said notification, relating to the provision of false or misleading information.
47. **Ex post facto clearances** should be prohibited by law.
48. In general, after each of the four stages in the environmental clearance process envisaged in the said notification, **all information/documents and the basis for decisions should be suo moto made public** prior to the initiation of the next stage, with only the exceptions allowed under the Right to Information Act of 2005.

A key component of “environment” (which is often overlooked) is heritage, both natural and human made. It follows that the power under section 3 of the EPAct to take steps to protect and preserve the environment can be exercised to preserve human-made environment. In the Environment Impact Assessment process, (including the latest one) some attention has been paid to protection of heritage sites. **This needs to be greatly enhanced.** Since the number of heritage sites runs into millions and since legislation protects at most 15,000 sites, while determining environmental sensitivity the concern must go much further than areas protected under international conventions, national or local legislation. The EIA process must prevent damage to these sites.
49. Environmental impacts of projects are often seen many years after its initiation and often the effectiveness of preventive and mitigating measures do not become obvious till many years after their application. Therefore, it is essential to initiate a new scheme that supports a **retrospective EIA** of projects, ten or more years after their completion. This would give us a better understanding of how effective our environmental clearance and monitoring system is and what improvements, if any, are required.
50. A serious gap in environmental management and pollution control is lack of attention to soil pollution and degradation. Already there is a large backlog of contaminated and degraded sites that need restoration and remediation. It is, therefore, essential to prioritise the sites on which we need to focus urgently in order to reverse and contain the damage. There is the need for a new scheme for the **scientific assessment of sites that have already been polluted or**

contaminated by pollutants and hazardous wastes, and for their containment and regeneration.

51. The **accumulated impacts of projects or activities** in a site have similarly to be assessed and future siting of projects and activities determined on the basis of the existing accumulative and historical impacts. Clearly this cannot be the responsibility of any specific project proponent and therefore should be taken up on a priority basis by the MoEF through various expert agencies.

I. INTRODUCTION

1. Governance is the process by which people (and societies) make public policy and administer their public affairs. The implementation of public policy is the responsibility of institutions and agencies, using (legal and non-legal) instruments and processes.
2. A narrow understanding of “governance” would consider only government institutions and agencies (executive, legislative and judicial) mandated to be a part of governance. However, a liberal notion of participatory or open governance would recognise that there are many other (non-governmental) institutions and agencies that play a prominent role in the process of governance. These include corporate and trading houses, the press, associations of professionals, trade unions, political parties and civil society groups.
3. Therefore, any effort to improve governance must necessarily look at all the actors in governance and their interfaces. However, the mandate of this task force is limited to institutions within the government, specifically those which have a bearing on forests, wildlife and the natural environment. Where appropriate, interfaces between these and other government and non-government institutions and agencies will be identified and perhaps flagged.

Governance Values

4. Perhaps the two most fundamental values shaping the nature of governance ought to be justice and probity. Two related but distinct additional values could be efficiency and frugality, the latter especially relevant in the Indian context.
5. The current status of governance can be assessed from the perspective of each of these values. How far have our agencies, institutions and processes of governance respected and promoted these values?
6. An indicative list of some of the commonly perceived weaknesses in our current system of governance includes:
 - a. From the perspective of justice:
 - Class, caste, religious, gender, and regional biases in governance.

- Policy and decision making reflecting priorities oriented to serve the interests of the powerful and the rich minority.
- Insensitivity to the poor, the disempowered, and to non-human species, both in policy formulation and in the implementation of even those laws and policies that are progressive.
- In the pursuance of biased priorities, a selective disregard of the law.

b. Probity:

- Rampant corruption.
- Promotion of vested interests.

c. Efficiency:

- Very few things work properly.
- No reaction or response to public complaints.
- Inability to make staff work or be responsible.
- No answerability for acts of omission.
- Very poor quality control.

d. Frugality (related to both financial and natural resources):

- Ostentatious functioning.
- Huge wastes of public resources.
- Inappropriate expenditure and investment priorities.
- Promoting rampant consumerism.

7. Therefore, efforts towards improving governance must be based on these four values and must assess government functioning in this context.

II. INTEGRATION OF ENVIRONMENTAL CONCERNS INTO OTHER SECTORS AND ADDRESSING INTER-SECTORAL ISSUES

Rationale

1. Environment cannot be seen as a stand-alone concern. It cuts across all sectors of development. The rapid increase in land degradation, increasing floods and droughts, advancing deserts and deteriorating conditions of fragile ecosystems, deforestation, loss of biodiversity and environmental pollution is ample evidence to conclude that we need to tackle the environmental degradation in a holistic manner in order to ensure both economic and environmental sustainability.
2. Unfortunately there is no mechanism in most Ministries to do environmental assessment of their policies and programmes, leading often to policies that are environmentally unsound. Similarly due to lack of coordination between MOEF and other Ministries, especially at the state level, MOEF and its state counterparts are unable to prevent the damage done to environment due to the activities of other Departments. Often vested interest leads to policies that benefit the elite at the cost of the poor and the long term environmental concern. In addition, there is sometimes lack of sensitivity in the MOEF on problems relating to the poor and tribals, leading the government agencies to follow anti-people policies that in the long run harm environment.
3. A few of the problems requiring inter-sectoral approach are discussed below and some more details on how environmental concerns can be integrated and inter-sectoral concerns addressed are at annex 4.

Water

4. Groundwater and surface water are the two sources of water available for human consumption. In India almost all surface water sources are contaminated and unfit for human consumption, thus increasing reliance on groundwater. Since groundwater provides the greatest measure of security on all the three fronts sought by farmers: timeliness, adequacy and reliability, the shift in favour of

using groundwater has accelerated since the 1960's concomitantly resulting in water table decline.

5. The severe drought conditions that prevail in many parts of the country off and on are a clear indication that it is the result of bad water management, and answers lay in better resource management in future. Failure to harvest rain water, excessive extraction of groundwater, and failure to ensure that recharge of the aquifers, led to the water table falling sharply over the years, so that there is no groundwater reserve to draw upon in a bad year.
6. Irrigation uses maximum amount of water, but unfortunately this sector is very inefficient. Canal irrigation efficiency in India is around 35 to 40 percent and is much below international standards. Since water is under-priced it tends to be over-used, and without adequate attention to drainage it leads to conditions of waterlogging and salinity resulting in valuable agricultural land going out of use. The waterlogged land in the country is estimated to be about 2.5 million hectares and the salt affected land is about 3.3 million hectares.
7. The need for regulating the extraction of groundwater arises from the following considerations:
 - a. Protection of resource against over exploitation
 - b. Protection of resource against quality degradation
 - c. To ensure social equity and to guarantee minimum provision to all sections of society
8. Solutions to all these problems, mainly in the low rainfall and high potential evaporation areas of the country, would therefore involve an integrated water management approach. Discrete and pipe oriented solutions of these problems would not be very effective. Water harvesting and conservation measures in a watershed as a natural physiographic unit with emphasis on direct or indirect artificial recharge of aquifers by utilising surplus run off water can lead to a simultaneous mitigation of all the three problems.

Mining

9. The total mine lease area in the country is of the order of about 0.8 M Ha which includes actually mined as well as mine dumped areas with 90% of the area subjected to surface mining operations. Although comparatively microscopic, this is quite significant from its impact point of view. Mineral deposits occur in most of the states and occur mostly in forest land having delicate ecological balance.
10. According to a study done by TERI in 1997, the extent of environmental degradation caused by mining depends on a large number of factors, such as the type of mineral, method of mining and beneficiation, smoke and gases from beneficiation plants, processing plants, scale and concentration of mining activity, geological and geomorphological setting of the area, nature of mineral deposit, land use pattern before the commencement of mining operations, post mining land use envisaged, and the natural resources existing in the area.
11. Land damage is a major impact of an opencast mining project. Currently the coal industry is rendering about 500 to 1500 hectares of land biologically unproductive every year mainly because of the emphasis on opencast mining. Environmental impacts due to coal mining in Indian scenario have been further compounded by mining before the nationalisation of coal industry when coal mining was unplanned and unscientific.

Agriculture

12. Although India has been able to increase its food production because of application of the new technology, it has led to a large number of environmental problems, essentially because of intensive use of unbalanced fertilisers and pesticides. Farmers use nitrogen, but do not use phosphatic and potash fertilisers to the desired extent (during the years 1996-1999 the average was 9:3:1 as against the desirable norm of 4:2:1). Due to this, deficiency of micro nutrients like zinc, iron, sulphur, etc. is increasing, especially in areas where intensive cultivation is adopted. Over the last few decades, the carbon content in soil has also gone down, which is affecting soil health and productivity.

13. The unbalanced use leads to concentration of heavy metals in the soil which starts getting into human body through the food chain. Similarly chemical pesticides increase the presence of toxic material in the soil, which affect human health in a similar fashion. Nearly all the soil samples analysed in a study by Parmar and Dureja, in 1990, were contaminated with DDT or HCH. These chemicals are highly resistant to biological degradation and are a potential sources of toxicants to environment.
14. Thus the new technology has not only increased soil degradation, it has also reduced the profitability from input use. The enhancement in the productivity of Indian agriculture is now shown to have been accompanied by a very low efficiency of resource use. As a result, while productivity per hectare has gone up substantially, productivity per unit of external energy input (for instance, in bringing water to the field, in manufacturing fertilizers, pesticides and so on) has, according to Prof Madhav Gadgil and Dr. Ramachandra Guha, sharply declined. This results in intensive use of inputs, often facilitated by subsidies, resulting in environmental damage. Crops are getting resistant to pesticides thereby demanding the use of more harmful and toxic pesticides. Ultimately farmers lose out on profit, while causing damage to the environment and health.

Land degradation

15. According to Sehgal and Abrol, more than 57 % of the total geographical area was degraded in 1997 which has increased from 53 % in 1994, indicating worsening of the situation over time. Soil erosion due to water and wind actions emerges as the dominant type of soil degradation. One may conclude that much of the soil in India is already degraded, is being degraded or is at the risk of degradation. This increases risk of cultivation, often forcing small and marginal farmers to leave their lands fallow, or lease out to the rich, and thus leading to a process of preletarianisation.

Aquaculture

16. Semi-intensive aquaculture requires loads of organic and chemical inputs. At the end of each harvest the waste is flushed out which pollutes the coastline and other

receiving water bodies. These effluents affect the coastal fisheries and ultimately are, to an extent, responsible for depletion in catch of traditional fishing in coastal waters. Although no estimate is available, it has negatively affected the traditional occupations of local fishermen.

17. Moreover, leasing out of coastal lands for prawn farms has obstructed the flow of fresh water and thus their livelihoods. The salt pans which were a source for salt and thus supported the poor during lean fishing period have ceased to exist. The worst impact of all this is on the ecological balance of the fresh water and sea water fauna that had dwindled due to lack of nutrients. On the other hand, it increases salinity of surface and groundwater. It affects the fertility of lands in the adjacent areas and makes agriculture unsustainable; thereby causing occupational displacement of agricultural farmers. By displacing food crops it dents the situation of food security. As aqua-farming requires capital investment, the ownership of lands steadily gravitates to the cash-rich urban businessmen. Though there has been some investigation into the environmental impact of large shrimp farms, there is little, in terms of sound aquaculture policy taking care of above concerns in place to comprehensively deal with the loss of productive assets and threats to livelihood generated by aquaculture.

What needs to be done?

18. Attainment of inter-departmental and inter-sectoral cooperation and collaboration in practical terms, is a difficult task. But it has to be achieved if forests are to be conserved, made more productive, and environment is to be preserved. Such cooperation and integration of programme activities must manifest itself at both the State and Central Government levels, up to the level of the local bodies such as the Panchayat / Gram Sabha.
19. The proposed Commission on Sustainable Development (CSD) along with the MOEF should produce a paper every year on the environmental impact of policies and programmes followed by other Ministries. To the extent possible, such papers should be written jointly by the CSD and the two Ministries. This should be a public document so that advocacy by civil society can help in securing a change

- in such policies that impinge adversely on environment. Ultimately, a report should be tabled in Parliament on the State of India's Environment. This should be jointly done by the CSD and the MOEF annually or at least once in two years.
20. There should be inter-Ministerial Teams with adequate representation from academics and activists to consider such reports, or to commission new studies with a focus on finding pragmatic solutions. Such committees are either non-existent or quite weak at the state level, as the subject of 'environment' is often not with Forest Department. Very often there is tension between FD and the Env. Dept. Therefore to begin with, such a Committee should be chaired by the Chief Secretary, or the Development Commissioner, so that their deliberations are taken seriously by all departments.
 21. Such committees are urgently required in forestry, as joint decisions need to be taken by the FD in collaboration with the Tribal Development and Revenue Departments. Forest development plans should be integrated with tribal development schemes for ensuring development of fringe villages. FD should take an active interest in improving livelihoods of all forest dwellers, including tribal communities, non-tribal forest dwellers, fisherfolk, pastoralists, etc. Therefore not only forums for facilitating such coordinated action have to be set up, but their progress needs to be watched by civil society constantly so that these do not become defunct.
 22. A large number of programmes in watershed development, drinking water, agriculture, irrigation and dairy will have sustained benefits only when barren lands are put under green cover through vegetative cover. MOEF should be able to secure huge increases in its budget if it proves that more budget will lead to reducing risk and insecurity in semi-arid regions. Soil erosion due to water and wind actions emerges as the dominant type of soil degradation. One may conclude that much of the soil in India is already degraded, is being degraded or is at the risk of degradation. This increases risk of cultivation, often forcing small and marginal farmers to leave their lands fallow, or lease out to the rich, and thus leading to a process of preletarianisation.

23. We need a strong broad based coalition between livelihoods & env; exclusivist approach will not work. Environmental concern must go “beyond pretty trees and tigers”, as 100 million people (3 million inside parks) are dependent on forest resources. Therefore co-existence is a better model although in some cases inviolate spaces may be needed. A recent study on Madhav National Park (Madhya Pradesh) in epw concludes, *‘Park policy ignores locally-embedded ability to protect biodiversity and willingness to be educated to that end. Consequently, site-specific strategies are required that build not solely upon biology or economics but combine these concerns with sensitivity to the lower strata of people that live around the park’*.
24. We have also to be careful that plantations are not put onto ecosystems which by nature are not meant to be forests...this has caused havoc to millions of hectares of grasslands, arid lands, etc....there is an unfortunate ‘forest bias’ in environmental circles, which subordinates all other ecosystems, and even the 33% forest cover target has become in some cases a cause for ecologically damaging activities of this kind. A single Rupee spent on forests will not only improve productivity of forests, but would improve returns in many related sectors.
25. Ministry of Environment & Forests has issued guidelines for converting the forest villages into revenue villages. Here again progress is slow for lack of coordination between the two departments concerned. All forest lands, including reserved forests must be made part of the revenue villages for integrated planning and development of a sense of ownership of the panchayats with forests.
26. While the Department of AYUSH in the Ministry of Health and Family Welfare deals with the cultivation and propagation of medicinal plants in modern medicines, conservation of wild resources for ensuring availability of seed stock/mother tissues for nurseries and harvesting of available wild material on a sustainable basis should be the concern of forest management.
27. There has not been much success in relocation of habitations from the protected areas. MOEF should take the lead in proposing a displacement policy that is acceptable to the relocated people. Even more important than this is the need for

- guidelines/policy/plans on co-existence, since even with the best of intentions and relocation plans, the majority of people will continue to remain within protected areas.
28. Establishment of a forum for periodic discussion between Ministry of Environment and Forest, Ministry of Industry and Commerce, Civil Society and recognised associations of industries should be considered to harmonise the interests of the people and environment with development, and to review and evolve a rational import export policy and review tariff rates.
29. Examples of other subjects where inter-departmental coordination is needed are: eco-tourism, settling inter-village disputes, harmonizing village committees with panchayats, and ensuring that conserving and promoting bio-diversity is the concern of all, including private sector. The NBSAP draft document has quite some detail on a number of these.

Coordinating JFM with livelihoods

30. Afforestation may be the first priority of the FD but communities felt need may be drinking water, irrigation, or wage employment during the slack months. JFM projects should therefore either include these as entry point programmes, or coordinate the JFM related efforts with the activities of other departments, such as Irrigation, Animal Husbandry and Cottage Industries. It may therefore be desirable if such activities are taken up in the same area as the JFM for better results and multidimensional development of these villages. This will improve relations between people and the forest staff.
31. Forestry activities that rehabilitate, protect and create forests potentially benefit the poor. The best strategy to achieve this would be to link forest works with the new Rural Employment Guarantee Act (NREGA), which gives priority to afforestation and plantations, and for which there is a provision of roughly 14,000 crore Rs in the 2006-07 GoI's budget. The maintenance of assets created under the Scheme (including protection of afforested land) is also considered as permissible work under NREGA.

32. FD's involvement in the implementation of NREGA is almost nil at the moment. As forestry works are highly labour intensive (80 to 90% of the outlay is spent on wages), forest officers at the district level should prepare schemes that will attract NREGA funds. Very few FD at the district level have availed of NREGA funds.
33. Fifty per cent of NREGA works will be undertaken and sanctioned by the Gram Panchayats (GP). If village societies created under JFM are strong, it should be possible for them to prepare projects and get it approved by the GP. In fact MOEF should judge the strength of the JFM by the fact whether the village groups are able to get village panchayat funds for forestry and watershed operations.
34. In some states, such as in Orissa, there was some hesitation on the part of FD to attract funds from NREGA. Staff shortages in Orissa (to the tune of about 40% for key posts) dissuade a forest officer in accepting more funds. In Rajasthan, shortages were not so acute, but still the posts of about 20% Forest Guards and 10% Foresters were vacant. In fact effective implementation of the suggestions in this paper would need much more trained staff at the GOI, state, and district level in environmental issues.
35. **PESA** - GOI has passed a new legislation for Tribal areas (called Schedule V areas) of Central India according to which Gram Sabha/ panchayat, and not government is the owner of MFPs. Although this law has been on the statute since December 1996, unfortunately its implications for tribal incomes or the sustainability of JFM has not been fully understood by the states and they have not passed laws to honour the commitment of the Constitution. The Ministry of E & F wrote to all state governments in July, 1998 against monopolies and in favour of open market purchases, but unfortunately did not pursue the compliance of its own orders, with the result that no change took place despite a strong GOI law and the letter from Secretary, MOEF.

Links with watershed development

36. One of the least understood but most useful concept is the issue of complementarity between forests and agriculture. If it is strengthened, the local community develops a stake in the preservation of forests, which can deter

individual attempts at encroachments or degradation. Traditional agro-forestry patterns are a reflection of farmers' own perception of complementarity between trees and crops, but the issue of complementarity between forests and agriculture is wider than that between trees and crops. To enrich this complementarity, one of the main objectives of forest management should be preservation of soil and moisture in a demonstrative fashion.

37. Soil and water conservation measures such as contour trenching, vegetative bunding, and small check-dams can enhance soil moisture and the accumulation of top soil, accelerating the rehabilitation of the micro-environment. This by itself helps in regeneration and better survival of plants. However, fund allocation in the MOEF for soil conservation measures do not appear to be adequate.
38. Most funds for watershed development are spent by the Ministries of Agriculture and Rural Developments. They should rehabilitate lands in the upper catchment first for at least three reasons. First, so that the landless and the poor who depend on upper slopes can benefit; groundwater recharge begins at the earliest; and third, by the time the lower catchment is treated any debris and erosion running down from the upper catchment has been minimized. However, upper slopes are typically under the control of FD, which does not permit other departments to operate on its lands. The Ministry of Rural Development has permitted its funds to be used in watershed schemes by the FD, but the Ministry's technical preference is for engineering works rather than preventing soil and water loss through vegetative cover.
39. Degraded lands can be rehabilitated through farm forestry, but farmers would do so if it is economically profitable. Focus on farm forestry has been surprisingly diluted since 1991 despite its enormous potential, especially in agriculturally backward areas. There are better social returns in promoting agroforestry models in the rainfed or semi-arid regions, which contain most of India's marginal lands. It is in this region that the FD needs to take a big initiative, as today tree plantation on marginal and wastelands belonging to the poor is neither encouraged in forest projects nor monitored.

40. In this context government must review its decision to allow cheap and duty free import of pulp. While free import of timber may continue, as it reduces pressure on forests, such facility for pulp hits only farmers, as both eucalyptus and bamboo are short gestation crops eminently suitable for the farm sector.

Lack of outcome monitoring

41. There is a need to develop a set of indicators for monitoring and evaluation...and a process by which these are used for M&E in a transparent and participatory manner. In most states there is absence of credible monitoring – field reports are not verified, quality of outcomes is not measured. Information is collected for upward transmission, not for remedial action. In the absence of outcome monitoring, the effectiveness of coordinating mechanisms, even where established, is not known. One way to make outcomes more of a motivating factor in improving environmental services is to generate and disseminate information regarding progress in programmes. This requires outcomes to be more regularly measured and their determinants analyzed.

42. One critical role of MOEF is to help state governments to be an independent source for measurement of key indicators on environment, for which departments, panchayats, and industry have the primary responsibility. Initially, measurement of outcomes may just be for information and the sake of openness. Over time, such measures could be used to secure changes in policy and hold districts and departments accountable for improvements – perhaps to the extent of conditioning fiscal transfers to districts and panchayats based on progress. Lessons learned will help all districts and departments improve their awareness about environmental concerns and their capacity for producing results.

43. Even in donor assisted projects the six-monthly Supervision Missions and mid-term evaluation studies look at schemes that were begun during the life time of the project, which is generally five to six years. This gives a distorted picture, as survival of plantations taken up in the recent past is much better than what it would be a few years later. If schemes begun ten or fifteen years back are also evaluated with a rigorous methodology, and with greater sensitivity to the

- interests of the poor, the results may be radically different. During the time social forestry projects were being implemented, people appeared quite enthusiastic about them, and the Supervision Missions recorded the progress as Satisfactory, but it was only later that their sustainability was doubted.
44. Much more efforts are needed in strengthening monitoring, training and capacity-building, and establishment of a database, etc. For instance, every new officer above the level of Deputy Secretary in the development Ministries (having impact on environment) should be give an intensive three day training on environmental issues, just as every officer joining the MOEF should be trained how policies of other Ministries impact on environment.
45. **Documenting Best Practices & Inter-state Studies** - Despite the general atmosphere of pessimism prevailing in the country over deterioration in environmental governance, some states have registered significant improvements in performance in certain sectors, or in some regions as a pilot. MOEF should document some of such best practices so as to provide blueprints for similar efforts elsewhere. They will provide sources of encouragement to reformers, which is why cases of innovation in service delivery should always be well publicized. Over time, these studies can generate a dynamic of change in an otherwise static context, and shift expectations in the direction of reform. It is also important to grapple with the sources of how island successes emerge, even in hostile conditions, and extend those islands through replication and calibration in different settings. It is expected that States would have a great deal of interest to know in detail about successful models of implementation in other states, or even in other developing countries. Models that appeared successful for some time, but could not be sustained over a longer period (such as Swajal in UP) should also be studied so that appropriate lessons may be drawn for policy change.
46. **Partnerships** - It is obvious that such efforts will have a high visibility, though requiring much less fund support. MOEF should develop partnerships with professional and research organisations working on the subject of environment that are policy oriented, pro-poor, and can be trusted with quick but reliable

results. It should also build the capacity of existing state government and semi-government organisations for this task. MOEF should develop better linkages with the State Training Institutes and encourage them to organise training programmes and undertake impact studies from time to time. As states learn best from the example of other states, one needs to highlight inter-state differences, and establish a tradition of multi-state studies, which would greatly improve outcomes. These studies should then be discussed with key stakeholders so that improvements in design and delivery can be effected at the earliest. MOEF should also put on its website findings of the impact studies, and distribute these in the workshops it organises.

47. Such knowledge management will facilitate exchange of ideas, experiences, policies and practices among the states. These studies would not only show how programmes have been better implemented within the framework of prevailing political economy, but will also help in identifying procedural bottlenecks that need to be overcome for better results. Many of the stand-alone experiments of grassroots intervention have contributed positively to sustainable development but have remained oasis of success. The challenge is to weave these successful stories into pro-active policies. State governments should be fully involved in this exercise of disseminating the results of such studies to all concerned.
48. **Parallel bodies** - For certain programmes, such as rangeland management or watershed development, functional groups at the sub-village level need to be created, especially where women or ethnic minorities are concerned who otherwise find it difficult to express themselves in larger groups, or are not well represented in the power structure. Smaller functional groups certainly achieve better empowerment and build confidence of its members. At the same time, too many parallel agencies should be avoided, as these tend to be temporary in character, and get disbanded once the project cycle is over.
49. **Develop the mechanism of social audit** - Social audit makes organizations and departments accountable to their stakeholders especially in relation to the social objectives. Such an audit will supplement conventional audit and will often

provide leads to it. It will help public agencies to understand their performance as perceived by the stakeholders and subsequently draw up action plans to improve on that performance.

50. **Citizen's Charter** - With a view to make government functioning people-oriented and client centred, departments should introduce a citizens' charter on a pilot basis for such offices that have a public interface, clarifying citizens' entitlement to timely delivery of public services. The citizens' charter issued by every department should clearly define the standard for the services being rendered. It will also specify the remedial mechanisms available to the citizen.
51. After promulgating citizen's civil charters the departments should ensure that the necessary changes have also been introduced in every aspect of the functioning of the department and at every level to conform to the standards set in demand of these charters.
52. During introduction of citizens' charters, it should be noted that merely notifying citizen's charters should not be an end in itself. The department concerned should organise large-scale capacity building programmes to bring in attitudinal change in their employees. Official interface with public on at least one fixed day per month should be organised in addition to routine interaction.

Summing up

53. In the ultimate analysis, environmental management and economic development are mutually supportive aspects of the same agenda. A poor environment undermines development, while inadequate development results in a lack of resources for environmental protection. The vicious cycle of the interrelationship between poverty and environment could be broken down through redistribution of economic opportunities and empowerment of communities. This is where participatory community-based development programmes appear as most effective entry points for reversing the existing trends. The two programmes of environment protection and poverty alleviation reinforce each other, just as there are some programmes that address the issue singly. Ecological poverty may in fact be the starting point of dealing with economic poverty. However, this is not

- how Ministries and Departments in government, especially at the state level, view things. Coordination can succeed only when policy objectives and the road map leading to it are clearly articulated, and consensus builds around major policy directions.
54. It is unfortunate that the Ministry and the State Forest Departments do not give sufficient attention to the important problems of the tribals, or have not developed expertise on other natural resources such as water and air, on the plea that many of these subjects are outside their control. Even soil degradation on common lands is no ones' baby. At least, the MOEF should set up a monitoring mechanism to bring out the dismal picture of water and air resources that would put pressure on the sectoral Ministries to improve their policies and implementation.
55. When the new Ministry of Environment was set up in 1985, it was expected that it would take a holistic view of environmental concerns relating to the activities of all other Ministries that deal with the subjects impinging on the work of the newly created Ministry. It would develop systems that inform GoI, cabinet, legislature and the people how and why environmental degradation is increasing. On the other hand, it has been observed that the Ministry has been reduced to dealing with only such schemes (such as running a few CSS) that are totally outside the purview of the other Ministries. This isolationist trend needs to be reversed.
56. It is rather sad that the MoEF is more concerned with spending its budget, and less with the impact of overall policies of other Ministries and industry on India's environment. This attitude under-plays the role of non-monetary policies and the impact they have on the lives of the people. Even the Planning Commission does not monitor regularly the impact of existing policies on the environment and pull up the concerned sectoral Ministries. Policies and budgetary provisions, despite the rhetoric, have not been integrated so far. Changes in policy or laws, are not seen as an integral part of the development process because these have no direct financial implications. One lesser known reason for this isolation is that development and planning in India are associated with spending of money. That *Planning means Expenditure, and spending money will lead to Development* is the

mindset behind such beliefs. The Indian planner unfortunately has still to understand the difference between planning and budgeting.

III. STRENGTHENING INDIVIDUAL AND INSTITUTIONAL CAPACITIES

The Context

1. The objectives are clear – to improve governance in terms justice, probity, efficiency and frugality.
2. The potential constraints are at least two:
 - a. A lack of will
 - b. A lack of ability
(the latter often giving rise to the former)
3. The assumption of this exercise is that there is a will, at the highest level, if politically and administratively feasible methods can be indicated.
4. These methods must mainly be such that they can be initiated and operationalised within the XI plan period. However, some critical medium and long-term strategies could also be suggested. Some of the areas identified as needing intervention are listed below.
5. Selecting the right types of people for the Forest, Wildlife and Environment Sector.

However much one might tinker with the system, beyond a point it is only as good as the people who work it. Besides, it is inherently impossible to design a system such that others with equal or greater intelligence and certainly a higher level of motivation cannot subvert. Therefore, the fundamental focus of any administrative reform must be to:

- Motivate the right sorts of men and women to work for the government.
- From among these, be able to select the best.
- And to train these so that their natural abilities and inclinations can be fully in tune with the requirements of governance.

Towards these ends, the following recommendations are made.

Recommendations

12. *It is recommended* that the cadre of forest (and wildlife) managers should be expanded to form a joint service of forest and environment managers, and perhaps renamed as natural resource managers (covering the whole gamut of forests,

wildlife, biodiversity, pollution control, hazards management etc.). Candidates could be selected and trained to specialise in one of the sub-streams, say:

- Forest management
- Wildlife and biodiversity management
- Prevention and control of pollution
- Management of hazardous substances

13. Selecting the right person. For even those who have the will to govern well, the ability is not always there. In the present system, there is little effort to see whether an officer is adequately trained or otherwise equipped to perform the task that he/she is required to perform. Officers get posted as managers of specific types of ecosystems (eg. Island ecosystems), or to different types of responsibilities (from forests to wildlife, for example) without being adequately equipped to discharge these new responsibilities. Sometimes officers in unsuitable physical condition are posted to positions requiring arduous physical effort. Consequently, ***it is recommended*** that for all positions in the sector, a detailed profile needs to be developed laying out the seniority, types of working experience, type of training and other qualifications required to post an officer to each position. These pre-conditions must be in the public domain and every posting of an officer or staff should be accompanied by a public statement of the reasons why that person has been posted to the said post and how that person meets with the required qualifications, as is required under section 4(1)(d) of the Right to information (RTI) Act of 2005.

14. Similarly, ***it is recommended*** that each state and central department must formulate and make public a citizen's charter that specifies, among other things, the tenure of an officer in each position. If officers are transferred out prior to the tenure being completed or kept longer than their tenure, then an explanation must be publicly given, as per the earlier cited section of the RTI Act and the reasons would be subject to further query under the said act.

15. Though the scourge of quick transfers might not plague the Government of India, it is a problem in many, perhaps most, states. Various methods have been suggested to immunise officers from this problem, however most of them appear

to undermine the authority of the elected government over the civil service. ***It is recommended*** that all postings should get classified as A, B and C (as is done in the foreign service) on the basis of their desirability from a multiplicity of standpoints. The rule should be that no officer can be shifted from a post before her prescribed tenure is over without being sent to a higher category post or, if she is already in the highest category, to an equivalent category post. This might not always ensure that officers will get enough time in each post to make an impact, but it would to a great extent take away the threat-potential of a transfer.

16. The environment and forest sector is often beset by a lot of confusion, especially among the senior levels, about what is the function of the department/ministry. The concerned departments are often characterised as anti development or anti people. These are, for the most, unfair charges. However, there is insufficient discussion of these issues among officers of these departments. ***It is, therefore, recommended*** that there should be many more multi-service training programmes, so that officers working in the sector can understand the points of view of other sectors and services and indeed of the larger society, and also have the opportunity of putting across their own points of view, thereby helping to formulate a more progressive and enlightened perspective to such debates.
17. The advances in technology, especially computer technology, have opened up new opportunities for improving governance. The traditional file system can be easily replaced by a computerised system of decision- making. The main advantages of the file system are four:
 1. The availability of multiple viewpoints, on file, that can form the basis of decision-making.
 2. The availability, on file, of the relevant references and material required for making a decision.
 3. The institutional memory that the file represents, especially historical notings and correspondence.
 4. Its availability as a “record” for subsequent examination and assessment of the decision and the decision making process.

18. Modern computer software and systems provide all these functions and more. A note or memo can be initiated on email and concurrently the viewpoints of all concerned can be solicited. The computer of each of the concerned officers can access, through hyperlinks, all the relevant material pertaining to the issue under consideration. The computer can also, in a jiffy, access all past “notings” and “correspondence” and even order them according to different priorities. All the material can be secure and available for subsequent examination and assessment. As multiple copies can be maintained with a master copy in a secure machine, it would be almost impossible for records to be “misplaced”. Besides, such a system also allows the supervisory officer, at the press of a key, to monitor the progress of any issue, to monitor the work of a subordinate, the time she takes, the workload she has, etc. And, once all information has been so organised, it becomes easy to process requests for information under the Right to Information Act!
19. The functioning through computerised systems could also make officers somewhat more accessible, as they could be expected to at least look at their own emails and answer them. Their supervisory officers could also more easily assess their performance in terms of their accessibility to the general public and their ability to respond to the requests and complaints. ***It is, therefore, recommended*** that the MoEF and state environment and forest departments should consider converting themselves gradually into a fully computerised ministry/department where all business is conducted in an electronic format.
20. However, access to information is only a first step towards improved governance. There must be strong institutional ability to follow up on complaints emanating from the information so accessed. ***It is, therefore, recommended***, that to support all this, there must be an independent public grievance forum, to which the affected citizen can appeal and which can hand out penalties if the citizen’s charter is not followed, or if other discrepancies are established. Perhaps the weakest link in the government is the vigilance and grievance redressal mechanism. It is, therefore, important, to set up independent grievance redressal

mechanisms that function transparently and periodically make public, *suo moto*, the details and progress of the various complaints.

IV. MAKING ENVIRONMENTAL GOVERNANCE PARTICIPATORY

Introduction

1. There are *four key issues* relating to “Participation” in the E&F sector:
 - a. Whose participation is being sought?
 - b. Participation is being sought in what activities?
 - c. Participation is being promoted through what means?
 - d. What are the pre-requisites for adequate participation?

2. Each of these issues is considered below, with suggestions for specific actions. The note ends with recommendations to be incorporated into the E&F sector’s functioning.

Key issues

Whose participation?

3. Various sections of society have a stake in and/or an impact on E&F, each of which needs to be facilitated to participate:
 - a. Local community representatives (these should be prioritized in any E&F process, since they are most dependent on E&F and most impacted by environmental damage)
 - b. State and local governments
 - c. Civil society (NGOs, non-governmental institutions)
 - d. Central government agencies/ministries other than MoEF
 - e. Business

4. Within each of these sectors, there are the marginalized whose voice is rarely heard in decision-making: socially or economically disprivileged people in villages and cities, women, children. Particular attention is needed to ensure their participation.

Participation in what?

5. The term “participation” has often been restrictively used to mean involvement in implementing what someone else decides. This is clearly inadequate. Participation

should mean meaningful involvement of the various sections of society listed in No. 1 above, in the entire range of decision-making regarding E&F, including in:

- a. Framing, changing, and implementation of policies
- b. Framing, changing, and implementation of laws and notifications (or guidelines/rules under these)
- c. Formulation and implementation of action plans, strategies, and so on
- d. Monitoring and evaluation of all the above

Participation through what means?

6. Meaningful participation of various sections of society can be elicited through various means, including:

- a. Inputs based on public announcements (e.g. on the MoEF or relevant state dept. website, or through advertisements)
- b. Public hearings in Delhi or regional centres (for new central policies/laws/action plans, or changes in these), and state capitals or other state sites (for state policies/laws/action plans, or changes in these)
- c. Public hearings on site (for specific proposed projects, e.g. in the environmental clearance process)
- d. Focused group workshops (with different sections of society listed in No. 1 above, separately and jointly, using the processes listed in No. 2 above)
- e. Membership in expert committees (for environment/forest clearances, for 5-year or annual planning processes, for other specific outputs)
- f. Membership in statutory bodies set up under various laws (e.g. National Board for Wildlife under the Wild Life Act, National Biodiversity Authority and State Biodiversity Boards under the Biological Diversity Act, panels and committees set up under various notifications of the Environment Protection Act, and so on)
- g. Regular dialogue forums (regarding policies/laws/action plans, specific projects, and specific schemes/activities such as protected areas)

Pre-requisites for meaningful participation

7. Meaningful participation in the processes listed above, by different sections of society, requires at least the following:

- a. Timely and adequate information, in suitable languages and forms (e.g. EIA reports in languages relevant to the affected populations)
- b. Timely and appropriately widespread intimation about events at which citizens can participate
- c. iii Adequate time for the participatory process, eliminating or minimizing the use of artificial urgency excuses (the length of time would depend on the nature of the event, e.g. a new policy/law or a 5-year plan process may require much greater time period than a minor change in an existing notification)
- d. Call for participation from the beginning of process (e.g. at time of conceptualization of a policy or law, not only at the final stages once placed in parliament)
- e. Special attention to those most likely to be affected (e.g. poorest or most marginalized people in area to be impacted by a project), or who may find it the hardest to make their voice and interests represented
- f. Mechanisms by which full community participation is possible at least in key decisions affecting their lives, such that a few powerful representatives are not taking decisions on their behalf
- g. Adequate feedback mechanism, providing participants with information on how their inputs have been considered, and reasons for changes/rejection if any
- h. Adequate and approachable redressal mechanism (necessarily having to be decentralized so as to be within reach of people across the country)
- i. Adequate knowledge of the powers and rights that people have relating to participation in E&F processes, so that they can fully use the spaces available to them

Recommendations for E&F sector

8. Appropriate administrative, legal, and financial provisions should be made for the following steps to increase meaningful participation in the E&F Sector:
 - a. Preparation of a **Manual on People's Participation in the Environment and Forest Sector**, providing detailed guidelines on the modes and

mechanisms of meaningful participation in each of the E&F sector's functions. This should be carried out by a panel of people consisting of government officials, civil society representatives, and representatives of national level people's mass organizations, and through a process of public consultation with various sectors and in various parts of India. This could be a revision of the existing Code of good practices that MoEF has brought out, or could be an entirely new document; in both cases, it should be noted that this manual would go well beyond only the MoEF's own committees.

- b. Reconstitution of the Expert Committees under the EIA notification, to ensure full representation of civil society representatives, people with demonstrable experience in environmental matters, wildlife and biodiversity experts, and representatives of local communities. The qualifications for membership to these committees should be made more explicit, and the appointments themselves should be transparent, with a publicly available explanation of the reasons for choosing each member. It should be noted that an appropriate composition of these committees, with much greater public transparency, would reduce the delays that are caused by legal and public challenges to the clearance process for development projects, as there will be greater public faith in the process.
- c. Mandatory public notice and public hearings regarding new (or modifications in existing) national policies, laws, notifications, and other important documents, with documentation being available in all the national languages. No such document/decision should be considered valid without having gone through such a process, which itself should be documented and available for public review.
- d. Creation of citizens' councils (at central and state levels) with full geographical and sectoral membership, to advise government on E&F matters, to act as a sounding board for new policies/laws/notifications/schemes.

- e. Setting up forums (at central and state levels) for regular and open dialogue with civil society and local communities, with the mandate to organize periodic (at least annual or bi-annual) open public hearings on E&F matters.
- f. Creation of a constitutional, non-judicial mechanism, to monitor the implementation of E&F laws, policies, regulations, and programmes, and to act as a citizens' grievance redressal mechanism outside of the courts.
- g. Mandatory participation of panchayat raj institutions with full local community participation, in decisions affecting their lives and resources, including in EIA and clearance procedures for development projects, with a provision of feedback to the communities on how their inputs have been considered.
- h. Mandatory public notice on how public inputs to proposed policies, laws, notifications, and programmes have been considered.

Recommendations for the Plan process

- 9. We view with concern the lack of adequate public participation in the 5-year plan process itself. This includes serious limitations on the time period within which the working groups and task forces are supposed to accomplish their work, as also the lack of forums for public discussion and consultation other than electronic inputs. It is strongly recommended that the planning process should start at least a year in advance, and build in various steps mentioned above, including public hearings and consultations, availability of information/documents in all key Indian languages, workshops with key sectors, special steps for consultation with local communities, and so on.

V. MAKING ENVIRONMENTAL GOVERNANCE TRANSPARENT

1. With the enactment of the Right to Information Act of 2005, the citizens finally have a mechanism by which they can exercise their fundamental right to information.
2. Though this right encompasses all sectors and all levels of the government, as it does most non-governmental and even private institutions, perhaps it is more critical for the environment sector than it is for most others.
3. For one, environmental degradation is taking place at a scale impossible to comprehend without aggregated information of the sort usually available with governments and scientific institutions. Without such information, one would be unable to appreciate the scale and urgency of the threat on the environment. However, to access such information, one often needs to activate one's right to information.
4. Second, the scientific instrumentation required to monitor, or even identify, many of the pollutants that threaten human health or the environment, is usually unavailable to common citizens. Therefore, we are often dependent on governments and other institutions for this critical information, and this is rarely forthcoming without exercising our right to information. This right also has to be exercised in order to ensure that the information available is authentic and that the government is taking necessary action regarding the sources and impacts of pollution.
5. Third, adverse environmental effects were often a result of activities that were geographically (and sometimes temporally) far removed from the impact. Therefore, the source, or cause, of adverse environmental impacts, say of pollutants flowing down a river or water sources drying up because of destruction of distant catchments, are not always obvious to those affected by these adverse impacts. Usually institutional assistance (and therefore a right to information) is required to identify the cause of the problem and to try and prevent and mitigate it.
6. Similarly, many pollutants remain in the environment for long periods of time or, like some heavy metals, have long-term environmental and health effects that only became obvious many years after they are released or ingested. The ability to monitor such pollutants and to keep a track of what happens to them is not easy for the public

and necessarily involves the government. But the public has a critical stake in finding out what is happening – and for this it often needs to invoke its right to information.

7. Most often pollution and other forms of environmental destruction, including destruction of forests and degradation of land, water and soil, is done by large corporations, both in the public and the private sector. These corporations have a vested interest in keeping information about their activities out of the public domain, and usually have the political and financial clout to paralyse the governmental institutions charged with the responsibility of regulating their activities and preventing pollution and environmental destruction. In such cases, of which there are unfortunately many, it falls upon the citizen to initiate preventive action and mitigation, which can rarely be done without reliable and detailed information.
8. There is also the paradox that, often people do not even know that they are living in polluted conditions or being poisoned and, consequently, they do not feel the need to seek information till it is too late. Therefore, the government has a responsibility to keep the public informed on environmental matters so they can be alert to threats. However, governments have rarely fulfilled this responsibility.
9. The consequent human and environmental disasters, and the absence of adequate government accountability even after such disasters, it is all the more important for civil society groups to proactively seek out pertinent environmental information.
10. Also, in many activities, especially in programmes and schemes involving large amounts of tree plantation or harvest and sale of timber, huge public resources are involved. The RTI Act has provided an opportunity for communities to conduct social audits of such programmes and schemes, thereby bringing in transparency and accountability, and ensuring that public resources are properly utilised.

Recommendations

11. Section 4 of the RTI Act of 2005 specifies a whole lot of information that public authorities have to make public *suo moto*. The making of environmental information public *suo moto* is very essential, for reasons detailed above. However, most forest and environment departments, pollution control boards, and other institutions in the sector have been very slow and unimaginative in meeting their obligations under this section. Apart from the fact that *suo moto* disclosures help the public to monitor he

sector, they also significantly relieve pressure from the various public authorities who, by making much or all information public, do not have to deal with a large number of RTI applications. Therefore, ***it is recommended*** that in the XI plan a special central and centrally sponsored scheme may be started to develop templates and guidelines for all public authorities in the sector to make an increasing amount of information public in a comprehensible and user friendly manner. The scheme could also provide for hiring or developing in-house capacity to advise the public authority on how to become increasingly transparent and to manage their information so that it is, as far as possible, put out in real time and is easily accessible even to the poor and the semi-literate, in cities and in rural areas.

12. In addition, ***it is recommended*** that there be initiated another central and centrally sponsored scheme to support the setting up of information clearing houses in the area of forests and environment. These clearing houses could be set up within non-governmental agencies already working in the area who could, on behalf of the public, access relevant information from concerned public authorities, de-mystify and contextualise it, store it for quick retrieval, make it available through the web and through publications and other means and, on a selective basis, proactively draw the attention of the public to information that they need to be concerned about. The existing ENVIS could be linked to this but needs to be significantly reoriented to meet with the possibilities opened up by the RTI act.

13. In order to promote accountability, ***it is recommended*** that the Planning Commission stipulate that all relevant state, centrally sponsored and central schemes incorporate the principles of social auditing and that such social audits be enabled and conducted as a part of the audit requirement for these schemes. The social audit guidelines issued by the Ministry of Rural Development, for their recently enacted National Rural Employment Guarantee Act, could be used as a model.

VI. STRENGTHENING THE ENVIRONMENTAL IMPACT ASSESSMENT PROCESS

THE NATURAL ENVIRONMENT

1. The practice and implementation of the EIA regime by the Ministry of Environment and Forests with the State Pollution Control Boards has led to numerous experiences that clearly demonstrate that the procedures are ridden with serious deficiencies and are far from transparent and participatory. With the result, environment clearances have been granted to projects that have had disastrous environment and social impacts. There are several studies that have researched into the causes of the problems in the EIA regime and recommended ways of overcoming these.
2. An appropriate system of review and recommendation of correctives for the consideration of the Planning Commission should have ideally involved intensive and wide ranged discussions with government agencies at all levels, project developers, consultants and others who are involved in the implementation of EIA laws and procedures. But more so, this process of review should have necessarily involved project affected communities, trade unions and others whose interests have been directly impacted by the problems in the implementation of EIA laws and policies. It is unfortunate that the present working of the Planning Commission's Task Forces and Working Group has not allowed such an intensive process, despite requests from members of these groups. However, it is still not impossible to open up the process to inputs from citizens. It is therefore recommended that the Task Force's review and recommendations be used as an initial document to be build a new EIA regime through an extensive process of consultations with different constituencies.
3. A little after the Planning Commission set up the Task Force on EIAs in 2006, the Ministry of Environment and Forests finalised a new EIA notification after a mandatory 60 day period in 2005, during which it was open for public comment.
4. This notification draws its objectives from the Report on Reforming Investment Approval and Implementation procedures, by a committee headed by V.

- Govindarajan. The report identifies it being necessary to simplify the procedures for grant of approvals, reduce delays & ground level hassles and simplify the regulation of projects during their operational phase. In the process leading to the finalization of the notification, the Ministry also had several rounds of consultations with CII, ASSOCHAM, FICCI as well as some central government ministries, but did not adequately consult other important stake-holders, including NGOs, and finally came out with the EIA notification dated 14th September 2006. This was amidst severe protests by public interest groups and affected communities as both the process of finalizing the notification and its contents do not address the problems they have highlighted for over a decade.
5. The present EIA regime is contradictory to the Principles of the Rio Declaration as well as the Akwe Kon Guidelines under the Convention on Biological Diversity. These need to be rectified so that the Environment Impact Assessment framework is not in contradiction with our international obligations. The abovementioned obligations are India's principal commitments towards ensuring conservation and environmental safeguards.
 6. The most recent amendments to the EIA notification also ignore the mandate of the 73rd and 74th Constitutional Amendments that place several aspects related to environmental planning and governance within the province of Nagarpalika and Panchayati Raj institutions. The EIA regime needs to be redesigned to incorporate environment clearance processes into their functioning. Adequate checks and balances need to be built into these processes until capacities for environment governance are created at the local levels.

Key Recommendations

52. While taking note of the notification of 14 September 2006 of the MoEF concerning the EIA processes, the task force **recommends various additions and changes** to the said notification and to the EIA process in general.
53. It is recommended that, in addition to the state level institutional structures being set up, the GoI should immediately constitute an **National Environment Impact Assessment Authority (NEIAA)**, headed by a retired

Supreme Court Judge and comprising scientists/ academics, professionals working in the relevant fields and NGO/community representatives. The NEIAA should be a statutory body independent of the government, and its chairman and members should be appointed by a Committee comprising of the Prime Minister, the Leader of the Opposition in the Lok Sabha, and the Chief Justice of India, after following the due process of identifying the qualifications/expertise, as specified in 5 above. The NEIAA should:

- a. Have the power to grant prior environmental and forest clearances under the Environmental Protection Act (as envisaged for the Government of India) and the Forest Conservation Act (and any successor acts) and to monitor the compliance of conditions of clearance, and to revoke clearances or impose penalties, as required.
 - b. Have the power to assess, in terms of their environmental impacts, plans, schemes, policies and laws of the government and to give clearance for them (or advise the CSD in this regard, once the CSD becomes functional).
 - c. Have the power to hear appeals against all decisions and orders of the State Environment Impact Assessment Authority (SEIAA).
 - d. Have the power to review the guidelines, notifications and requirements prescribed under the relevant acts and have them revised, as appropriate.
 - e. Have the power to require the setting up and proper administration of a system for accreditation of consultants authorised to prepare environmental impact statements and conduct related investigations and surveys.
 - f. Have the power to disqualify for a specified period individual consultants or consultancy firms for professional misconduct.
54. State governments (and other requiring agencies) should identify and keep ready a **portfolio of sites** that have been found suitable for specific types of projects. The process for site identification should include public hearings, an Options Assessment and a Least Cost Plan. The identification and development planning of sites should be based on a scientific understanding

of the carrying capacity, and should include an analysis of the ecological footprint and a life cycle analysis. Project proponents should be given the option of locating a project with pre-approved specifications on a pre-approved site, thereby saving the time and costs of doing a fresh EIA exercise. A beginning has been made by the zoning process that was undertaken by Pollution Control Boards of some states, and the zoning atlas that was produced. This should be built upon.

55. As envisaged in the said notification, there should be **Expert Appraisal Committees** (EACs) at the national level that would assist the EIAA (as opposed to the MoEF, as envisaged in the said notification) in appraising projects and activities, and state EACs to assist the state level environmental impact assessment authorities (SEIAA).
56. Membership of the EACs should be broadly as specified in Appendix VI of the said notification, with **two critical changes**:
 - a. The definition of an expert and a professional, in the said notification, is too restrictive and also internally contradictory. For one, it recognises as a professional or an expert only a person who has a university degree or a professional qualification in the said discipline, thereby totally ignoring those professionals/experts who have developed their expertise through practical experience manifested in their work and/or their publications, as also experts from various traditional knowledge systems. On the other hand, it is willing to accept as professional any one who has any university degree, as long he or she is in the IAS (or has done an MBA). Clearly an IAS officer (or a business management graduate) does not ipso facto become a professional in matters related to the environment. It is, therefore, recommended that apart from the categories already listed in appendix VI of the said notification, two more categories of professionals/experts should be added, namely **people who have been active in the studies in the relevant field, or in its management**, for five/fifteen years respectively; and holders of traditional knowledge.

- b. Similarly, unlike in the past, no provision has been made for the membership of NGO representatives in the EACs. It is important to have at least two members in each EAC who have experience in interacting with local communities and have credibility as **members of reputable NGOs** working in the area of environmental conservation, and the notification should be accordingly amended.
57. These changes should also be applicable to the composition of **state/UT level expert appraisal committees**, as envisaged in the said notification.
58. At the scoping stage (section 7(i)(2) of the said notification) it is envisaged that the EAC/SEAC would prescribe the terms of reference (TOR) for the required EIA report or statement. However, this would inevitably lead to a lot of subjectivity and consequent conflicts and allegations of favouritism. Therefore, the **MoEF should prescribe a generic TOR** that each EAC/SEAC must use as a starting point, separately for each type of project/activity. The EAC/SEAC must give a detailed public justification for any deviation (addition, deletion or modification of requirements) that they recommend.
59. The said notification envisages the holding of public hearings for most categories of projects and activities. For the purpose, it also lays down a procedure (appendix IV of the said notification). The task force **recommends certain additions/changes** to the said procedure, as detailed below.
60. In section 7(i)(III) of the said notification it is specified that public consultation is a process by which the concerns of local affected persons and others who have a “plausible stake” are ascertained. It is not clear if there is, or should be, a single person in the country or, for that matter, in the world who does not have a plausible stake in the well being of the environment. Besides, as most of these projects and activities involve the expenditure or use of public resources, surely every one has a stake in their proper planning and implementation. Therefore, **the term “plausible stake” should be deleted**, otherwise this unnecessary restriction could be used to exclude dissenting voices.

61. It is **unacceptable to exclude all defence and strategic projects from the necessity of having public hearings**. There could be some specific projects of the sort whose location must remain secret, which can be excluded. Besides, certain aspects of defence and security projects can be withheld from disclosure. However, a blanket ban is unacceptable as the armed forces and other security forces are often operating in very environmentally vulnerable areas and have in the past have been known to cause huge and avoidable damage to the environment.
62. In section 7(i)(III)(v) it is specified that the necessity of a public hearing can be done away with if it is determined that local conditions do not permit it. Whereas this should only be permitted where there is a credible security threat, in such a rare eventuality, and the rarity needs to be stressed, there must then be an obligation on the concerned authorities to **hold a series of consultations with representatives of groups holding all the diverse view points** and to videograph these consultations and to deal with the issues raised as they would have if they were made in a public hearing.
63. Though in section 3.1 it specifies that at least 30 days must be given for the public to furnish their responses, it would be desirable if there is an explicit statement that the public must be **given a clear 30 days notice of the public hearing** itself.
64. Nowhere in the said procedure or elsewhere has it been specified how to deal with the points and issues raised by the public in the process of the hearing. It is recommended that it be specified that whatever points are not accepted or issues not resolved, the project authorities must **provide detailed reasons** for the non-acceptance/non-resolution and these reasons must be made public within 30 days of the hearing.
65. For the purpose of a first hand understanding of the proposed project, the local situation in which the project is proposed to come up and the opinions and comments of the local people, **at least one member of the Expert Appraisal Committee (central or state, as relevant) should be present at the public hearing** as an observer.

Expert committees should also be required to **collectively visit** the project sites. Any reduction in the number of site visits and/or the number of Expert Committee members allowed to proceed on site visits is a false economy since it only results in greater delays.

66. **Public hearings need to be conducted in at least two phases/stages** for projects and activities to be located in sites not cleared in advance.
 - c. The preliminary hearing may be required at the scoping stage.
 - d. The second hearing is to for the purpose of presenting and discussing all aspects of the assessment's final findings, with the help of booklets/presentations in local languages and to record the views and objections of the people.
67. The said notification lays down various time lines for completing various steps and gives the project proponents the advantage if matters are delayed. However, there is no specification of the minimum time that must be spent in gathering field data relating to the ecological profile of the area where the project or activity is located. It is essential to discourage the growing tendency to do "quick EIAs" and the said guidelines must specify that **biodiversity profiles must be done over at least a one full year and, in areas that are particularly rich or vulnerable in terms of biodiversity, over two annual cycles**. The oft repeated objection that this would delay the clearance of projects can be adequately dealt with by prescribing that the process of seeking prior environmental clearances must start well in advance of project planning so that a proper EIA process does not delay project implementation. Besides, the recommendation made elsewhere in this report to have a portfolio of sites appraised and ready should also mitigate against delays while ensuring an adequate EIA.
68. The current provision for an **Environmental Appellate Authority** should be adequate for hearing appeals against the decisions of the EIAA. However, it should be immediately activated and its rules and procedures rationalised, especially those mandating a time limit of 30 days for filing an appeal, which

needs to be significantly increased, and those restricting the *locus standi* of those who can appeal.

69. The Act to set up an **Environmental Tribunal** was passed in 1995. However, to date the tribunal appears not to have been set up. This needs to be set up and activated at central and state levels, and their scope expanded to cover matters related to environmental and social impacts caused by development projects and activities. Though it has been reported in the press that the MoEF is in the process of amending the relevant act, the details of the proposed amendment were not available to the task force, therefore no comments on the proposed bill can be offered.
70. The parameters based on which projects/activities are required to get environment clearance have usually been investment, size or capacity. While these are not irrelevant, the vulnerability of the proposed site and the risk posed, by the project/activity, to the environment and people also need to be the deciding factors. Therefore, the classification of all building and construction projects and all townships and area development projects as category B projects in the schedule to the said notification is unacceptable. Many of our urban areas are among the most vulnerable areas needing the highest levels of concern especially as any degradation affects the largest number of people. **Therefore, all building and construction projects in major cities and in other urban areas that already have significant levels of environmental stress (to be separately classified by the MoEF) should be classified as category A projects**, as should be all township and area development projects within 20 km of the outskirts of such cities and towns.
71. All townships, regional development plans and industrial estates, should be assessed in terms of **their impact on the ecology of the region, perhaps through the use of the ecological footprint method.**
72. One common problem with the EIA process is that the consultants who prepare of the environmental assessment statement and conduct the related studies are usually employed and paid by the project proponents/requiring agencies. This leads to undue pressure being put on the consultants to produce

a report that favours their employers and also involves a reputational risk for future employment opportunities, if they are not sympathetic to the interests of project proponents. Consequently, it would be desirable for an **independent agency, perhaps the MoEF, to select the consultant, sponsor the studies and pay for them.** The cost of the EIA process could be recovered, even in advance, from the project proponent/requiring body.

73. **Clearances should be granted for a period not exceeding two years** (as opposed to the five, ten and thirty years indicated in section 9 of the said notification). All clearances must lapse at the end of the period unless renewed by the EIAA/SEIAA, and no clearance would be renewed unless the project proponents can establish that they have complied with the conditions of clearance and are in compliance with all environmental requirements. However, such hearings should not require a fresh EIA but only an establishment of compliance, and where necessary conditions of clearance can be reviewed and amended. No clearance should be extended without a public hearing on the status of compliance.
74. As per section 11 of the said EIA notification, environmental clearances can be transferred to another person or legal entity. However, while making such transfers, **the past environmental record, if any, of the intended transferee must be determined** and no such transfer must be made if the transferee or any of his/her associates have been in violation of any of the conditions of clearance in the past, or have had an application rejected or clearance cancelled under section 8(vi) of the said notification, relating to the provision of false or misleading information.
75. **Ex post facto clearances** should be prohibited by law.
76. In general, after each of the four stages in the environmental clearance process envisaged in the said notification, **all information/documents and the basis for decisions should be suo moto made public** prior to the initiation of the next stage, with only the exceptions allowed under the Right to Information Act of 2005.

77. Environmental impacts of projects are often seen many years after its initiation and often the effectiveness of preventive and mitigating measures do not become obvious till many years after their application. Therefore, it is essential to initiate a new scheme that supports a **retrospective EIA** of projects, ten or more years after their completion. This would give us a better understanding of how effective our environmental clearance and monitoring system is and what improvements, if any, are required.
78. A serious gap in environmental management and pollution control is lack of attention to soil pollution and degradation. Already there is a large backlog of contaminated and degraded sites that need restoration and remediation. It is, therefore, essential to prioritise the sites on which we need to focus urgently in order to reverse and contain the damage. There is the need for a new scheme for the **scientific assessment of sites that have already been polluted or contaminated by pollutants and hazardous wastes, and for their containment and regeneration.**
79. The **accumulated impacts of projects or activities** in a site have similarly to be assessed and future siting of projects and activities determined on the basis of the existing accumulative and historical impacts. Clearly this cannot be the responsibility of any specific project proponent and therefore should be taken up on a priority basis by the MoEF through various expert agencies.

NATURAL AND HUMAN MADE HERITAGE

1. **A key component of “environment” (which is often overlooked) is heritage, both natural and man made. In that context, reference may be had to be a legal Opinion given by Senior Counselor Atul Setalvad which states – (emphasis added)**

“ the field of heritage can be, broadly, divided into two parts: natural heritage and man-made heritage.

I have no doubt that under the very wide meaning given to the concept of environment, natural heritage can be protected by the Environment (Protection) Act, 1986, which has been enacted to implement by legislation the decisions taken at an international conference.”

- i. The international conference in question was the Conference on the Human Environment convened by the United Nations at Stockholm in 1972. This conference resulted in the making of the Stockholm Declaration.
- ii. The Declaration is in two parts. Part I contains the *Proclamation*, and Part II sets out certain common convictions in the form of *Principles*. Both parts are parts of the Declaration and contain the decisions taken at the Stockholm Conference.
- iii. The word “environment” has both a narrow and a wide meaning. In the narrower sense, it would refer to the natural surroundings of humankind; in the wider sense it would also include everything that exists, whether natural or man-made.
- iv. The Stockholm Conference was convened, the subject being “human environment”. The very first Proclamation shows that the words “human environment” are used in the Declaration to refer to what it calls “both aspects of the man’s environment, the natural and man-made”. The Proclamation goes on to say that both aspects of man’s environment are:

“essential to his well-being and to the enjoyment of basic human rights – even the right to life itself”
- v. It is, thus, manifest that the word “environment” in the Declaration is used in the wider, not the narrower sense.
- vi. The Declaration enjoins the States to exert efforts to preserve and improve the human environment and the Principles show that this should be done by adopting an integrated and coordinated approach to development planning: Principle 13; Principles 14,. 15 and 17 also contemplate proper planning.
- vii. The Environment (Protection) Act, 1986, only has an inclusive definition of the word “environment”; this means that the word has to be interpreted in its ordinary meaning. As, *ex facie*, the Act has been enacted to implement the Stockholm Declaration, it is permissible to interpret the words used in the Act consistently with the Declaration. It is settled law that this not only can, but ought, to be done. See *Renusagar Power Co. Ltd. vs. General Electric Co.*, A.I.R. 1994 S.C. 860, and for an analogous principle in the field of environment itself, *Vellore Citizens Welfare Forum vs. Union of India*, A.I.R. 1996 S.C.715

viii. **It follows that the power under section 3 of the Act to take steps to protect and preserve the environment can be exercised to preserve man-made environment. The Central Government, under the Environment (Protection) Act, 1986, can, therefore, issue notifications, or enact rules to preserve heritage buildings, precincts, etc. as such heritage buildings and precincts are part of the ‘man-made environment’, which is, as is set out above, part of the “human environment” which the Stockholm Declaration requires States to preserve and protect.** It can also prepare, or give directions for the preparation of plans to bring about the desired results; the plans can cover whole regions or such smaller parts as is through necessary.”

2. **The Ministry of Environment & Forests has several precedents for protecting heritage.**

- i. In 1995, a Consultative Group on Heritage Conservation was constituted. Based on this Group’s report, **Model Regulations for Conservation of Heritage (both natural and man made)** were framed. This was sent several times, at the level of the Minister and the Secretary to Chief Ministers, Chief Secretaries, and Union Territory Administrators with a request to email suitable regulations in their respective jurisdictions.

Several states, (Maharashtra, Andhra Pradesh, Delhi) have done so. (copy of the Model Draft Regulations is at annex 5)

The definition of heritage sites was “buildings, artifacts structures, areas and precincts of historic and/or aesthetic and /or architectural and/or cultural significance (hereinafter referred as Listed Buildings/Heritage Buildings and Listed Precincts / Heritage Precincts) and those natural features of environmental significance and/or of scenic beauty including but not restricted to sacred groves, hills, hillocks, water bodies (and the areas adjoining the same), open areas, wooded areas (hereinafter referred to as ‘listed natural features’) which are listed in a notification to be issued by Central/State Government.”

- ii. **In the Eco Sensitive Zone notifications for Mahableshwar Panchgani, Matheran and the two Draft Notifications for Pachmarhi,** preservation of the

built heritage has been specifically stipulated by the Ministry of Environment & Forests. These notifications are annexed (Mahableshwar Panchgani of 17th January 2001, Matheran of 4th February 2003, and Draft Notifications for Pahmarhi of 18th September 2000 and 17th September 1998). To give just one example the relevant clauses of the Mahableshwar Panchgani notifications reads as under:

“(f) **Natural Heritage:** - The sites of valuable natural heritage in the zone shall be identified, particularly rock formations, waterfalls, pools, gorges, groves, caves, points, walks, rides etc. and plans for their conservation in their natural setting shall be incorporated in the Zonal Master Plan and Sub Zonal Master Plans. Strict guidelines shall be drawn up by the State Government to discourage construction activities at or near these sites including under the garb of providing tourist facilities. All the gene pool reserve areas in the zone shall be preserved. The State Government may draw up proper plans for their conservation or preservation within one year from the date of publication of this notification. These plans shall form a part of the Zonal Master Plan and Sub-Zonal Master Plans.

“(g) **Man-made heritage:** - Buildings, structures, artifacts, areas and precincts of historical, architectural, aesthetical, and cultural significance shall be identified and plans for their conservation, particularly their exteriors (and wherever deemed appropriate their interiors also) shall be prepared and incorporated in the Zonal Master Plan and Sub-Zonal Master Plans within one year from the date of publication of this notification. Guidelines may be drawn up by the State Government to regulate building and other activities in the Zone, particularly in Mahableshwar and Panchgani municipal limits and in Kshetre Mahableshwar, so that the special character and distinct ambience of the towns and the eco sensitive zone is maintained.

“(h) Development or construction activity at or around heritage sites (both natural and man-made) shall be regulated in accordance with the Draft Model Regulations for Conservation of Natural and Man-made Heritage

formulated by the Ministry of Environment and Forests in 1995 as amended from time to time and circulated to all State Governments and Union territory Administrations.”

iii. **The Hill Station Committee of the Ministry of Environment & Forests, in their Report of March 2003 have framed a Model Notification for all hill stations.**

This Model Notification contains the following clauses:

“(g) **Natural Heritage :-** The sites of valuable natural heritage in the environmentally sensitive area shall be identified, particularly rock formations, sites of scenic beauty, waterfalls, pools, springs, gorges, groves, caves, open areas, wooded areas, water bodies, points, walks, rides, bridle paths etc. and plans for their conservation in their natural setting shall be incorporated in the Zonal Master Plan and Sub-Zonal Master Plan. Strict guidelines shall be drawn up by the State Government to discourage construction activities including temporary, make shift structures, petty shops, road side eateries etc., at or near these sites including under the garb of providing tourist facilities. All the gene pool reserve areas in the environmentally sensitive area shall be preserved. The State Government shall draw up proper plans for their conservation or preservation within one year from the date of publication of this Notification. These plans shall form a part of the Zonal Master Plan and Sub-Zonal Master Plans. Guidelines and regulations shall be drawn up by the State Government to regulate building and other activities around the heritage structures so that the special character and distinct ambience of the heritage site and area are maintained.

“(h)**Man-made heritage :-** Buildings, structures, artefacts, streets, areas and precincts of historical or architectural or aesthetical or cultural or environmental significance shall be identified and plans for their conservation, shall be prepared and incorporated in the Zonal Master Plan and Sub-Zonal Master Plan within one year from the date of publication of this Notification. Guidelines and regulations shall be drawn up by the State Government to regulate building and other activities around the

heritage structures/sites so that the special character and distinct ambience of the heritage structure/site and area are maintained.

Any new buildings to be constructed shall be of a style and shall use building materials which conform to what has traditionally been used in that hill areas.

“(i) Development or construction activity at or around heritage sites (both natural and man-made) shall be regulated in accordance with the Model Draft Regulations for Conservation of Heritage Sites (both natural and man made) which are enclosed at Annexure IV”.

3. In this vital field of environmental conservation, some numbers would be relevant.

In England the National Listing has 372038 entries covering a number of 500,000 listed sites at the national level. In addition, there are tens of thousands of sites protected at the local level. With India being 24 times the area of England, we should have 12.5 million listed heritage sites.

The US has nearly 1.3 million sites on their National Register.

Recommendation

A key component of “environment” (which is often overlooked) is heritage, both natural and human made. It follows that the power under section 3 of the EPAct to take steps to protect and preserve the environment can be exercised to preserve human-made environment. In the Environment Impact Assessment process, (including the latest one) some attention has been paid to protection of heritage sites. **This needs to be greatly enhanced.** Since the number of heritage sites runs into millions and since legislation protects at most 15,000 sites, while determining environmental sensitivity the concern must go much further than areas protected under international conventions, national or local legislation. The EIA process must prevent damage to these sites.

Annex 1

First Meeting of the Planning Commission Task Force on Governance, Transparency and
Participation
Environment and Forests Sector
XI Plan

16 October 2006

Minutes

1. The meeting was attended by:
 - i. Dr N.C. Saxena
 - ii. Dr Paritosh Tyagi
 - iii. Mr. Ashish Kothari
 - iv. Ms. Anjali Bhardawaj
 - v. Mr. Shekhar Singh
2. Mr. M.K. Jiwrajika sent his regrets. The two representatives of MoEF did not attend.
3. There was a preliminary discussion on the nature of report that the task force should produce, what its purpose is and what would be the time frame. It was decided that the task force report should not be more than ten to fifteen pages but could contain annexes in addition.
4. The report should prioritise issues, give the rational for prioritising, do a brief assessment of current practices, including selective assessment of current schemes, and give concrete recommendations of new schemes or changes in existing schemes.
5. The task force was informed that the dead line for submission of report had been revised and the final report was due by 15 December with interim report containing the main recommendations by end November.

6. Then, the TOR was reviewed and by and large found acceptable. It was suggested that under item 3 of the TOR (relating to institutional structures) special attention should be paid to:
 - a. Setting up a grievance redressal institutional structure, where the citizen could complain and have action taken if the government was not acting in accordance with their laws and policies, or in accordance with established norms.
 - b. Separation of the planning, implementing, regulating and monitoring functions, which are currently all centralised.
 - c. Setting up appropriate institutional structures to ensure that there is genuine environmental planning in the country, and not just impact assessment of specific projects.
7. A division of labour was agreed to as follows:
 - a. TOR items 1 and 2: lead Dr. N.C. saxena
 - b. TOR item 3: Pollution and EIA – lead Dr Paritosh Tyagi
 - c. TOR item 3: Forest – Lead Mr. M.K. Jiwrajika (to be contacted)
 - d. TOR item 3: Wildlife – Lead Mr. Ashish Kothari
 - e. TOR item 4: Pollution and EIA – lead Dr Paritosh Tyagi
 - f. TOR item 4: Forest & Wildlife – Lead Mr. Ashish Kothari/Mr. S.S. Rizvi (to be contacted)
 - g. TOR item 5: Transparency – Lead Ms. Anjali Bhardawaj
 - h. TOR item 5: Participation – Lead Mr. Ashish Kothari
8. It was further agreed that each person will send out the draft of their section, to all members, not later than 7 November. They would also send their suggestions on sections being drafted by others by 31 October.
9. The next meeting would be held on 22 November from 10 am and for the full day.
10. Meanwhile, if the public hearings proposed by the EIA task force materialise, then those members of this task force who can attend should do so and raise governance issues there.

11. Efforts in any case should be made to talk to other stake holders, including state governments. For the purpose it was agreed that the Planning Commission send out a general letter to all state governments informing them of the task force and requesting assistance. The state governments could also be asked to send in their comments.
12. It was also decided that by the end of November a workshop can be organised in Delhi where the draft report can be discussed with a wider and more diverse group.
13. It was agreed that the TOR and constitution of all working groups/task forces would be sent to all members so that they can be familiar with the areas being covered by other groups.

Annex 2

Meeting of the Planning Commission Task Force on Governance, Transparency,
Participation and EIA
Environment and Forests Sector
XI Plan

8 December 2006

Minutes

1. The meeting was attended by:
 - i. Dr Paritosh Tyagi
 - ii. Mr. Ashish Kothari
 - iii. Ms. Anjali Bhardawaj
 - iv. Mr. Shekhar Singh
 - v. Mr. Shyam Chainani
 - vi. Ms Manju Menon
2. In the afternoon the discussion was thrown open to a group of invitees, and the draft recommendations were presented to them and discussed. Given below are the points raised in this discussion and the response given by the task force.

Points Raised	Response given by the Task Force
1. We should set up a commission similar to the Israeli commission on future generations.	The proposed commission for sustainable development (CSD) is envisaged to play a very similar role.
2. We should protect heritage sites, both natural and human made.	The report draws attention to the relative neglect of natural and human made heritage sites and calls for a greater focus on them.
3. We should develop a system by which the ecological history of an area is recorded and an ecological archive made.	This is a good idea and will be passed on to the Working Group dealing with education and awareness.

4. It must be recognised that protected areas give ecological services, and not just protect biodiversity/wildlife. Therefore, PAs must be supported for this also and should be seen to be directly involved with providing livelihoods for the local people	Will be communicated to the Working Group on Wildlife.
5. Larger areas, at ecoregion/landscape levels, should become the units for protection and buffer zones should be given legal backing	Will be communicated to the Working Group on Wildlife
6. The allocations for the Wildlife Sector, especially for PAs, should be in proportion to their size and also in proportion to their importance or coverage	Will be communicated to the Working Group on Wildlife
7. The basic models of economic growth and notions of wealth must be challenged as they do not promote human welfare. We should convert to quality of life and welfare index	This is a part of the brief of the proposed CSD as also proposed through the environmental impact assessment of not just projects and activities but of schemes, plans, programmes, policies and laws.
8. There must be a recognition of good officers/good dept. action, while punishing bad ones.	We have included a reward and recognition process in our recommendations.
9. Methods have to be developed for ensuring that the results of public hearings are taken cognisance of. Some methods could be to make all objections stated at the hearing public, through the expert committee reports; and spread awareness about PH through meaningful and effective means that reach the public.	We have given detailed recommendations on how issues and points raised during a public hearing must be reported back on and the authorities must communicate to the public the action taken and the reasons thereof.
10. Post-disaster assessments of environmental damage, or role of env. damage in making/exacerbation of disasters...guidelines for post-disaster relief/rehabilitation.	This will be brought to the notice of the Steering Committee, as none of the current task forces seem to be dealing with it.
11. Specify key ministries...power, water res, mining, agriculture, urban devt...putting onus on them to integrate env.	We have listed out various ministries and sectors and also specific schemes and programmes that need to be taken up on a priority basis for integrating of environmental concerns.
12. Joint Forest Management is no longer really participatory. This needs to be remedied.	We will communicate this concern to the Working Group on forests.
13. Monoculture plantations to be discouraged/prohibited.	We will communicate this concern to the Working Group on forests.
14. Review monopoly of forest dept in forest areas...review role of FDA, FDC, esp. on biodiversity and livelihood concerns.	We have recommended the creation of a combined service for managing natural resources and also stressed, through various means, especially

	social audits, the need to be transparent and participatory.
15. Stress participation from site selection to planning etc, not only PH at later stage; check tendency of states to make participation at PH even narrower; by making documents more accessible	The proposed mandatory social auditing will ensure that all relevant matters are participatory and transparent right from the conception stage and up to final evaluation.
16. Climate change mitigation – are we doing enough? What further measures need to be taken.	This will be brought to the notice of the relevant Working Group.
17. Land Acquisition Act to be reviewed, especially by clearly defining "public purpose" and making sure that displacement is minimised.	There is a parallel exercise going on at the Ministry of Rural Development to formulate a new R&R policy and give it a legal framework. This issue is being debated there.
18. Review of donor driven env/forest projects, esp. by IFIs, export credit agencies.	We have recommended that the MoEF closely monitor all support by donor agencies and financial institutions to governments. We will pass on this concern to the task force on environmental economics and to the steering committee.
19. Need a legal framework for integrated land use.	This has been strongly recommended, along with a detailed land use plan.
20. Need to include R&R concerns into the EIA process.	See 17 above.
21. Need to insist on a prior social impact assessment of projects.	This is also a part of the draft R&R policy being currently debated – see 17 above.
22. The process of planning for the next five years should have reached community/village levels...levels at which issues like eia etc, are hardly known.....the process should have started much earlier.	We agree and we have recommended that, in future, this process should start at least a year in advance and be far more participatory.
23. Need a special policy on the Himalayas...esp. to review development plans such as dams across the entire ranges...prohibit development projects above certain height/slope	We will communicate this to the task force on mountains.
24. Socio-environmental impact assessment, not only EIA	A part of this has been covered in our recommendations regarding the EIA process and content. A part will get covered under the proposed social impact assessment.
25. Some areas should be designated as areas where large projects are banned.	It is expected that the proposed land use plan, when finalised, would identify areas that are for one reason

	or another out of bounds for large projects, especially those with significant environmental or social impacts.
26. There must be a provision for people to say no to a project or activity if it is environmentally or socially destructive.	If, as proposed, the EIA process is made transparent and participatory, then people will have a right to express their views and demand of the government the reasons why their views were overruled. In addition, we have also recommended that the special provisions brought into the Constitution regarding notified areas be strictly adhered to in matters relating to environmental clearances and that the panchayats be allowed to play the role that they are constitutionally obliged to.
27. There must be effective monitoring of projects and env. Conditionalities, with redressal and punishment clauses.	These have been recommended.
28. There should be a retrospective assessment of env. damage caused by projects since independence.	This has been recommended.
29. There is a need to assess if urban settlements are going beyond their carrying capacity...are 'diseased'...can one city be taken up as experiment on how to make it more sustainable?	We will pass this suggestion on to the task force on urban environment.
30. There is a need to do a detailed review of selected cases of failure of the system, e.g. Delhi Ridge Vasant Kunj case, and others like it.	This is a good idea and we will recommend it to the steering committee.

Annex 3
EXTRACT FROM THE FINAL TECHNICAL REPORT OF THE NATIONAL
BIODIVERSITY STRATEGY AND ACTION PLAN

Prepared by the NBSAP Technical and Policy Core Group co-ordinated by
Kalpavriksh¹

NATIONAL LAND AND WATER USE POLICY AND PLAN

1. Formulate a National Policy and Perspective Plan on Land and Water Use

Formulate a policy and perspective plan, which guides the process of long-term planning for the conservation and sustainable use of land and water across the country. Such a National Policy and Perspective Plan on Land and Water Use (NPPPLWU) should specify and map lands/waters for specific uses, including biodiversity conservation, subsistence and domestic use by local communities, commercial use by communities, and industrial/urban use. Clear priority needs to be given to ensuring ecological security and the livelihood security of those most dependent on biodiversity.

This policy should aim towards a clear demarcation of the following categories:

- i. Areas critical for wild biodiversity conservation (e.g. most current protected areas, community conserved areas, biosphere reserves, ecologically sensitive areas, etc.), which should not be open for any large-scale development, or any form of destructive/damaging human activity, but would have flexible arrangements for micro-level management strategies determined locally by or with resident/user communities; such areas would also include strictly protected sites where no human intervention is to be allowed;
- ii. Areas critical for domesticated biodiversity conservation and sustainable agricultural systems;
- iii. Areas critical for other ecosystem benefits, such as water flows and recharge, soil fertility, coastal protection, and others (including, for instance, all sources of major rivers, immediate catchments of lakes, mangroves/coral reefs, relatively intact forests and grasslands with high water retention and absorption abilities, etc.);
- iv. Areas critical for sustainable extraction and use of natural resources and cultural/livelihood security, including forest, wetland, marine, grassland, agricultural/pastoral and other ecosystems, with primacy given to the domestic and livelihood needs of traditional local communities; these would to some extent overlap with the above three categories;
- v. Areas other than the above, which can be used for producing industrial raw materials, locating industries, urban expansion, infrastructural development, and other such land/water uses;
- vi. Large ecoregions demarcated on biodiversity and cultural criteria, cutting across various land/water uses and some across state political borders, for integrated planning purposes, including Biosphere Reserves, river basins, etc. These areas should be demarcated clearly at national and state levels, and an overall **land/water use atlas** depicting them should be produced. It should be noted that there will be some overlap amongst categories (i) to (iv) and (vi) above.

The NPPPLWU should be evolved through a **widespread process of consultation** with diverse stakeholders and rightholders, using the governance framework suggested elsewhere in this report. At both micro and macro level, it should encourage a combination of community-based natural resource mapping incorporating cultural and customary rights, and perspectives with modern scientific tools and understanding. The NPPPLWU should, in particular, help to:

Necessary policy and legal backing needs to be given to ensure the above, and to recast the government's role in such areas away from *eminent domain to public trust* (see Box). The NPPPLWU should also incorporate sustainable livelihood options for people in such areas, and devise

¹ Published as *Securing India's Future: Final Technical Report of the NBSAP – India*. Kalpavriksh, Pune/Delhi, 2005.

strategies for larger landscape/waterscape- and ecoregional-level management within which such options are integrated. *It should specify that local ecological and livelihood security needs are to be accorded higher priority than 'national' and 'international' economic requirements like raw materials, energy, minerals, etc. The most important and urgent need is to go beyond the artificial boundaries of compartmentalised land/water uses, and conceptualise the conservation and management of entire landscapes/waterscapes.* This 'landscape' (or 'ecoregional' or 'ecosystem') approach provides a comprehensive framework for bringing together a wide range of different approaches to conservation, helping to integrate or coordinate the various sectors with an interest in biodiversity, and regulate those sectors that could harm it.

Box: Role of the State Towards Public Lands/Waters: from Eminent Domain to Public Trust

The current role of the state, towards public territories is one of *eminent domain*, by which it has the right to assign these lands/waters for any purpose it deems to be in public interest. In many countries this has evolved towards the more enlightened notion of *public trust*, in which the state holds the lands in trust, ensuring that its long-term benefits to society are sustained.

The Supreme Court of India has held such a notion to be applicable in India:

'The notion that public has a right to expect certain lands and natural areas to retain the natural characteristics is finding its way into the law of the land. The ancient Roman Empire developed a legal theory known as "the doctrine of public trust". It was founded on the idea that certain common properties as rivers, seashores, forests, and the air were held by the government in trusteeship for the free and unimpeded use of the general public...the public trust doctrine imposes the following restrictions...first, property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public, second, the property may not be sold, even for a fair cost equivalent, and third, the property must be maintained for particular types of uses...' (Supreme Court in *M.C. Mehta vs. Kamal Nath and others*. 1996(9) SCALE 141).

Any diversion of ecologically sensitive areas to other uses, or destruction of such areas, should therefore be unacceptable in such a public trust doctrine, since 'public interest' clearly needs to be defined as the protection of their critical ecological functions such as water and biodiversity. Moreover, any use of culturally sensitive areas, such as those under Schedule V and VI of the constitution (predominantly *adivasi* or tribal areas), also needs to be brought under the public trust doctrine, making it incumbent upon the state not to divert them through the use of the Land Acquisition Act or other instruments, for purposes that the tribal communities do not consider ecologically or culturally acceptable.

Steps:

- i. Planning Commission to set up an expert working group, to guide the drafting of the NPPPLWU, consisting of land/water use planning experts, wildlife and agro-biodiversity specialists, members of people's action groups such as National Alliance of Peoples Movements, mapping and remote sensing institutions, officials from relevant ministries and departments, and relevant NGOs;
- ii. The expert working group to facilitate a process of local, state, and ecoregional (inter-state) land and water use planning (emphasising and utilising the opportunity of the 74th Amendment which requires developmental planning across the landscape; and to conduct public hearings and consultations in several relevant places in the country, covering diverse occupational and ethnic groups, ensuring especially the participation of ecosystem-dependent communities;
- iii. Distil essential points and elements from these local/state/ecoregional plans, and assess previous work on land/water use planning, by central and state agencies, to integrate into the NPPPLWU draft;
- iv. Circulate the draft NPPPLWU widely for comments, in various Indian languages;
- v. Finalise and pass the NPPPLWU, and set up participatory mechanisms to implement it and monitor its implementation, including through related legislation (see *Action 2* below).

2. Provide legal backing to the national land/water use plan

Provide a secure legal backing to the NPPPLWU, by using appropriate provisions of the Environment Protection Act, the Biological Diversity Act, the Wildlife (Protection) Act, the National Wildlife Action

Plan, the panchayat laws including the Panchayat (Extension to Scheduled Areas) Act, and the constitutional provisions for Schedule V and VI areas. This should incorporate a clear provision for a transparent process by which changes can be made in the NPPPLWU, including public hearings and consultation, particularly with populations that may be affected by such changes. It may also require a review of current legal classification and demarcation of forest, revenue, and other lands, conforming more closely to ecological and cultural boundaries than to administrative ones. The legal measures should also relate to the overall governance structure being recommended elsewhere in this report. Legal backing could also be given to ongoing initiatives at landscape level planning, including official ones such as at Chilika Lake (Orissa) and the Nilgiri Biosphere Reserve (Tamil Nadu/Kerala/Karnataka), and people's efforts such as at the Arvari Basin (Rajasthan).

DECENTRALISED NATURAL RESOURCE GOVERNANCE STRUCTURE

Move towards a governance structure for natural resources that is truly decentralised and democratic, sectorally coordinated, and able to work effectively at all scales from local to national. Such a structure should aim to shift from representative to participatory democracy, ensuring that citizens have a meaningful voice in all relevant decision-making forums. Briefly, the structure would consist of the following nested levels, each suitably empowered to take decisions regarding resources under their jurisdiction, starting from the basic village/urban ward or user group level:

1. Village assemblies or tribal councils in rural areas, and urban wards in cities
2. Ecologically or administratively defined clusters of villages or villages and cities
3. District Planning Committees or equivalent bodies
4. State environment forums, State Biodiversity Boards, and other relevant bodies
5. Inter-state or ecoregional authorities
6. National institutions such as National Board for Wildlife, National Biodiversity Authority, and the National Development Council.

To provide details, the following governance framework is proposed for the country (with the caveat that this needs to be worked out in much greater detail):

1. At the **village level**, *panchayats* are already mandated by the Constitution. However, greater focus needs to be on empowering the *gram sabha*, village tribal council, or other equivalent body (here referred to as '**village assembly**') that consists of all the adults of the hamlet or village and not only a small number of 'representatives'. This should be the functional decision-making unit, where all adult women and men are conveniently able to participate in decision-making using the basic principles of participatory democracy, and where rights and responsibilities are clearly established and transparent. All critical decisions relating to local natural resources should be taken by the village assembly, with decisions at larger (district, state, national) levels involving local resources being taken only with the involvement and consent of the relevant village assemblies. Special provision needs to be made to facilitate the equal participation of women and other underprivileged sections including the landless (for some recommendations on this, and to revive and strengthen community spirit).

2. In the case of **towns** and **cities**, the basic decision-making unit has been mandated in the 74th Constitutional Amendment to be the **urban ward**. Such wards need to coordinate with each other on common property resources that harbour biodiversity, including urban green areas and wetlands. Facilitation for such coordination, and for wards to be able to perform conservation and sustainable use functions, should be the responsibility of municipal corporations or equivalent city management bodies, with a central role being played by NGOs and independent experts. Each town/city should also have an overall Biodiversity Management Committee, comprising officials from relevant line departments, NGOs, independent experts, and representatives of wards on a rotational basis.

3. *Governance structures need to essentially emanate from these basic units of the village assembly and the urban ward*, and all decisions relating to the resources within the jurisdiction of these bodies should be taken only with their involvement and consent. In rural India, ecologically defined **village clusters** (such as those around a forest patch or wetland, or those in a micro-catchment or valley), should be facilitated to federate, and representatives of each *gram sabha* chosen by the *sabha* members should be members of the governing bodies of these federations.

Where appropriate, these would merge with or be part of apex tribal governing bodies and *zilla* (district)-level bodies that may already exist, while moving these also towards more democratic functioning. These people's forums or associations should be linked to **micro-landscape-level bodies**, which also have representation of the relevant government line departments. Existing initiatives towards this kind of structure, such as the District Planning Committees, District Rural Development Agencies, and Forest Development Agencies, need to be reviewed and reoriented keeping in mind the need for local community empowerment and the sharing of decision-making powers.

4. Such village clusters would in turn be amalgamated into larger administrative units, including at **taluka** and **district** levels. At this level, coordination between the rural and urban bodies responsible for biodiversity needs to be established. The **District Planning Committees** (DPCs) should include, on a rotational basis, representatives of village clusters and urban committees. The same would apply in the case of Autonomous District Councils

5. These DPCs, and representatives of village clusters and urban committees on a rotational basis, should be represented on the **State Biodiversity Boards**, which are mandated under the Biological Diversity Act. It is critical that these Boards go beyond the current composition provided for in the Act, and include a substantial cross-section of women and men from the grassroots, and in particular from those underprivileged sections who are most dependent on biological resources. These district and local bodies should also be represented on the key state-level decision-making bodies, including the **Planning Board**, and have a say in the **Committee of Secretaries** and the **Council of Ministers**.

6. There is a critical gap in current governance structures relating to biodiversity, which is to do with **inter-state issues**. Specific recommendations on this have been made, but the structures needed would in most cases have to be created anew, since there are none that are currently relevant. For instance, for large ecoregions cutting across states, such as the Western Ghats or the Western Himalaya, appropriate **Ecoregional Authorities**, with representation from all relevant state governments, NGOs, and local communities (especially those communities that live on the borders or engage in trans-boundary movements, including nomads), would need to be set up. These Authorities should be vested with adequate powers to have a say in state-level decisions, and should be mandated under the Biological Diversity Act or some other equivalent legislation. However, **inter-state coordination bodies** are required for all border areas, not only in these designated ecoregions.

7. There needs to be some rethinking about the relationship between **ecological boundaries** and **political constituency boundaries**. Would decision-making be more sensitive to ecological issues if these two sets of boundaries coincided? For instance, empirical observations have shown that the current electoral constituencies are vertically placed in the coastal regions, whereas the community lives horizontally along the coast. As a result, coastal/fishing communities become a minority in these governance systems. Realigning and demarcating constituencies will increase their space in governance and decision-making... (and) system of diminishing rights and responsibilities (to primary/ secondary/ tertiary users of the coastal and marine resources) will enable equity in use and administration of these resources. Such a recommendation obviously has far-reaching implications, and needs to be carefully considered, not only in the case of coastal areas but also for inland areas, and ranging from village clusters (e.g. sharing a forest patch) to intra-state and inter-state regions (e.g. river basins, hill ranges). A movement towards bioregional planning through political re-alignments is gaining ground in some other countries, and it would be worth observing the results to learn lessons relevant for India's own unique conditions.

8. Finally, the above state and ecoregional bodies need to be represented on the relevant bodies such as the **National Biodiversity Authority**, the **National Board for Wildlife**, and so on, and on other decision-making institutions including the **National Development Council**

Steps:

(the steps below are only indicative.)

i. Government of India to explore the creation of a Commission on Governance of Natural Resources, consisting of the above agencies and other experts and knowledgeable and experienced persons (including from local communities). The Commission could set in motion a consultative process of

preparing a work plan to put the governance structure into place, including the necessary administrative, institutional, and legal changes needed.

ii. The work plan could be presented to Parliament, and to the National Development Council; implementation could be initiated thereafter.

iii. In the above steps, close links need to be maintained with the process of formulating the National Policy and Perspective Plan on Land and Water Use.

Box: Rights and Responsibilities Regarding Decision-making: Moving towards Participatory Democracy

Increasingly, in India and other countries, citizens are no longer content to let their elected or selected representatives take key decisions that impact their lives. They want a say in such decision-making, both because such a process may more accurately reflect ground reality, and because the sense of ownership this gives to citizens makes the decision's implementation more effective. In other words, there is a move away from 'representative democracy' to 'participatory democracy'. Such a move is as necessary in the case of biodiversity (and more generally, natural resources) as in any other field. A classic illustration of this is the slogan of the villagers of Mendha (Lekha) in Maharashtra, who have defined their move towards tribal self-rule as '*Mawa nate mate sarkar, Dilli, Bombai mawa sarkar*' (our representatives make the government in Delhi and Bombay, and we are the government in our village). The role of the government in such a situation is clearly that of facilitation, mediation for dispute resolution, guarding citizens from destructive outside forces etc.

Such a move would require the following elements in relation to biodiversity:

1. The right of a community to meaningfully participate in all decisions related to territories and natural resources on which it is dependent or to which it has a customary claim, and the responsibility to ensure the conservation and sustainable use of related biodiversity; this entails effective access to all forums of decision-making;
2. The right to receive and obtain all relevant information, in forms that are locally understandable and accessible to all, and the responsibility of making available relevant information (within the bounds of traditional knowledge protection);
3. The right to participate in ecological and social assessments, monitoring and evaluation, and other such processes emanating from outside, and the responsibility of carrying these out with respect to their own activities;
4. The right of free, prior, and informed consent (as described in *Box 7.1.5.1*);
5. The responsibility of ensuring that women and other underprivileged sections within the community have full access to decision-making forums and equitable access/share of benefits that accrue (see *Section 7.1.5.4*);
6. Other such rights and responsibilities that would ensure meaningful decisions being taken on conservation, sustainable use, and equity.

Box: Urban and Rural Natural Resource Governance: The Role of the 74th Amendment

Certain provisions of the 74th Constitutional Amendment (Nagarpalika Act) are of great relevance to decentralised governance of biodiversity and natural resources:

Art 243-ZD 2(b) provides for a representative District Planning Committee, and Metropolitan Planning Committee in case of metros (with population exceeding 10 lakhs). These Planning Bodies are constituted with due representation of elected representatives.

The article states that 'District Planning Committee shall, in preparing the draft development plan a. have regard to:

i. matters of common interest between the Panchayats and the Municipalities including **spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation**;

ii. the extent and type of available resources whether financial or otherwise; and

b. consult such institutions and organizations as the Governor may, by order, specify.'

It may be noted from the above clause that **there are several opportunities to intervene for biodiversity and environmental conservation** within the framework of the local governance

initiatives. The clause is so framed that it stresses the need for spatial planning within a district, but this does not prevent neighbouring districts, even from different states, from meeting and exchanging views on common use of natural resources or environmental conservation initiatives. The Committee, which has recommendatory powers, would have to make its voice felt within the overall Governance structures of the State, by preparing a Development Plan (Clause 4 of the Article). This **Development Plan** would primarily focus on the needs of the District, but can also present the overarching objective of planning spatially across districts sharing common natural resources or habitats.

In the case of Metros, the Metropolitan Planning Committee will 'prepare a draft development plan for the Metropolitan area as a whole' [Art. 243-ZE (i)]. The composition does not explicitly include village-level institutions where the metropolitan area includes rural settlements. In constituting this Committee (the same applies to the DPC) there should be representation not from only higher levels, say *Taluka Panchayats*, but also from *Gram Sabhas* and Ward Committees, as the case may be. This can be on a rotational basis, as proposed, provided the composition includes representatives that are closest to the people, at smaller units of governance. Even 10 years after the enactment, most States have ignored their responsibility in implementing this provision, as also the need for constituting Ward Committees. Communities and people's movements need to step up their advocacy on these issues.

Art 243-ZE 3 (i) as quoted above, re-emphasises the need for coordination between Municipalities and Panchayats, including 'coordinated spatial planning' and 'environmental conservation'. On due consultation with 'institutions and organisations', it advocates the formulation of a 'development plan' to be forwarded for the overall planning within the State. This could be a powerful vehicle for the proposed land and water use planning process proposed above.

The Twelfth Schedule, which provides a list of issues within the mandate of local governance, explicitly recognises various features of biodiversity conservation and environmentally compatible planning. These include regulation of land-use; water supply for domestic, industrial and commercial purposes; urban forestry; protection of the environment and promotion of ecological aspects; and provision of urban amenities and facilities such as parks, gardens, and playgrounds.

It would be appropriate to link the Biological Diversity Act (BD Act), with the above features of the 74th Constitutional Amendment. For instance, if the BD Act mandates the creation of a forum whose exclusive function is biodiversity-related, then that forum should report to and work within the ambit of the various institutions (e.g. District Planning Committee), set up under the constitutional amendments.

Annex 4

EXTRACT FROM THE FINAL TECHNICAL REPORT OF THE NATIONAL BIODIVERSITY STRATEGY AND ACTION PLAN

Prepared by the NBSAP Technical and Policy Core Group co-ordinated by
Kalpavriksh

7.1.7 WILD BIODIVERSITY: STRATEGIES AND ACTIONS FOR INTER-SECTORAL INTEGRATION OF BIODIVERSITY

Overall strategies:

1. **Orient planning and programmes of all sectors, towards integrating biodiversity and biodiversity-related livelihoods as central concerns**, including through processes at local, district, state, inter-state and national levels; give special focus to sectors like water, energy, infrastructure and mining; empower decentralised forums of decision-making and institutional structures for inter-sectoral/departmental coordination to achieve such integration;
2. **Ensure integration of biodiversity into international relations**, including the sensitisation of foreign aid and foreign investments coming into India, and international agreements to which India is party.

7.1.7.1 Strategy: Integrate Biodiversity Concerns Through Inter-Sectoral Coordination, at all Levels of Planning

Actions

1. Formulate Guidelines for Inter-Sectoral Integration of Biodiversity at Local to National Levels

Formulate a set of guidelines for inter-sectoral coordination and the integration of biodiversity into all sectoral planning and implementation. These guidelines should have the flexibility to accommodate diverse ecological, socio-cultural and political situations, in a culture- and gender-sensitive manner. Such guidelines should incorporate steps to be taken at local (village/hamlet/town/ward/locality), district, state and national levels.

Justification: Though decentralised and integrated planning is currently accepted in development and conservation circles, a coherent set of guidelines and orientation materials to facilitate such a process do not exist. Such a set of guidelines, which can be easily understood and applied at all levels and by both government officials and citizens, is an urgent necessity.

Suggested Responsibility: Central and state governments, through the relevant ministries and departments (including Rural Development, Tribal Affairs, Social Justice and Empowerment, Environment and Forests, and others), in collaboration with PRIs and municipal authorities.

Time Frame: One year

Steps:

- i. Government of India (relevant ministries mentioned above) to set up a joint committee, chaired by an expert (non-governmental or non-serving official), and consisting of experts and

experienced people dealing with decentralised planning, including representatives of communities that have successfully implemented integrated planning processes.

- ii. The Committee to hold a series of public hearings in representative regions of the country, and with a wide range of actors, in particular to listen to the voices of those most dependent on biological resources, especially women and other underprivileged sections.
- iii. Draft guidelines to be circulated widely for comments, finalised, and issued under the laws related to the 73rd and 74th Constitutional Amendments, including the Panchayat (Extension to Scheduled Areas) Act, 1996.

2. Ensure Inter-Sectoral Integration of Biodiversity at Local Settlement Level

Facilitate the revival, creation, or strengthening of inter-sectoral coordination and integration at the level of the individual settlement (village, hamlet, town ward), to implement the guidelines developed in *Action 1* above. This would involve:

- i. Empowering the village council (*gram sabha* or equivalent, with all adult women and men as members) or urban ward to handle all the affairs of the settlement relating to land, biological resources, water, and other resources, with appropriate facilitation by relevant government departments;
- ii. Making all government departments accountable to the village council or urban ward, as is already beginning to happen in some states.

Justification: Since the local settlement (hamlet, village, or town locality) is the most tangible unit for planning, where the linkages and feedback mechanisms amongst all sectors of life are most visible and strong, inter-sectoral coordination and integration needs to start at this level. Unfortunately, while settlements have often traditionally built up customary rules for such integration, the imposition of compartmentalised and departmental planning as also sectoral politics, has disrupted such a process. There is therefore a need for reviving customary practices of integration, as also to bring in new methods and practices that would be relevant for current contexts.

Suggested Responsibility: Community representatives from sites that have carried out integrated planning, with facilitation by the Ministries of Tribal Affairs, Rural Development, Social Justice and Empowerment, and Environment and Forests, and relevant NGOs and academic institutions;

Time Frame: 5 years for the first set of settlements (see below); 15 years (three five-year plan periods) for the remaining

Steps:

- i. Document and learn from ongoing successful processes of local settlement-level planning, such as Mendha (Lekha), Ralegan Siddhi and Hiware Bazaar in Maharashtra (*see Chapter 6.1.7.2, and Maharashtra State BSAP*).
- ii. Select a representative sample of settlements in each state (chosen on the basis of criteria like the availability of an active CBO or NGO, and other ecological/social criteria), to implement the above-mentioned guidelines and the lessons learnt from ongoing initiatives, through the village councils or through Biodiversity Management Committees under the Biological Diversity Act (see also Governance Actions under *Section 7.3*);
- iii. Facilitate capacity-building of communities and institutions in these settlements, to implement these guidelines through relevant training institutes and grass-roots orientation exercises; such exercises need to be gender-, equity- and culture-sensitive;
- iv. Ensure the generation, availability and enhancement of information and knowledge relevant to biodiversity, in local languages, and in oral, written/print, and electronic media, including

- through Community or People's Biodiversity Registers (see also actions relevant to local database management and right to information, in *Strategies 7.1.5.4 and 7.1.8.8*);
- v. Institutionalise processes and structures of handling and deciding on the utilisation of all funds for the settlement, by the village council, in a transparent, gender-sensitive and open manner (*see also Section 7.1.9*), with the appropriate involvement of government departments whose actions should be made accountable to the council;
 - vi. Encourage the use of innovative tools for integrated village planning, e.g. those being tried out in states like Maharashtra (*panchayat panchang* or annual calendar of events with ecological activities built in; and programmes such as the Adarsh Gaon Yojana, see *Maharashtra State BSAP*);
 - vii. Take measures similar to (i) to (vi) above, with appropriate modifications for urban situations, in the case of town/city wards and localities, with the residents' associations closely involved at all levels of planning; and;
 - viii. Extend these measures, with appropriate learning from the initial settlements, to all other settlements across the country.

3. Ensure Inter-Sectoral Integration of Biodiversity at District Level

Ensure inter-sectoral coordination and integration of biodiversity and biodiversity-based livelihoods into the district planning process, through District Planning Committees. (*also see Annexure 16*).

Justification: District-level planning is becoming a crucial fulcrum of planning in India, especially with political and financial decentralisation. Ensuring environmental conservation in an array of disparate activities is one amongst the many reasons listed for constitution of District Planning Committees under the 73rd and 74th Constitutional Amendments. However, very little has been proposed in terms of mechanisms to ensure that the activities/schemes proposed conform to environmental concerns including biodiversity conservation and the protection of biodiversity-based livelihoods. Therefore, district planning needs to be infused with biodiversity concerns.

Suggested Responsibility: State Planning Boards along with State Biodiversity Boards as proposed under the Biological Diversity Act, and district planning bodies as relevant, with the central involvement of local community institutions mentioned in *Action 2* above; assistance from Ministry of Rural Development, Ministry of Tribal Affairs, etc.

Time Frame: 5 years for initial set of districts (see below); 15 years for the remaining.

Steps:

- i. Document and learn from ongoing initiatives of district-level biodiversity integration, such as in Seoni district in Madhya Pradesh and other districts that are being taken up in this state as a result of a governmental circular (*see Section 6.1.7.2*);
- ii. Select on the advice of the Committee set up under *Action 1* above, a representative sample of districts from each state for the implementation of the above-mentioned guidelines and the lessons learnt from ongoing initiatives;
- iii. Build the capacity of District Planning Committees from this sample, through appropriate *panchayat* training institutes and local orientation sessions, to implement the guidelines;
- iv. Facilitate, through provision of appropriate resources, such implementation;
- v. Extend the guidelines to district planning all over the country, after assessment of the lessons from the first sample of districts;
- vi. Bring into the procedures of the State Planning Boards a stipulation that no draft plan for district development put up by the DPCs shall be approved unless biodiversity concerns are adequately integrated, and unless these are built on local settlement-level planning processes

involving all sections of the community (*see Section 7.0.1*); and that in so doing, the State Biodiversity Boards (once set up) are fully consulted.

4. Ensure Inter-Sectoral Integration of Biodiversity at State and Central Levels

Ensure that biodiversity concerns are integrated into the sectoral planning process at state and central government levels, and become a central and compulsory consideration in such planning. This should include the reorientation of all development and welfare schemes of state and central governments, to make biodiversity and biodiversity-based livelihoods (including gender and equity concerns) a critical consideration in planning and implementation (*see Box 7.1.7.1*).

Justification: Most decisions regarding the use of natural resources and land/water uses that impact on biodiversity are taken within individual ministries and departments of the central and state government. Though environmental awareness in these agencies has increased, there is still little appreciation of the centrality of biodiversity issues, and even less capacity to achieve this centrality in planning. Consequently most sectoral planning at these levels needs to go a long distance in integrating biodiversity and related livelihood concerns.

Suggested Responsibility: Ministry of Environment and Forests and the Planning Commission at central government level; Department of Environment (or equivalent) and Planning Department or Board, at state government level; in collaboration with institutions, NGOs, and community representatives experienced in decentralised planning.

Time Frame: One year for review of schemes (see below); 10 years for implementation (i.e. by the 12th 5-Year Plan, but with an initial set of targets to be achieved by the 11th 5-Year Plan).

Steps:

- i. Set up, under the Planning Commission, a committee composed of women and men with experience in decentralised and ecologically sensitive planning (including from communities that have successfully demonstrated such planning) to review and modify the guidelines relevant to all Government of India and state government schemes and programmes, with the aim to ensure the integration of biodiversity into these;
- ii. Progressively orient the implementation of these schemes and programmes towards achieving such integration;
- iii. Extend the provisions of environmental impact assessment and environment and forest clearances to all development projects and all developmental policies and programmes including macro-economic policies (*see also Section 7.1.8*);
- iv. Build into the Planning Commission's procedures a stipulation that all plan and budget proposals from states and from GOI ministries should show how biodiversity concerns have been integrated (including, in the case of state plans and budgets, into local and district plans);
- v. Empower the committee mentioned above to monitor and advise the GOI ministries and state governments in their achievement of biodiversity integration;
- vi. Pursue similar measures at local, state and inter-state ecoregional levels (*see Box 7.1.7.1* on measures suggested in various State BSAPs).

5. Move Towards Ecoregional Planning

Initiate planning processes that dovetail local-, district-, state- and national-level processes with ecoregional planning (For details, *see Section 7.0.1* on landscape/waterscape planning.).

6. Create State and National Level Institutional Structures for Inter-Sectoral Integration

Set up a National Biodiversity Authority, State Biodiversity Boards, Ecoregional Authorities, and a standing committee on biodiversity integration at the Planning Commission. (For details, see Chapter 8).

7. Build Capacity of Officials at all Levels of Governance to Integrate Biodiversity Concerns
(For details, see *Strategy 7.1.6.1*).

8. Integrate Funding for Biodiversity Concerns into Each Government Agency's Budget
(For details, see *Strategy 7.1.9.2*)

7.1.7.2 Strategy: Integrate Biodiversity into Water Planning

Actions

1. Ensure that National and State Sater Programmes Integrate Biodiversity Concerns and Values

(See also *Strategy 7.1.8.1, Action 1*).

Integrate biodiversity and biodiversity-based livelihood concerns into all water-related programmes at central and state levels. This would include watershed development programmes, as well as water distribution and provision schemes. The measures should include protection of ecosystems in catchment and source areas, inclusion of the true hydrological value of natural ecosystems (see *Economics and Valuation of Biodiversity Thematic BSAP*) into plans and budgets, and integration of equity in the management and sharing of water resources.

Justification:The true contribution of biodiversity to the nation's water security is seriously undervalued, and relatively unrecognised. Due to this, water policies and programmes, and plans/budgets in general, do not integrate conservation. Simultaneously, the importance of maintaining natural water cycles, including freshwater flows, to the maintenance of biodiversity is consistently ignored in water development policies and programmes. The measures listed above will help in both biodiversity conservation and in ensuring water security.

Suggested Responsibility:Ministry of Water Resources, Ministry of Environment and Forests, Ministry of Agriculture, Ministry of Rural Development, state departments of Water and Watershed, Irrigation, Forests, Agriculture, etc., PRIs and village communities in source/catchment areas, CAPART, people's networks such as Jal Biradari, etc.; in the north-eastern states, district and autonomous councils in collaboration with traditional/cus-tomary village institutions, water users groups, watershed committees, etc.

Time Frame: 5 years

Steps:

- i. Conduct studies of the specific contribution of forests, grasslands and wetlands to the water security of the nation, including valuation of this contribution and the inclusion of this value into the national budget and planning (see *Economics and Valuation of Biodiversity Thematic BSAP*);
- ii. Declare of natural ecosystems at the sources of all rivers as ecologically sensitive areas under the Environmental Protection Act, or some other equivalent category of conservation in another appropriate law;
- iii. Protect existing natural forests and grasslands, or restoration of degraded ecosystems, using local species, in all catchments of water bodies;

- iv. Encourage decentralised water harvesting structures in urban and rural areas, and mandatory provisions for roof-top water harvesting in urban areas (as already mandated for new structures in some cities like Bangalore, Chennai and Delhi);
- v. Revive or introduce community or joint control and management of local-level water bodies, and larger scale community-based and joint institutions for larger waterbodies (see Landscape/waterscape Planning and Governance Structures, *Section 7.0.1*);
- vi. Learning from successful community, NGO or official initiatives towards such ecologically sensitive water development (such as those mentioned in *Section 6.1.7.2*; see also *Arvari Sub-state BSAP*, and *Nahin Kalan Sub-state BSAP*);
- vii. Ensure maintenance of essential water flows in all basins of the country, including river flow into the oceans/seas, to ensure the continuing health of ecosystems that depend on such natural flows and cycles (e.g. mangroves dependent on a precise mix of freshwater coming from inland and saltwater of the sea, or aquatic fauna species that survive on such finely tuned conditions);
- viii. Integrate the above principles and steps into all water-related programmes and their guidelines, e.g. the Watershed Development Guidelines, 2001, of the MoRD (see also *Strategy 7.2.7.1, Action 1*);
- ix. Introduce changes in the National Water Policy, as well as state level policies, if any, and in other relevant laws, to facilitate the above.

2. Move Away from Mega-Projects to Decentralised Water Harvesting Schemes

Conduct thorough impact assessments of all proposed river valley projects, including large-scale inter-basin transfers, and phase out plans for such projects, especially in ecologically fragile areas, such as most of the north-eastern region (see *Dams and Biodiversity Sub-thematic Review*; see also *Box 7.1.7.2* on recommendations from various BSAPs). Focus increasingly on decentralized and participatory water harvesting schemes.

Justification: Major river valley projects inevitably cause significant social and biodiversity disruption (see *Box 5.4* for details and examples). Large-scale inter-basin transfers, such as those being proposed in the River Inter-link-ing scheme, are likely to cause such disruption and related impacts on livelihoods. Impact assessments and public consultation for such projects remain weak and flawed; this is at least partly because current human knowledge on biodiversity and ecosystem functions is severely inadequate (see *Boxes 6.1 and 6.41*). They are also inadequate because they are undertaken for each project in isolation, whereas the combined impact of multiple projects in the same basin could be much greater. In addition, there are viable and demonstrated alternative, decentralised water harvesting methods that can be applied to diverse climatic and agro-ecological regions of the country. Such methods, if sensitively applied, would not be ecologically destructive, and could help in regenerating ecosystems and reviving biodiversity in degraded systems.

Suggested Responsibility: Ministry of Water Resources, MoEF, EIA consultants, people's movements and networks like the National Alliance of People's Movements and Bharat Jan Andolan, community experts and NGOs working on decentralised water harvesting, and other organisations which have been working on river valley project issues such as South Asia Network on Dams, Rivers and People (SANDRP).

Time Frame: Ongoing

Steps:

- i. Ensure that all proposed new river valley projects are transparently planned, by making public all relevant documents, holding widespread public hearings in the areas of possible impact, and commissioning independent impact assessments (following the recommendations in *Box 7.1.7.2*; see also *Dams and Biodiversity Sub-thematic Review*);
- ii. Conduct impact assessments of the combined effect of projects within the same basin, or across basins where the impacts are related; these should be based on carrying capacity studies of the ecosystems in the concerned basins;
- iii. Ensure that decisions regarding such projects, including the proposed river linking plan, or the proposed set of dams for the north-eastern region, are taken only after the steps above are implemented;
- iv. Integrate into relevant policy the principle that projects with major negative impacts on biodiversity (and related livelihoods) will not be pursued;
- v. Consider the recommendations of the independent studies commissioned under the World Commission on Dams (WCD 2000, Singh and Banerji 2002; see also *Dams and Biodiversity Sub-thematic Review*);
- vi. Facilitate much more widespread use of decentralised water harvesting methods and technologies, especially by supporting community-level exchange visits, and providing the necessary financial, technical, and administrative back-up;
- vii. Facilitate community level mobilisation through people's groups and networks, especially towards finding decentralised solutions to water problems.

7.1.7.3 Strategy: Integrate Biodiversity into Energy and Infrastructure Planning

(See also Strategy 7.1.10.1)

Actions

1. Ensure that All Energy and Infrastructure Development is Respectful of Biodiversity Concerns

Integrate biodiversity (and related livelihoods) as a central planning parameter into all projects and processes relating to energy and infrastructure development (roads, railways, ports, transport, and so on). Conduct full, publicly transparent reviews of major energy projects, and progressively move towards non-conventional energy sources that are generally ecologically and socially sensitive. Move also towards infrastructure projects and technologies that respect ecological processes and sensitive areas. In particular, review mega-infrastructure developments like the National Highways Project, and consider alternatives that would be ecologically more sensitive.

Justification: Most conventional energy and infrastructure development is insensitive to biodiversity concerns, and has caused considerable loss to ecosystems and species (*see Chapter 5.1*). This process continues with the development of mega-projects in the energy sector, the national highways project, etc. EIA processes have introduced some element of sensitivity into such development, but much more needs to be done. While some ecological damage is inevitable, no further loss of critical ecosystems or threats to species should be allowed.

Suggested Responsibility: Planning Commission, Ministry of Power, Ministry of Road Transport, Ministry of Railways, Ministry of Non-Conventional Energy Sources, relevant state departments, Infrastructure Development Finance Company Ltd., and other relevant financial institutions, technical institutions and public/private sector corporations working on energy and infrastructure, and relevant people's networks and NGOs that have been active on these issues.

Time Frame: Two years for proposed guidelines and for initial round of orientation; ongoing

there-after

Steps:

- i. Planning Commission or other relevant GOI agency to set up a working group to develop clear guidelines for the integration of biodiversity into energy and infrastructure development; the group should include, apart from the relevant government agencies, national level NGOs and people's networks;
- ii. Orientation workshops to be held to sensitise agencies involved with such development, starting with the personnel of key national and state agencies/departments;
- iii. Independent monitoring processes to be initiated to assess the implementation of the guidelines and of relevant EIA and clearance procedures (see also Box 7.1.7.3);
- iv. Review the ongoing National Highways Project (especially its impact on hundreds of thousands of trees and the biodiversity they harbour; see Section 5.1), conducting a thorough EIA through an independent and transparent process, and involving public hearings at every proposed site for highway development; consider all possible alternatives as part of this review, while staying further construction till the review is complete;
- v. Review all ongoing and proposed mega-energy projects, and move towards a major programme on non-conventional and decentralised energy sources, to enable their full potential to be met (following the recommendations in Section 7.1.10.1, Action 4; see also, as an example, the recommendations relating to Thermal Power, Box 7.1.7.3).

Box 7.1.7.3 Making Thermal Power Biodiversity-Friendly

To mitigate the impact of Indian thermal power plants on biodiversity, short-term, medium-term and long-term measures need to be adopted.

In the **short-term** (5-7 years), the following measures should be adopted:

1. A multi-disciplinary scientific group should be commissioned to write a comprehensive paper on thermal power and biodiversity, including the phyto-toxic effects of specific pollutants, the big picture using tools such as eco-system analysis, and the actual impact that thermal power policy and its implementation have had on biodiversity. The group should also write a draft policy on this subject for the government's consideration.
2. The monitoring of wet and dry acidic deposition and its impact on soils, vegetation and aquatic environments should begin immediately. The monitoring methods are available in the public domain. To monitor depositions and their impacts (in non-trans-boundary situations), the Andhra Pradesh Pollution Control Board (APPCB) has ordered a group of industries in Kakinada to jointly set up a monitoring station in the Coringa sanctuary. Many more such stations are required at industrial concentrations all over the country. Monitoring of depositions and their impacts should be done also by other agencies (educational institutes, NGOs etc.) by using methods which do not require sophisticated instruments. This allows for independent verification of data and results and also involves wider public participation in understanding the risk posed by the acidification. Such simple methods are being developed.
3. Green lung is a patch green cover meant to absorb pollutants. Such green lung plantations should be developed with pollution-resistant species on government and other waste lands in a 10 km radius around thermal power plants. The Air Pollution Tolerance Index, along with knowledge of hardy local species, may be used to choose plant species. The cost of developing the plantations should be borne by the thermal power plants, and management may initially be done by a joint committee of the thermal plant, Forest Department and panchayats, and eventually by the panchayats. The APPCB has ordered several thermal power and cement plants to do feasibility studies for developing green lungs around their plants.

4. There are well known bio-indicators for air pollutants. The APPCB has ordered several thermal power and cement plants to plant bio-indicators up to distances of 5-10 km from the plant in 16 major directions from the plant.
5. The Environment Protection Act should be amended to make it mandatory for populations residing in the vicinity of facilities regulated by pollution control boards to receive training, to allow them to monitor the compliance of consent conditions applicable to these facilities.
6. The cost of externalities must be reflected in the price of products and services; else, the cost of environmental injury will remain unaccounted for. The Government of India should set up an environmental economics commission to establish methods and norms for costing environmental costs, including those associated with thermal power plants.
7. Environmentally suitable sites for thermal power plants should be identified such as to cause minimum damage to the four areas (Western and Eastern Ghats, the Himalayas, and the North-east) which have low buffering capacity for acidic deposition. If the Government of India does not perform this task, a citizen's commission should undertake it.
8. Each industry must file a toxic release inventory (TRI) every year, with information on all toxic releases to air, water, soil and other sinks. The data will be compiled by the pollution control boards and made available in the public domain. On-demand information will then be available on emission quantities from a particular area or from an industry category.

In the **medium-term** (15 years), the following measures should be undertaken:

1. The government should draft and circulate a draft long-term policy paper on energy and environment. After public comment, a policy on this subject should be adopted by the Government of India.
2. A carbon and sulphur tax proportional to emissions should be imposed on all carbon and sulphur emitters. The sulphur tax should be used to mitigate any damage that acidic emissions may cause. The carbon tax should be used for the protection and conservation of forests and biodiversity in India.
3. The Male Declaration is a non-binding inter-government agreement which seeks to control and prevent air pollution and its likely trans-boundary effects in South Asia. The next step is for these eight countries (SAARC and Iran) to sign a binding protocol which puts a time-bound ceiling on emissions from each signatory country. Such protocols are in existence in Europe and North America. The monitoring of acidic deposition and their effects initiated by UNEP and South Asia Cooperative Environment Programme (SACEP) and other initiatives should provide valuable data to decide the ceilings for each country.
4. Except for particulate matter, thermal power plants do not have emissions standards for other pollutants. Emissions standards must be specified for SO₂, and subsequently for other pollutants. Any long-range impact that these pollutants may have on biodiversity must be considered while setting the standards.
5. The global trend is to shift away from solid and liquid fuels to cleaner gas fuels. In India too, gas-based power plants, which were non-existent earlier, today account for 14% of thermal power generation and 10% of total generation capacity. Gas availability will have to be increased either by importing gas or increasing gas exploration.
6. To meet the new emission standards, several technology options may be encouraged. Pre-combustion control methods include coal washing and the use of low sulphur liquid fuels. Treatment-during-combustion technologies include the addition of limestone and the use of low-NO_x burners. Post-combustion technologies include flue gas de-sulphurizers and non-catalytic reduction of NO_x by adding ammonia and urea to flue gases.
7. India has already commissioned several liquid or gas-based combined-cycle plants. These plants achieve efficiencies of 50% energy conversion, as compared to steam generators, which achieve a maximum efficiency of 35%. Combined-cycle plants should be further encouraged. If

waste low-grade heat from power plants is used by other industries and by the domestic and commercial sectors, energy conversion efficiency would increase further.

8. There is considerable scope for introducing standards and using eco-labelling for low power-consuming end-use devices. Lighting accounts for 20% and 60% of use of power by the domestic and commercial sectors respectively. Refrigeration consumes 20% of the power consumed by the domestic sector. Electrical drives consume 73% and nearly 95% of the power consumed by the industry and agricultural sectors respectively. A switchover to more efficient devices just for lighting, refrigeration and drives can save considerable power.

9. The present Pollution Control Boards (PCBs) are geared to 'controlling' pollution and not preventing it. A new authority, Pollution Prevention Boards (PPBs), which are not limited like the PCBs, should be created to encourage the use of new low-polluting technologies both on the supply and the demand side; They could use financial incentives and disincentives, including sulphur and carbon taxes, to meet their objectives.

10. Efforts are already being made to reduce transmission and distribution losses. These must be pursued with vigour.

In the **long-term**, the only alternative is to phase out thermal power, and replace it with renewables, including what is being now seen as the energy source of the future, hydrogen.

Source: Thermal Power and Biodiversity Subthematic Report.

7.1.7.4 Strategy: Integrate Biodiversity into the Mining Sector

Actions

(Adapted from *Mining and Biodiversity Sub-thematic Review*)

1. Take General Measures to Ensure that Mining is not Detrimental to Biodiversity

- i. **Long-term strategic land use planning and scheduling of lands:** A long-term land/water use plan needs to be developed, within which areas that are ecologically critical are clearly demarcated (*see Section 7.0.1 for more details*).
- ii. **Schedule of lands to be maintained by MoEF:** While the land/water use planning process is going on, MoEF should come up with a ready reckoner 'schedule of lands' for reference of all concerned – citizens, industry, investors etc. – as soon as possible. This 'schedule of lands' could be for various developmental projects, including mining. These schedules will include categories such as:
 - a. **'No-go' areas for mining:** These areas will be inviolate and no mining can be permitted under any circumstances. (The National Conservation Strategy recommends 'restriction on mining and quarrying activities in sensitive areas such as hill slopes, areas of natural springs, and areas rich in biological diversity.') No proposals for mining in these areas will be entertained by the MoEF. (**Note:** *There are already several areas which are meant to be inviolate, such as national parks and sanctuaries. But this list needs to be expanded to include hill slopes, catchment areas of rivers/lakes/reservoirs, biologically rich areas, important wildlife corridors, areas important for agro-biodiversity, sacred groves and community conserved areas, and other ecologically sensitive areas*).
 - b. **Areas restricted for mining:** For this category, mining proposals will be allowed for a very restricted category of projects, to be specified by MoEF (akin to the current CRZ and some Ecologically Sensitive Areas already in operation).
 - c. **Areas where all proposals for mining can be submitted:** All nature of proposals can be submitted in these areas but will be subject to environmental clearance under the EIA

notification.

Suggested Responsibility: Ministry of Environment and Forests, in association with national institutions and NGOs that have worked on identifying or mapping areas of critical biodiversity and ecological significance.

Time Frame: 1 year

iii. Environmental tax for mining: There should be an environmental tax on the mineral extraction and production, which will go into a **Central Environmental Fund (CEF)**. The tax will be decided according to the nature of the mineral, the extraction process, the impacts of the mineral on the environment throughout its life cycle, energy consumption in production, end use, region of extraction, etc.

Suggested Responsibility: *Ministry of Mines, Ministry of Coal, Ministry of Finance, and Planning Commission.*

Time Frame: 1 year

iv. Targets for mineral resource use from the presently identified resources need to be set understanding the full environmental and social cost of mineral production throughout its life cycle and not merely based on the ‘quantity’ of mineral resource available. This will necessarily mean setting targets for ‘reduced mineral use’ and not just focus on improving efficiency of both the extraction process and material use.

Suggested Responsibility: Ministry of Environment and Forests, Ministry of Coal, Ministry of Mines, Planning Commission, Ministry of Power, along with related central and state level government and non-government academic and research institutions working on issues of material and mineral use. Collaborations could be made with international initiatives working towards ‘dematerialisation’ (reducing material use) such as the Factor 10 Club.

Time Frame: 3 years

v. The Regional Offices of the MoEF should be empowered to use Section 4 A (1) & (2) of the Mines and Minerals (Development & Regulation) Act, 1957, to prematurely **terminate a prospecting or mining lease** on environment grounds.

Suggested Responsibility: Ministry of Mines, Ministry of Environment and Forests, Mineral Advisory Council

Time Frame: 6 months

vi. The Central government to come up with a **livelihood rehabilitation policy**, strategy and action plan for mine labour which has been/ will be displaced from mining-based livelihoods. The policy, strategy and action plan will focus on supporting the labour to make a transition to sustainable and safe livelihood options.

Suggested Responsibility: Ministry of Mines, Ministry of Coal, Ministry of Labour, Ministry of Social Justice and Empowerment; labour unions, NGOs and research institutions working on

issues related to labour and sustainable livelihoods.

Time Frame: 2 years

2. Enhance and expand the process of environmental clearances for mining projects

- i. All mining leases to require environmental clearance under the EIA notification, irrespective of size of lease or nature of mineral. The MoEF to set up more regional offices with greater jurisdiction to facilitate environmental clearance for all mining leases. There will be advisory committees at the regional office level constituting ecologists, sociologists, local community members, government officials, representatives of local institutions.

Suggested Responsibility: Ministry of Environment and Forests, with relevant national and local NGOs, institutions, and community representatives on the advisory committees.

Time Frame: 1 year

- ii. In the provision for 'site clearance' under the EIA notification, the following should be added: 'It is clarified that grant of site clearance only gives permission to conduct investigation and survey for preparation of pre-feasibility report and would not *ipso facto* imply any commitment on the part of the Impact Assessment Agency to grant environmental clearance.'

(**Note:** This clarification is necessary because for site-specific projects, such as mining, there is an assumption that if site clearance is granted then environmental clearance is inevitable. There has been great pressure on the MOEF both from mining and political interests to give final clearance to these projects saying that 'if the site was cleared, then why is the project being held up?')

Suggested Responsibility: Ministry of Environment and Forests

Time Frame: 6 months

- iii. Comprehensive Environmental Impact Assessment studies need to be undertaken for cluster mines to see their cumulative impacts on the environment and biodiversity. This study should be undertaken by the respective Regional Office of the MoEF and be funded through the CEF. New mining leases in such areas should only be granted looking at the carrying capacity of the area and the EIA.

Suggested Responsibility: Ministry of Environment and Forests including its regional offices, along with academic and research institutions with necessary expertise for conducting various aspects of EIA at central and regional levels, and the Ministry of Mines.

Time Frame: 2 years

- iv. Applications for environmental clearance (and forest clearance) of mining projects should be accompanied by the following additional information: list of existing mining leases of the lessee/company across the country or the world; level of production; information and details on whether the lessee has been booked for violation of any environmental norms; information on the nature of mining activities already in progress in the region proposed for mining.

Suggested Responsibility: Ministry of Environment and Forests

Time Frame: 6 months

- v. Public hearings need to be held for all mining projects irrespective of size of lease or nature of mineral (major or minor).

Suggested Responsibility:Ministry of Environment and Forests, with help from district administration and local NGOs at the specific proposed mining sites.

Time Frame: 3 months

3. Enhance and Expand the Process of Clearance of Mining Projects Under the Forest (Conservation) Act, 1980

- i. Cost-benefit analysis under the FCA should be done for all mining projects irrespective of the nature of mineral or size of lease.

Justification:Presently this is required only for projects above 20 ha in the plains and above 5 ha in the hills. This is very important, as smaller leases can be very damaging to the environment and often harbour crucial biodiversity values. For example, a coal-mining lease of 4.95 ha has caused damage to the rainforests in the Namchik-Namphuk RF of Arunachal Pradesh, just 15 km from Namdapha NP. The project proponent asked for a lease less than 5 ha to avoid environmental clearance under the EIA notification and was also not subject to cost-benefit analysis under the FCA, as the area was less than 5 ha.

Suggested Responsibility:Ministry of Environment and Forests

Time Frame: 3 months

- ii. The directives of the MoEF in letter No.11-30/96-FC(Pt.) dated 26.02.99 (*see Box 7.1.7.4*), asking for all proposals under FCA to be ‘accompanied by a resolution of the “*Aam Sabha*” of Gram Panchayat/Local Body of the area endorsing the proposal that the project is in the interest of people living in and around the proposed forest land’ should be enforced strictly for all mining leases.

Suggested Responsibility:Ministry of Environment and Forests (through its regional offices), and State Forest departments (through Nodal Officer who handles forest clearance at state level).

Time Frame: Within 3 months of mining proposal being made available to affected and concerned communities.

- iii. Public hearings to be made compulsory for all mining projects being considered for clearance under the FCA. Separate hearings will not be required if all mining projects require a public hearing under the EIA notification as recommended.

Suggested Responsibility:Ministry of Environment and Forests

Time Frame: 3 months

Box 7.1.7.4 Involving Local People in Deciding about Development Projects

Letter No. 11-30/96-FC (Pt.) issued by MoEF to Chief Secretaries of each State asserts in point 5. 'It has been observed that in respect of a large number of proposals the Central Government is receiving representation from NGOs/local public bodies against the diversion of forest land on loss of forest land, environment and ecological grounds. Therefore, the Central Government feels that it is essential to have the opinion of the local people whenever a project is coming up in that area. Therefore, it has been decided that whenever any proposal for diversion of forest land is submitted, it should be accompanied by a resolution of the "aam sabha" of gram panchayat/Local Body of the area endorsing the proposal that the project is in the interest of people living in and around the proposed forest land.'

4. Ensure ecologically Sensitive Restoration and Mine Closure

Restore, as far as possible to the original land-use and ecosystems, lands that have been mined out. Such restoration should follow ecological principles, use only locally indigenous species, and fully involve and benefit local communities. The programme is to be undertaken at the cost of the mining party. The use of micro-organisms to restore soil health should be emphasised.

Justification: Substantial amounts of land in India have been degraded by open-cast mining, with little attempt at regeneration or restoration. As the *Mining and Biodiversity Sub-thematic Review* points out:

- In India the approach to restoration of mines and mine wastes is very engineering- and technology-based; ecology and biodiversity seldom get priority...stress is given on physical interventions rather than biological interventions. In some instances it was also observed that the mine companies leave abandoned open-cast mines without any action towards restoration or remediation action.
- The biological interventions for ecological amelioration are often plantation, afforestation or reforestation programmes. Very often studies or reports on such programmes place emphasis on number of trees planted... however, few studies focus on ecological and biodiversity issues...Owing to such a myopic approach, natural forests and ecosystems are often lost.
- There are very few studies available in India that are comprehensive and encompass varied issues such as ecological functions (soil nutrients, organic carbon, soil moisture, ground water), ecological structures (biological diversity of plants and animals, wildlife habitat potential, natural communities), preferences of local communities, etc. Such an approach not only brings success but also ensures long-term sustainability of the restoration site.
- There are no performance standards to monitor success of reclamation programmes. Such standards are required where mining has taken place close to protected areas or wilderness areas such as wildlife corridors. Due to the absence of performance standards, there are no evaluation and monitoring protocols. This situation has proved to be a boon for defaulters; especially the mine companies, which do not undertake reclamation or restoration of the abandoned mine sites.

Suggested Responsibility: MoEF for preparing a manual and enforcing its provisions; Ministry of Mines, mining companies and relevant state government departments along with local communities, for reclamation.

Time Frame: One year for preparation of manual; 5 years to initiate the work in all existing mined-out areas; ongoing for new mines.

Steps (adapted from Mining and Biodiversity Sub-thematic Review)

- i. MoEF to bring out a detailed Manual on 'Ecological amelioration practices for mine areas'. This will include:

- a. Clear definitions and differentiation between various terms such as restoration, rehabilitation, reclamation, remediation, reforestation, plantation etc., which are often used interchangeably in environmental, and forest- and mining-related laws and policies.
- b. Guidelines as to the nature of amelioration inputs (restoration, reclamation etc.) required, according to the concerned mineral, the extraction process, location of mine etc.
- c. Performance standards for the reclamation programmes according to a range of site-specific requirements.
- d. Monitoring protocols to measure the performance of reclamation projects.
- e. Case studies on best practices from around the world.

Suggested Responsibility: Ministry of Environment and Forests, in collaboration with Forest Research Institute, Indian Bureau of Mines, Centre for Mining Environment, Indian School of Mines, State Forest Research Institutes National Environment Engineering Research Institute (NEERI), Bombay Natural History Society, Wildlife Institute of India (WII), Society of Ecological Restoration, Ecological Society, Central Mining Research Institute, and others.

Time Frame: 2 years

- ii. MoEF to issue b), c) and d) of Step (i) above under the EPA. This will be a standard which should be adopted by other environmental and mining legislations.

Suggested Responsibility: Ministry of Environment and Forests

Time Frame: 6 months after completion of manual mentioned in Step (i) above

- iii. Maximum possible ecological restoration of areas already mined in ecologically sensitive areas need to be taken up as a priority.

Suggested Responsibility: Ministry of Environment and Forests regional offices, State Forest Departments, State department for Mining and Geology, mining companies.

Time Frame: 6 months for identification of priority areas for restoration. Begin implementation within 6 months of identification, after getting necessary financial and other resources in place.

- iv. Project proponents should be required to submit detailed Mine Closure Plans before the start of the project. These will be subject to review at regular intervals by the Regional Offices of the MoEF.

Suggested Responsibility: Ministry of Environment and Forests, Ministry of Mines, Indian Bureau of Mines, Mineral Advisory Council; labour unions; representatives of local communities living around mining site.

Time Frame: 1 year to issue guidelines for Mine Closure. 6 months after this for all mining companies to submit closure plans as per guidelines.

- v. Performance bonds should be used to ensure that funds will be available to mitigate any potential environmental or social damages.

Performance bonds are an effective financial tool for encouraging good practices. A performance bond is a financial assurance deposited by the mining company with the Government. The bond provides an additional guarantee, over and above any traditional insurance policies, that funds will be available to mitigate or correct any potential environmental social or environmental damages. Bonds also ensure that money will be available for reclamation of a site in case a company abandons a mine or goes bankrupt before reclamation is complete.

Suggested Responsibility: Ministry of Mines, Ministry of Environment and Forests, State Department for Mining and Geology, State Forest Department, Indian Bureau of Mines.

Time Frame: 8 months to issue draft guidelines for performance bonds. 6 months after this to circulate draft guidelines for comments and official notify them after incorporating inputs from people.

vi. For a section of mines being exploited by small investors, *panchayats*, cluster mine areas etc. the restoration of the mines will be done by the Forest Department of the respective State with funds from the CEF. The MoEF will lay down guidelines to categorise the mines which will be eligible for rehabilitation by government, but a mine will become eligible for restoration by the government only after certification from the Regional Office of the MoEF while processing the applications for environmental/forest clearance before commencement of mining operations.

Suggested Responsibility: Ministry of Environment and Forests regional offices, Ministry of Mines, Ministry of Social Justice and Empowerment at Central level; State Departments for Mining and Geology, Forests and Environment; and the Indian Bureau of Mines.

Time Frame: 6 months for categorization guidelines, 6 months to carry out the categorization of all the mines to find out which are eligible for rehabilitation by the State; rehabilitation to begin within a period of six months of completion of categorization.

7.1.7.5 Strategy: Ensure Integration of Biodiversity Concerns in International Relations

Actions

1. Ensure that all External Aid to India Integrates Biodiversity Concerns

Integrate biodiversity and biodiversity-based livelihoods as a central concern in all ongoing and future external-ly-aided projects and processes, including bilateral and multilateral aid for specific development projects, sectoral funding, and funding for structural and macro-economic changes.

Justification: A substantial amount of external aid (grants and loans) that comes to India is not sensitive to biodiversity concerns, nor does it have in-built mechanisms of assessing impacts on the environment or on biodiversity-based livelihoods. Many development- and welfare-related aid projects and processes end up destroying biodiversity or disrupting biodiversity-based livelihoods. This includes even explicitly environment-oriented projects, such as many of the state forestry projects. Regardless of whether donors normally have such concerns built into their policies, India needs to insist on such integration.

Suggested Responsibility: Collaborative process among Ministry of Environment and Forests, Ministry of External Affairs, Department of Economic Affairs, and Planning Commission; and involving independent environmental and social action groups.

Time Frame: Guidelines within one year; then ongoing as and when external aid projects and processes are negotiated.

Steps:

- i. Set up a committee within the Ministry of Environment and Forests, jointly constituted with Ministry of External Affairs and Department of Economic Affairs, to draft guidelines for such integration, and for screening all such proposals; the committee must have a substantial number of non-governmental members from environmental and social action groups and community organisations;
- ii. Set up procedures in all states to ensure that communities and people who are to be affected by proposed external aid, are involved from the outset in determining the desirability, direction and quantum of aid needed, and thereafter in implementation and monitoring, and ensuring the

- governance procedures laid out in *Section 7.0.2* are followed;
- iii. Pursue, at relevant international forums, including through the use of appropriate provisions in the Convention on Biological Diversity and relevant agreements of the WTO, the establishment of parallel procedures to ensure that aid-giving countries and entities also build in biodiversity and livelihood concerns into their policies and programmes;
 - iv. Pursue the above concerns bilaterally with bilateral aid agencies.

2. Ensure that all Foreign Investment in India Integrates Biodiversity Concerns

Integrate biodiversity and biodiversity-based livelihoods as a central concern in all ongoing and future foreign investment in India, including FDI by corporate bodies.

Justification: (as in the case of *Action 1* above)

Suggested Responsibility: As in *Action 1* above, but with the involvement of relevant industry associations including ASSOCHAM, FICCI, etc.

Time Frame: As in *Action 1* above.

Steps:

As in *Action 1* above, with the additional provision that the committee that is constituted should include members of the industry associations

3. Ensure that All Bilateral and Multi-Lateral Agreements, Which India Enters into, Integrate Biodiversity Concerns

Integrate biodiversity and biodiversity-based livelihoods as a central concern in all ongoing and future international agreements that India enters into, including bilateral and multilateral agreements, other than the specific aid projects and processes covered in *Action 1* above (*see also Sections 7.1.11 and 7.2.11*). This would include forums such as SAARC.

(Responsibility, Time frame and Steps as in *Action 1* above.)

7.2.7 Domesticated Biodiversity: Strategies and Actions for Inter-Sectoral Coordination and Integration

Overall Strategies:

1. **Orient the plans and programmes of all relevant non-agricultural sectors, to be sensitive to domesticated biodiversity as a central concern;** this should include formulation of guidelines for water development (including watershed), horticulture, energy, infrastructure, mining, and other sectors; model this on the strategies in *Section 7.1.7*, *Strategy 7.2.8.3 Action 2*, and *Box 7.1.8.3*; see also *Section 7.3* on integrating domesticated and wild biodiversity;
2. **Ensure integration of domesticated biodiversity into international relations,** including foreign aid, trade, investments, and agreements/treaties; model this on *Strategy 7.1.7.5*.

7.2.7.0 Strategies Adapted from Section 7.1.7

Many of the strategies and actions given under *Section 7.1.7*, on Inter-sectoral coordination relating to wild biodiversity, are relevant to domesticated biodiversity as well. They can be adapted with minor modifications (including, for instance, 'Suggested responsibilities', which in the case of the strategies below will also lie with farmer/pastoral/fisherfolk groups/networks, people's movements, agricultural ministries/departments, all other relevant ministries/departments including those of water, irrigation, power, infrastructure, mining, urban affairs/development, environment/forests, tribal affairs, panchayat, and so on). This overlap is especially true of the following:

Strategy 7.1.7.1, on formulating **guidelines** for inter-sectoral coordination, in so far as wild and domesticated land/waterscapes have to be integrated through zonation and other strategies at various levels;

Strategy 7.1.7.2, on **water planning**, in so far as planning for river basins, wetland catchment etc., would necessarily have to integrate agricultural systems and agro-biodiversity values (*see also Strategy 7.2.7.1, Action 1*);

Strategy 7.1.7.3, on **energy and infrastructure planning**, in so far as agro-biodiversity needs to be a critical component in impact assessment and siting decisions for these sectors;

Strategy 7.1.7.4, on **mining**, in so far as mining locations and impact assessments need to take into account agro-biodiversity, and areas that are critical for agro-biodiversity should be declared off-limits to mining;

Strategy 7.1.7.5, on biodiversity integration into **international relations**, in order to ensure that agro-biodiversity concerns are centrally integrated into the foreign aid and investment programmes related to agriculture, and into international agreements to which India is party, which have an agricultural component or impact.

Reference should also be made to *Section 7.2.8*, where the integration of biodiversity into the policies and laws relating to other sectors is discussed; *Section 7.0*, where landscape/seascape planning is described; and *Section 7.3*, where the integration of wild and domesticated biodiversity is discussed.

These strategies and their component actions are not being repeated here, except where necessary in the context of particular actions given here.

7.2.7.1 Strategy: Integrate Domesticated Biodiversity into Relevant Sectoral Plans and Programmes

Actions

1. Integrate Agro-Biodiversity into Watershed Development

(Read with *Strategy 7.1.7.2, Action 1*)

Ensure that agro-biodiversity concerns are centrally integrated into the guidelines and programmes for watershed development.

Justification: Considerable agro-biodiversity loss is probably being caused in watershed development programmes that result in enhancement of irrigation and a thrust towards non-food cash cropping. This is because biodiversity has never been a central concern or criterion of success in such programmes. Given that watershed development is now being promoted vigorously all over the country, there is a very urgent need for integration of such concerns into the guidelines and programmatic plans for watershed.

Suggested Responsibility: Ministry of Rural Development in consultation with MoA and MoEF

Time Frame: One year for revision of guidelines; implementation ongoing thereafter

Steps:

- i. MoRD to set up a group with agro-biodiversity experts, including representatives of farmers/pastoralists' groups working on this issue, to review the Watershed Development Guidelines, 2001, as also relevant watershed development state level guidelines and programmes;
- ii. The group to consult with key NGOs, institutions and communities working on watershed development;
- iii. The group to prepare, or commission the preparation of, a manual on integration of biodiversity into watershed development plans;
- iv. MoRD to issue revised guidelines based on the group's recommendations, and institute a process of participatory monitoring to periodically review the progress of implementation.

2. Integrate Agro-Biodiversity into Horticultural Programmes

Review horticultural programmes and integrate biodiversity conservation and related issues of sustainability and equity into them. Instead of supplanting the local production system with its biodiversity, the first preference should be given to identifying and focusing on native fruits (e.g. the large diversity of berries found in the Himalayan belt), and other horticultural species.

Justification: Horticultural development is a high potential strategy for hill areas. Unfortunately its success is usually at the cost of agro-biodiversity, as in Himachal Pradesh. There is a need for carefully thought out, focused and monitored interventions which are not in opposition to traditional

agro-biodiversity. Therefore it is important that the policy and programme support for horticulture at state levels is based on the above points (see, for instance, *Box 7.2.7.1* on such a strategy from a NBSAP site).

Suggested Responsibility: MoA (Horticulture Department), and Ministry of Rural Development, in consultation with relevant NGOs that have worked on this issue.

Time Frame: One year for revision or framing of guidelines; implementation ongoing thereafter

Steps:

- i. MoA to revise guidelines, if any, for horticulture development, or frame new guidelines, for integration of agro-biodiversity into the programmes at centre and state levels;
- ii. In so doing, learn from ongoing initiatives, if any, at promoting indigenous fruits as part of horticulture development.

Annex 5

25.6.95

DRAFT REGULATION FOR CONSERVATION OF HERITAGE BUILDINGS. HERITAGE PRECINCTS AND NATURAL FEATURES WITHIN MUNICIPAL AREAS/OTHER LEGALLY DESIGNATED URBAN AREAS

Regulation No.

Conservation of buildings, artefacts, structures, areas and precincts of historic and/or aesthetic and/or architectural and/or cultural significance (heritage buildings and heritage precincts) and/or natural features of environmental significance.

1. **APPLICABILITY**

This regulation will apply to those buildings, artefacts, structures, areas and precincts of historic and/or aesthetic and/or architectural and/or cultural significance (hereinafter referred as Listed Buildings/Heritage Buildings and Listed Precincts/Heritage Precincts) and those natural features of environmental significance and/or of scenic beauty including but not restricted to sacred groves, hill, hillocks, waterbodies (and the areas adjoining the same), open areas, wooded areas (hereinafter referred to as 'listed natural features') which are listed in a notification to be issued by Central/State Government. The list issued in the notification shall be hereinafter referred to as the said list.

2. **RESTRICTION ON DEVELOPMENT/RE-DEVELOPMENT/REPAIRS ETC**

- i) No development or re-development or engineering operation or additions, alterations, repairs, renovations including the painting of buildings, replacement of special features or plastering or demolition of any part thereof of the said listed buildings or listed precincts or listed natural features shall be allowed except with the prior written permission of the Municipal Commissioner/Chief Officer of the Municipality/legally designated urban area (hereinafter referred to as the Municipal Commissioner.)
Before granting any such permission, the Municipal Commissioner, shall consult the Heritage Conservation Committee to be appointed by the State Government (hereinafter referred to as the said Heritage Conservation Committee) and shall act on the advice of the Heritage Conservation Committee.
- ii) In relation to religious buildings in the said lists, the changes, repairs, additions, alterations and renovations required on religious grounds mentioned in sacred texts, or as a part of holy practices laid down in religious codes may be treated as permissible, subject to their being in accordance and in consonance with the original structure and architecture, designs, aesthetics and other special features thereof. Provided that while considering applications for such changes, repairs, additions, alterations and renovations, the Municipal Commissioner shall act on the advice of the Heritage Conservation Committee.
- iii) Provided that before granting any permission for demolition or major alterations/additions to listed buildings (or buildings within listed precincts), objections and suggestions from the public shall be invited and duly considered by the Heritage Conservation Committee.
- iv) Provided that in exceptional cases, for reasons to be recorded in writing, the Municipal Commissioner may overrule the advice of the Heritage Conservation Committee. Provided that the power to overrule the advice of the Heritage Conservation Committee shall not be delegated by the Municipal Commissioner to any other officer. Provided further that the Municipal Commissioner shall take the prior approval of Government before overruling the advice of the Heritage Conservation Committee.

3. **PREPARATION OF LIST OF HERITAGE BUILDINGS, HERITAGE PRECINCTS AND LISTED NATURAL FEATURES**

The said list of buildings, artefacts, structures, areas and precincts of historic, and/or aesthetic, and/or architectural and/or cultural the said list of those natural features of environmental significance including sacred groves, hills, hillocks, water bodies (and the areas adjoining the same), open areas, wooded areas, sthalarikshas, etc. to which this regulation applies shall not form part of this Regulation for the purpose of section----- of the -----Regional and Town Planning Act. This list shall be supplemented from time to time by Government and/or the Municipal Commissioner on the advice of the said Heritage Conservation Committee, or by Government suo moto or by the Municipal Commissioner suo moto. Provided that before the list is supplemented, objections and suggestions from the public shall be invited and duly considered by Government and/or the Municipal Commissioner respectively.

4. POWER TO ALTER, MODIFY OR RELAX REGULATIONS

With the approval of Government and on the advice of the said Heritage Conservation Committee and for reasons to be recorded in writing, the Municipal Commissioner may/shall alter, modify or relax the provisions of other Regulations of the Development Control, Regulations/Building Byelaws (hereinafter referred to as “the said Regulations”) if it is needed for the conservation, preservation or retention of historic and/or aesthetic and/or cultural and/or architectural quality of any listed buildings/heritage buildings or listed precincts/heritage precincts and/or the preservation of any listed natural features and/or environment.

5. SPECIAL REGULATIONS FOR HERITAGE PRECINCTS

i) In cases of heritage precincts notified as per the provisions of this Heritage Conservation Regulation No. above, development permissions shall be granted in accordance with the special separate regulations prescribed for respective precincts which shall be framed by the Municipal Commissioner on the advice of the Heritage Conservation Committee.

Before finalising the special separate regulations for precincts, the draft of the same shall be published in the official gazette and in leading newspapers for the purpose of inviting suggestions and objections from the public. All suggestions and objections received within a period of 60 days from the date of publication in the official gazette shall be considered by the Municipal Commissioner/Heritage Conservation Committee.

After consideration of the above suggestions and objections, the Municipal Commissioner, acting on the advice of the Heritage Conservation Committee shall modify (if necessary) the aforesaid draft separate regulations for precincts and forward the same to Government for sanction.

Provided that pending consideration of suggestions and objections and pending final sanction from Government to the above draft special regulations for precincts, the Municipal Commissioner/Heritage Conservation Committee shall have due regard to the above draft special regulations while considering applications for development/re-development etc. of heritage buildings/heritage precincts.

ii) Road widening lines under the Municipal Corporation Act (date) shall be prescribed so as to protect and not detract from the said heritage precincts/said listed natural features.

iii) If there are any new roads or road widening lines proposed in the Revised sanctioned Development /Master Plan of the Municipal Commissioner shall consider the heritage provisions and environmental aspects while considering applications for development permissions in these precincts. Necessary steps may be taken to modify the Development Plan/Master Plan accordingly. Pending this action, the road widening/development of new roads shall not be carried out.

iv) No widening of the existing roads under the Municipal Corporation Act or in the Development Plan/Master Plan for shall be carried out in a manner which may affect the existing heritage buildings (even if they are not included in a Heritage Precinct) or which may affect listed natural features.

v) If there are any Development Plan/Master Plan reservations shown on heritage buildings, or on listed natural features the same shall not be implemented. If required, the Municipal Commissioner, on the advice of the Heritage Conservation Committee, shall move government to get these reservations deleted/modified as need be. However for this purpose the required procedure under law would need to be followed.

6. GRANT OF TRANSFERABLE DEVELOPMENT RIGHTS (TDR)
IN CASES OF LOSS OF DEVELOPMENT RIGHTS

If any application for development is refused under this Regulation or conditions are imposed while permitting such development which deprive the owner of any unconsumed FSI, the said owner/lessee shall be compensated by grant of Development Rights Certificate of the nature set out in Appendix I and as may be prescribed by Government from time to time. The TDR from heritage buildings/listed natural features in (List Out Congested Area) may also be consumed in the same Ward/area from which it originated. The extent of Development Rights Certificates to be granted may be determined by the Municipal Commissioner, on the advice of the Heritage Conservation Committee and will not be awarded unless sanctioned by the Government.

7. INCENTIVE USES FOR HERITAGE BUILDINGS

The Development Control Regulation No. _____ bans/office/commercial user/in (LIST OUT AREAS WHICH THESE USES ARE BANNED). However, in cases of buildings included in the Heritage Conservation List, if the owner/owners agree to maintain the listed heritage building as it is in the existing state and to preserve its heritage stage with due repairs and the owner/owners/lessees give a written undertaking to that effect, the owner/owners/lessees may be allowed with the approval of the Heritage Conservation Committee to convert part or the whole thereof of the non-commercial area within such a heritage building to commercial/office user. Provided that if the heritage building is not maintained suitably or if the heritage value of the building is allowed to be spoiled in any manner, the commercial/office user shall be disallowed.

8. MAINTAINING SKYLINE

“Buildings including heritage precincts shall maintain the skyline in the precinct (without any high-rise development) as may be existing in the surrounding area, so as not to diminish or destroy the value and beauty of the said heritage building/heritage precincts. The development within the precinct shall be in accordance with the guidelines framed by the Municipal Commissioner on the advice of the Heritage Conservation Committee.”

9. RESTRICTIVE COVENANTS

Restrictions existing as on date of this Notification imposed under covenants, terms and conditions on the leasehold plots either by State Government or by Port Trust or by Municipality Corporation shall continue to be imposed in addition to the Development Control Regulations. However, in case of any conflict with the heritage preservation interest/environmental conservation, the said Development Control Regulations and this Regulation No. _____ shall prevail.

10. REPAIR FUND

Non cessed buildings included in the said list shall be repaired by the owners of the said buildings themselves or if they are cessed buildings, those can be repaired by the Housing Repair Board or by the owner or by the Co-operative Society of the owner and occupiers of the old building. With a view to give monetary help for such repairs a separate fund may be created which would be kept at the disposal of the Municipal Commissioner, Municipal Corporation, who will make disbursement from the funds on the advice of the Heritage Conservation Committee. Provisions for such a fund may be made through District Planning and Development Council Budget.

11. GRADING OF THE LISTED BUILDINGS/LISTED PRECINCTS

In the last column of the said list of Heritage Buildings, Heritage precincts, “Grades” such as I, II, or III have been indicated. The meaning of these Grades and basic guidelines for development permissions are as follows:

Listing does not prevent change of ownership or usage. However, such usage should be in harmony with the said listed precinct/building. Care will be taken to ensure that the development permission relating to these buildings is given without delay.

<u>GRADE I</u>	<u>GRADE II</u>	<u>GRADE III</u>
<p>A) <u>DEFINITION:-</u></p> <p>Heritage Grade I comprises Buildings and precincts of National or historic importance, embodying excellence in architectural style, design, technology and material usage and/or aesthetics; they may be associated with a great historic event, personality, movement or institution. They have been and are the prime landmarks of the City.</p>	<p>Heritage Grade II (A & B)</p> <p>Comprises buildings, and precincts of regional or local importance possessing special architectural or aesthetic merit, or cultural or historical significance though of a lower scale in Heritage Grade I. They are local landmarks, which contribute to the image and identity of the City. They may be the work of master craftsmen or may be models of proportion and ornamentation, or designed to suit a particular climate.</p>	<p>Heritage Grade III comprises buildings and precincts of importance for townscape; they evoke architectural, aesthetic, or sociological interest though not as much as in Heritage Grade II. These contribute to determine the character of the locality and can be representative of lifestyle of a particular community or region and, may also be distinguished by setting on a streetline, or special character of the façade and uniformity of height, width and scale.</p>
<p>B) <u>OBJECTIVE:-</u></p> <p>Heritage Grade I richly deserves careful preservation.</p>	<p>Heritage Grade II deserves intelligent conservation.</p>	<p>Heritage Grade III deserves intelligent conservation (though on a lesser scale than Grade II) and special protection to unique features and attributes.</p>
<p>C) <u>SCOPE FOR CHANGES:</u></p> <p>No interventions be permitted either on exterior or interior unless it is necessary in the interest of strengthening and prolonging, the life of the building/s or precincts or any part or features thereof. For this purpose, absolutely essential and minimal changes would be allowed and they must be in accordance with the original.</p>	<p>Grade II (A)</p> <p>Internal changes and adaptive re-use and external changes may be and large be allowed but subject to strict scrutiny. Care would be taken to ensure the conservation of all special aspects for which it is included in Heritage Grade-II.</p> <p><u>GRADE II (B)</u></p> <p>In addition to the above, extension or additional building in the same plot or compound could, in certain circumstances, be allowed provided that the extension/additional building is in harmony with (and does not detract from) the existing heritage building(s) or precincts especially in terms of height and facade.</p>	<p>External, internal changes and adaptive re-use would by and large be allowed. Changes can include extensions, and additional buildings in the same plot or compound. However, any changes should be such that they are in harmony with and should be such that they do not detract from the existing heritage building/precinct.</p>

D) **PROCEDURE:-**

Development permission for the changes would be given by the Commissioner on the advice of the Heritage Conservation Committee to be appointed by the State Government.

Development permission for the changes would be given by the Commissioner on the advice of the Heritage Conservation Committee to be appointed by the State Government.

Development permission for the changes would be given by the Commissioner on the advice of the Heritage Conservation Committee to be appointed by the State Government.

E) **VISTAS/SURROUNDING DEVELOPMENT:-**

All development in areas surrounding Heritage Grade I shall be regulated and controlled, ensuring that it Does not mar the grandeur of, or view from, Heritage Grade I.

12. **SIGNS AND OUTDOOR DISPLAY STRUCTURES**

- A) National Building Code to apply – The display or advertising signs and outdoor display structures on buildings and land shall be in accordance with Part X – Signs and Outdoor Display Structures, National Building Code of India.
- B) Additional conditions – In addition to sub-regulation A above, the following provisions shall apply to advertising signs in different land use zones :
- (i) Residential Zone (R-1) : The following non-flashing neon signs with illumination not exceeding 40 watt light –
 - (a) one name plate with an area not exceeding 0.1 sq. m. for each dwelling unit ;
 - (b) for other users permissible in the zone, one identification sign or bulletin board with an area not exceeding 10 sq. m. provided the height does not exceed 1.5 m.
 - (c) “For sale” or “For rent” signs for real estate, not exceeding 2 sq. m. in area provided they are located on the premises offered for sale or rent.
 - (ii) Residential Zones with shoplines (R-2) : Non-flashing business signs placed parallel to the wall and not exceeding 1m. in height per establishment.
 - (iii) Commercial Zones (C-1) and (C-2) : Flashing or non-flashing business signs placed parallel to the wall not exceeding 1 m. in height provided such signs do not face residential buildings.
- C. Prohibition of advertising signs and outdoors display structures in certain cases :
Notwithstanding the provisions of sub-regulations of A & B, no advertising sign or outdoor display structures shall be permitted on buildings of architectural, aesthetic, historical or heritage importance as may be decided by the Municipal Commissioner, on the advice of the Heritage Conservation Committee or on Government buildings, save that in the case of Government buildings only advertising signs or outdoor display structures may be permitted if they relate to the activities for the said buildings own purposes or related programmes.
- D. Provided that if the Heritage Conservation Committee so advises, the Municipal Commissioner shall refuse permission for any sign or outdoor display structure.
- E. The Municipal Commissioner may on the advice of the Heritage Conservation Committee, add to, alter or amend the provisions of sub-regulations A, B and C above.

13. **COMPOSITION OF HERITAGE CONSERVATION COMMITTEE**

- A. The qualifications for membership of the Heritage Conservation Committee shall be as follows :
- i) Expert with 15 years experience in the field of heritage conservation
... Chairman
 - ii) Structural Engineers having experience of 10 years in the field and membership of the Institute of Engineers ... 2 Members
 - iii) Architects having 10 years experience and membership of the Council of Architecture
 - i) Urban Designer
 - ii) Heritage Conservation Architect
 Architects shall be those having experience in conservation architecture
... 2 Members
 - iv) Director Museum ... Member
 - v) Environmentalists having in-depth knowledge and experience of 10 years of subject matter ... 2 Members
 - vi) City historians having 10 years experience in the field ... 2 Members
 - vii) Nominee of the State Government ... 1 Member
 - viii) Nominee of the Ministry of Environment & Forests ... 1 Member
 - ix) Officers of the Municipal Corporation/Municipal Council/ legally designated Urban areas ... 2 Members (of whom one shall be Member Secretary of the Committee)
- (a) The Committee shall have the powers to co-opt upto five additional members who may have lesser experience, but who have special knowledge of the subject matter. Provided that the additional members may be co-opted for special purposes or on sub-committees of the Heritage Conservation Committee.
- (b) The tenure of the Members of category (i), (ii), (iii), (v) and (vi) above shall change after every three years provided however that the same person shall be eligible for re-appointment as Member.
- B The terms of reference of the Committee shall be, inter-alia,
- (i) to advise the Municipal Commissioner whether Development permission should be granted under this Regulation No. and the conditions of such permission (vide sub-regulation 2.)
 - (ii) to prepare a supplementary list of buildings, artefacts, structures, areas, precincts of historic, aesthetic, architectural, or cultural significance and a supplementary list of natural features of environmental significance including sacred groves; hills, hillocks, water bodies (and the areas adjoining the same), open areas, wooded areas sthalarikshas etc. to which this Regulation would apply (vide sub-regulation 3.)
 - (iii) to advise whether any relaxation, modification, alteration, or variance of any of the Development Control Regulations/Building Byelaws, is called for under sub-regulation 4.
 - (iv) to frame special regulations for precincts and to advise the Municipal Commissioner regarding the same (vide sub-regulation 5.)
 - (v) to advise on the extent of Development Rights Certificates to be granted, in terms of sub-regulation 6
 - (vi) to advise whether Development Rights Certificates may be allowed to be consumed in a heritage precinct (in terms of sub-regulation 6, Appendix I)
 - (vii) to advise in terms of Sub-regulation (7) whether to allow commercial/office user in the (name the areas) and when to terminate the same.

- (viii) to advise the Commissioner in the operation of sub-regulation 12 to regulate or eliminate/erection of outside advertisements/bill boards;
- (ix) to recommend to the Commissioner guidelines to be adopted by those private parties who sponsor beautification schemes at public intersections and elsewhere.
- (x) to advise the Municipal Commissioner to evaluate the cost of repairs to be give to owners to bring the existing buildings back to the original condition. For this purpose the Committee may also try to help the Municipal Commissioner to raise funds through private resources.
- (xi) to prepare special designs and guidelines for listed/cessed buildings, and non-cessed buildings control of height and essential façade characteristics such as maintenance of special types of balconies and other heritage items of the buildings and to suggest suitable designs adopting new materials for replacements keeping the old form in tact to the extent possible.
- (xii) to prepare guidelines relating to design elements and conservation principles to be adhered to and to prepare other guidelines for the purposes of this Regulation.
- (xiii) To advise the Municipal Commissioner on any other issues as may be required from time to time during course of scrutiny of development permissions and in overall interest of heritage/environmental conservation.
- (xiv) To appear before the Government either independently or through or on behalf of the Municipal Commissioner in cases of Appeals under Section of the Regional & Town Planning Act in cases of listed buildings/heritage buildings and listed precincts/heritage precincts and listed natural features.

APPENDIX – I

REGULATION NO.....

REGULATIONS FOR THE GRANT OF TRANSFERABLE DEVELOPMENT RIGHTS TO OWNERS/LESSEES OF HERITAGE BUILDINGS/HERITAGE PRECINCTS AND CONDITIONS FOR GRANT OF SUCH RIGHTS.

As provided - in Regulation _____, the development potential of a plot of land may be separated from the land itself and may be made available to the owner of the land in the form of Transferable Development Rights (TDR). These rights may be made available and be subject to the conditions prescribed below:

1 As proposed in Regulation _____, Development Rights of the owner/lessee of any Heritage Buildings who suffers loss of Development Rights due to any restrictions imposed by the Municipal Commissioner or Government under Regulation shall be eligible for award of Transferable Development Rights (TDR) in the form of Floor Space Index (FSI) to the extent and on the conditions set out below. Such award will entitle the owner of the Heritage Building to FSI in the form of a Development Rights Certificate (DRC) which he may use himself or transfer to any other person.

2 A DRC will be issued only on the satisfactory compliance with the conditions prescribed in this Appendix.

3 If a holder of a DRC intends to transfer it to any other person, he will submit the DRC to the Commissioner with an appropriate application for an endorsement of the new holder’s name, i.e. transferee on the said Certificate. Without such an endorsement by the Municipal Commissioner himself, the transfer shall not be valid and the Certificate will be available for use only by the earlier original holder.

4 A holder of a DRC who desires to use the FSI credit certified therein on a particular plot of land shall attach to his application for development permission valid DRCs to the extent required.

5 DRCs may be used -
On any plot in the same ward as that in which they have originated except as specified in clause (6) below.

6 A DRC shall not be valid for use on receivable plots in the areas listed below:-

- (a) (List our congested areas where extra FSI should not be allowed.)
- (b) On plots falling within 50 m. on roads on which no new shops are permitted as specified in sub-regulation _____ of Regulation _____
- (c) Coastal areas and areas in “No Development Zones/Green Zones”.
- (d) On any plots for which additional FSI is permissible under any other Regulation _____
- (e) Any heritage building
- (f) Any heritage precinct except with the prior approval of the Heritage Conservation Committee and subject to compliance with the Regulations of the particular precinct.

7. The user that will be permitted for utilisation of the DRCs on account of transfer of Development Rights will be as under:-



<i>12.1.1.1.1.1 Zone in which designated/reserved receiving areas</i>	<i>User to be permitted in</i>
plot is situated _____	
1. Residential	Only residential users and in residential zones only.

2.	Commercial (C-2)	Commercial (C-2) users if the plot where FSI is to be utilised is situated in C-2 Zone. Commercial (C-1) if the plot where the FSI is to be utilised is situated in C-1 zone. Residential only in Residential Zones.
3.	Commercial (C-1)	Commercial (C-1) if the plot where the FSI is to be utilised is situated in C-1 zone. Residential in residential Zones.
4.	Industrial (I-1),(I-2),(I-3)	Residential only in residential Zones.

- 8 DRCs may be used on one or more plots of lands, whether vacant or already developed or by the erection of additional storeys, or in any other manner consistent with these Regulations, but not so as to exceed in any plot a total built-up FSI higher than that prescribed in clause 9 below in this Appendix. The FSI of a receiving plot shall be allowed to be exceeded by not more than 0.4 in respect of a Development Right transferred to it.(whether in respect of a heritage building or by any other means.)
9. With an application for development permission, where an owner seeks utilisation of DRs, he shall submit the DRC to the Municipal Commissioner who shall endorse thereon in writing in figures and words, the quantum of the DRC proposed to be utilised, before granting development permission, and when the development is complete, the Commissioner shall endorse on the DRC in writing, in figures and words, the quantum of DRs actually utilised and the balance remaining thereafter, if any, before issue of occupation certificate.
10. A DRC shall be issued by the Municipality Commissioner himself as a certificate printed on bond paper in an appropriate form prescribed by the Municipal Commissioner. Such a certificate will be a transferable “negotiable instrument” after due authentication by the Municipal Commissioner. The Municipal Commissioner shall maintain a register in a form considered appropriate by him of all transactions, etc. relating to grant of utilisation of DRs.

/TYPED COPY/

K.C. MISRA
D.O. No. 14-1/2003-WL-1
SECRETARY
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
4TH March, 2003

Dear Shri

You are aware of the concern of Ministry of Environment & Forests about the conservation of both natural and man made heritage from environmental angle. The Ministry had also constituted a committee in 1994, to look into this Committee, in turn, had framed draft regulations for conservation of heritage buildings which have been circulated to you requesting the State Governments to frame similar regulations. Some States, like Maharashtra and Andhra Pradesh have framed their set of guidelines, others are yet to do this. Following correspondence from this Ministry may be referred to in this regard.

- (i) Letter No. 13020/3/94-CS(CC) dated 20.12.1995
- (ii) D.O. No. 13020/3/94-CS dated 21.08.1998
- (iii) D.O. No. 13020/3/94-CS dated 18.04.1999
- (iv) D.O. No. 24-3/2001/WL-1 dated 24.5.2001

2. For your ready reference a copy of draft guidelines sent earlier is again enclosed.
3. Bombay Environment Action Group has also prepared a revised draft which is an updated version of the model draft framed by this Ministry. A copy of this revised draft is also enclosed.
4. I take this opportunity to remind you to take measures for framing appropriate regulations in the State for conservation of natural and man made heritage for posterity.

Yours sincerely,

Sd/-

(K.C. MISRA)

Encl: as above (two)

/copy/

P.V. JAYAKRISHNAN
Secretary

D.O. No. 24-3/2001/WL-1
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS
PARYAVARAN BHAVAN
C.G.O. COMPLEX, LODI ROAD, NEW DELHI 110 003
TEL: 4360721 4361896 FAX (011 _362746)
Email : pvj@nic.in

May 24, 2001
Dear Shri

Ministry of Environment & Forests has been concerned about the conservation of heritage both natural and man made from the environmental angle. Accordingly, in 1994, a Committee was constituted to look into this matter and to suggest institutional and legal framework. The committee framed regulations for conservation of heritage building and which have been circulated to you vide this Ministry's letter No.13020/3/94-CS dated 20.12.1995, 21.08.1998 and 18.04.1999 requesting to frame similar regulations in your State/UT. A copy of the draft regulation is annexed for ready reference.

May I request you to take the initiative for formulating regulations conserving both natural and man-made heritage in your State. A line in reply will be appreciated.

With regards,

Yours sincerely,

Sd/-

(P.V. JAYAKRISHNAN)
Shri _____
Chief Secretary
Government of _____

12.1.2 Encl: As above

T.R. BAALU

MINISTER
ENVIRONMENT & FORESTS
GOVERNMENT OF INDIA
NEW DELHI 110 003

D.O. 13020/3/94

22 May 2000

My predecessor, Thiru, Suresh P Prabhu, had written to the Hon'ble chief Minister of Tamil Nadu on the 18th April, 1999 requesting that the conservation of heritage, both natural and man-made, from the environmental angle must be given due recognition. We had suggested that the Maharashtra / Mumbai example may be taken as a base for framing a model regulation for conservation of natural and man-made heritage. The model draft regulation was also circulated by my Ministry to all States/UTs vide letter No. 13020/3/94 CS(CC) dated 28th December, 1995.

In view of the importance of the subject, may I once again request the Hon'ble chief Minister to kindly take the initiative for formulating regulations which will conserve both natural and man-made heritage in your State.

With kind regards,

Yours sincerely,

Sd/-

(T.R. BAALU)

SURESH P. PRABHU
MINISTER
ENVIRONMENT & FORESTS
GOVERNMENT OF INDIA
NEW DELHI 110 003

8 APR 1999

Dear

This Ministry has for many years been gravely concerned about the conservation of heritage, both natural and man made from the environmental angle. Accordingly, in 1994, we had constituted a Committee to look into the whole question including suggesting legal and institutional measures.

This Committee and the Ministry were furnished with a set of heritage regulations and a list of protected heritage sites (about 700 then but considerably more now) which Government of Maharashtra had framed for Mumbai and which has had statutory force since February, 1991.

Using the Maharashtra / Mumbai example as a base and taking inputs from other States, the Ministry's Committee framed a model regulation for conservation of natural and man made heritage. This model draft regulation was circulated by this Ministry to all States/Union Territories vide this Ministry's letter No. 13020/3/94-CS(CC) dated 28th December, 1995.

I had written to you vide my D.O. No. 13020/3/94-CS in August 1998 enclosing this model draft regulation.

There has been a recent development. On 18th November, 1995, the Bombay High Court have issued a detailed order regarding Mahabaleshwar and Panchgani. The concerned authorities have been directed.

- a) to finalise the list of heritage structures and sites (both natural and man made) within four months.
- b) to formulate and finalise the draft heritage regulations in conformity with the draft regulations framed by this Ministry in 1995; and
- c) to give statutory force to the heritage list and heritage regulations within a further period of one month.

In addition, a Monitoring Committee (three of whose members are NGOs) has been constituted to constantly monitor any development likely to cause damage to the environment, ecology or heritage of the region.

Specially in the light of the above, I am once again enclosing a copy of this Ministry's draft regulation of 1995 with a special request that it be examined urgently with a view to framing a similar regulation in your State/Union Territory.

With kind regards,

Yours sincerely,

Sd/-

(SURESH P. PRABHU)

SURESH P. PRABHU
MINISTER
ENVIRONMENT & FORESTS
GOVERNMENT OF INDIA
NEW DELHI 110 003

D.O.No.13020/3/94
21 AUG 1998

Dear Shri

Some time back this Ministry had constituted a Committee to go into the question of conservation of Man-made Heritage from an environmental angle. During the course of its deliberations the Committee found that the State Government of Maharashtra had already taken action in this matter and had prepared the following documents:

- (a) Heritage Regulations for Greater Bombay 1995
- (b) Draft Regulation dated 25.6.95 for conservation of Heritage Buildings Heritage precincts and Natural Features within Municipal Areas/other Legally Designated Urban Areas.

A set of the above documents had been sent to the State Government/UTs vide this Ministry's letter No. 13020/3/94-CS(CC) dated 28.12.95 for their information.

I am enclosing a set of the following documents pertaining to Maharashtra for your information.

- i) Govt. of Maharashtra, Urban Development Department Resolution No.DCR.1090/3197/RDP/UD-II dated 21.4.95,Urban Development Department, Government of Maharashtra.
- ii) Government of Maharashtra, Urban Development Department Resolution No. DCR.1090/3197/RDP/UD-II dated 24.4.95 regarding final sanction to the list of heritage building and heritage precincts.
- iii) Letter No. DCR/3197/UD-II dated 10.7.95 of Deputy Secretary, Urban Development Department, Government of Maharashtra to Municipal Commissioners of Kolkapur, Pune, Nasik and Nagpur regarding preparation of regulations about conservation of Historical and Architectural Buildings/Precincts.
- iv) Government of Maharashtra, Urban Development Department, Resolution No. TPS/1998/563/CR-36/98/UD-13 dated 21.7.98 regarding constitution of committee to recommend steps to be taken for conservation of old buildings precincts, architectural, aesthetic and heritage significance.

You may like to get these examined for taking action on similar lines in your State/Union Territory.

With kind regards,

Yours sincerely,

SD/-

(SURESH P. PRABHU)

Encl: As above

All Chief Ministers/State & UTs.

BY REGD. POST

Telegram : PARYAVARAN
NEW DELHI

TELEPHONE: 4362714

Telex : W-GGIAS DOE IN

Fax : 4360678

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

PARYAVARAN BHAVAN

C.G.O. COMPLEX

LODHI ROAD, NEW DELHI 110 003

No. 13020/3/94-CS(CC)

Dated the 28th December 1995

To:

12.1.2.1 Subject : Conservation of Man-made Heritage

Sir,

A committee has been constituted vide this Ministry's order No.13020/3/94-CS(CC) dated 14.7.1994. The terms of reference of the committee require the committee, inter-alia to prepare a draft policy paper of approach to the conservation of man-made heritage from an environmental angle. A copy of this Ministry's order dated 14.7.94 is enclosed.

The committee has made an interim report on 26.4.95 (copy enclosed) which is under consideration in the Ministry.

In its further deliberation on 13.7.95 the committee has recommended that the following documents may be brought to the notice of the State Governments/UT Govts./ Administration for such action may be deemed appropriation.

- 1) Heritage Regulations for Greater Bombay 1995
- 2) Draft Regulation dated 25.6.95 for conservation of Heritage Buildings Heritage precincts, and Natural Features within Municipal Areas/other Legally designated Urban Areas.
- 3) Maharashtra Regional Town Planning Act 1966.

A set of the foregoing documents are sent herewith. It is required that the State Government/UT Govts./ Administration may kindly appraise the undersigned of the action if any being taken by them to conserve man-made heritage and such further comments if any as would aid in the deliberation of the Committee.

Yours faithfully,

Sd/-

(K. SETHURAMAN)

DIRECTOR

Copy to :Shri Shyam Chainani Convenor
9, St. James Court, Marine Drive
Bombay 400 020