



HIL/SEM/MoEF/2020-21/89

To

28th December' 2020

Addl. Director & Member Secretary

IA Division-(Non coal Mining)

Ministry of Environment, Forest and Climate change

Indira Paryavaran Bhawan

JorBhag, Aliganj, New Delhi –110 003

Sub: Application to seek Terms of Reference (ToR) for Maliparbat Bauxite Mine of Hindalco Industries Ltd (HIL) for a production capacity 0.9 MTPA over Mining Lease (ML) area of 268.110 ha, located at Aligaon, Kankaramba & Sorishpadar Village, Pottangi Tehsil, Koraput District, Odisha.

Ref: 1) letter to the Joint Secretary, MoEF &CC dated 03rd Nov. 2020 (Attached)

2) Agenda no. 2.16 of 21st EAC (Non-coal Mining) minutes of meeting during 23-25 Sept.2020

3) Environmental Clearance Lr No. J-11015/411/2005-IA.II (M) Dt.07th sept.2006

Respected Sir,

With reference to above subject, we would like to bring to your kind notice that our application dated 07th July 2020 for enhancement of production from 0.6 MTPA to 0.9 MTPA over ML area of 268.110 ha of Maliparbat Bauxite Mine was accepted by MoEF&CC and same was included for deliberation in 21st Expert appraisal committee(EAC) meeting held on dated 24th Sept.2020.

The following important points were discussed during this EAC meeting.

- ✓ Project proponent obtained EC under EIA Notification 1994 and not under EIA Notification 2006.
- ✓ Project proponent informed that they could not applied for regularization of EC under EIA Notification 2006 as per MoEF's circular dated 6th April 2018 due to the fact that mining lease was not under revived condition.



Post above discussion and deliberation, in the absence of set guideline to deal with such cases, EAC was of the view that they are not empowered to deal with such cases and suggested us to approach MoEF&CC for further direction.

As per the direction issued to us in EAC meeting, we submitted a detailed representation providing facts of the case to Joint Secretary, MoEF & CC on dated 03rd Nov. 2020. The Joint Secretary pleased to consider our request and subsequently held a meeting on 16th Dec. 2020 to discuss our case. The meeting was chaired by the Joint Secretary in presence of Addl. Director & Member Secretary MoEF&CC and HIL representatives.

In the above meeting, after hearing our case and facts, a direction was given to us for submission of fresh application for EC (0.9MTPA) to the MoEF&CC under EIA Notification 2006 for its consideration by EAC.

Our submission:

Sir in view of the above facts, we are submitting herewith a fresh application for EC (seeking TOR) for a capacity of 0.9 MTPA over ML area of 268.110 ha and requesting your goodself to enlist our proposal in the agenda of the next EAC meeting please.

We kindly request you to consider this application in this regard.

Thanking you in anticipation.

Yours Sincerely,

For Hindalco Industries Limited

A handwritten signature in blue ink, appearing to read 'Pratap Kumar Patra'.

(Pratap Kumar Patra)

Agent – Maliparbat Bauxite Mines



To

3rd November 2020

**The Joint Secretary,
Ministry of Environment, Forest and Climate Change (MoEF & CC)
3rd Floor, Vayu Block, Indira Paryawaran Bhawan, Jorbhag,
New Delhi-110003**

Sub: Request for directions from MoEF & CC to EAC (Non Coal) for consideration of proposal to regularize existing Environment Clearance of Maliparbat Bauxite Mines dated 07.09.2006 under EIA notification 2006 and subsequently to consider proposal for expansion from 0.6 MTPA to 0.9 MTPA in existing Mining lease area (268.11 Ha) of Maliparbat Bauxite Mines located at Aligaon, Kankaramba, Sorishpadar Village, Pottangi Tehsil, Koraput District, Odisha State of M/s. Hindalco Industries Limited (HIL).

Ref: 1) EC Letter No.J11015/411/2005-IA.II (M) dated 07.09.2006.
2) Proposal No. IA/OR/MIN/162409/2020; File No. J- 11015/411/2005-IA.II (M).
3) Agenda No. 2.16 of 21st EAC (non-coal) minutes of meeting during 23-25 Sep 2020.

Respected Sir,

In reference to above subject matter, we Hindalco Industries Limited (HIL) would like to bring to your kind notice of following facts.

Background

Maliparbat Bauxite Mine is an existing project having 0.6 MTPA production capacity. Environment Clearance (EC) for 0.6 MTPA is accorded by MoEF & CC vide letter dated 07.09.2006 (**Annexure-1**). Mining lease over an area of 268.11 Ha. was executed on 8th November 2007 (**Annexure-2**). The lease area is devoid of forest land. The recent Mining Plan is approved vide Ministry of Mines letter dated 14.11.2017 (**Annexure-3**). Estimated geological resource/reserves are 15.066 MT. Life of mine based on estimated resource/reserves are approximately 18-20 years.

HIL obtained all statutory clearances for development of mine and started Bauxite production in Maliparbat mining lease from FY 09 and continued upto 30.10.2013. The lessee had faced several difficulties in continuing mining activities post-October 2013 due to adverse law and order situation and was forced to discontinue mining activities owing to prohibitory orders issued in that area by competent authority.

As mining activities discontinued over period of two years, the lease fell under category of non-revival state since 01.05.2016. Subsequently in 2016, HIL applied for revival of mining lease in accordance with law. After due consideration of facts, HIL's application for revival of lease is considered by Govt. of Odisha (GOO) and this mining lease was revived vide letter 08.03.2019 (**Annexure-4**) by Odisha State, Department of Steel & Mines, with direction to resume mining activities at earliest. It may be noted that Mining lease was never cancelled or terminated. The existing Bauxite production limit from Maliparbat Mine is 0.6 MTPA as mentioned above.



Need of the Project

Hindalco entire gamut of Aluminium Smelting and Alumina production is dependent on availability of captive quality Bauxite supply.

- As per current condition of Maliparbat mining lease, HIL can supply Bauxite from Maliparbat Mine to its Alumina Refinery located at Belagavi, Muri and Renukoot. HIL has also applied to State Government to permit use of Bauxite from Maliparbat Mine to its UAIL Alumina Refinery located in Odisha itself and such request is under consideration.
- As on date, no captive source of Bauxite is available for Belagavi Refinery which annual requirement itself is around 11 LTPA.
- Utkal Alumina refinery of HIL (at Rayagada district) is already in process of implementing its capacity expansion from 1.5 MTPA to 2.0 MTPA. Sustainable operations of the same require availability of quality Bauxite from alternate source.
- Muri Alumina Refinery is dependent on availability of good quality of Bauxite to sustain its operation. The Maliparbat Bauxite can be used as sweetener to upgrade the quality of Bauxite available for Muri from other sources.
- Keeping all above objective in place, expansion of Maliparbat Bauxite Mines from 0.6 MTPA to 0.9 MTPA is planned and Hindalco made an application vide letter dated 07.07.2020(**Annexure-5**) for issuance of Term of Reference from 0.6 MTPA to 0.9 MTPA under EIA notification 2006 for its consideration by EAC of MoEF&CC. (Proposal No. IA/OR/MIN/162409/2020; File No. J-11015/411/2005-IA.II (M))

Processing of our application at MOEF&CC

- Upon review of our proposal, the MoEF&CC raised an Essential Documents Sought (EDS) on 16.07.2020. EDS has been raised asking for proof of application made in pursuant to MoEF&CC S.O.1530 dated 06.04.2018 (since existing EC was obtained under EIA notification 1994), copy of document in support of competence authority for making application on behalf of User agency, copy of lease document and past production details duly authenticated by DMG etc.
- Detailed reply to above EDS is submitted to MoEF&CC by HIL vide Letter dated 05.08.2020 (**Annexure-6**). In EDS reply we have submitted all relevant fact as mentioned above with request to consider the project for issuance of TOR.
- Upon submission of our response, online Terms of Reference (TOR) were issued and project is listed for discussion in EAC meeting dated 24th September 2020 for issuance of specific TOR.
- In EAC meeting again particulates related to having EC under EIA notification 1994 was considered. EAC deliberated and communicated following **important points** vide their minutes of meeting dated 07.10.2020 (**Annexure-7**).
 - ✓ Project proponent obtained EC under EIA notification 1994 and not under EIA notification 2006.
 - ✓ Project proponent informed that they could not applied for regularization of EC under EIA notification 2006 as per MoEF circular dated 6th April 2018 due to the fact that mining lease was not under revived condition.
 - ✓ EAC is of the view that it is a Violation case and therefore not empowered to deal with this case.
 - ✓ Project Proponent shall approach Ministry for further direction.



Sir, we would like to submit that this is not a violation case and reiterate following facts for your consideration.

- EC was granted on 07.09.2006 under EIA notification 1994.
- The EAC /Ministry did not restrict the validity of EC and no such specific conditions were imposed for the same.
- Mining operation continued upto FY 14. There is no operation in mines post-FY 14.
- MoEF & CC direction to regularize the EC under EAC 2006 came on 06.04.2018 providing six-month window i.e. upto Oct 2018. HIL could not apply within time limit mentioned in MoEF& CC circular dated 06.04.2018 i.e. upto 05.10.2018 as mine lease was not under revived condition at that point of time.
- Now, the lease is revived in March 2019 and is valid as on date.
- On point of considering as alleged violation, we submit that MoEF& CC has issued a guideline to deal with violation case as per their directives given in S.O. 804 (E) dated 14.03.2017, S.O.1030(E) dated 08.03.2018 (**Annexure-8 & Annexure-9**). It may be noted in such guideline violation has been treated for those projects or activities which are undertaken in any part of India without obtaining prior environmental clearance from the Central Government or by the State Level Environment Impact Assessment Authority, as the case may. Means if the project does not have EC then only it is violation case.
- In our case, we are having EC under 1994 notification.
- No production enhancement is done during operation period and further, we have provided affidavit as per MoEF & CC guideline F.No.3-50/2017-IA(III) dated 30.05.2018 stating in case of any violation EC may be kept in abeyance along with our expansion proposal.
- The MoEF &CC has issued S.O. 804(E) 14.03.2017 to deal with the violation cases and nowhere it is mentioned that it is applicable to deal with the cases of the EC granted under EIA Notification 1994 and neither mentioned that such EC falls under the preview of violation in any case. The only circular which deals with consideration and regularisation of EC granted under EIA Notification 1994 into EIA Notification 2006 is S.O. No, 06.04.2018 MoEF & CC. Further, in the EIA Notification 2006 also it has not mentioned that projects wherein EC granted under EIA Notification 1994 is required to obtain EC under EIA Notification 2006, rather in the para 12 of EIA 2006 provision for dealing with the projects which have applied under EIA Notification 1994 is provided.
- As per S.O. 804(E) dated 14.03.2017 para 13(2) says "In case the projects or activities requiring prior environmental clearance under Environment Impact Assessment Notification, 2006 from the concerned Regulatory Authority are brought for environmental clearance after starting the construction work, or have undertaken expansion, modernization, and change in the product-mix without prior environmental clearance, these projects shall be treated as cases of violations" and not the EC which are obtained under EIA notification 1994."
- The requirement of the EC as per EIA Notification 2006 is given in para 2 and para 7(ii) wherein it has mentioned the following (**Annexure-10**):

Para 2. Requirements of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall herein after referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level, the State Environment Impact Assessment Authority (SEIAA) for matters falling under



Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

- (i) All new projects or activities listed in the Schedule to this notification;
- (ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
- (iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

Para 7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects: All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product –mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

In the instant case, EC was granted under EIA Notification 1994 for 0.6 MTPA of Bauxite and the HIL did not increase the production capacity, there was no expansion, change in product mix and scope of working from the said mining lease. Even if the validity of EC is considered as 5 years the total production that is to be done in 5 years is coming out to be **30 Lakh Tonne @ 0.6 MTPA**, but as against the same the total production achieved so far by the said mining lease is only **0.68 Lakh Tonne. (Annexure- 11)**. These figures shows that there is no expansion in production capacity, no increase in pollution load. Although EC was granted during 2006 but the actual production is done only in 5 financial years.

It is clear from the production figures that there is no expansion over and above the approved production capacity and provision of EIA Notification 2006 for the requirement of prior EC does not apply in the instant case.

It is clear from the above that, the provision of S.O. 804(E) dated 14.03.2017 is not applicable in the instant case. Further, the basic principle of violation notification is the damage assessment due to excess production but in the instant case even the production was much below the approved rated capacity and therefore there is no logical basis for damage assessment of this mine as per the provision of S.O. 804(E) dated 14.03.2017.



4. It is clear from the above that, HIL did not carried out mining over and above the EC Capacity, production was done for 5 financial years only, after judgment dated 02.08.2017 and 07.02.2018 the mine was not operated, after issuance of S.O. 804(E) dated 14.03.2017 and S.O. 1530(E) dated 06.04.2018 the mine was not operated, production is not above the base production, total production done so far is only 2.2% of total allowed production, the Ministry did not mention in the S.O. 804(E) 14.03.2017 regarding any violation due to validity of EC granted under EIA 1994. We submit that simply not applying for regularization of EC granted under EIA Notification 1994 to EIA Notification 2006 within the stipulated time frame as per S.O. No.1530(E) dated 06.04.2018 having valid statutory reasons cannot fall under violation category and MoEF &CC shall consider such cases as based on merit as done earlier.

Request

In view of the facts, we submit that our request may please be considered for regularization of existing EC (0.6 MTPA) and subsequently for enhancement in production from (0.6 to 0.9 MTPA) under EIA notification 2006.

Therefore, we would like to request to your good office to issue a direction to EAC (Non-Coal) appropriately for consideration of our above request and proposal.

Further, we request an opportunity of personal hearing in this regards.

Thanking you,

With best regards,

(Pratap K. Patra)

Agent- Maliparbat Mines, Hindalco Industries Ltd

Copy to- The Member Secretary, EAC (Non-Coal), New Delhi.

Annexure-1: Copy of EC dt. 07.09.2006.

Annexure-2: Mine Lease Execution Letter 08.11.2007.

Annexure-3: Mining Letter Approved letter dt. 14.11.2017 from 0.6 to 0.9 MTPA.

Annexure-4: Revival Letter dt. 08.3.2019.

Annexure-5: TOR Proposal.(Form I & PFR)

Annexure-6: EDS Replies.

Annexure-7: Agenda No. 2.16 of 21st EAC (non-coal) minutes of meeting.

Annexure-8: S.O. 804 (E) dated 14.03.2017.

Annexure-9: S.O.1030(E) dated 08.03.2018.

Annexure-10: EIA Notification 2006 is given in para 2 and para 7(ii).

Annexure- 11: Certified Production details.