

**Comments of the Ministry of Environment & Forests on A Draft Note For Cabinet Committee on Infrastructure Regarding Need For Making Available More Coal Bearing Areas For Enhancing Coal Production**

1. The Ministry of Environment & Forests (MoEF) in discharge of its statutory function accords Forest and Environment clearances to the projects, as per the procedures laid down in the Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1986 and the Rules framed thereunder. The proposals seeking diversion of forest land for non-forestry purposes are examined by the Forest Advisory Committee (FAC). The Ministry keeping in view recommendations of the FAC makes decision on diversion of forest land for non-forestry purposes, stipulating appropriate mitigative measures. The considerations of the Forest (Conservation) Act, 1980 pertains to the floral and faunal significance of the forest land proposed to be diverted, feasible alternatives, number and nature of beneficiaries and nature and extent of the benefits likely to accrue from the proposed diversion.
2. To facilitate objective, informed and transparent decision on diversion of forest land for coal mining projects, the MoEF **on suggestion from the Ministry of Coal (MoC)** jointly undertaken a study in nine major coal fields to classify coal blocks into following two categories:
  - (i) Unfragmented forest landscapes having average crown density more than 0.50, named as category-A or No Go area.
  - (ii) Fragmented forest landscapes having crown density less than 0.50, named as category-B or Go Area.
3. With the objective to achieve coal production target by causing least possible adverse impact on environment in general; and forests and wildlife in particular, the MoEF and MoC have initially agreed that as of now, proposal seeking diversion of forest land for coal mining shall be considered only in category- B area.
4. As per the parameters set up jointly by the MoEF and the MoC, out of the 582 coal blocks having an area of 6,02,850 ha covered under the study, 396 (68.04 %) coal blocks covering 3,44,800 (57.19 %) falls in category-B or Go Area.
5. On the request of the Ministry of Coal and advise from the Prime Minister's Office, classification of coal blocks into these categories was re-examined, by considering cluster of coal blocks, instead of individual coal blocks. As per the revised parameters, 425 coal blocks covering an area of 3,63,900 ha were classified as category-B or Go Area. In addition to the above, in 24 coal blocks covering 16,100 ha, though located in category-A (no-go) and hence, as per the said criteria are not available for the coal mining, permission for mining has already been accorded by the MoEF before

undertaking the said study. The total 449 coal blocks covering 3,80,000 ha are thus available for coal mining.

6. During the study, it has also been observed that in case boundary of 28 coal blocks which presently are located in Category -A, are re-defined by excluding their areas having good forest cover, an additional 82,539 ha, would be available under Category-B. After exclusion of these 28 coal blocks (with redefined boundary), 105 (18.04 %) coal blocks covering 1,40,311 ha (23.27 %) will only be left in Category-A.
7. Classification of coal blocks into said categories, though has only indicative value without any legal enforcement/basis, the exercise has clearly prioritised the forest areas that may be made available for coal mining by causing least possible damage to the forests and wildlife.
8. The Committee constituted by the Planning Commission under the chairmanship of Shri B.K. Chaturvedi, Member, Planning Commission appreciated the classification of coal blocks on the basis of their floral and faunal parameters and recommended that all those end use projects who have been allocated coal blocks in Category - A areas may be allocated alternates coal blocks by the MoC.
9. The proposal of the MoC in the draft note to not to take into account findings of the said study, jointly undertaken by the MoEF on initiative of the MoC, in diversion of forest land for non-forestry purposes may not be advisable for the following reasons:
  - (i) Diversion of forest land for coal mining in Category-A areas, which are rich repository of biological wealth of the country; will have avoidable serious adverse impact on forests & wildlife. In case coal mining is undertaken in these areas, even after best efforts in afforestation and reclamation, it will not be possible to retrieve their intricate biological features and biodiversity;
  - (ii) A decision to ignore findings of the study, based on objective parameters, may invite judicial intervention, which may include subjecting the decision of the MoEF on diversion of forest land to judicial approval/ concurrence, as has happened in the recent past;
  - (iii) The 1,40,311 ha classified as category-A is only 8.11 % and 11.50 % of the potential coal bearing area and the explored coal bearing area of the country, respectively, as has been indicated in para 4.1 of the draft note. The coal that may be extracted from the coal bearing areas that have not been classified as Category-A, so far, may be sufficient to meet current demand;

- (iv) Apart from minimizing avoidable severe adverse impact on forest & wildlife, it may be prudent to declare the coal available in Category -A areas as the strategic energy reserve - to be utilised in the last resort to meet urgent safety and security needs of the country, in a scenario where all other fossil fuel reserves have already been exhausted and alternate sources of energy are either not available or are inadequate to meet bare minimum energy needs for the country;
- (v) Allotment of the coal blocks located in Category-A, most of which are having easy to extract coal reserve, will discourage investment in development and adoption of technology for coal extraction from deeper seams, which in any case country has to adopt to meet its energy needs;
- (vi) Making it almost mandatory for MoEF to divert forest land for each coal block allotted by the MoC without taking into account effect of such diversion on environment, forests & wildlife, as has apparently been proposed in the draft note, will lead to a scenario where, in the matter of diversion of forest land for coal mining projects, the MoEF, for all practical purpose be presented with a *fate accompli* i.e. to endorse decision of the MoC on allotment of coal blocks, without any reference or prior consultation with the MoEF. It will definitely be against the intent and spirit of the Forest (Conservation) Act, 1980; and
- (vii) Accepting the demand of the MoC to divert prime unfragmented forest area for coal mining, will open flood gate for similar demands from other Ministries. Having accepted demand of the MoC, it will be very difficult for the MoEF to ignore such demand from these Ministries. Apart from causing irreparable damage to the forest and wildlife wealth of the country, it will defeat the very purpose of enactment of the Forest (Conservation) Act, 1980.
10. As regards the diversion of forest land in the protected areas (Wildlife Sanctuaries and National Parks) MoEF has been following the procedure set out by the Hon'ble Supreme Court of India, deviation from it may invite avoidable adverse action from the Supreme Court.
11. Wherever mining is proposed in forest areas, grant of Environmental Clearance (EC) has to be preceded by grant of Forestry clearances (FC), even though statutes are different. Even otherwise, without FC no activity can be carried out on the basis of EC alone. To me it appears that the Ministry of Coal wants regularization of operation of Coal Blocks from entire coal fields in *toto*. Thus, proposals in the Drat Cabinet Note have far reaching consequences not only for appraisal of EC for coal sector projects, but also for other related sectors such as mining projects of iron ore, bauxite, oil exploration and production *etc.* found in rich dense forests.

12. As far as delay in processing of the proposal seeking diversion of the forest land for coal mining project is concerned, it may not be ascribed entirely to the MoEF or the concerned State Governments, as has been indicated in the draft note. In fact major cause of delay to accord Stage-I approval is receipt of incomplete proposals from User Agencies. A substantial proportion of the proposal seeking diversion of forest land for coal mining project does not contain bare minimum essential details/ documents like Survey of India Toposheet, in original, in 1:50,000 scale, indicating location of the forest area proposed to be diverted along with the location of protected area, if any, located within 10 km distance from boundary of the forest area proposed to be diverted. In the absence of these documents, duly prescribed in the Forest (Conservation) Rules, 2003, the MoEF can not take decision on diversion of forest land. A substantial time is therefore, lost in procuring these documents from the User Agencies.
13. Similarly, delay in grant of Stage-II approval is entirely ascribed to the delay in submission of report on compliance to the conditions stipulated in the Stage-I approval for diversion of forest land by the User Agencies and the State Governments. There is hardly any instance, where MoEF has taken more than usual processing time to accord Stage-II approval after receipt of a completed report on compliance to the conditions stipulated in the Stage-I approval.
14. Status of approval of the 291 proposal seeking forestry clearance received by the MoEF from the Coal India, so far, is as below:

Approved (Stage-II)	174
Stage-I approval (awaiting compliance report from User State Govt.)	49
Rejected	14
Returned	7
Withdrawn	1
Closed (due to non-receipt of requisite information from the State Government or User Agency)	21
Pending With the Ministry of Environment & Forests with completed information	02
Pending With the Government of India due to non-receipt of requisite additional information	23

15. As indicated in paragraph 12, only 2 proposals are presently pending with the MoEF. These proposals are being examined by the MoEF for its appropriate decision. The

MoC may re-examine content of paragraph 5.1 of the draft note wherein it has been stated that 154 proposals from the Coal India are presently pending before the MoEF.

16. In view of the facts cited above, need to prescribe special procedure to accord forestry clearance for the coal sector projects, as has been prescribed in the draft nor, does not exist.

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