

Coastal regulation zone notification

Brief Background

On February 19, 1991, the Ministry of Environment and Forests (“MOEF”) issued a notification under Section 3 of the Environment Protection Act of 1986, seeking to regulate development activity on India’s coastline. The approach adopted by the first notification was to define the ‘High Tide Line’ (“HTL”) and ‘Coastal Regulation Zone’ (“CRZ”) and thereafter specify the activities permitted and restricted in the vicinity of the CRZ. This regulated zone was further divided into four categories (CRZ I-IV) as per permitted land use. There have been about 25 amendments to this notification between 1991 and 2009, some of which have been based on the directions of the Supreme Court. In May 2008, the MOEF brought out a new draft CRZ notification that evoked much criticism from all sections of stakeholders. Eventually this notification was allowed to lapse and the Ministry brought out a fresh notification in September 2010, which after much discussions and deliberations, was finally passed as Coastal Regulation Zone Notification 2011 on January 6, 2011.

The current notification has several new positive features:

It widens the definition of CRZ to include the land area from HTL to 500 m on the landward side, as well as the land area between HTL to 100 m or width of the creek, whichever is less, on the landward side along tidal influenced water bodies connected to the sea. The CRZ also includes, for the first time, water area up to 12 nautical miles in the sea and the entire water area of a tidal water body such as creek, river, estuary without imposing any restrictions of fishing activities. Thus, the main change in the scope of regulation has been to expand the CRZ to include territorial waters as a protected zone. This may have been in response to the criticism that while the earlier.

CRZ notification regulated development on the coastal stretches; it did not per se deal with pollution of the sea in any direct terms.

The concept of a ‘hazard line’ has been introduced in the notification. While the notification merely states that the hazard line will be demarcated by the MOEF through the Survey of India, by taking into account tides, waves, sea level rise and shoreline changes, this concept owes its introduction to the realization of natural disasters such as tsunami and floods that may possibly take place in this zone. The vulnerability aspect is thus considered. In May 2010, the MOEF signed a Memorandum of Understanding with the Survey of India for undertaking this exercise over a period of four-and-a-half years, at an estimated cost of Rs 125 crore.

The concept of classification of CRZ into four zones has continued in the 2011 notification. The characteristics of the same are as follows:

- CRZ I- ecologically sensitive areas such as mangroves, coral reefs, salt marshes, turtle nesting ground and the inter-tidal zone.
- CRZ II- areas close to the shoreline and which have been developed.

- CRZ III- Coastal areas that are not substantially built up, including rural coastal areas.
- CRZ IV- water area from LTL to the limit of territorial waters of India
- CRZ IV has been changed from the 1991 notification, which covered coastal stretches in the islands of Andaman & Nicobar and Lakshadweep.

The MOEF has issued a separate notification titled Island Protection Zone 2011 in relation to these areas.

A new category called areas requiring special consideration has been created which consists of (i) CRZ areas of Greater Mumbai, Kerala and Goa, and (ii) Critically vulnerable coastal areas such as Sunderbans.

Clearances for obtaining CRZ approval have been made time-bound. Further, for the first time, post-clearance monitoring of projects has been introduced in the form of the requirement to submit half-yearly compliance reports, which are to be displayed on the Ministry's website. With respect to the list of prohibited activities, one of the most important changes has been that of expanding the list of exceptions to the rule prohibiting setting up of new industries and expansion of existing industries. While the earlier exception was limited to those activities which required access to the water front, four other exceptions have been now incorporated which include:

- Projects of Department of Atomic Energy;
- Facilities for generating non-conventional energy sources and desalination plans, except for CRZ-I zones on a case-by-case basis after doing an impact assessment study;
- Development of greenfield airport permitted only at Navi Mumbai; and
- Reconstruction, repair works of dwelling units of local communities including fishers in accordance with local town and country planning regulations.

Coastal Zone Management Plans

- Another important aspect is the introduction of the Coastal Zone Management Plans, which in my opinion must be incorporated in the course structure. It seeks to achieve the following:
- In Greater Mumbai, the redevelopment of approximately 146 existing slums in CRZ areas has been permitted, provided that the stake of the state government or its agencies in these projects is not less than 51%. Redevelopment and reconstruction of old, dilapidated, and unsafe buildings in the CRZ-II area has also been permitted. Also, the floor space index (FSI) or floor area ratio (FAR) prevailing in the Town and Country Planning Regulations as on the date of the project being sanctioned, will apply. In order to ensure that the redevelopment of slums and dilapidated structures in Mumbai are done in the most transparent, accountable and democratic manner the Right to Information Act, 2005 will be applicable

and auditing will be done by the office of the Comptroller and Auditor General (C&AG) of India.

- The 2011 Notification also lists out certain measures that have to be taken to prevent pollution in the coastal areas/coastal waters.
- While the CRZ Notification 2011 has introduced several positive concepts seeking to protect the interest of the local traditional communities, it does have a few drawbacks namely:
- Although the no-development zone of 200 metres from the HTL is reduced to 100 metres, the provision has been made applicable to “traditional coastal communities, including fisher-folk”, thereby giving the chance for increased construction on the coast and higher pressure on coastal resources.
- Disallowing Special Economic Zone (“SEZ”) projects in the CRZ.