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ENSURE SEAMLESS MINING LICENSE FOR EXISTING EXPLORERS, GOVT URGED

SOURCE: OUTLOOK INDIA

The mining industry has once again sought the government"s intervention to prevent denial of mining rights to existing mineral explorers under the new reform initiative that seeks to establish a seamless Composite Exploration-cum-Mining-cum-Production License (CEMPL) regime by amending the MMDR Act, 1957.

In a letter to Mines Secretary Sushil Kumar, the Federation of Indian Mineral Industries (FIMI) has sought the ministry"s intervention to ensure policy certainty and security of existing vested rights under Section 10A(2)(b) of the MMDR Act as it would go a long way in restoring the investors" confidence in the Indian mineral sector.

In this regard, the federation has asked the Mines Ministry to immediately organise a stakeholders meeting where all those affected by the repealing of Section 10A (2) (b) can make their submissions.

Immediately after the announcement of new reform initiative as part of "Aatmanirbhar Bharat package" by Finance Minister Nirmala Sitharaman, in May, the FIMI had shot off a letter to Prime Minister Narendra Modi seeking similar relief for existing miners.

"...we gather from media reports that Government intends to do away with Section 10A(2)(b) of the MMDR Act, 1957 wherein existing concessionaires (RP/PL holders or reconnaissance permit and prospecting license holders) have already been guaranteed seamless transition to the mining stage. This would amount to "robbing Peter to pay Paul"," it had said in its letter to the PM.

"...we request you to kindly advise the Ministry of Mines to ensure/protect the rights of existing concessionaires by not removing or tweaking Section 10A(2)(b) and in fact bring in provisions where existing concessionaires covered under Section 10A(2)(b) are immediately granted mining rights seamlessly," the letter signed by FIMI Secretary General R.K. Sharma had said.

As part of the Rs 20 lakh crore economic package announced by the Finance Minister, she had also announced a structural reform initiative for the mineral sector that allows offering composite mineral exploration licences to bidders. About 500 mineral blocks would be offered to companies under this regime.The FIMI has said that while the reform initiative for the mineral sector was welcome, it should not come at the cost of existing investors and explorers who have have invested huge resources and long years to undertake risky exploration activities and have helped India to discover valuable mineral deposits.

"Hundreds of PL and RPs have been issued to mineral companies in India. The 2015 amendment to the MMDR Act gave them hope of getting mining leases of mineral bearing areas that have been explored and prospected by them. But, if changes in the legislation makes every thing available prospectively without benefit being extended to existing license holders", the FIMI had said in its letter to the PM, "it will lead to irreparable loss of investor confidence in the Indian mineral sector, apart from multiple litigations in courts".

INDUSTRY INPUTS FOR POLICY WHITE PAPER FOR RAPID GROWTH IN MINERAL EXPLORATION

By Dr Amit Tripathi

COO & Director of Exploration MPXG Exploration Pvt Ltd

- *"...The aim of National Mineral Policy 2019 is to have a more effective, meaningful and implementable policy that brings in further transparency, better regulation and enforcement, balanced social and economic growth as well as sustainable mining practices..." - NMP 2019*

All policy suggestions are given keeping in view the aforesaid stated objectives.

1. Exploration industry is distinct from mining industry and the regulatory requirements for exploration industry is different from the mining industry.Worldwide, exploration is a separate standalone business and is a profit center in its own right and is not just a subset of the mining industry.
2. Worldwide standalone exploration is about $30billion industry and India's share in this is negligible despite the perfect geology and a vibrant stock market. Explorers worldwide consider India as a large unexplored frontier and lots of this investment will quickly flow to India given a proper regulatory environment. In addition, a huge domestic industry will be created very rapidly that has a potential of adding 2% to the country's GDP in a very short time with strong employment generation in rural areas. Several advanced countries like Canada and Australia have achieved that with the industry contributing to 6% to 8% of their GDP.
3. In the Indian Jurisdiction minerals are being classified into several complex sets and with different laws. Some of these classes are justified others are not. Classifying minerals into multiple artificial groups will be counterproductive to the policy objective. Need of the the hour is simplification of rules to create rapid growth in this declining industry. The logical classification for special rules for special needs in Indian Conditions should be:
   - Coal
   - Uranium
   - Diamonds
   - Building material and aggregates
   - All other minerals
4. Clear All backlog of long pending approvals of licenses under section 10A2B and 10A2C. All cases that have not been granted till date should be automatically deemed to be approved and executed under **national disaster management act** immediately to provide a big boost to rural economy and employment. Special tax relief of 50% tax be given to projects that ramp up to full production within one year of receiving all approvals or those that employ more than 100 people.
5. Lower the entry barriers: Make starting an exploration business EASY. Exploration is not a revenue business, it is a capital gains and valuation business. Exploration is very similar to technology startup business that come about with a bright idea, great skills but no finance. Typically they get financed through friends and family and as they move up the valuation chain finance progressively comes from venture capitalists, private equity and stock market. Exploration companies do not generate revenues but work on enhancing valuation and capital gains through adding value to the exploration property as it moves towards feasibility. Several shareholders enter and exit the business along the way from greenfield prospect to proved reserve mining lease. The beauty of this business is that the cycle time is typically three to five years (as opposed to eight to ten years if tech sector). This high risk business (majority of these ventures fail and all profit is made on the minority that succeed) is only possible when:

   a. Entry cost is very low - cheap and quick grant of concessions. Ideally through an online portal where the applicant enters their details and select area on map, files the exploration plan and investment commitment. If the area is free RP, PL or CL gets allocated immediately as soon as the license fee is paid online.

   b. Security of title and security of tenure as long as the exploration plan is followed and investment criteria is met

   c. Clear Environmental / Infrastructure/ Social criteria - DOs and DONTs are published in guidelines that get emailed to the lessee along with the tenement documents.
6. Liberalize rule 12
7. Scrap rule 24 - This takes away all regular financing and fund raising tools practiced by the industry worldwide.

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Mineral Exploration is not a revenues business. It is a Valuation business and prepares the raw material for mining business. These companies first acquire a prospecting concession, do the initial exploration work and then go out to the market to raise funds for the next step of exploration. The tools they use to raise funds are share sales at discounted valuation, warrants and options, joint ventures and pledging future production. Rule 24 is highly restrictive and goes against the global best practices.

6. Joint ventures and transfers: As several shareholders keep entering and exiting the business at different valuation levels enabling legal provisions are needed for this industry to take root

a. Allow full transfer of ALL leases whether RP, PL, ML or CL. Remove prior approval requirement for transfers. The leases should be at par with *"private property"* and full transfer rights vested with the lessee. Even partial transfer, share sale of lessee companies, share sales of holding companies be permitted - these are international best practices and in line with the stated objectives of NMP2019.

b. Joint Ventures to be permitted without any prior approval or interference of regulators. Let market forces find their own way.

7. In case of RP and PL deemed approval for the next staged should be automatically granted. "Time bound manner" has not been honored by regulators so far and delays have caused decline of the exploration industry to near extinction. The lessee should be allowed to select parts of the lease area for upgradation and as soon as the lessee submits the application it should be deemed approved and executed. The lessee will have the right to start the next level of work as soon as he submits the application.

8. Areas granted for exploration to private companies should NEVER be auctioned.

9. Only areas fully explored to G2 level and with reserves estimated by GOVERNMENT agencies or 100% Government owned PSUs (not listed) should be auctioned. All such auctions to have ALL required approvals included viz revenue, water, environment, forest etc and deemed to be executed so the auction winner can start work immediately

9. CLs for exploration should be granted on First Come First Served basis.

10. Exploration is not a revenue business and should not be taxed. Rather exploration should be encourages with fiscal measures so high risk capital be welcomed and permitted to make windfall profits with successful ventures. These profits can be taxed at par with "capital gains" on stock market and listing of all such ventures should be encouraged and facilitated.

11. SEBI should consider a special *"VENTURES"* exchange (equivalent to TSX - Ventures) where only high risk ventures to be listed with very easy listing norms. Like TSX Ventures exchange and all investors on these exchanges knowingly invest in these high risk - high return businesses.

12. Tax flow through to be permitted.

About The Author

Dr Amit Tripathi is a professional explorer with specialization in establishing structural controls of mineralization. He is Founder and Director of MPXG Exploration, India and also Founder and President of Geo exploration LLC, USA. Previously he has been part of senior management of many international junior companies, prominent being VP Exploration for Sunward Resources, Canada, Exploration Manager for Goviex Uranium, Niger and Exploration Manager for Goviex Gold, Australia. In over 20 countries he has managed successful exploration projects from reconnaissance to resource stages in a variety of occurrences of gold, base metals, uranium, diamonds, COLTAN etc. His major exploration successes are 14 Moz Au-Cu Porphyry discovery in Colombia, +170Mlb Uranium discovery in Niger, gold discovery in Tanzania and a major lateritic iron ore discovery in Guinea. He is currently exploring Silver and Lead in Morocco, Gold in Guinea, Copper in Peru and Gold in French Guyana.

DISTRICT MINERAL FOUNDATION (DMF)-IMPROVING LIVES & COMBATING COVID -19

By Saurabh Priyadarshi 22 July 2020
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It's been five years since DMF was founded in March 2015. Incidentally COVID-19 pandemic too struck India in March 2020. Surprisingly both have a potent multiplier effect. While DMF kitty swells with every tonne mined, COVID-19 too spreads its tentacles with alacrity and slightest carelessness. COVID -19 has economically impacted India 360 degrees and has been draining its resource relentlessly. However the Indian governments foresight of amending the MMDR

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Act(2015) to incorporate DMF to improve the quality of mining communities has also proved to be a boon in disguise-as the government has thought of using 30% of the unspent DMF funds to tackle and save lives by combating COVID- 19 pandemic.

This article has been written with a view to achieving three objectives.

1. First is to re-introduce and provide a one stop reference to the 5W's (What, When, Where,

Why, Who) of DMF to the young geo-scientists, investors, mining companies, stakeholders

and policy monitors.

2. Second is to discuss the objective of DMF and its overall administration & management.

3. Third is to understand the background for allocation of Unspent DMF funds to combat

COVID -19 pandemic in India.

Fighting COVID -19

With the outbreak of COVID-19 pandemic India's finance minister Nirmala Sitharaman on March 26 announced that healthcare would also be funded by a specific percentage of unused DMF funds.

These funds would help in supplementing healthcare facilities, screening and testing requirements, and any other support that might be required.

DMF Funds So Far

As per the Ministry of Mines1 a total of Rs. 35,925 crores have accrued in the pan India DMF out of which 35% or Rs. 12,414 crores have been spent till January 2020. The MoM anticipates receipt Of Rs. 6,000 crores per annum from mining companies through this route.

DMF Funds for COVID 19

Although DMF administration is in the ambit of districts and states, the Ministry of Mines under Section 20 of the MMDR Amendment Act has issued directives on March 28, to all state Chief Secretaries to use DMF funds in national interest to state governments to use only 30% of unused Rs 23,511 crores DMF fund which is Rs.7,000 crores to tackle the COVID-19 crisis. The announcement that DMF funds will be a component of the government's coronavirus relief package has generated a lot of discussion. In the light of this , it will be interesting to know as what the DMF funds were meant for and how they can be used effectively.

Background

Ironically India's mineral rich districts are also those where some of the country's poorest live.

Mining has mostly benefitted the mining companies, individual miners and governments, but not the communities there who suffer displacement, loss of land, housing, agriculture, pollution etc. to name a few and are seldom adequately compensated. This creates a deep economic and social divide between the mining companies and inhabitants where mining operations are carried out. Such conditions warranted introduction of a suitable nature to bridge the divide between Rich Miners & Poor People

Rollout of DMF

1. In order to bridge the big gap between mining companies and mining project affected families and areas India's Central mining law, the Mines and Minerals (Development and Regulation) Act (MMDR) of 1957, DMF was incorporated under India's central mining law,the Mines and Minerals (Development and Regulation) Act (MMDR) of 1957, through an amendment in 2015.

2. DMF is a non-profit trust founded to receive a specific percentage of royalty from the mining companies with the sole objective of improving the quality of life of persons/families/areas affected by mining operations.

3. On 16 September 2015, Central Government issued a notification directing states to set up DMF.

Source of DMF

Indian mining industry accounts for 1.8% of GDP through payment of royalties and taxes. Through this amendment the mining companies shall also contribute to District Mineral Foundation (DMF) & National Mineral Exploration Trust.

Mining companies shall make payments directly to the DMF Trust of the district/ state they operate in at the following rates:

1. 10 per cent of royalty for leases granted on or after 12 January 2015.

2. Payment to be made for major minerals (e.g. coal, iron ore and bauxite):

3. 30 per cent of royalty for leases granted before 12th January 2015

DMF Objective

The objective of DMF is to work in the interest of and for the benefit of

1. People/families/communities affected by mining operation;

2. People having legal and occupational rights over the land being mined;

3. People having 'usufruct' (user rights) and 'traditional rights'.

Affected families

Affected families are those as defined in Section 3(c) of Land Acquisition, Rehabilitation and

Resettlement Act, 2013.

1. Families whose land or other immovable property has been acquired for mining activity;

2. Families that do not own any land but a member/members may be:

a. Tenants (including anyform of tenancy), or holding usufruct rights over the land,

b. Agriculture labourers,

c. Sharecroppers

or artisans working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood has been affected by land acquisition.

3. Scheduled Tribes, other traditional forest dwellers who have lost any of their forest rights as recognized under the

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Forest Rights Act, 2006 because of land acquisition;

4. Family whose primary source of livelihood for three years has been dependent on forest or water bodies prior to land acquisition;

5. A family member whom the Central or state government has assigned land under any of its schemes and such land is under acquisition.

6. Displaced families as given under Section 3(k) of the Land Acquisition, Rehabilitation and Resettlement Act, which include any family displaced, relocated or resettled from the affected area to a resettlement area because of land acquisition for mining activity.

7. People who have legal and occupational rights, and also usufruct and traditional rights over the land being mined.

8. Any other as appropriately identified by the gram sabha.

Mining Affected Areas

Mining affected areas are classified into two types,viz directly and or indirectly. Directly affected areas include:

1. Areas with direct mining-related operations, such as excavation, mining, blasting, beneficiation and waste disposal (overburdened dumps, tailing ponds, transport corridors etc.);

2. Villages and gram panchayats within which mines are situated;

3. Areas that fall within a radius (defined by the state government) from a mine or cluster of mines. Such directly affected areas can extend to neighbouring villages, blocks, districts or states;

4. Villages in which families displaced by mines have resettled/been rehabilitated by project authorities;

5. Villages significantly dependent on mining areas to meet their economic needs and have usufruct (user rights) and traditional rights over the project areas. For e.g. where grazing lands or lands from which forest produce is collected are affected by mining.

Indirectly affected areas include:

1. Areas where the local population is adversely affected by economic, social and environmental consequences of mining-related operations.

2. These include deterioration of water, soil and air quality, reduction in stream flows and depletion of groundwater, congestion and pollution due to mining operations, transportation of minerals and increased burden on existing infrastructure and resources.

DMF Administration

The State Government where the mining operations are carried out shall have be responsible for management of DMF funds.

DMF Funds for Administration

As per the law no more than 5 per cent of DMF funds can be used for administrative purposes.

DMF Management

The DMF Trust shall be managed by (a) Governing Council and (b) Managing Committee both of which will be headed by the Deputy Commissioner.

(a) Governing Council Members

Besides officials, it will include political and community representatives.

Key roles

1. Coordinate in annual planning of DMF

2. Cconstitute sub-committees like a planning committee for such purpose

3. Review activities undertaken by the Trust;

4. Conduct social audits of development schemes/works of gram sabhas;

5. Sanction appointments of officers and auditors;

6. Power to file a complaint/register an offence against any member of the Managing Committee (including the chairperson); can remove any/all members of the Managing Committee (except the chairperson);

7. The Council has to meet at least once in three months.

(b) Managing Committee Members

Mainly government officials.

Key Roles

1. Oversee the day-to-day functioning of the DMF, ensuring timely collection and administration of funds;

2. Coordinate and develop the annual plan and projects to be undertaken by DMF money;

3. Approving the lists of work under priority and other priority-area beneficiaries as identified by the Committee;

4. Distributing monetary benefits to the beneficiaries (those living under the poverty line, orphans, widows, single mothers, physically challenged persons, senior citizens etc.) under extreme cases on approval of the Governing Council;

5. Prepare work reports, maintaining accounts etc.;

6. Prepare and present audit reports for ratification to the Governing Council.

Recommendation of Pradhan Mantri Khanij Kshetra Kalyan Yojna (PMKKKY) for usage of DMF

To implement and utilise the DMF funds properly, the Central government launched the Pradhan Mantri Khanij Kshetra Kalyan Yojna (PMKKKY) in September 2015 which recommends usage of DMF to achieve the following three objectives

1. Implement various developmental and welfare projects/programmes in mining-affected areas, and these will complement existing ongoing schemes/ projects of the state and Central government;

2. Minimize/mitigate the adverse impacts during and after mining on the environment, health and socio-economic status of people;

3. Ensure long-term sustainable livelihoods for mining-affected people.

Procedure for Usage of DMF fund

1. The Trust will make an annual plan every year;

2. Members of the DMF will prepare the annual plan taking into account the

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inputs/plans as received from respective gram sabhas;

3. The final plan will detail out the type and quantum of development schemes/ works to be implemented within a definite time frame;

4. To execute the plan, the Trust will allocate money to the concerned authorities.

Areas where DMF funds can be used

Welfare programs and activities can vary between mining districts however 60% of the DMF funds must be used in the following High Priority Areas specified by law.

1. Facilities for drinking-water supply, such as centralized purification systems, water treatment plants and permanent/ temporary water distribution networks, including standalone facilities for drinking water, piped-water supply etc.

2. Proper infrastructure for sanitation, such as ensuring collection, transportation and disposal of waste, cleaning of public places, provision of proper drainage and sewage treatment (sewage treatment plants), disposal of faecal sludge, provision of toilets etc.

3. Creation of primary and secondary healthcare facilities in affected areas and maintaining necessary infrastructure. Also, instituting a group insurance health scheme for mining affected people.

4. Educational institutes and vocational training centres and supporting infrastructures.

5. Welfare of women and children through special efforts for addressing problems of maternal and child health, malnutrition etc.

6. Welfare of aged and disabled people.

7. Skill development for livelihood support, income generation and other economic opportunities. This can involve training programs, developing skill-development centre, providing self-employment schemes, supporting self-help groups and entrepreneurship etc.

8. Environmental pollution control and mitigation measures.

Areas where DMF funds cannot be used

1. Environmental pollution control from mining activities: It is the responsibility of the mining company/individual to spend on pollution control (according to the environmental clearance(s), environmental management plan(s) and mining plan conditions). Once this is done a fraction of DMF money can supplement this.

2. Afforestation: As there are funds available to the state under forestry schemes such as Compensatory Afforestation Fund Management and Planning Authority (CAMPA), Green India Mission etc.

3. Major sanitation infrastructure: As it is also under the Swachh Bharat Mission and other urban and rural development programmes. DMF money should supplement these initiatives and not be the primary source of money for these activities.

4. Big infrastructure projects such as road building, railways and bridges: State governments have money earmarked for these. The law also specifies that no more than 40 per cent of DMF money should be spent on making roads, bridges, railways, waterways projects, irrigation and alternative energy sources. DMF money should be complementary to state funds available for infrastructure projects.

Role of Gram Sabha

1. Identify beneficiaries

a. Approval of gram sabha is required to identify beneficiaries in affected villages.

2. Identify works to be carried out in affected areas

a. Gram sabhas in consultation with the mukhiya/up-mukhiya will identify the required work to be done in affected areas;

b. Prepare annual plans based on the money estimate provided to them by the Managing Committee that is available from DMF Trust (the committee has to give an estimate to the gram sabha at the beginning of the fourth financial quarter for the new financial year);

c. Pass a resolution and forward plan to the Managing Committee after verifying prospective activities. The quorum of the gram sabha meeting where a resolution will be passed shall not be less than 50 per cent of all members. It should include members from scheduled castes, scheduled tribes, other backward classes, women (at least one third of the members present);

d. If the Managing Committee has any objection to the list of required works as submitted, it shall send it back to the gram sabha with appropriate reasons and specific comments in writing. Once the gram sabha forwards a revised list, it shall be approved and passed by the Managing Committee.

e. The Managing Committee can verify but cannot override the activities to be carried out as proposed.

3. Monitor developmental schemes/works

a. The gram sabha will receive a report on the works undertaken in their respective villages after each financial year.

DMF Information in Public Domain

All information pertaining to DMF shall be hosted in a web site which shall be created, maintained and updated by the respective district administration receiving DMF payments. Information, at a minimum of but not limited to the following shall be put up on the web site:

1. Detailed composition of the DMF—the Governing Council and Management Committee;

2. Quarterly details of all contributions received from lessees and others.

3. A list of areas and people affected by mining.

4. All meeting agenda, minutes of meetings and action-taken reports.

5. Annual plans and budget.

6. Work orders and progress reports of all the projects/programmes being undertaken. description of work, estimated cost, expenditure, name of implementing agencies, expected date of commencement and completion of work etc.

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7. List of prospective beneficiaries and those who have benefitted from such measures.

8. Annual report, including accounts and audit records.

Other related information.

1.Source: Ministry of Mines, Government of India, DMF fund status up to January 2020

MINING REFORMS: INDIA NEEDS A NATIONAL MINERAL INDEX

Development of the NMI, as done for all the channels in coal (regulated and unregulated) can provide a one-stop solution for a number of concerns.

The mining sector is poised to play a crucial role in the revival of the economy. It will form the foundation of all our efforts towards the much-needed economic recovery dented by the pandemic. The changing market scenario and operation dynamics require extensive mining reforms to overcome this situation and turbocharge the economy.

Hitting the bulls-eye, and when it was needed the most, the prime minister announced a well-structured Covid relief package, clubbed with a visionary call of Atmanirbhar Bharat to make India a self-reliant nation. The concept is not to isolate from globalisation, but to look inside, harness our strengths and make India a global trade superpower.

To execute the above, it is paramount to cut unnecessary red tape, shake-off bureaucratic/systemic lethargy and replace them with measures which will promote trust, ease of doing business and attract investments. The current central government known for its big bang reforms and its transformative approach to development has introduced a slew of legislative reforms in coal & mining sector.

The decision to open the coal sector for commercial mining, implementation of National Coal Index (NCI) and commencement of the auction process of commercial coal blocks, highlight the seriousness and commitment of the government to make India self-reliant. These initiatives will help the country save around Rs 80,000 crore per year on account of coal import by augmenting production in the country. In addition, the auctions will generate a healthy revenue stream and create multiple livelihood opportunities.

On similar lines, the mining sector is eagerly waiting for the implementation of the already announced mining sector reforms, like the introduction of a single-stage seamless auction of exploration cum mining cum production regime. This will attract best-in-class technology providers from around the globe for partnering and investing in India with a surety of getting the right to produce once the discovery is established.

Joint auction of bauxite and coal will be a big booster for the aluminium sector where today we fulfil 60% of the country's demand from imports even when the domestic production capacity of 4.1 million tonnes (MT) is over and above the national requirement of 4 MT. To be self-reliant in this strategic metal we need to improve the competitiveness of domestic production. A competitive domestic aluminium sector will save annual forex outgo worth of around Rs 40,000 crore. In addition, it will encourage investors to tap in the growing aluminium demand which is expected to double to 8-10 MT in next the five years, and will attract fresh investment of Rs 1.8 lakh crore ($25 bn). With abundant reserves of bauxite and coal, we have the potential to be self-sufficient, competitive and be the global alternative to China.

Formation of National Mineral Index (NMI), in line with the NCI, would perhaps be one of the most historic reforms for this sector. Over the years, multiple aspersions have been cast on the efficacy of the tabulation of the average sale price of a mineral. Despite mineral concession rules providing for basic principles, the methodology of tabulation has always been observed as that of a narrow one.

NCI has provided us with the fundamentals wherein transactions from all channels are properly captured and principals of periodic publication (every two months) allow all the bidders to bid judiciously with a transparent process in place clearly defining the mineral valuation, the extent of revenue share and subsequent payment of royalty and other taxes. Acknowledging the nature and consumption of the Indian coal, which is different from the global consumption pattern, the index has rightly refrained from linking it to international indices showing that the think tank involved have applied their minds and have provided a fair and judicious solution.

Without reinventing the wheel, the NMI could also adopt the strong suits of the NCI capturing details from all price sources such as captive and non-captive mines, etc. This methodology, just as in coal, will reflect the true and useful value of the minerals, and will boost the attractiveness of the Indian mining sector.

A just and uniform system for the development of NMI for all minerals will ensure a competitive mining sector inviting healthy competition in auctions and active participation by smaller mining companies. Development of the NMI by including prices from captive and non-captive mines, etc, as done for all the channels in coal (regulated and unregulated) can provide a one-stop solution to a number of concerns, resolve difficulties faced by miners and states in the auction of limestone and bauxite (Metal-Grade) blocks, resolve concerns of royalty on royalty as done in the coal index where

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prices considered are independent of royalty, DMF, NMET and other taxes. It also shall provide a benchmark solution to current ambiguities in the average sales price system and prevent illegal mining. Royalty and other taxes can also be streamlined with the introduction of the NMI.

A well thought out system is already in place for coal. Therefore, the time is ripe for the introduction of the NMI as implemented in case of coal for expeditious implementation of the mining reforms and accelerated unlocking of the nation's mining potential which is so vital to PM's clarion call for Atmanirbhar Bharat.

ABOUT THE AUTHOR

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Source : Financial Express

INDIA: MINING INDUSTRY – A NEW DAWN AMID CHALLENGES

Introduction

Mining is one of the core sectors and growth driver of Indian economy. Minerals and ores provide basic raw materials to many important industries like power generation (thermal), iron and steel, cement, petroleum and natural gas, petrochemicals, fertilisers, precious & semi-precious metals/stones, electrical and electronics equipment, glass, ceramics etc.

The COVID 19 pandemic has adversely affected the mining of ferrous, non-ferrous and minor minerals. The operations of mines - iron ore, coking coal, thermal coal, limestone, dolomite, manganese and chromite and running of ferro alloy and pellet plants (which supply raw material to steel plants) covered under "essential services" and exempted from the nation wide lockdown

The mine owners and operators are finding it difficult to carry mining activities. This is due to business disruptions and operational difficulties (non-availability of requisite workforce, restriction on free movement of men and material, high risk of spread of pandemic, disruption of port operation), exacerbated by fall in demand from downstream industries and manufacturers of white goods. Stopping production and shutting down the smelters, blast furnace is a costly affair and generally not a viable option.

The mining industry is liable to pay various types of taxes - direct taxes (Corporate Income Tax or Minimum Alternative Tax), indirect taxes (Custom Duty, Service Tax, Value Added Tax etc.) and mining levies (Royalty or Dead Rent, contribution to National Mineral Exploration Trust and District Mineral Foundation, Surface Rent, etc., if applicable). While these taxes and levies are a big source of revenue for the Government, they have added to the woes of the mine operators and developers.

Despite various steps taken by the Central Government to encourage liquidity, foreign investment and to remove policy and regulatory hurdles, the banks and NBFCs have always been wary of lending to mining sector; primarily due high risk, large exposure and small margins. The lockdown has further battered this ailing sector.

Legal Challenges

In light of the current COVID-19 pandemic, the mine owners and operators are facing a new challenge. They need to ascertain their rights and obligation under the existing mining lease agreement, finance documents, project and construction finance, equipment lease, subcontracts of various mining operation, drilling contracts, off take agreements, advance purchase and sale agreement and other related contracts. They also need to factor whether any event of default, force majeure, frustration, change in law, material adverse change has triggered in any of the agreements.

The finance documents are required to be carefully considered for continuing representations, undertakings, covenants (positive and negative) given by the borrowers to the lenders (Indian or foreign), securities offered, guarantees, indemnities, performance bonds, liquidated damages. In fact, as a usual practice, the borrowers are also required to maintain debt-equity ratios, manage cross default risk and provide additional security in case the same is eroded.

Mine owners and operators as part of their contractual understanding are required to take insurance cover for which they pay hefty premium. The existing insurance policies need to be vetted to ascertain whether the same has adequate force majeure clause, endorsements to cover loss of profit, loss due to business interruption - whether property damage or even arising out of shutdown due to pandemic or whether the policies exclude coverage for virus, contagious disease or bacteria.

In this article, we have limited ourselves to highlighting few areas of concern for mine owners and operators without delving into the meaning and concept or analysing the application and consequences

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of the same.

You may read other Articles authored by our Firm on force majeure here.

Economic Stimulus

The Government of India has taken several steps to help industries brave the aftermath of the pandemic. On May 16, 2020, the Finance Minister of India has, in continuation to the economic stimulus package in light of COVID-19, announced certain structural reforms in relation to cola and other minerals.

The decision to permit commercial coal mining on revenue sharing basis, with easy entry and exit norm is viewed as an attempt to attract and allow domestic as well as global players to help ramp up coal production in India.

A composite exploration-cum-mining-cum-production regime has been introduced in mineral sector and 500 blocks are proposed to be auctioned through an open and transparent auction process. Joint auction of bauxite and coal mineral blocks has also been introduced to enhance the competitiveness of aluminum industry. The Cabinet Committee on Economic Affairs has approved the methodology for auction of coal and lignite mines.

Even the distinction between captive and noncaptive mining has been abolished.

This not only removes the preference which was earlier given to captive miner but also allows the captive mine owners to sell their output in the open market. The Government has taken initiatives in the right direction and has paved the way forward amid challenges.

Conclusion

The reforms initiated by the Government are aimed to impact the sectors which are considered new horizons of growth, with the aim to unleash new investment, boost production and creat jobs. During these challenging times it is essential that the mine owners and operators take steps to carefully analyse and effectively navigate the legal challenges and propel the mining industry towards a new dawn.

By Shisham Priyadarshini and Mayur Shetty Of Rajani Associates

Originally published July 3, 2020

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

LESSONS FOR INDIA'S MINING SECTOR FROM MONGOLIA BY SEEMA PAUL

- It is estimated that more than half of household incomes in India are linked to natural resources and natural-resource dependent sectors. This underscores the importance of how we utilise our land for maintaining livelihoods of the poor communities and biological diversity and forests while also mining in ways that are sensitive to both these needs.

- The time has come when civil society should broaden its approach and start engaging directly with the industry leaders interested in finding "win-win" solutions for the environment and development, argues Seema Paul in this commentary.

- India can learn from Mongolia where the national government worked with civil society organisations to scientifically identify areas where mining can take place and areas that are needed to be protected keeping in mind their ecological importance.

The COVID-19 pandemic has underscored the link between health, economy and nature in no uncertain terms. One of the allegations over the past few months has been that the coronavirus transferred from wildlife to humans in the meat markets of Wuhan province in China. This is not an isolated instance as health scientists have documented that in recent times nearly 70 percent of new infectious diseases have arisen from the transfer of pathogens from wildlife to humans. Mankind's exploitation of nature, along with climate change, are structural causes aiding this trend.

To respond to the economic crisis arising from the pandemic, the Indian government has announced a package of investments totalling at least 10 percent of the national Gross Domestic Product (GDP). It contains a slew of measures designed to boost the infrastructure sector, while liberalising the mines and minerals sector, including coal mining. However, unless such infrastructure boosting measures are balanced through environmental safeguards, they could further erode India's biological diversity, undermine the country's climate commitments, and abet with trends that trigger infectious diseases like COVID-19.

More than half of household incomes in India are linked to natural resources and natural-resource dependent sectors. Furthermore, mapping exercises have shown significant overlap between India's remaining forests, mineral rich-sites and tribal populations. This underscores the importance of how we utilise our land for achieving seemingly conflicting goals – that is, maintaining livelihoods of the poor communities, maintaining biological diversity and forests while also mining in

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ways that are sensitive to both these needs, and the climate imperative.

The draft Environment Impact Assessment (EIA) notification 2020, which will replace the EIA notification 2006, attempts to rationalise the process and make it more transparent. However, some stakeholders have complained that the proposed notification, if adopted, will dilute the process and standards for environmental clearances for industries such as mining, infrastructure development and large townships.

While efforts to persuade the government to strengthen its regulations to manage the environmental impacts will continue, the time has come when civil society should broaden its approach and start engaging directly with the industry leaders interested in finding “win-win” solutions for the environment and development. The government is also likely to be more supportive of approaches that enable the industry to “self-regulate” in favour of the environment.

Lessons from Mongolia

A noteworthy example in this regard comes from Mongolia’s mining industry, a sector which has received significant concessions as part of India’s recent economic package. Mongolia has globally significant biodiversity, mainly grasslands in its Eastern Steppes and the Gobi Desert. With 40 percent of the Mongolian population living as nomadic herders, the grasslands support livelihoods and traditional lifestyles as well.

In 2008-09 when the government of Mongolia wanted to open up its mining sector for investments, it looked for ways in which it could find balanced solutions. It worked with civil society (The Nature Conservancy) on a land-planning approach called “Development by Design (DbD)”. The results of this effort speak for themselves today: as a result of this work, Mongolia created 39 new protected areas in its eastern grasslands. And yet, the country’s mining sector has continued to grow, accounting for 23 per cent of the country’s GDP today!

Mongolia has since replicated this land planning process in the Gobi Desert, as well as its northern and western regions, creating a seamless land-use plan that is leading to the creation of 177,000 square kilometres of new areas that are demarcated as protected areas, while keeping nearly as much land available for mining, on par with the investments in protected areas.

Mongolia’s ‘Development by Design’ approach entailed working collaboratively with businesses such as the Rio Tinto mining corporation, local communities and civil society to scientifically identify areas where mining could take place; areas that should be off-limits for mining because of their ecological or local community values; and areas that if used for mining, would require the impact to be offset. Companies mining in this third category were required to make financial contributions towards “offsets,” which could be utilised to restore degraded sites or develop and implement management plans for the newly established protected areas.

All of this was laid out in an EIA law that the Mongolian government passed. A key component of this law was a national mitigation design tool that equipped companies to both identify areas in which mining was permitted, and not, as well as areas where it was permitted with payment towards “offsets.” The tool also helped the companies calculate the offset price which was based on the impact of their mining activities measured in terms of area, magnitude and duration of impact on the biodiversity values.

While India already has many well-established protected areas, they are insufficient for conserving our wildlife and ensuring the environmental balance for the country. It is indeed important for India to conserve the corridors between the protected areas if the local communities and wild creatures are to thrive into the future. However, the pertinent lesson from Mongolia is not that India needs more protected areas, but that it is possible to find win-win approaches that balance development with the environment and promote ease of doing business without compromising on the environment.

Rather than shying away from doing business in Mongolia because of its EIA law, mining corporations have been happy because the law provides them with businesses certainty around their investments. The chief advisor for biodiversity and ecosystem services for Rio Tinto, for example, has stated that a tool like Development by Design allows companies to assess the pros and cons of individual investments and avoid unnecessary risks.

Can India adopt a similar approach?

Taking a leaf out of Mongolia’s book, a few civil society organizations in India, notably the Center for Study of Science, Technology and Policy (CSTEP) and Vasudha Foundation, collaborated with The Nature Conservancy in India to create a tool called ‘SiteRight’ which enables wind and solar energy developers to site their projects in areas that are low conflict from environmental and social standpoints. The tool provides an assessment of potential sources of conflicts across ecological and social variables for a user-defined area and helps identify low conflict land parcels to meet wind and solar energy goals.

The aim of SiteRight tool is to “de-risk” business investments by reducing local conflicts that hold up projects and increase the investment costs for businesses. If adopted, it could encourage proactive planning that helps identify ways to meet our environmental and development goals in tandem. The initial response of businesses to this tool has been encouraging. At the moment, the tool is only designed for Madhya Pradesh and Maharashtra but could be easily expanded across the country, as well as being adapted for use by infrastructure sectors including mining.

Significantly, a peer-reviewed analysis that accompanies the SiteRight tool, published in the journal Sustainability, found that India has more than 10 times the needed land for achieving its

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2022 wind and solar targets in areas that have low biodiversity value! Such "win-win" for the environment and development is possible for many other sectors. What's needed is a mindset shift among all stakeholders from "development versus environment" to a "development and environment" approach! For this to happen, stakeholders need to join hands to find collaborative solutions, sector by sector and issue area by issue area. This takes time and a commitment to providing practical, pragmatic tools and approaches, such as the "Development by Design" approach.

The author is the Managing Director of The Nature Conservancy – India.
Source: Mongabay

MODI GOVT MUST CONSIDER AUCTIONING LOSS-MAKING COAL INDIA MINES TOO: NAVEEN JINDAL

India must become 'Atma Nirbhar' in coal production. If govt auctions CIL's loss-making mines, pvt sector can ensure the national exchequer adequately gains.

here come moments in a nation's journey when leaderships turn adversities into opportunities. Like in 1991, the present Narendra Modi government recently announced a series of reforms as part of the welcome "Atma Nirbhar Bharat Abhiyan", which, I believe, will act as a booster shot for India as the nation battles the Covid-19 pandemic and the resultant economic crisis. The various reforms will also help India realise the $ 5 trillion economy vision if implemented well.

As part of the overall reform package, Finance Minister Nirmala Sitharaman announced the liberalisation of the coal sector — long overdue, in my opinion.

Reforming and liberalising the coal sector have been playing on the government's mind for a while. Prime Minister Narendra Modi, in one of his overseas media encounters last year, talked about encouraging coal gasification, it being environment-friendly. With the latest announcements, the statement of intent has a policy stamp. We've always believed that this is the way forward in judiciously using our coal resources in an environment-friendly manner. The government set the coal auction process in motion with 41 mines with reserve of 17 BT on offer in the first phase.

While it's a welcome move, I would argue that the government should also consider auctioning the loss-making Coal India Limited mines, said to be around 251 out of a total of some 364.

The private sector will ensure that the national exchequer adequately gains, latest technologies are employed, efficiencies increased and workers' interests protected. CIL can at the same time focus on its large profitable mines. The mission to rebuild India will, thus, gather momentum.

There is a consensus that India's dependence on coal will continue for the next few decades. India, the second-largest coal producer in the world, has 326 billion tonnes of coal reserves, fifth-largest in the world. We are, however, still the second-biggest importer of coal, importing around 240 MT worth $ 22 billion. It's akin to Qatar importing natural gas!

So, it's high time we become "Atma Nirbhar" in coal production. India needs 1.5 BT coal per year to meet the demand of various sectors. We will need to produce additional 500 MT coal to replace 240 MT of imported high CV coal.

Currently, CIL has about 54 per cent of the country's total coal resource. But it's producing only 600 million tonnes which is about 0.35% of total resource.

CIL has 364 operating mines with around 96 opencast (OC) mines, 230 underground mines and around 38 mixed mines (opencast plus underground). Significantly, 75% of CIL production is achieved from 35 OC mines, whereas 230 underground mines contribute only 5–6% of CIL's production.

Increased dependence on opencast mining, however, has many negative consequences — severely impacting the environment, to name one. Also, higher-grade coal is available only deep down, and the decline of underground coal production, seen over the years, should concern us. The reasons why underground mines have not performed well are higher costs of mining, difficult geo-mining conditions, lack of skill-sets, etc.

Almost 90 per cent of mines of Eastern Coalfields Limited, a CIL subsidiary, having superior-grade coal, are under losses. Almost 100 per cent underground

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mines of Bharat Coking Coal Limited, another CIL subsidiary, are incurring huge losses.

About 230 CIL underground mines produce just 5–6 per cent coal and are the biggest drag on its balance-sheet. CIL has been trying to shut them down for nearly two decades.

The Covid-19 crisis has added to the woes of CIL. The government can turn this crisis into an opportunity for CIL by offering the loss-making mines for private participation through auctioning them or having a MDO contract .(mine development and operation).

Private players will turn around the loss-making mines, bring in latest technologies, increase efficiencies, and protect the workers' interests, thus increasing coal availability.

Globally, top expertise is available in underground coal mining. Due to declining interest for coal in western countries, such technological knowhow can be brought in here if these mines are offered to global players.

The government could consider offering the shortlisted mines through auction to interested entities. This will ensure an increase in high-grade & coking coal production in the country which will save us crucial forex.

With successful commercial mining, coal will be available economically, and in abundance, which will fuel India's onward march for the next few decades.

We could then expect power generation to cost less than Rs 2 per KWH and industry and households could get it for Rs 3 per unit. Power consumption will thus double to 5–6 KWH per person per day from 3 at present, thus greatly improving their quality of life.

It's here that the private sector can play the role of an able catalyst, and it can thus power the India growth story.

With inputs from **Kapil Dhagat**. Data from CMPDI website, presentations on CIL, and news feeds.
Naveen Jindal is Chairman- Jindal Steel and Power Limited and a former Parliamentarian. Views are personal.
Source : The Print

MINING COMMUNITY URGES GOVT TO REMOVE CURBS ON IRON ORE SALE IN KARNATAKA

- Mining dependent communities in Karnataka have implored to remove restriction son iron-ore mining, citing that it will create over a lakh jobs in the state
- The funds generated will be used in restoring lives and livelihoods in the region, said the association in a statement

The community of mining dependents in Karnataka on Monday urged the government to remove restrictions on iron-ore sale from the state, saying it will help create additional one lakh jobs in the mining sector and bring great relief amidCOVID-19 crisis. Karnataka Gani Avalambithara Vedike (KGAV), which represents mining dependents, lauded Prime Minister Narendra Modi's 'Vocal for Local' campaign and appealed to the government to adopt similar policies for iron-ore mining in Karnataka.

Welcoming Karnataka Chief Minister B S Yediyurappa's recommendation for allowing the sale of eight million tonnes of iron ore that had been extracted before the Supreme Court ruling on cancellation of the 'C' class mining leases, KGAV also make a plea to the state government to expedite the process of seeking clearances from the relevant authorities. The initiative will provide much required impetus to the economy and fight Covid-19. The funds generated can also be used for accelerating relief efforts towards protection of lives and livelihoods for the COVID-affected communities across the state, KGAV said in a statement. The Karnataka government in July 2010 had imposed a blanket ban on exports, which was subsequently upheld by the Supreme Court in 2011. Due to the ban, iron-ore mined from Karnataka cannot be sold outside India. As a result of unfair policy -level restrictions, the livelihood of lakhs of mining dependents in the state is getting affected because the workers cannot mine beyond a certain limit which has been imposed by the authorities, the KGAV said.

Source: Live mint

DRAFT EIA NOTIFICATION 2020 IS OUT OF SYNC WITH STATE PRACTICES, INTERNATIONAL LAW

Many of the Multilateral Environmental Agreements to which India is a party contain a requirement to have a prior EIA in situations having a significant threat to the environment.

The Delhi high court has extended the period of public consultation on the draft of the Environment Impact Assessment (EIA) notification 2020, released by the Ministry of Environment, Forests and Climate Change, until August 11.

The extension reiterates the established principles of public participation in environmental governance. The EIA Notification 2020, which will supersede 2006 notification, has come under severe

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criticism from environmentalists who have demanded its early withdrawal. Indeed, the draft notification's regression and dilution of environmental criteria conflict with the established principles of international law.

The new notification exempts a list of projects from prior requirements, notably renewable energy projects, solar thermal power projects, solar parks, and coal and non-coal mineral prospecting. The rationale seems to be the notion that solar energy projects reduce our dependence on fossil fuels and are better for the climate. However, such simple assumptions overlook the manifold environmental and social concerns, like requirement of large land area, diversion of agricultural land and changes to drainage patterns brought on by the construction and operation of solar parks.

The undertaking of an EIA is a minimum environment and social safeguard, at the project level of the proposed activity, and is intended to facilitate systematic consideration of environmental issues as part of development decision-making. Whether an activity requires an EIA or not is essentially a policy decision – but it's essential to apply the same criteria to policies, plans and programmes as well.

For example, the National Environmental Policy Act (NEPA) in the US provides for 'categorical exclusion' (CATEXs) categories that don't individually or cumulatively have a significant effect on the environment. However, the government won't issue a CATEX in case of extraordinary circumstances, including even public controversy.

The EIA Notification 2020, including its listed exemptions, don't disclose the criteria for exemption and operate against the basic tenets of administrative law, which requires exceptions to be culled out based on sound reasons. And while exempting the solar projects from the EIA's ambit, the government has overlooked the best institutional practices as well as created ground for possible conflicts between projects.

The World Bank, which has been funding solar projects in India, insists on an effective EIA as a prerequisite. The Rewa Solar Park in Madhya Pradesh, which Prime Minister Modi inaugurated on July 10, is funded by the World Bank and was commissioned after a comprehensive EIA. The EIA report revealed a significant impact on the drainage system, and recommended measures to mitigate the problem. The World Bank and other multilateral development banks are expected to ask for an EIA even under the terms of the new notification (if it is implemented).

This is to illustrate that the environment ministry's decision to exempt solar projects – and others on the list – in the new notification are out of sync with the best international practices, and could even discourage investment. In contrast, private or similar government-assisted projects may be commissioned without an EIA with fewer consequences.

Public participation

Numerous provisions of the new EIA Notification also endanger the basic tenets of public participation. The period for public consultation has been reduced from 30 days to 20 days. Considering the socio-political context of the vulnerable population typically affected by 'development' projects, this reduction could literally exclude some groups of people from consultation.

The reduction period is also against directions in 2000 of the Gujarat high court in Centre for Social Justice v. Union of India, when it insisted on a minimum of 30 days for public hearing. The notification also exempts projects with "strategic considerations as determined by the government" from the stricter purview of EIA and public hearings. Here, the blanket authority provided to the government to categorise projects as strategic and elimination of public hearings undermines the very fabric of India's international commitment under numerous multilateral agreements.

The draft notification also exempts massive construction projects under category B2 from the need to conduct public consultations before seeking environmental clearance. As a result, the controversial Central Vista project will not have to undergo public scrutiny. The absence of effective environmental scrutiny of an area that, according to the Delhi Pollution Control Committee, accounts for 30% of air pollution is beyond legal justification.

Nonconformity to international obligations

The dilution of environmental standards in the EIA needs to be evaluated in the background of the robust environmental principles operating at the national and international levels. The country is a party to the Rio declaration adopted by the United Nations Conference on Environment and Development (UNCED) in 1992, which enunciated a catalogue of environmental principles including sustainable development, precautionary principle, and environmental impact assessment.

Many of the MEAs to which India is a party, including the Convention on Biological Diversity (CBD) and United Nations Framework on Climate Change (UNFCCC), contains a requirement to have a prior EIA in situations having a significant threat to the environment. Following the Rio Conference 1992, EIA became part of the formalised legal framework in India in 1994.

The principle of sustainable development and precautionary principle became part of India's domestic legal framework when in Vellore Citizens Welfare Forum v. Union of India, the Supreme Court of India declared those principles part of the law of the land. With the enactment of the National Green Tribunal Act in 2010, the principle of sustainable development, precautionary principle, and polluter pays principle became an explicit part of India's legislative framework.

However, given the indeterminacy associated with the threshold and contours of both these principles, EIA emerges as a prominent and significant regulatory mechanism for the environmental policy as a tool for informed decision-making towards sustainable development and application of the precautionary principle. EIA's role as a tool in the achievement of sustainable development has been endorsed by the United Nations Environment Programme (UNEP) in its guidelines of EIA.

EIA's significance stems from the fact that the achievement of sustainable development is a legal obligation of conduct under environmental law, EIA, and the public consultation are the possible requirements for the fulfilment of this duty. The point is that it is difficult to justify a project based on sustainable development without recourse to the conduct of an effective EIA.

Thus, any dilution of the EIA and public consultation is a move away from the legal obligation of conduct entrenched in the principle of sustainable development. In spite of the focus on climate change at the international and domestic level, the EIA notification has not incorporated specific reference to climate resilience, impact or vulnerability from the scope of EIA study. This contradicts the provisions of UNFCCC and Paris Agreement.

Additionally, meaningful opportunities for public involvement constitutes a pivotal determinant of EIA outcome and is regarded as a procedural human right recognised under Principle 10 of the Rio Declaration. Over the past decades, state practice on public participation has undergone rapid transformation and is declared as a fundamental prerequisite for the achievement of sustainable development. Initially adopted through soft law declarations such as Agenda 21 and the Rio Declaration, the idea found specific expression in a wide range of environmental conventions.

The public participation and modalities in EIA have been elaborated at the International level in the Convention on Environmental Impact Assessment in a Transboundary Context ("Espoo Convention"). The procedure has been highlighted as an exemplary standard for the process to be followed when conducting an EIA by Justice Dalbeer

Bhandari in Costa Rica v Nicaragua.

It should also be emphasised that the rights of the members of the public in environmental matters has been given a new fillip by the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). Though the ESPOO convention has been negotiated in the context of transboundary context, the principle guiding the convention is relevant in the domestic context of the operation of development projects.

India's experiments with public participation in EIA have a chequered history. Instances of flagrant violations include cases where the affected communities have been physically prevented from participating in the hearings to inadequate provision of notice of the meeting and lack of access to essential information to the public. The judiciary, in a catena of cases, has stressed the significance and has specified the key modalities of public participation in EIA.

In the case of Adivasi Majdoor Kisan Ekta Sanghatan v Union of India, the court declared the faulty public hearing to be a nullity in the eye of law. It is worth noting that, in the wake of the controversy associated with the introduction of genetically modified foods, the risk assessment and public consultation were undertaken with the then environmental minister, Jayaram Ramesh overseeing the entire process. Effective public consultation can be instrumental in upholding the legitimate concerns of the local communities and stakeholders affected by the project.

It should be stressed that for affected communities, the EIA remains the only viable mechanism to ensure the disclosure of the details of the project, understand the impacts, and to ensure that projects adhere to legal safeguards. The significance of public participation has been elevated by the judiciary in Orissa Mining Corporation Ltd. v. MOEF (Vedanta) when it ruled that the gram sabha would have to be considered before the MOEF grants environmental approvals for developmental projects involving rights of individuals and communities in scheduled areas.

Source : The Wire

INDIA'S ENVIRONMENT IS ACTUALLY GOOD FOR INDIA'S ECONOMY

By : Ramesh Venkataraman

A couple weeks ago, hearing a petition seeking a ban on mining close to the Dehing Patkai Wildlife Sanctuary in Assam, a bench of the Supreme Court of India observed, "We are conscious of the fact that our orders in favour of the environment affect economic development adversely. There has to be some method by which economic development is not retarded as this has a direct impact on poverty in the country."

Coming from the apex court of the country, this concern – also shared by other key stakeholders like policymakers, industry bodies, etc. – merits further examination. Put differently, we need to answer two questions. First, does protecting the environment adversely impact economic development? And is it possible for India's environmental and economic objectives to converge?

To understand if our environment is detrimental to the economy, we need to understand the economic value of healthy environments. The term used in environmental economics for this value proposition is 'ecosystem services'. Water security is one such ecosystem service. For

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example, all rivers in peninsular India have their watersheds in the forests and grasslands located in hilly regions, like the Western Ghats. These forests absorb rain water like huge sponges and release them slowly, through the year. If these forests are gone, rains will result in massive floods that reach the ocean in no time, leaving our rivers dry and the entire agrarian economy and our food security at risk. In the scenario where our organised economic sectors are looking at the rural economy as the next big growth engine, the implications of this are obvious.

Disaster prevention is another key ecosystem service. North Kerala and Coorg in Karnataka showed us how denuded hills cause major floods, resulting in the loss of human lives and property. Without the protective shield of mangroves, cyclones cause heavy damage not just in coastal areas but in the hinterland as well. The disappearance of lakes and marshlands is resulting in intense flooding in most of our cities every monsoon.

The financial and social cost of mitigating these disasters is significant, with collateral impacts like crop losses. Apart from stretching the scarce fiscal resources of our states, each disaster pushes the affected region a few years behind on the economic timeline, with impairment of productive assets and disposable incomes. This, in turn, impacts the overall growth trajectory. On the positive side, a healthy environment provides diverse benefits like better health and productivity of citizens, improved quality of life for the poor, food and water security, higher per capita incomes, etc. – all of which play a key role in growing sustainably.

That a healthy environment is the backbone of a resilient economy is not an exaggeration. The environment provides a wide range of services that in turn drive long-term economic growth. And this mechanism far outweighs short-term gains that can be derived by overlooking the environment. Importantly, the impact of environmental degradation is far greater on India's poor. This fact prompts the question: Is the value of

ecosystem services included in our GDP? The answer is 'no' – and this is a part of the reason why environmental protection is not a policy priority. Models of valuation of ecosystem services are emerging globally, and it would be appropriate to take a bold step towards factoring this in our GDP computations. Critics may point to the issue of double-counting but we certainly can find an answer to this.

Environment and economy together

So how do we craft an economic model that meets these twin objectives?

First, we need a formal land-use policy that protects environmentally fragile areas and designates 'safe' zones for industry. There is no dearth of uncultivated, fallow lands in India outside of ecologically sensitive areas. It should be possible to build a 'land bank' for industry out of these.

Second, we should incentivise industry to quickly move to environmentally friendly technologies. This includes activities like power generation, where we should aim for three-fourths of our needs being met by renewable energy sources.

Third, we need to start building strong 'green' economic models. Sikkim has already shown the way with a mix of livelihoods like organic farming, fruticulture, eco-tourism, value-added food products, etc. This model can be replicated in all hilly regions. Combined with strengthening traditional agriculture, we have the potential to become value-added food product suppliers to the world. And new options like ecological restoration of degraded areas offer potential to generate very high rural livelihoods and simultaneously help build our natural assets.

All of these, in turn, can reinvigorate the economy, be major drivers of the GDP and reduce migration to cities as well. And to achieve all these, we need to start believing that the environment is an ally, a benefactor, of the economy, and develop the conviction to firmly implement environmental norms.

One is reminded of an old American-Indian saying: "We do not inherit the Earth from our ancestors, we borrow it from our children." We have a moral obligation to leave for our children an Earth that is healthier than the one we were born into – and economically vibrant as well.

ABOUT THE AUTHOR

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COMM MINES AUCTION: GOVT DEVISING SINGLE WINDOW CLEARANCE MECHANISM

The coal ministry is devising a single window clearance mechanism for faster online application processing for various approvals, including environmental clearance, required for operationalisation of coal blocks.

On queries related to standard tender document for coal block auction for commercial mining, the coal ministry said, "A single window clearance is being devised for faster online processing of applications for clearances".

The ministry also said a project monitoring unit has been set up for assisting bidders in obtaining different clearances.

However, it will be the responsibility of the bidders to obtain clearances and approvals as per applicable laws, it added.

According to an official, the coal

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ministry is planning to take state government departments on board for single window clearance.

At least there will be a platform where the approvals would be available, people can log in and give their go ahead, the official added.

Delays in getting approvals, including environment and forest clearance, by the successful bidder after winning coal mine often leads to deferment in production.

In order to attract bidders in auction of commercial mines, the Centre recently announced the launch of a project monitoring unit to facilitate early operationalisation of coal blocks.

The government move aims to promote ease of doing business in India as it will facilitate coal mines allocatees to obtain timely approvals for operationalising the mines.

KPMG has been appointed as the consultant in project monitoring unit (PMU) through a transparent bidding process.

The government has put on 41 coal mines for commercial mining. The blocks are distributed across coal bearing states: Chhattisgarh (9 mines), Odisha (9 mines), Jharkhand (9 mines), Madhya Pradesh (11 mines) and Maharashtra (3 mines).

There are four coking coal mines on sale: Urtan (Madhya Pradesh), Urtan North (Madhya Pradesh), Brahmadiha (Jharkhand) and Choritand Tiliaya (Jharkhand).

Coal Minister Pralhad Joshi had earlier said the auction process of commercial coal mining witnessed a "very good start" and the response has been the best in domestic coal history. PTI SID BAL

DISCLAIMER: This is a compilation of various news appeared in different sources. In this issue we have tried to do an honest compilation. This edition is exclusively for information purpose and not for any commercial use. Your suggestions are most valuable.

Your suggestions and feedback is awaited at :-

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