

UPDATED MEMORANDUM OF ACTION TAKEN
ON
THE REPORT OF
JUSTICE M. B. SHAH COMMISSION OF INQUIRY
ON ILLEGAL MINING IN THE STATE OF GOA

MINISTRY OF MINES

‘UPDATED MEMORANDUM OF ACTION TAKEN’ ON THE ‘REPORT ON THE STATE OF GOA’ OF JUSTICE M.B. SHAH COMMISSION OF INQUIRY FOR ILLEGAL MINING OF IRON AND MANGANESE ORES

1. The Government of India set up Shri Justice M. B. Shah Commission of Inquiry for Illegal Mining of Iron Ore and Manganese (Commission) vide Notification No. S.O. 2817(E) dated 22nd November, 2010, with the following terms of reference:

- (i) to inquire into and determine the nature and extent of mining and trade and transportation, done illegally or without lawful authority, of iron ore and manganese ore, and the losses therefrom; and to identify, as far as possible, the persons, firms, companies and others that are engaged in such mining, trade and transportation of iron ore and manganese ore, done illegally or without lawful authority;
- (ii) to inquire into and determine the extent to which the management, regulatory and monitoring systems have failed to deter, prevent, detect and punish offences relating to mining, storage, transportation, trade and export of such ore, done illegally or without lawful authority, and the persons responsible for the same;
- (iii) to inquire into the tampering of official records, including records relating to land and boundaries, to facilitate illegal mining and to identify, as far as possible, the persons responsible for such tampering; and
- (iv) to inquire into the overall impact of such mining, trade, transportation and export, done illegally or without lawful authority, in terms of destruction of forest wealth, damage to the environment, prejudice to livelihood and other rights of tribal people, forest dwellers and other persons in the mined areas, and the financial losses caused to the Central Government and State Governments.

The Commission was also required to:

- (i) recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority,
- (ii) submit its report to the Central Government as soon as possible but not later than eighteen months from the date of its first sitting, and
- (iii) submit interim reports to the Central Government before the expiry of the said period on any of the matters specified in the notification and recommend specific steps that may be required to be taken urgently to curb the menace of such illegal mining, trade and transportation.

2. The Commission submitted the ‘Report on the State of Goa’ on 15th March, 2012 (part I and II) and on 25th April, 2012 (part III) which along with ‘Memorandum of Action Taken’ was laid both in the Lok Sabha and Rajya Sabha on 7th September, 2012.

3. An ‘Updated Memorandum of Action Taken’ on the ‘Report on the State of Goa’ of the Commission has been prepared taking into account the comments received from the Ministry of Coal, Department of Commerce, Department of Legal Affairs, Ministry of Environment and Forests, Ministry of Shipping, Ministry of Steel, and State Government of Goa.

4. The updated Action Taken Report in respect of the recommendations of the Commission is given below:

CHAPTER 1 - ILLEGAL MINING IN THE STATE OF GOA

S. No.	Gist of Observations/ Findings / Recommendations of the Commission	Gist of Action Taken
1.1	<p>NON OBSERVANCE OF THE DIRECTIONS OF HIGH COURT OF BOMBAY AT GOA</p> <p>In the orders of High Court of Bombay (Panaji Bench) in the judgment dated 18.7.2003 in WP No.77 of 2001, (2004 Goa L.R. 121).</p> <p>i) No new place for dumping overburden, waste, rejects, etc. will be commenced, worked or started without the permission and approval as required under Chapter III of the Mineral Conservation and Development Rules, 1988;</p> <p>ii) No new mining dump will also be opened without first obtaining clearance under the Goa Irrigation Act, 1973.</p>	<p>Ministry of Mines</p> <p>To ensure proper accounting of dumps, Ministry of Mines has issued instructions to the Government of Goa to:</p> <ul style="list-style-type: none"> (i) issue transit passes only to persons registered with the Indian Bureau of Mines (IBM) under Rule 45 of Mineral Conservation and Development Rules, 1988 (MCDR, 1988) (ii) include all dump - related operations as a part of mining plan / scheme of mining. (iii) ensure that in respect of old dumps, the State Government makes an assessment / evaluation with respect to grade, quantity of ore and geo-referencing of the dumps before allowing any dump removal (iv) enforce appropriate environment and other clearances as a pre-requisite before removal of dumps. <p>IBM has issued a circular no. 1/2013 dated 10.1.2013 to ensure that dumping outside the mining lease area is done only after getting necessary clearances of the competent authority.</p> <p>Supreme Court in its judgment dated 18.4.2013 in W.P. (C) No. 562 of 2009 observed that dumping of mining waste (overburden dumps) does constitute mining operations under Section 2(d) of the MMDR Act 1957, and that a mining lease must cover the land used for any such activity. The matter was also deliberated in W.P. (C) No. 435 of 2012 in the Supreme Court wherein the judgment is reserved. Consolidated instructions in respect of dump removal will be issued after the judgment of the Supreme Court.</p> <p>Government of Goa</p> <p>Government of Goa has decided to ban all dump handling until a policy is finalized. A Draft Mining Policy (Major Minerals) 2012 has been introduced in the State Legislature which, <i>inter alia</i>, deals with dump handling alongwith the identification, registration and quantification of size of the dump. Action will be taken against any damage caused to water bodies due to mining operation or due to dumping of over burden or its mishandling. The State Government has also decided to continue with the comprehensive</p>

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		Environmental Impact Assessment of Mining Operation and to stop all such operations that can cause damage to ground water, and any water systems including, agriculture in the State.
1.2	<p>COMPLAINT ON INDISCRIMINATE DUMPING ON ADVOI NALA</p> <p>In the catchment area of Advoi Nala in Goa, mining of mineral dumps are leading to environmental damage. The State Government of Goa should take action on complaints filed by people in the matter</p>	<p>Government of Goa</p> <p>Government of Goa has taken steps for desilting the Advoi Nallah, which is an ongoing continuous process, to prevent the accumulation of silt in the nallah. The Canal Officer has been instructed to ensure that silt is removed before the onset of the monsoon and to take appropriate protective measures in time.</p>
1.3	<p>LEASE DETAILS TO BE PLACED ON WEBSITE</p> <p>To make mining operations more transparent it is necessary to display the information of leases on the website of State Government.</p> <p>The State Government should also ensure geo-referencing of all the Mining Lease boundaries. These measures would improve the verification of the boundaries of leased areas and also reduce illegal mining, encroachment and transfer.</p> <p>Mines Department of all the States should continuously verify from the website of the Google Earth the outer boundaries of the leases area with respect to GPS co-ordinates as provided in the original lease grants.</p>	<p>Ministry of Mines</p> <p>Ministry of Mines is in the process of developing 'Mining Tenement System' (MTS) to e-enable processes associated with Mineral Concession Regime which, <i>inter alia</i>, will identify all lease areas precisely on a web based system. Once MTS is commissioned, all details about a lease will be available online in the public domain. The roll out of the MTS is expected to take about 18 months, commencing from mid-2014.</p> <p>Indian Bureau of Mines has issued Circular No. 2/2010 dated 6.4.2010 for carrying out DGPS survey of lease boundaries and for preparation of geo-referenced cadastral maps. The State Governments have also been advised to recognize the agencies who can undertake DGPS survey as well as geo-referencing of cadastral maps.</p> <p>Physical verification is the best possible way to control illegal mining/encroachment through proper implementation of Section 24 of Mines and Minerals (Development and Regulation) (MMDR) Act, 1957.</p> <p>Government of Goa</p> <p>Government of Goa is of the view that use of Google Earth for survey of lease boundaries may not be legally tenable as reliance on Google imagery is erroneous and technically unsound.</p>
1.4	<p>Lack of coordination between the Department of Mines of Government of Goa and Goa State Pollution Control Board</p> <p>Data shows contradiction on the total number of actual working mines in the State which reveals inefficient administration, lack of effective field inspections etc.</p>	<p>Government of Goa</p> <p>Government of Goa has constituted a Co-ordination cum Empowered Committee under the Chairmanship of Chief Secretary to monitor the activities of several departments of the government involved in regulation of mining including checking illegal mining and transport of ore.</p>

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1.5	INEFFECTIVENESS OF MONITORING AND REGULATORY MECHANISM	Government of Goa
	(i) Excess production more than the permitted quantity in the years of 2008-09, 2009-10 and 2010-11 which has been sought to be justified as "ore retrieved" from old dumps appears to be ore extracted on proxy from the running mines. This shows lack of vigilance and monitoring on the part of the State DMG.	Government of Goa has not agreed with the apprehensions of the Commission about the gap between production and exports of iron ore in a year being construed as illegal mining. However, Government of Goa has decided to undertake a detailed audit of all working leases by engaging chartered accountants and geological experts to assess any over extraction etc. and based upon the report of the audit, appropriate action shall be taken.
	(ii) The State DMG is understaffed however, ineffective utilization of the existing staff has led to ignore and allow illegal mining activities to keep scope for corrupt practices.	Government of Goa Government of Goa has decided to set up two new offices to strengthen regulatory functions and strengthen the Department of Mines and Geology by deploying additional staff for effective checking, auditing and regulating mining activities in the State.
	(iii) Neither the State DMG nor the Task Force has carried effective inspections. Action on recommendation of the Task force has not been initiated by the State Government.	Government of Goa Government of Goa has initiated the following measures to regulate mining: (i) order all leaseholders to demarcate and fence their boundary; (ii) not to permit resumption of mining in the State, until the findings in the report of the Public Accounts Committee and in the report of Justice Shah Commission are adequately dealt with; (iii) issued Show Cause Notices to all lease holders who are alleged to have encroached revenue or forest land; (iv) decided to utilise services of qualified Chartered Accountants and experts in Mining Geology to scrutinise accounts of all lease holders for the last five years; (v) ordered de novo review of all mining leases to ascertain level of compliance and irregularity; (vi) audit extent of compliance of conditions contained in the Environmental Clearance and adequacy of Environmental Management Plans in mining sector; (vii) cancel all leases that have not been operational for the last two years; (viii) DGPS survey for all leases to ascertain the boundary of the lease area, to erect boundary pillars and to check encroachment, if any, for taking punitive action; (ix) ordered Identification of Dumps, ascertaining their ownership, assessing the quantity of material lying therein and registration of the

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		<p>same as per law.</p> <p>On the recommendation of the Task Force of the IBM, mining operations were suspended in 4 cases for not adhering to the approved Mining Plan/Scheme of Mining.</p>
	<p>(iv) Inefficiency on the part of the Flying Squad of DMG to carry out detailed site inspection despite having adequate knowledge of illegal mining in 19 villages. Details of owner or the relevant survey number which could have been ascertainable were not collected by them. The Commission also observed that the market value of the material ought to have been recovered from the wrong doers.</p>	<p>Government of Goa</p> <p>Government of Goa, vide letter dated 28.1.2013 has informed that they have suspended the then Director of Mines Department and other officials who were prima-facie found involved in illegal and corrupt practices and has filed a criminal case for conspiring to abet illegal mining and unauthorized extraction by private individuals causing loss of revenue to the State. Criminal case, including a suit for recovery has been filed.</p>
	<p>(v) Despite having adequate knowledge of illegal mining activity by way of complaints it has been observed that the Indian Bureau of Mines and more particularly State DMG has failed to carry out inspections for checking illegal mining. It has been emphasized that to obviate taking legal action the State DMG has avoided their duty to inspect mines. The Commission has recommended that action should be initiated against the Director and Subordinate officers for their misconduct and dereliction of duties under conduct rules.</p>	<p>Ministry of Mines</p> <p>With better monitoring and supervision, effectiveness of inspection is being improved. To bring in transparency, IBM vide letter no.I-11013/1/TMIS-Website/2011-CCOM-Vol-II dated 09.11.012 has decided to host MCDR reports and violation letters in respect of MCDR inspections on its website.</p> <p>Due to limited staff in IBM, annual inspection of each mine is difficult. However, the Ministry has directed the IBM that henceforth frequency of inspection of fully mechanized mines under the MMDR Act, 1957 and rules framed thereunder shall be atleast twice in a financial year.</p>
1.6	<p>SUGGESTED METHODOLOGY FOR GRANT/RENEWAL OF LEASE</p> <p>(i) Recommended that grant/renewal of lease should be decided by a high level committee consisting Additional Chief Secretary and other connected Secretaries of the State.</p> <p>(ii) Recommended for grant of lease for mining by public auction so that revenue from auction can be utilized for holistic socio-economic development of the project affected persons.</p>	<p>Government of Goa</p> <p>Government of Goa has streamlined the procedure for handling request for renewal of leases and appointed a co-ordination committee consisting of representatives of all concerned departments to expedite the process of renewal.</p> <p>Ministry of Mines</p> <p>MMDR Bill, 2011, which was introduced in the Lok Sabha on 12.12.2011, provides for competitive bidding for allocation of Mining Leases in areas where prospecting has been conducted and sufficient evidence of enhanced mineralization has been established.</p>

CHAPTER 2 - MINING OF IRON ORE IN ECO-SENSITIVE ZONE IN GOA

S. No.	Gist of Observation/ Finding/ Recommendation of the Commission	Gist of Action Taken Report
2.1	<p>VIOLATIONS OF ENVIRONMENTAL LAWS</p> <p>The Goa State Pollution Control Board, Environment wing of Ministry of Environment and Forests (MoEF), MoEF Regional office Bangalore, Mines Department Goa have failed to check violations of EC conditions and the violations of the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981.</p>	<p>Ministry of Environment and Forests</p> <p>Environmental Clearances (ECs) granted by the Ministry of Environment and Forests (MoEF) are subject to stipulations of conditions, which are monitored by the Regional Offices (ROs) of the Ministry. In case of violations, necessary action is taken under the Environment (Protection) Act, 1986 after following the due procedure.</p> <p>Based on the reports of RO at Bangalore, MoEF issued directions for closure and suspension of environmental clearances to 5 mining project proponents in the State of Goa in 2012 for violation of conditions stipulated in the environmental clearance letter. MoEF issued Show Cause Notices dated 11.09.2012 to 49 mining project proponents in Goa based on the report submitted by RO at Bangalore for violations of Environment (Protection) Act, 1986 by way of undertaking dump mining. Further 137 environmental clearances have been suspended and kept in abeyance for mining projects in Goa, considering that the Commission of Inquiry's Report has mentioned various shortcomings in respect of these cases, for taking an appropriate decision after detailed scrutiny of each of the case.</p> <p>Government of Goa</p> <p>Government of Goa has decided to appoint an expert agency to undertake an audit of all mining leases to assess the level of compliance and identify leases that have violated conditions of Environmental Clearance to take exemplary punitive action, and recover the cost of any damage to ecology and environment of the State besides any other action including filing of criminal case as per law.</p>
2.2	<p>National Board for Wild Life (NBWL) took a decision in the meeting held on 21.1.2002 under the Chairmanship of Prime Minister to notify the areas, falling within 10 km from the boundaries of national parks and sanctuaries and the wild-life corridors, as eco-sensitive areas. MoEF requested the State Government to list out such areas and furnish a detailed proposal for their notification as eco-sensitive areas under the</p>	<p>Ministry of Environment and Forests</p> <p>The Indian Board for Wildlife in its XXI Meeting held on 21st January 2002 under the chairmanship of Hon'ble Prime Minister adopted the "Wildlife Conservation Strategy-2002", <i>inter alia</i>, envisaging declaring land falling within 10 kms of the boundary of National Parks and Sanctuaries as eco-fragile zones. This was communicated to the State Governments. However, due to reservations expressed by few States, the matter was again examined by the National Board for Wildlife (NBWL) in its 2nd Meeting held on 17th March 2005, wherein it was decided to have site specific eco-sensitive zones. This decision was also communicated to all the State/UT Governments vide letter dated 27th May 2005. It was also requested that site specific proposals be submitted to the</p>

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	Environment (Protection) Act, 1986 which has not been done till date and on the contrary has allowed mines to operate.	MoEF at the earliest. The MoEF has been since pursuing with State/UT Governments on this issue.
2.3	In spite of the clear provisions of Section 3(2)(v) of the Environment (Protection) Act, 1986 and the EIA Notifications, conferring the jurisdiction, power and authority on MoEF to grant or refuse the prior Environment Clearance for any iron ore mining activity within 10 kms. of National Parks, Sanctuaries and Protected Areas and Section 5C (2) (b) of the Wild Life (Protection) Act, 1972 it appears that there have been large scale violations of these provisions resulting in illegal mining in Goa State.	In the meantime, Hon'ble Supreme Court vide their order dated 4 th December 2006 in Writ Petition (Civil) No. 460/2004 directed the State/UT Governments to submit site specific proposals for notification of eco-sensitive zones. Vide the same order, Hon'ble Court had also directed that all cases for which environmental clearance has been granted and falling within 10 kms from boundaries of National Parks and Sanctuaries be referred to Standing Committee of NBWL. The Ministry also framed guidelines vide O.M No. 1-9/2007 WL-I (pt) dated 9 th February 2011. However, only very few States/UT Governments have responded. Subsequently, the Ministry vide letter No. 1-9/2007 WL (pt) dated 11 th December 2012 requested the State/UT Governments to forward the proposals by 15 th February 2013. About 450 proposals have been received in the Ministry. It has been decided that a default area of 10 km from the boundary will be the ESZ for such protected areas for which proposals have not been received.
2.4	As per the direction of Supreme Court Order, in total, 49 EC approvals which pertain to 74 mining leases should have been placed before the Standing Committee of the National Board for Wile Life. No decision is taken yet on this issue by MoEF. Environmental Clearances in 49 cases out of 72 leases by MoEF before 4.12.2006, for the projects (iron ore mining leases) falling within the boundaries of 10 kms. from the National Parks/ Sanctuaries is quite inconsistent, arbitrary and even without proper verification of records.	The MoEF had received six proposals for notification of Ecosensitive zones around Wildlife Sanctuaries and national parks from the State Government of Goa in May 2013. A Committee was constituted by the Ministry vide OM No. 25/27/2013-ESZ-RE dated 09 th September, 2013 to <i>inter alia</i> undertake site survey of all protected Areas in Goa in relation to establishment of Eco-sensitive Zone around them in a site specific manner. The MoEF has accepted "in Principle" the Committee's report and approved the draft notification for declaration of eco-sensitive Zone around each of the six Protected Areas based upon the Committee's recommendations. The approved Draft Notifications are being issued. It may be mentioned that pursuant to the directions of the Hon'ble Supreme Court dated 4.12.2006, the Ministry of Environment & Forests issued a circular vide letter no. L-11011/7/2004-IA.II(I) (Part) dated 27 th February, 2007 stating that 'all development projects falling within 10 km radius of the Wildlife Sanctuary and / or National Parks and which have been recommended for environmental clearance by the respective Expert Appraisal Committee shall be accorded environmental clearance subject to their project proponents obtaining clearance under the Wildlife (Protection) Act, 1972;
2.5	Environmental Clearance and Expansion granted by State Government in respect of T.C. No. 24/57 is subject to the approval of the CWLW, State of Goa which is contrary to the order of Hon'ble Supreme Court of India.	

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2.6	In 25 EC approvals no condition has been imposed regarding seeking approval of competent authority under NBWL (Table: 6, page 113).	a condition to this effect being stipulated explicitly in the clearance letter. As regards the ECs issued between February 2002 and 4.12.2006, the Ministry issued a public notice on 1.1.2009 in the 24 National and Regional Newspapers bringing to the notice of the public that all projects / activities which are located within 10 km distance of the boundaries of the sanctuaries and national parks shall seek clearance under the Wildlife (Protection) Act, 1972, if it has not been done so far by submitting the project to the Standing Committee of the National Board for Wildlife by 31 st January, 2009.
2.7	In T.C. No.28/51 of M/s. Sesa Goa Ltd. no approval is reported to have been obtained from the NBWL as required. No permission has so far been granted by the CWLW but mining is taking place in the lease. (Table : 7, Page 118)	
2.8	In 6 EC approvals, (Table: 10, Page 181) permission from NBWL is stipulated. No such approval of NBWL is taken in any of the mining lease.	Further, the Ministry of Environment and Forests issued a circular vide no. J-11013/41/2006-IA.II(I) dated 2 nd December, 2009 giving the procedure in detail for consideration of proposals for grant of environmental clearance under EIA Notification, 2006, which involves forest land and /or Wildlife Habitat. It was, <i>inter alia</i> , stated in this circular that while granting environment clearance to projects involving forestland, wildlife habitat (core zone of elephant/tiger reserve etc.) and or located within 10 km of the National Park / Wildlife Sanctuary (at present the distance of 10 km has been taken in conformity with the order dated 4.12.2006 in the writ petition no.460 of 2004 in the matter of Goa Foundation Vs. Union of India), a specific condition shall be stipulated that the environmental clearance is subject to their obtaining prior clearance from forestry and wildlife angle including clearance from the Standing Committee of the National Board for Wildlife as applicable.
2.9	Among those who have not obtained approval of competent authority under Wild Life (Protection) Act, 1972; they should not be permitted to operate the mines even though they have Environmental Clearance. But some mines are reportedly working with the approval of the CWLW contrary to MoEF's condition.	
2.10	MoEF has not taken final decision for the 93 Environmental Clearances for 111 mining leases in State of Goa for seeking approval of the Standing Committee of National Board for Wild Life.	Ministry of Environment and Forests issued 'Guidance document for taking up non forestry activities in wildlife habitats' vide O.M. No. 6-10/2011 WL dated 15 th March 2011, prescribing the process for seeking recommendation of NBWL. This document has been subsequently revised vide O.M. number 6-10/2011 WL dated 19 th December 2012.
2.11	a) The DCF (M & E), Goa vide his letter dated 23.9.2011 has communicated to the Director, M/s. Bandekar Brothers (P) Limited that the approval / clearance of the CWLW stands cancelled as per the letter from the MOEF and advised him to submit proposal in the prescribed format for the consideration of	The MoEF had vide D.O. letter No. 1-9/2007 WL-I (pt) dated 8 th February 2012, reiterated to the Government of Goa that all proposals falling within default ESZ of 10 kms from the boundary of National Parks and Sanctuaries, requiring environmental clearance, would continue to be placed before the Standing Committee of NBWL for its consideration and recommendations. The Wildlife Division of MoEF vide letter No. 1-39/2011

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	<p>the Standing Committee of NBWL.</p> <p>b) In 17 cases (Table 11, Page 186) CWLW has accorded approval contrary to the conditions stipulated by MoEF while giving Environmental Clearances.</p>	<p>dated 24th February 2012 reiterated to the Chief Wildlife Warden, Goa, that permission of the Chief Wildlife Warden is not adequate for proposals of diversion, including mining activities, in eco-sensitive zones that require environmental clearance. It was also mentioned that all such proposals need to be placed before the Standing Committee of NBWL following the standard procedure.</p> <p>Primarily, it is the duty of the Goa State Government authorities, with the field functionaries on the ground, to enforce these restrictions.</p> <p>A separate Expert Appraisal Committee (EAC) has been constituted by MoEF on 21.3.2013 to look into the issues relating to environmental clearance of iron ore mining lease cases in the State of Goa with the following terms of reference:</p> <ul style="list-style-type: none"> (a) To examine the information / documents submitted by each of the 139 project proponents in response to aforesaid direction dated 14.9.12 under Environment (Protection) Act, 1986 for keeping environment clearance in abeyance and making case by case recommendations to MoEF; (b) To evaluate status of compliance w.r.t. conditions stipulated as part of environment clearance; (c) To examine the information / documents submitted by each of the 49 project proponents in response to aforesaid direction dated 11.9.12 under Environment (Protection) Act, 1986 with respect to dump mining and making case by case recommendations to MoEF. (d) To examine the observations related to MoEF in Justice Shah Commission report on illegal mining of iron and manganese ore in the State of Goa and make appropriate recommendations. <p>The EAC has since submitted its Report and the same is under examination in the MoEF.</p> <p>Government of Goa</p> <p>Government of Goa has decided to appoint an expert agency to undertake an audit of all mining leases to assess the level of compliance and identify leases that have violated conditions of Environmental Clearance to take exemplary punitive action and recover the cost of any damage to ecology and environment of the State besides any other action including filing of criminal case as per law.</p>

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		<p>Government of Goa has also ordered scrutiny of all documents, approvals and permissions to ascertain the veracity of all leases and has resolved to appoint an expert agency to study the impact of mining in the State that would, <i>inter alia</i>, cover appraisal of illegal, unsustainable and unscientific mining and would suggest remedial measures. Compliance and violation of conditions stipulated in various approvals namely environmental clearance, approvals under Forest (Conservation) Act, 1980 - NOC by Wild Life Warden etc. will also be looked into.</p> <p>Government of Goa has further submitted the following in this regard that:</p> <ol style="list-style-type: none"> i) the order of the Hon'ble Supreme Court in WP No 460/2004 did not mandate creation of buffer zone and has left the same to be decided by the Centre in consultation with the State Governments; ii) it is not necessary that all NOCs should be referred to NBWL; iii) Chief Wild Life Warden being statutory authority is competent to issue NOC after due assessment. Therefore, the need for referring it to NBWL would stands obviated iv) It is for the Central Government to refer Environmental Clearances issued to NBWL and act on its advice accordingly. v) The issue of fixing of an eco-sensitive zone is still pending before the Hon'ble Supreme Court wherein the Hon'ble Court is considering demarcation as eco-sensitive zone areas falling between 100 meters to 2 kms, as the case may be, from boundaries of protected areas. vi) Since Goa is a small State and is constrained in terms of land available for development, it is not possible to accept a uniform 2 km Buffer Zone for the Wild Life Sanctuaries and National Parks and has accordingly sought for relaxation in this regard. vii) Government of Goa has mentioned that Eco sensitive zones shall have to be notified under the Environment (Protection) Act, 1986. <p>Ministry of Environment and Forests</p> <p>MoEF has stated that the ESZs around notified 6 wildlife sanctuaries / national parks in the State of Goa are yet to be finally notified. In the absence of any such notification, as per the order of the Supreme Court dated 02.12.2006 in WP No. 406/2004, all area around wildlife sanctuaries / national parks up to a distance of 10 kms. would be construed as the co-sensitive area by default. As per the Supreme Court order, all</p>

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		<p>environmental clearances given in the area up to a distance of 10 kms. from the notified wildlife sanctuaries / national parks would need to be referred to NBWL. The Chief Wildlife Warden for the State is not competent to issue NoC. As per the procedure, the cases are referred to the NBWL only after the receipt of the same from the concerned State Government. As regards referring the cases of ECs issued between February 2002 and 04.12.2006 to NBWL, as explained earlier, MoEF had issued a public notice in 24 national and regional newspapers bringing to the notice of the public that all projects / activities which are located within 10 kms. Distance of the boundaries of the sanctuaries and national parks shall seek clearance under the Wildlife (Protection) Act, 1972 if it has not been done so far by submitting the proposal to the Standing Committee of NBWL by 31st January, 2009.</p>
2.12	<p>Hon'ble Supreme Court of India, vide its order dated 4.8.2006 has directed the States not to grant any Temporary Working Permits/Permission (TWP) in the protected areas and within one km. from the boundary of the National Parks/ Sanctuaries.</p>	<p>Ministry of Environment and Forests</p> <p>MoEF has mentioned that the Hon'ble Supreme Court in their order dated 4.8.2006 in the I.A. No. 1413, 1414 <i>etc.</i> in the Writ Petition (Civil) No. 202 of 1995 issued detailed guidelines on the conditions precedent and the procedure for grant of the Temporary Working Permission (TWP). As per these guidelines, TWPs shall be granted when the following conditions are met:</p> <ul style="list-style-type: none"> (i) TWP can only be granted for renewal of mining leases, and not at the first time of granting lease; (ii) The mine is not located inside any National Park/ Sanctuary notified under Section 18, 26-A or 35 of the Wildlife (Protection) Act, 1972; and (iii) The grant of the TWP would not result in any mining activity within the safety zone around such areas referred to in (ii) above, (as an interim measure, one kilometer safety zone shall be maintained subject to the orders that may be made in I.A. No.1000 regarding Jamua Ramgarh Sanctuary). <p>The order effectively implies that no TWP can be granted in the protected areas and within one km from the boundary of the National Parks/Sanctuaries without specific leave of the Hon'ble Supreme Court. The MoEF scrupulously follows these guidelines.</p> <p>Government of Goa</p> <p>Government of Goa has mentioned that the mines operating within 1 km of Wild Life sanctuaries and National parks in the State are to be dealt with under the buffer zone policy, which is yet to be decided by the Hon'ble Supreme Court.</p>

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		<p>The Order dated 4.8.2006 is for the grant of TWP in cases that are due for renewal and are obtaining forest clearances under Forest (Conservation) Act, 1980. The State Government has resolved not to sponsor proposal for diversion in the future. As no mining activity is permitted inside any protected area in the State and as the operational leases have been in existence since Portuguese regime, the order dated 4.8.2006 applying to State of Goa does not arise. Government of Goa has ordered scrutiny of all documents, approvals and permissions to take appropriate action based upon findings.</p>
2.13	<p>Illegality in case of T.C. Nos.31/55, 20/51 and 2/57</p>	<p>Ministry of Environment and Forests</p> <p>The EAC constituted by MoEF to look into the issues relating to violation of environmental clearance of iron ore mining lease cases in the State of Goa, would look into every case and give a report. The position has been explained under Sl. No. 2.2 to 2.11 above.</p>
2.14	<p>At present, on the basis of the record available, there are 7 leases (Table 2, Page 86) falling within 1.5 km. from the outer boundary of the nearest Wildlife Sanctuaries. The adverse impact of such mines on the protected areas cannot be ruled out. The National Board for Wild Life should especially take note of such mines and decide whether the mines should be closed or allowed with minimum required production so as to dissipate the adverse impact in a longer period.</p>	<p>Government of Goa</p> <p>Government of Goa has ordered scrutiny of all documents, approvals and permissions to ascertain the veracity of all leases and has resolved to appoint an expert agency to study the impact of mining in the State that would, <i>inter alia</i>, cover appraisal of illegal, unsustainable and unscientific mining and would suggest remedial measures. Compliance and violation of conditions stipulated in various approvals namely environmental clearance, approvals under Forest (Conservation) Act, 1980 - NOC by Wild Life Warden etc. will also be looked into.</p>
2.15	<p>In some cases, it is observed that Environmental Clearances were taken under the 1994 Notification but was not renewed under the 2006 notification which was mandatorily required.</p> <p>Mines Department has allowed the mining without having the compliance of MOEF Notification 2006 from the period 2005-06 to 2007-08 or so. All the extractions of the iron ore during the period shall be considered as illegal, irregular and unlawful. The export price for the said iron ore is required to be recovered with the exemplary penalties.</p>	<p>Ministry of Environment and Forests</p> <p>MoEF has mentioned that ECs taken under EIA Notification, 1994 do not require renewal under EIA Notification of 2006. There is a requirement for obtaining prior EC at the time of mine lease renewal as per the amendment made to the EIA Notification, 2006 on 4th April, 2011. Further, as per the amendment notified vide S.O. no.674(E) dated 13th March, 2013 to the EIA Notification, 2006, the project proponent need not obtain fresh environmental clearance at the time of renewal of a mining lease, which have already obtained environmental clearance under the aforesaid notification.</p>

S. No.	Gist of Observation/ Finding/ Recommendation of the Commission	Gist of Action Taken Report
2.16	<p>(a) In 49 mines cases (Table 3, Page 89) which are within 10 kms. Of boundaries of National Parks/Sanctuaries, EC was granted (pre 4.12.2006) and IBM should not have allowed extraction of iron ore more than the extraction permitted in 2000-01 and on that basis MoEF should have restricted the Production.</p> <p>(b) MoEF has granted Environmental Clearances in 31 cases (Table 4, Page 102) with a stipulation of condition to get clearance from the Chief Wild Life Warden (CWLW) even though the CWLW has no authority and competence to grant such clearance. (before the SC order dated 4.12.2006).</p> <p>MoEF has granted Environmental Clearances without stipulating or referring for approval by the Standing Committee of NBWL under the Wild Life (Protection) Act, 1972; both before and after the Supreme Court Order dated 4.12.2006 (Table 5, Page 110 and Table 6, Page 113), though many leases fall within 10 kms. from the buffer zone. Approvals are in violation of law and arbitrary i.e. that undue favour is shown.</p>	<p>Ministry of Environment and Forests</p> <p>The position has been explained under Sl. No. 2.2 to 2.11 above, and on environment related issues an appropriate view will be taken in each and every case on the basis of recommendations of EAC constituted by the MoEF.</p> <p>Ministry of Mines</p> <p>Approval of Mining Plan/Scheme of Mining is accorded by IBM under MMDR Act, 1957 and Rules made thereunder and subject to compliance of other statutes. The State Mines Department allows mining after satisfying that all the clearances/approvals under concerned statutes are obtained by the lessee.</p> <p>Government of Goa</p> <p>Government of Goa has ordered scrutiny of all documents, approvals and permissions to ascertain the veracity of all leases and has resolved to appoint an expert agency to study the impact of mining in the State that would, <i>inter alia</i>, cover appraisal of illegal, unsustainable and unscientific mining and would suggest remedial measures. Compliance and violation of conditions stipulated in various approvals namely environmental clearance, approvals under Forest (Conservation) Act, 1980 - NOC by Wild Life Warden etc. will also be looked into.</p>
2.17	<p>The Commission observed that State DGM, department of environment, GSPCB, all State Govt. concerned departments including forest, IBM, regional office MoEF Bangalore, Biological Diversity Board have collectively and individually failed to implement the conditions of EC and suggested action against the erring officials under conduct rules.</p>	<p>Ministry of Environment and Forests</p> <p>MoEF has stated that as explained under Sl. No. 2.2 to 2.11 above, an appropriate view will be taken on every case on the basis of recommendations of EAC.</p> <p>Government of Goa</p> <p>Government of Goa has ordered scrutiny of all documents, approvals and permissions to ascertain the veracity of all leases and resolved to appoint an expert agency to study the impact of mining in the State that would, <i>inter alia</i>, cover appraisal of illegal, unsustainable and unscientific mining and to suggest remedial measures. Besides, compliance and</p>

S. No.	Gist of Observation/ Finding/ Recommendation of the Commission	Gist of Action Taken Report
		violation of conditions stipulated in various approvals namely environmental clearance, approvals under Forest (Conservation) Act, 1980, NOC by Wild Life Warden etc. is to be looked into. To mitigate the damage, recovery of the cost of damages and penalty for default including cancellation of lease is also to be examined. Based on the report of validation of lease and environmental impact of mining on flora and fauna, action as deemed appropriate, shall be initiated after following due procedure.
2.18	The Commission has observed total lack of coordination among the three wings namely Environment Clearance Section, Forest Clearance Section and Wild Life Section which has resulted in illegalities and consequential Ecological damage. The MoEF should take immediate steps to establish complete coordination.	<p>Ministry of Environment and Forests</p> <p>Cases for environment clearance, forest clearance and wildlife clearance under the Wildlife Act are processed in parallel in line with the statutory requirements and rule and regulations framed under the Environment (Protection) Act, 1986, Forest (Conservation) Act, 1980 and the Wildlife (Protection) Act, 1972 respectively. For environment clearance cases involving forest land, the case for environment clearance is processed and decision of the competent authority obtained and in case the competent authority approves the environment clearance, the environment clearance is issued only after the project has obtained Stage-I forest clearance (this condition has recently been waived for linear projects subject to certain stipulations in view of the operational problems in executing such projects). Similarly, in cases of EC where the projects are located within 10 km of the notified National Park / Wildlife Sanctuary, the environment clearance clearly stipulates that the environment clearance is subject to obtaining approval from the Standing Committee of the National Board for Wildlife.</p>
2.19	The Commission observed total lack of co-ordination among the Mine Department, Forest Department and GSPCB of the State Government. The Commission has suggested to appoint a committee under the Chairmanship of Secretary, State Mines Department with members from all concerned departments to take collective transparent decisions to avoid complexities and delay in implementation of regulatory Mechanism.	<p>Government of Goa</p> <p>Government of Goa has constituted a Co-ordination cum Empowered Committee under the Chairmanship of Chief Secretary to monitor the activities of several department of the government involved in regulation of mining including checking illegal mining and transport of ore.</p>
2.20	The Commission observed that it is essentially the duty of the State Govt. through the Department of Mines to ascertain that all statutory clearances are obtained	

S. No.	Gist of Observation/ Finding/ Recommendation of the Commission	Gist of Action Taken Report
	for allowing mining activity. The DMG has been responsible for allowing illegal/ irregular mining without all statutory permissions and action is to be taken against them.	
2.21	The Commission has observed that IBM and MoEF have increased production without proper justification purely on commercial grounds ignoring the impact of mining on eco-system. Approval of increased production is in violation of spirit of rule 10(1) of MCDR, 1988.	<p>Ministry of Environment and Forests As per EIA Notification, 2006, environmental clearances are accorded by the Ministry of Environment and Forests for a production level subject to certain specific and general conditions. Any proposal to increase / expand the production, the proponent needs to apply afresh for obtaining EC. Such cases are placed before the Environment Appraisal Committee (EAC) and appropriate view is taken on the basis of EAC's recommendations.</p> <p>Ministry of Mines As per National Mineral Policy, 2008, conservation of minerals shall be construed not in the restrictive sense of abstinence from consumption or preservation for use in the distant future but as a positive concept leading to augmentation of reserve base through improvement in mining methods, beneficiation and utilisation of low grade ore / rejects and recovery of associated minerals. Rule 10(1) of MCDR, 1988 does not restrict an increase in the production in modified Mining Plan/Scheme of Mining which is approved on geology/ reserve available i.e. mineral development and consideration of environmental aspects. Considering the dynamic nature of mining operations, Rule 22(6) of MCR, 1960, in Rule 9(2) and in Rule 10(1) of MCDR, 1988 have provisions to enable modification of mining plans to ensure that a miner extracts complete grade of ore including lower grade and sub-grade ore as they occur.</p> <p>Ministry of Mines vide letter no.16/12/2009-M.VI dated 29.10.2010 has issued detailed instructions to IBM to ensure that the approvals of modification of mining plans shall be effective prospectively only.</p> <p>Controller General, IBM has been directed to ensure that modifications of mining plan / scheme of mining are done strictly as per the provisions of the MMDR Act, 1957 and Rules framed thereunder and directed to inquire and fix responsibility for failure on part of any officers / officials of IBM in this regard.</p>

S. No.	Gist of Observations/ Findings / Recommendations of the Commission	Gist of Action Taken Report
3.1	<p>VIOLATION OF RULE 24A OF MCR, 1960 ON RENEWAL OF MINING LEASES</p> <p>20 leases (Table 2 Page 300-301): These leases are in the "forest area" as per the definition of forest given in the Supreme Court order dated 12.12.1996 in Writ Petition No. 202 of 1995. These leases required approval of the competent authority under the FCA for diversion of forest land before renewal of leases, but no such permission was obtained.</p>	<p>Ministry of Environment and Forests</p> <p>MoEF has mentioned that the Hon'ble Supreme Court in the Delhi Development Authority Vs. Durga Chand Kausish (AIR 1973 SC 2609) held that a renewal of a lease is really the grant of a fresh lease. The prior approval of the Central Government in terms of section 2 of the Forest (Conservation) Act, 1980 would be required when a mining lease granted before the commencement of the said Act is renewed after its coming into force.</p> <p>In respect of renewal of 20 mining leases operating without obtaining requisite prior approval of Central Government under the Forest (Conservation) Act 1980, penal action in accordance with the provisions of the section 3A and section 3B of the Forest (Conservation) Act 1980 is being initiated.</p> <p>Government of Goa</p> <p>Government of Goa has ordered scrutiny of all documents, approvals and permissions to ascertain the veracity of all leases and resolved to appoint an expert agency to study the impact of mining in the State that would, <i>inter alia</i>, compliance and violation of conditions stipulated in various approvals namely environmental clearance, approvals under Forest (Conservation) Act, 1980, NOC by Wild Life Warden etc. Based on the report of validation of lease and environmental impact of mining on flora and fauna, action as deemed appropriate, shall be initiated after following due procedure.</p>
3.2	<p>97 mining leases (Table 3 – page 302-313): These applications for renewal are apparently not disposed of within the stipulated time, and therefore, renewal after cut-off date, is in violation of Rule 24A(4) & (5) of MCR, 1960 and cannot be justified as there was no provision and jurisdiction to condone the delay. Therefore, these leases are void. The Commission</p>	<p>Government of Goa</p> <p>Government of Goa has informed that after scrutiny of all documents, approvals and permissions to ascertain the veracity of all leases and the issue of deemed extension or irregularity in granting renewal is gone into in depth to</p>

S. No.	Gist of Observations/ Findings / Recommendations of the Commission	Gist of Action Taken Report
	directed to take corrective action including initiating action against all the officials and Ministers responsible for renewal against the law.	determine irregularity committed or favour shown by the officials including other acts of omissions and commissions, action will be initiated as per law.
3.3	<p>54 cases (Table 4 – Page 314-320): Even though first renewal applications were filed in time, but were not decided. Permitted to occupy/operate these mines in gross violation of the then Rule 24A (2), (4), (5) and (6) of the MCR, 1960.</p> <p>There was no deemed extension provision when the renewal applications were filed. First renewal power was vested with the Central Government at that time. The State Government had gone further to grant first renewal till 18.12.1999 for the Schedule – I minerals.</p> <p>The Commission recommended to take possession of all these leased area and initiate action against the all officers concerned for their omission.</p>	
3.4	Under the provisions of the Goa Abolition Act, 1987, Concessionaires have filed first renewal applications before the due date i.e. 24.11.1988. Under the then Rule 24A (2) of the MCR, 1960 read with Section 8 (2) of the MMDR Act, 1957, the State Government shall have taken prior approval of the Central Government. The State Government, in violation of these provisions, has granted first renewal in 10 cases (Table 5 – Page 321) without obtaining prior approval of the Central Government. Action should be taken under Sections 4(2) and 19 of the MMDR Act, 1957 for all such leases and against officers concerned for their omissions.	
3.5	In 16 leases (Table : 6, Page Nos. 322) wherein first renewal applications have been filed within stipulated time i.e. before 24.11.1988, no action has been taken for their renewal and are presently working. Action is to be taken to stop these mines.	
3.6	<p>9 Concessions (Table 7 – Page 323-324) accorded under the Portuguese Law which were declared free area or cancelled but incorporated in Schedule – I of the Goa Abolition Act, 1987, may be due to inadvertence or connivance / mistake. Proper care should have been taken during renewal time. Original concessionaires or their legal heirs were knowing about this fact and taken undue advantage of such mistake(s).</p> <p>Action should be taken against the lessees who had intentionally suppressed these material facts for wrongful gain.</p>	

S. No.	Gist of Observations/ Findings / Recommendations of the Commission	Gist of Action Taken Report
	<p>Appropriate action, in this regard, has to be taken for the leases which are not yet renewed under the MMDR Act, 1957 by following due process of law and in other cases where the leases have been renewed, their renewal should be cancelled.</p>	
3.7	<p>In 62 leases (Table: 8, Page Nos.325-331), first renewal has been granted, even though the applications were filed for first renewal after cut-off, i.e., 24.11.1988 for a period of 10 years. This is abuse of Rule 24A (6) of MCR, 1960 which was applicable at the relevant time. Lessees are permitted to occupy the lease area on alleged deemed extension which is not permitted for more than 12 years. Till date, Forest Clearance / Environmental Clearances were not obtained.</p> <p>The State Government should take immediate actions either by cancelling the lease or by according second renewal wherever necessary by following provisions of Wild Life (Protection) Act, 1972, Forest (Conservation) Act, 1980 and other Statutes.</p>	
3.8	<p>In 42 cases (Table 1 – Page 342-346), the renewal applications for condonation of delay were either rejected or otherwise dismissed prior to 1993. These cases have been revived by putting favourable note, either in connivance or in collusion with the parties, after amendment in Rule 24A(10) of the MCR, 1960 in the year 1994.</p> <p>The Commission recommended appropriate penal action against all those responsible for it. Mineral produced and available at mine head shall be confiscated and all such leases should be evoked.</p>	<p>Government of Goa</p> <p>Government of Goa has issued show cause notices in 42 cases of renewals and after going into the facts of each case, a decision as per law would be taken.</p>
3.9	<p>In 22 cases (Table 2 – Page 347-348), the first renewal applications submitted after due date i.e. 24.11.1988 have been rejected on the ground that they are submitted late along with other grounds. At the same time, 42 renewal applications submitted after due date (Table 3 – Page 349-350) were admitted, processed and delay is condoned. State Government adopted different yard stick for similar applications.</p>	

CHAPTER-4 ILLEGALITIES IN MINING OPERATIONS IN VIOLATIONS OF RULE 38 OF MCR, 1960

S. No.	Gist of Observations/ Findings / Recommendations of the Commission	Gist of Action Taken Report
4.1	<p>VIOLATION OF RULE 38 i.e. AMALGAMATION OF LEASES</p> <p>16 lessees are operating as a single unit without having approval under Rule 38 of the Mineral Concession Rules, 1960 i.e. without amalgamation. Indian Bureau of Mines and Ministry of Environment and Forests have given approvals under the respective regulations in violation of Rule 38.</p> <p>Recommendation Recommended to stop all these mining activities and action should be initiated against the officers responsible for approval.</p>	<p>Ministry of Environment and Forests MoEF has stated that the matter would be examined for taking appropriate action.</p> <p>Ministry of Mines For optimum extraction of mineral, mineral beneath the boundary area between contiguous lease areas, a combined scheme of mining facilitates scientific mining. Internal circular of Indian Bureau of Mines issued, vide letter no. N-11013/1/MP/89-CCOM Vol.II dated, 9/12.10.1992 allowed preparation of combined mining schemes in respect of two or more contiguous mining leases belonging to the same lessee, even though there are two separate Mining Plans. Further under Rule 111(1) and (3) of Metalliferous Mines Regulations, 1961, working in common boundary area is permitted by Director General of Mines Safety (DGMS).</p> <p>IBM has issued circular no.4/2013 dated 10.1.2013 to ensure that a combined scheme of mining for more than one mining leases in the interests of optimum extraction of mineral beneath the boundary area between two contiguous lease areas is approved only after appropriate approvals under the Rule 38 of MCR, 1960.</p> <p>Government of Goa Government of Goa has viewed that an approved Common Mining Scheme or Common Environmental Clearance under no circumstance can be inferred for breach of Rule 38 of MCR 1960. The scope and import of Rule 38 of MCR 1960 and the scope behind sanctioning the Mining Schemes and granting Environmental Clearance is distinct and different. Two statutory powers are obtained in different and distinct fields. In grant of the Environmental Clearance, the Ministry of Environment and Forests naturally may take into account the cumulative effect of the contiguous leases. From this, it cannot be inferred that there is an amalgamation of the leases at the site. Same is the position with Mining Schemes. The Mining Plans as stated earlier are different and distinct in respect of each of the Mining Lease.</p> <p>Keeping in view the fact that most of the current leases were concessions in perpetuity granted by the Portuguese Government and were declared as deemed Mining Leases through a special legislation that is under challenge and the mines are operating under an interim order of the Hon'ble Supreme Court, the state government chose not to deal with the request of amalgamation. However, after having obtained legal advice that acceding to their request or amalgamating clusters as per law is not hit by the interim order of the Apex Court, the government has decided to take action and process the amalgamation while renewing the lease of the lease holders.</p>

CHAPTER 5 - ENCROACHMENT BY VARIOUS OCCUPANTS OF THE MINING FIELDS

S. No.	Gist of Observations/Findings /Recommendations of the Commission	Gist of Action Taken Report
5.1	<p>ENCROACHMENTS</p> <p>i) Commission has observed total encroachment about 2796.24 Hectares, out of which iron ore mining as pits is 578.42 Hectares. The Commission has quantified the loss to the State at approximately Rs.35000 Cr. The Commission has recommended action to be taken for recovery of market cost of the iron ore illegally extracted by encroachments outside lease area.</p> <p>ii) Commission has recommended deterrent punishment by filing criminal cases against the lessees for their criminal misconduct for crossing the lease boundaries and illegally extracting minerals from outside leased areas.</p> <p>iii) Commission has recommended action against the concerned officials of the State DMG as well as Forest Department where forest land is involved in encroachment. 76.21 Hectares of encroachment in forest area has been identified by the Commission.</p> <p>iv) Fixing of permanent boundary pillars, for demarcation of lease area, to be placed on the right locations by the lessees</p>	<p>Ministry of Environment and Forests</p> <p>MoEF has issued guidelines under the Forest (Conservation) Act, 1980 which provides that cases of illicit felling/ encroachment/illegal mining, etc. have to be dealt under the provisions of the Indian Forest Act, 1927, State Forest Acts, Environment (Protection) Act, 1986. The responsibility to prevent and initiate appropriate penal action in respect of encroachment on forest land therefore lies with the concerned State or Union Territory Governments.</p> <p>MoEF while according approvals under the Forest (Conservation) Act, 1980 for diversion of forest land for mining projects stipulates a condition that boundary of the mining lease and safety zone shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, forward and back bearing and distance from pillar to pillar and DGPS coordinates.</p> <p>To ensure compliance to the said condition, the RO (Southern Zone), Bangalore of the MoEF vide their letter dated 3rd March, 2009 requested the State Governments, including the State Government of Goa, to take necessary action to demarcate and maintain boundary of all mining leases approved under the Forest (Conservation) Act, 1980. It was also requested that in case demarcation of the boundary of a mining lease could not be demarcated for any reason, the State Government may take appropriate steps to stop mining in all such mines till their boundary is satisfactorily demarcated. The State Governments were also requested to periodically inspect the leased out areas to ensure that the mining and allied activities are restricted to the areas diverted for the purpose, and to initiate appropriate penal actions in case of violations, if any, detected during such inspections.</p> <p>RO (Southern Zone), Bangalore of the MoEF vide their letter dated 27th April 2010 also requested the State Governments, including the State Government of Goa, to furnish the coordinates of the boundary points of all the mining leases approved under the Forest (Conservation) Act, 1980.</p> <p>Ministry of Mines</p> <p>IBM, Ministry of Mines vide its circular No.2 of 2010</p>

S. No.	Gist of Observations/Findings /Recommendations of the Commission	Gist of Action Taken Report
		<p>dated 6.4.2010, issued instructions that the boundary pillars of each mining lease / prospecting license are to be fixed precisely. Each boundary pillar shall be surveyed using DGPS (at least 2 hours observation) for its ground position by an agency recognized by the State Government</p> <p>IBM in its circular dated 18.11.2011 has advised inspecting officer as well as Regional Controller of Mines/ Divisional Controller of Mines incharge that they will be held responsible for failure to check boundary pillars and will be liable for disciplinary action.</p> <p>The Government agrees with the recommendation of the Commission that boundary pillars need to be properly spaced out and visible. Appropriate provisions for erecting and maintaining boundary marks and pillars with a spacing of not more than 50 meters are being included as part of covenants for the lessee/lessees in Form K (model lease deed under Rule 31 of MCR, 1960) through an amendment.</p> <p>Government of Goa</p> <p>Government of Goa has mentioned that the apprehension about the gap between production and exports in a year construed as rampant illegal mining is not correct. The gap could be either due to ore imported from other states or ores from other states exported from Goa's ports which are not accounted for in local production and not captured by the department of Mines or due to higher opening stock reported by local producers which was exported along with produce during the year. The export from Goa does not necessarily include local produce during a year alone. Therefore, it would not be prudent to pick up figures of sale/Export and production in isolation and attribute mismatch to illegal production and sale causing loss of revenue to the state. The hand held GPS survey is not accurate to precisely identify encroachment as GPS has an inbuilt error in seconds. Each second of GPS reading is equivalent to horizontal error of at least ~30 mts. Accuracy of GPS depends upon the number of satellites available and cloud and weather conditions. Therefore, it is quite probable to have an error in GPS readings of 2 to 4 seconds.</p> <p>Show Cause Notices have also been issued to all 100</p>

S. No.	Gist of Observations/Findings /Recommendations of the Commission	Gist of Action Taken Report
		<p>persons identified in the report for alleged encroachment and whosoever is found guilty shall be dealt with as per law. During the course of survey two cases of encroachment have been detected and notices have been issued to both the lessees for cancellation of lease and recovery of the cost of unauthorized extraction. Government of Goa also decided to undertake a detailed audit of all working leases by engaging chartered accountants and geological experts to assess any over extraction etc. and based on the report of the audit, appropriate action shall be taken. The State Government has also decided to put in place the Goa Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2012.</p> <p>Government of Goa has ordered a scientific survey of boundary of leases including DGP Survey in respect of all mining leases. In the process details of the sanctioned leased area, boundary reference points, the existing boundary pillars, mining pits, over burden dumps, allied infrastructure within and outside the leased area shall be determined besides determining encroachment if any. The GPS coordinates of the boundary points and boundary pillars of the lease shall be recorded to facilitate superimposition of the survey sketches on the satellite images besides producing digitized images of the sanctioned leased area. Once the survey is complete which will take four to six months, action against encroachment and other violation detected shall be initiated.</p>

**CHAPTER 6 - MISUSE OF RULE 10 OF MINERAL CONSERVATION & DEVELOPMENT
RULES 1988**

S. No.	Gist of Observations/Findings / Recommendations of the Commission	Gist of Action Taken Report
6.1	<p>MODIFICATION OF MINING PLAN AND MISUSE OF RULE 10 OF MINERAL CONSERVATION AND DEVELOPMENT RULES, 1988</p> <p>Observation IBM has approved mining schemes to increase production (ignoring the fundamental of the MCDR, 1988 and ground realities) during the mining plan period without application of mind to the ingredients of Rule 10 of MCDR, 1988.</p>	<p>Ministry of Mines Mining plan includes a tentative scheme of mining and annual excavation plan for the first five years. At the start of mining activity in a mine, a tentative scheme of mining is conceptualized based on preliminary information on geology and reserves. Laying down limits for annual production for the entire life span of a mine, which is generally 20- 30 years, at the time of approval of first mining plan, is not practicable for the following reasons:</p> <ul style="list-style-type: none"> (i) Complete information on geology and reserves is not available; (ii) The mining rights encompass the area from the surface to the core of earth for which advance geological information is not available, and anticipated depth of mine changes depending upon many technical factors; and (iii) Change in the method of mining from manual to mechanized; <p>The Ministry of Mines directed IBM, vide letter no.16/12/2009-M.VI dated 29.10.2010, to ensure that the approvals of modification of mining plans to authorize increase in production under the provisions of Rule 10 of Mineral Conservation and Development Rules 1988 shall be granted with prospective effect only.</p>
6.2	<p>REDUCTION IN PRODUCTION LEVEL</p> <p>Recommendation For preserving non-renewable asset for future generation, it is recommended to bring down the production to the level of production equivalent to the year of 2000-01 or 12.5 million tones/annum whichever is less and to safeguard environment, ecosystem, biodiversity and wildlife of the State, as required/directed by Articles 48A and 51A (g) of the Constitution of India.</p>	<p>Ministry of Environment and Forests MoEF has got a Regional Environment Impact Assessment Study of mining in Goa region done through Indian School of Mines, Dhanbad. The report is under examination.</p> <p>Ministry of Mines Earlier exploration was up to 50-60 meter depth, whereas, the Goan Ore, primarily vein type, is deep seated. Therefore, with advances in technological intervention in exploration, which is an ongoing process, iron ore resources are likely to be augmented further.</p> <p>The reserve of Hematite Iron Ore in Goa in 1971 was 396 million tonnes (MT). As on 1st April 2010, after excavating about 500 MT in last 29 years, Goa still has a resource balance of about 1150 MT (927 MT of hematite and 222.22 MT of magnetite ore).</p>

S. No.	Gist of Observations/Findings / Recommendations of the Commission	Gist of Action Taken Report
		<p>Fixing a cap on the production of minerals solely on the basis of reserves and resources proved as at the present will not be in the interest of the growth of the industry.</p> <p>Government of Goa Government of Goa has mentioned that in their new Draft Mining Policy, limit has been proposed on fresh extraction of ore to 25 million tonnes (MT) per annum and capped annual dump handling for sale/export to 20 MT making a total of 45 MT of ore and that too is subject to local limits based on transport carrying capacity of the roads. The limits will be reviewed periodically.</p>
6.3	<p>MODIFICATION OF MINING PLAN</p> <p>Recommendation Authorization given to approval of modification in mining plan to Regional Controllers shall be withdrawn immediately. A committee should be constituted under the chairmanship of Controller General.</p>	<p>Ministry of Mines IBM, Ministry of Mines has constituted committees at Regional level of the officers from the State Government Departments of Mining and Geology, Environment, Pollution Control Board to process cases of modification of approved mining plans/scheme of mining for enhancement of production of more than one lakh tonnes per annum to bring transparency and effectiveness.</p>
6.4	<p>IMPLEMENTATION OF THE MINE CLOSURE PLAN</p> <p>Recommendation The State of Goa has to gear up for implementation of the Mine Closure Plan wherever there are "Zero ore left" and mines going to be exhausted within 1 to 5 years.</p>	<p>Ministry of Mines There exist statutory provisions i.e. Rule 23A, 23B, 23C and 23D of MCDR, 1988 for ensuring progressive mine closure plan and final mine closure plan. The lessee has the responsibility to ensure that the protective measures contained in the mine closure plan including reclamation and rehabilitation works have been carried out in accordance with the approved mine closure plan. IBM has been directed to ensure compliance of provision of law.</p> <p>Government of Goa Government of Goa has mentioned that mine closure including progressive mine closure processes will be closely monitored and it will be ensured that stakeholders are taken into confidence at all stages through a transparent process. Old and disused mines dating to prior to regulated mine closure shall be restored or rehabilitated using funds generated from royalties to enable local communities to regain the use of such lands.</p>
6.5	<p>ACTION AGAINST OFFICERS OF MINISTRY OF ENVIRONMENT AND FORESTS AND INDIAN BUREAU OF MINES</p>	<p>Ministry of Environment and Forests As per MoEF's EIA Notification, 2006, environmental clearances are accorded for a production level subject to certain specific and general conditions. In case of any</p>

S. No.	Gist of Observations/Findings / Recommendations of the Commission	Gist of Action Taken Report
	<p>Recommendation Officers who are responsible for grant/approval of increase of production by misusing Rule 10 of MCDR, 1988 and ignoring the requirement of future generations should be identified by the Heads of IBM and Ministry of Environment and Forests and appropriate deterrent action should be taken against them and for that proceedings should be initiated at the earliest for misuse of Rule 10 of the MCDR, 1988 under the relevant laws including departmental proceedings for their omissions, Commissions and misconduct.</p>	<p>proposal to increase / expand the production, the proponent needs to apply afresh for obtaining EC. Such cases are placed before the EAC and appropriate view is taken on the basis of EAC's recommendations.</p> <p>Ministry of Mines Ministry of Mines directed IBM, vide letter no.16/12/2009-M.VI dated 29.10.2010, to ensure that the approvals of modification of mining plans shall be with prospective effect only and any modifications are done strictly as per the provisions of the MMDR Act, 1957 and Rules framed thereunder.</p>
