

Does India Need Biodiversity Offsets?

By
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Agenda for the Presentation

- ▶ Current Policy and Statutory Framework in India
- ▶ Does law and policy in India result in No Net Loss of biodiversity?
- ▶ A Business Case for Voluntary Biodiversity Offsets
- ▶ Implications for India of IFC PS6 and the Equator Principles?



Compensatory Afforestation Regime in India

- ▶ Legislations to regulate and compensate for ‘diversion of forestland for non-forest purpose’ and the resultant loss of biodiversity and ecosystem services
- ▶ The Forest (Conservation) Act (FCA), 1980 +
The Forest (Conservation) Rules of 2003 +
Subsequent Supreme Court Orders under the Godavarman Case
 - ▶ Clearance for forest diversion from central government i.e. MoEF
 - ▶ Compensatory Afforestation Fund + NPV to be paid
 - ▶ Compensatory Afforestation Fund Management and Planning Authority (CAMPA) » Ad-hoc CAMPA » State CAMPAs and National CAMPA Advisory Council

Sources:

Handbook on Forest (Conservation) Act, 1980, GOI, 2004

Compensatory Afforestation and Net Present Value Payments for Diversion of Forest Land in India, Kohli et al., 2010



Net Present Value

Based on the ecological importance of forest falling in different eco-value and canopy density classes the Net Present Value (NPV) per hectare of forest has been fixed by Hon'ble Supreme Court vide orders dated 28.03.2008 & 9.05. 2008 (made applicable with prospective effect) for non-forestry use / diversion of forest land.

CEC (Centrally Empowered Committee) classified the forest taking in view the ecological role and value of the forests and 16 major forest types have been further grouped into 6 ecological classes depending upon their ecological functions.

Eco-Class I – Consisting of Tropical Wet Evergreen Forests, Tropical semi Evergreen Forests and Tropical Moist Deciduous Forests.

Eco-Class II – Consisting of Littoral and Swamp Forests

Eco-Class III – Consisting of tropical dry Deciduous Forests

Eco-Class IV – Consisting of Tropical Thorn Forests and Tropical Dry Evergreen Forests.

Eco-Class V – Consisting of Sub-tropical broad Leaved Hill Forests, Sub-Tropical pine Forests and Sub Tropical Dry Evergreen forests.

Eco-Class VI – Consisting of Montane Wet Temperate Forests, Himalayan Moist Temperate Forests, Himalayan Dry Temperate Forests, Sub Alpine Forest, Moist Alpine Scrub and Dry Alpine Scrub.

NPV (Net Present Value) Rates (in Rs.) per hectare :-

Eco-Value class	Very Dense Forest	Dense Forest	Open Forest
Class I	10,43,000	9,39,000	7,30,000
Class II	10,43,000	9,39,000	7,30,000
Class III	8,87,000	8,03,000	6,26,000
Class IV	6,26,000	5,63,000	4,38,000
Class V	9,39,000	8,45,000	6,57,000
Class VI	9,91,000	8,97,000	6,99,000

Details of rates regarding CA (Compensatory Afforestation) & safety zone (Effective from 01-01-11) @ Rs. 135/- per day.

1.	CA on allotted non-forest land	Rs. 90,200 per hect.
2.	CA on degraded forest land	Rs. 71,600 per hect.
3.	Fencing of Safety Zone (i) Outer fencing (ii) Inner fencing	Rs. 17,780 per 100 rmt. Rs. 17,570 per 100 rmt.
4.	Regeneration of Safety Zone	Rs. 40,815 per hect.

- ▶ Amount of CA and NPV is so low as compared to profits – hardly a deterrent e.g. NPV of Vedanta's proposed mines in Niyamgiri forests in Orissa was a measly Rs. 55 crore (Kohli, 2008)
- ▶ Project proponents esp. PSUs routinely apply for (and are granted) waivers or reduction in the NPV amount

Sources:

Website of Rajasthan Forest Department

Institutionalising compensation for lost forests, Kohli, 2008



What Ails the Current Afforestation Compensation Framework

- ▶ Non-realization of funds from user-agencies (project proponents)
 - ▶ 8% of monies not realized from user-agencies
- ▶ Underutilization of collected funds
 - ▶ 39% of funds remained unutilized and
 - ▶ Only 60% of stipulated area afforested
- ▶ Significant percentage used on overheads and for creation of infrastructure

Sources:

Report of Central Empowered Committee, 2002

Compensatory Afforestation and Net Present Value Payments for Diversion of Forest Land in India, Kohli et al., 2010



Does Compensatory Afforestation Framework Ensure NNL?

- ▶ Does not conform to 'Like for Like' and Landscape Context Principles
 - ▶ Afforestation often limited to monoculture plantations of exotic species of economic value such as Eucalyptus
 - ▶ Site for afforestation not required to be ecologically equivalent to or in close proximity to the diverted site
- ▶ Supreme Court order of 2000
 - ▶ Responsibility of afforestation lie with the project proponent; merely depositing funds is not enough
 - ▶ Recommended an audit of survival rate of saplings and revoking of 'clearance' if the survival not satisfactory



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- ▶ Legitimizes monetary compensation for diversion rather than acting as a deterrent - MoEF on a clearance spree
 - ▶ During the 6-year period from 2002 to 2008, 8000 projects approved while over the previous 22 years only 10,000 projects approved
 - ▶ Of the 11,40,176 hectares of forest land cleared for conversion this 1980, more than a quarter - 3,11,220 hectares cleared during the quarter between 2004 and 2008
 - ▶ The annual rate of forest diversion for development projects has also increased from 21000 ha to 31000 ha after 2002
 - ▶ ‘It (compensatory afforestation framework) is based on the assumption that collection of more and more monetary compensation and tree plantation is the answer to forest conservation,’ observed Parliamentary Standing Committee on Compensatory Afforestation. ‘But this assumption proves to be totally false if seen in the light of pace of diversion of forest land for non-forest purposes which has gained momentum .’

Sources:

Institutionalising compensation for lost forests, Kohli, 2008

NBSAP, 2004



Inadequate Integration of Biodiversity in EIA and Mitigation

- ▶ Evaluation of 22 EIA reports from different sectors revealed:
 - ▶ ‘Poor description of indirect, secondary and cumulative biodiversity impacts’
 - ▶ ‘Lack of representation of all the three levels (habitat, species and genetic) and forms (compositional, structural and functional) of biodiversity in impact prediction as well as in mitigation measures and monitoring plans’ (Khera and Kumar, 2010)
- ▶ Sankosh Multipurpose River-valley Project – 1990s – Fragmentation of elephant corridor – man-made bridges were proposed as mitigation measures – abandoned after expert committee review of EIA (Mathur and Rajvanshi, 2001)
- ▶ Mumbai-Pune Expressway – Mitigation measures in Environment Management Plan (EMP) blatantly flouted – re-alignment of the road in the Western Ghats region required in the EMP not carried out, construction debris dumped in pristine forests (Mathur and Rajvanshi, 2001)

Sources:

Inclusion of biodiversity in environmental impact assessments (EIA): a case study of selected EIA reports in India, Khera and Kumar, 2010

The Integration of Biodiversity into National Environmental Assessment Procedures, National Case Studies – India, Mathur and Rajvanshi, 2001



Present situation in India: very similar to that in many other countries

- ▶ No explicit requirement for 'no net loss' for particular significant impacts, but some requirements for compensation
- ▶ Developers undertaking EIA and seeking project approval mitigate impacts to some extent, but can leave most residual impacts uncompensated
- ▶ This results in significant cumulative loss of biodiversity
- ▶ Lack of clarity and guidance for developers on the application of the mitigation hierarchy, how to calculate and implement offsets: companies seeking to implement best practice are 'on their own'



A Business Case for Voluntary Biodiversity Offsets in India

- ▶ Vedanta proposal to strip-mine Niyamgiri Hills in Orissa turned down by MoEF
- ▶ Investors viz. Norwegian Government Pension Fund, PGGM, Church of England and the Rowntree Trust pulled out
- ▶ Stock price plummeted
- ▶ Failure to mitigate biodiversity impacts can result in regulatory, reputational and financial losses
- ▶ Regulatory compliance not enough – civil society pressure, community movements and bad press
- ▶ Voluntary Biodiversity Offsets
 - competitive advantage in the form of a license to operate, better access to finance and regulatory goodwill

Source: *A Case for Biodiversity Offsets in India:*

From Biodiversity Risk to Competitive Advantage, Narain, 2011



Sustainable Finance and Biodiversity Offsets

- ▶ Financial Services Sector (lenders, investors, insurers) has high biodiversity footprint due to impacts of businesses it lends to
- ▶ Enormous Project Finance in Developing Countries/Emerging economies -biodiversity impacts are partly a responsibility of lenders
 - ▶ Intergovernmental/public development finance from Multi-lateral Development Banks – IFC PS6
 - ▶ Private Financiers - voluntary code of environmental conduct adopted by private FIs - Equator Principles



IFC Extractive Industries Project Finance in India

- ▶ Among developing countries, India receives the 5th highest IFC investment in Extractive Industries (Oil, Gas and Mining – high biodiversity footprint)
- ▶ Total Committed EI Portfolio in India in 2010 - US\$ 205.3 M
- ▶ This investment is subject to the PS6 –
 - that requires mitigation of biodiversity impacts



IFC Performance Standards on
Environmental and Social Sustainability

Effective January 1, 2012

Source:

World Bank Group in Extractive Industries

– 2010 Annual Review

Tata Mundra Project in the Dock

In the first such case in India, World Bank's audit arm, Compliance Advisor Ombudsman(CAO) is reviewing a USD 450 million IFC funding for Tata Power's 4,000 megawatt coal-fired ultra-mega power project (UMPP) in Mundra, Gujarat for environmental compliance

- ▶ The project has MoEF clearance but will allegedly have disastrous impacts on the mangroves on the Kutch coastline

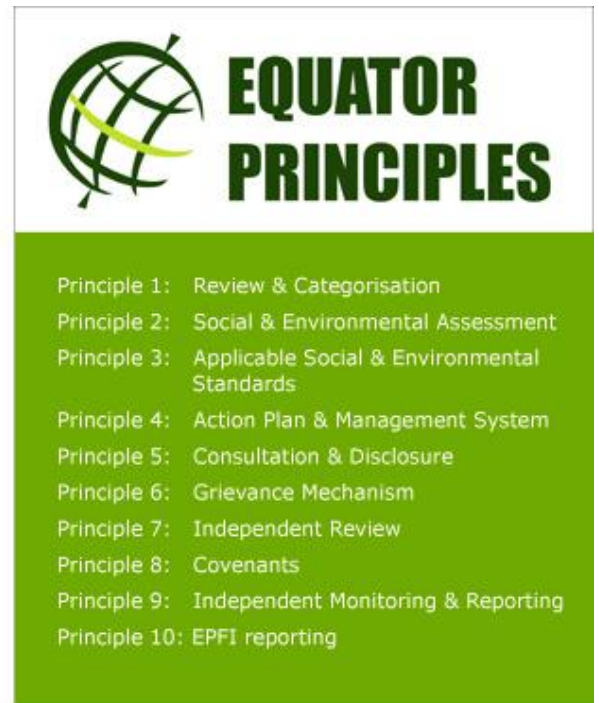
Source:

Real Cost of Power, Bhargava et al., 2012



The Equator Principles and India

- ▶ 77 adopting financial institutions (74 Equator Principles Financial Institutions and 3 Associates).
- ▶ No Indian Principles Financial Institutions, but:
- ▶ 13 Equator Banks with branches in India:
ABN AMRO; Bank of America; Bank of Nova Scotia;
Bank of Tokyo Mitsubishi; Barclays; BNP Paribas;
Citibank; HSBC; JPMorgan Chase Bank;
Mizuho Corporate Bank; National Australia Bank;
Société Générale; Standard Chartered
- ▶ 8 Equator Banks with Representative Offices in India:
Westpac Banking Corporation; K.B.C. Bank N.V.;
Royal bank of Canada; Natixis;
First Rand Bank; CaixaBank S.A.;
Banco de Sabadell; Banco Bilbao Vizcaya Argentaria



Questions for the Audience

NATIONAL LEVEL IN INDIA:

- ▶ Is it worth looking at options for moving closer to NNL in India (whether voluntary – like the BOP pilot projects – or by strengthening the policy framework)?
- ▶ Pilot projects?
- ▶ Would training and capacity building help?
- ▶ What do you think are the next steps?

INTERNATIONAL LEVEL:

- ▶ Does India have a position on the draft COP11 decisions on business engagement and innovative financial mechanisms?
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