

Re-engineering Environment Governance in India

World Bank-GoI Agenda

International Scenario

- 1980-1990s: WB Project lending faces strong criticism across the world (Sardar Sarovar Project in India)
- 1980-1990s: WB pushed to adopt environment policies and procedures- unimplemented and inadequate
- 1990s: WB enters into a phase of influencing legal and judicial reforms through lending and non-lending routes.

THE GRADUAL BUILD UP

Understanding the Chronology

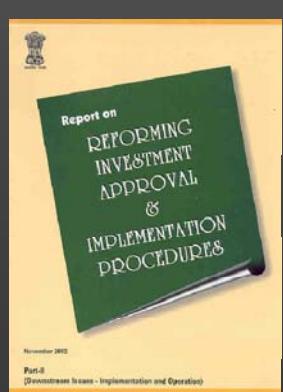


Reforms in grant of Environmental Clearances

Currently, prior Environmental Clearance (EC) based on Environmental Impact Assessment (EIA) and its appraisal by the Central Government has been made mandatory for 32 notified developmental projects in the sectors of industry, thermal power, mining, river valley, infrastructure and nuclear power under the Environmental Impact Assessment (EIA) Notification 1994 (and its subsequent amendments). This notification also provides for two-stage clearances for site-specific projects such as mining, oil-head thermal power projects, river valley projects, ports and harbours.

Existing Procedure

Under the existing procedure, a project proponent is required to submit an application in the prescribed form to the Ministry of Environment and Forests (MoEF) along with detailed questionnaire, a project feasibility report, Environmental Impact Assessment (EIA) Report, Environmental Management Plan (EMP), details of the Public Hearing (PH) and a "No Objection Certificate" from the State Pollution Control Boards (SPCBs) given after the PH. This proposal is then examined in the MoEF and



Report of Professor M.S. Swaminathan Committee on Review of Coastal Regulation Zone Notification, 1991

For the purpose of protecting and conserving the coastal environment, the Ministry of Environment and Forests issued the Coastal Regulation Zone Notification, 1991 under the Environment Protection Act, 1986. This notification provides a unique regulatory framework without any parallel, globally speaking, for the conservation of the coastal resources by regulating development in the CRZ. After nearly 13 years of its implementation, the Ministry has received representations from diverse interest groups pointing out the inadequacies of the notification from the point of view of both environmental as well as sustainable livelihoods. A number of Expert Committees have also been constituted by the Central Government in the past to look at the issue reported and a number of recommendations have been made in the year 2004 for addressing various concerns. However, the need for a comprehensive review of the notification to ensure that the management of the coastal resources is based on sound scientific principles has emerged. Therefore, as part of the Central Government's initiative to review all major environmental regulations, the Ministry has constituted an Expert Committee under the Chairmanship of Prof. M.S. Swaminathan in May, 2004 to review the existing CRZ Notification. The Terms of Reference of this Expert Committee include:

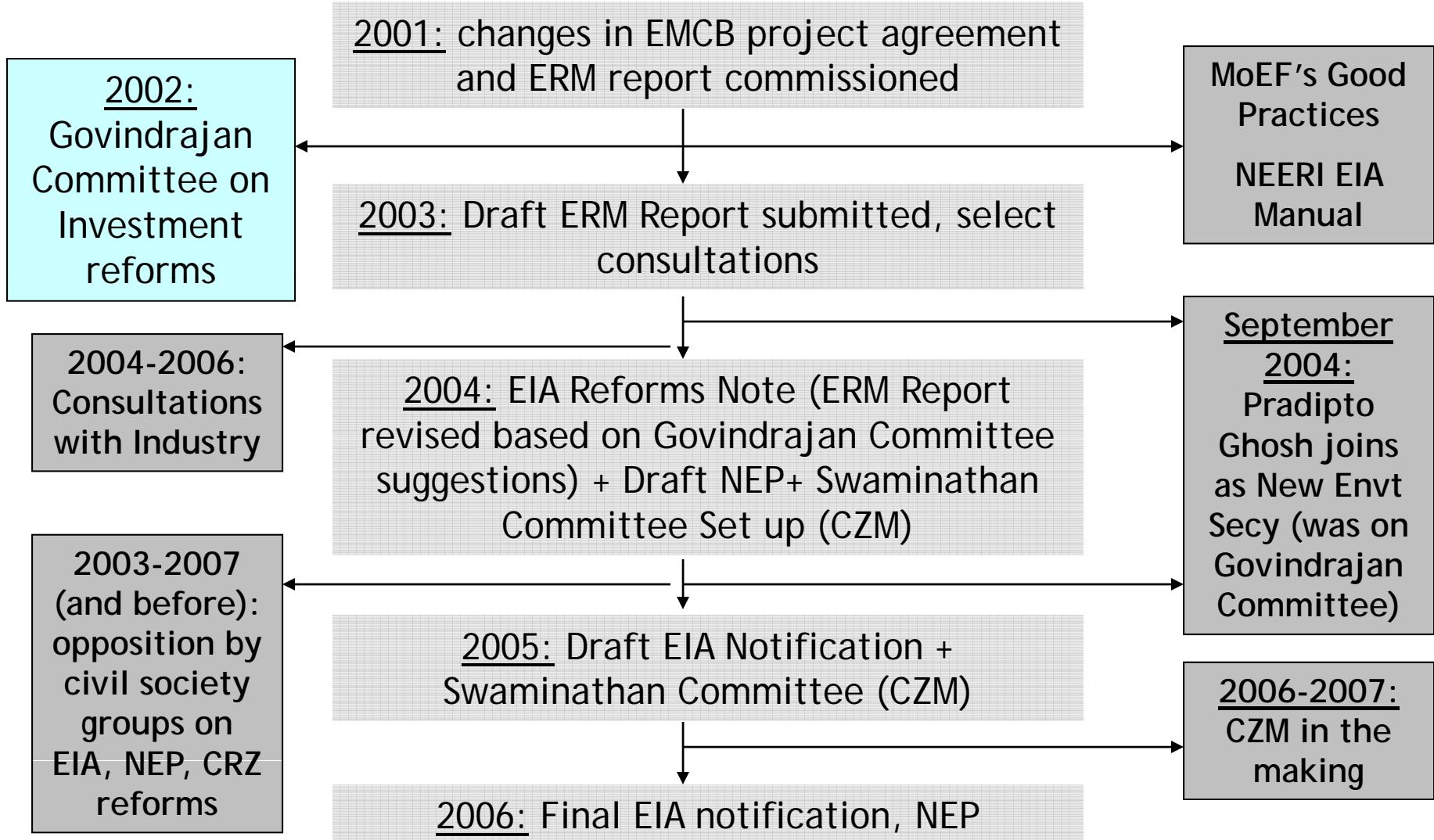
- To review the report of expert Committee appointed by the Ministry of Environment and Forests on coastal area management, consider international practices, and suggest the scientific principles for an integrated coastal zone management best suited for the country;
- To define and delineate various coastal and marine resources and recommend the mechanisms for their identification and the issues of enforcement required for



As it Happened in India...

- Beginnings of close collaboration
- 1993: Environment Action Plan by MoEF funded by World Bank
- 1997-2004: Environment Management Capacity Building Project of MoEF funded by World Bank
 - Changes in project agreement, specifically to include EIA component (2001)
 - ERM report commissioned

Datelines: The 2001-2006 Era...!



The Reforms: Mirroring the Bank's Policies

1. Assessments Downstream in Decision Making

- *EIA process does not allow for options on project siting, technology*
- *Carrying capacity, risk indicators not considered*
- *Impossibility of rejection of the project, only mitigation measures and reduction of impact*

The same problems as with Bank's EAs

2. Determination of Costs and Benefits

- *NEP, EIA, CRZ institutionalise quantifying of environmental services*
- “No project” v/s “Go project” scenario
- *Polluter Pays principle; economic instruments to regulate behaviour/compliance*

THE KUZNETS' CURVE: *first achieve economic growth and environment protection will follow automatically*

3. From Regulation to Management

- *The need for Regulation - whipped, more Management*
- *Proposed CZM heavily relies on ICZMPs, CRZ was never implemented*
- *Irreparable Impacts- Mitigation solutions- multiplied impacts: Compensatory offsets*

4. Unacceptable Partnerships

- *Corrupt governments (Indonesia), Private profit making bodies (mining conglomerates)*
- *Facilitated regulatory capture*
- *EIA 2006, draft CMZ process and content*

5. Information Disclosure and Public Participation

- “reduce conflict by bringing concerns to the surface”- are concerns adequately addressed ?
- *Public hearing- one point. Full of tension, violence.*
- *Behind closed doors, minimal information, inadequate time*

6. Rule of 'experts'

- *Expert committees- management/administration and technical expertise.*
- *Pro-establishment experts vs counter experts- where are the common people?*

“.. instead of mainstreaming environmental concerns into all development activities and sectors (its stated goal), it ‘mainstreams’ the current notion of unbridled development into even the limited environmental regulation we have.”