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Background

- Central Government while according **approvals under the Forest Conservation Act 1980** stipulates **Compensatory Afforestation (CA)** from funds to be realised by the project proponent.
- On **23rd November 2001** Supreme Court noted that about **83 percent of the funds realised by the State Governments for CA has only been utilised. The shortfall was of nearly Rs.200 crores.**
- Supreme Court **issued notices** to the defaulting States
- On **9th May 2002**, Supreme Court directed to **constitute a Central Empowered Committee (CEC)** and referred the matter to the CEC

- CEC after examination of the matter **observed that**:
 - Amount for CA is **readily available** in States where it is directly deposited as **'Forest Deposit'**
 - There is delay in availability of funds for undertaking CA in States where CA funds are deposited **as revenue receipts** and are made available to the Forest Department through **budgetary provisions**.
 - Unless and until the system of release of **funds through budgetary provisions is changed**, the pace and quality of CA cannot be increased
 - Plantation raised under CA scheme **can never adequately compensate** for the loss of natural forests and they are a **poor substitute to natural forest**
- CEC **recommended** that :
 - It is desirable to create a **separate fund for CA**, wherein all the monies received from the user-agencies is deposited and subsequently released directly to the implementing agencies as and when required.
 - In addition to funds for CA, **the Net Present Value (NPV) of forest land diverted** should also be recovered from the user-agency.

Supreme Court Order Dated 30th October 2002

- A 'Compensatory Afforestation Fund' shall be created in which all the monies received from the user-agencies towards CA, addl. CA, penal CA, NPV of forest land, CAT Plan funds, etc. shall be deposited
- Union of India shall frame comprehensive rules for constitution of a Body for management of CA funds
- CA funds available with States shall be transferred to the said Body
- While according transfer under FC Act, the user-agency shall also pay into the said fund the NPV of the forest land diverted for non-forest purposes
- Amounts received in case of diversion of forest land in Protected Areas also be deposited in this Fund. Such monies shall be used exclusively for undertaking protection and conservation activities in protected areas of the respective States/UTs

CAMPA Notification, 2004

- MoEF in **exercise of powers conferred under Section 3 (3) of EP Act** issued a Notification dated 23rd April 2004 to constitute CAMPA
- CAMPA consisted of a **Governing Body** headed by the Minister for Environment and Forests and **Executive Body** headed by DGF&SS
- **Amounts** collected by the CAMPA **to be invested** in Reserve Bank of India, Nationalized Banks, Post Office, Government Securities, Government Bonds and deposits
- **Annual audit of accounts of CAMPA internally** as well as **externally** through chartered accountant(s) who are on the panel of the C&AG
- Constitution of a **Steering Committee** headed by the Chief Secretary and **Management Committee** headed by the PCCF in **each State/ UT**

Supreme Court Order Dated 26th September 2005

- Issued directions to incorporate certain amendments in CAMPA Notification of 23rd April 2004
- Observed that the body set up or fund generated to protect ecology and provide regeneration cannot in constitutional scheme of things be considered and treated as a fund under Article 266 or Article 283 or Article 284 of the constitution of India.

Ad-hoc CAMPA constituted in 2006

- Supreme Court in their order dated 5th May 2006 noted that CAMPA has not become operational
- Supreme Court therefore directed for the constitution of an ad-hoc body consisting of DGF&SS, as Chairman along with IGF(FC), a representative of the C&AG and a nominee of the Chairman of the CEC, as members, till CAMPA becomes operational.
- Supreme Court further directed that:
 - ensure that all the monies recovered on behalf of the CAMPA and which are presently lying with the various officials of the State Government are transferred to the bank account(s) to be operated by this body.
 - get audited all the monies received from the user agencies on behalf of the 'CAMPA' and the income earned thereon by the various State Govt. officials. The auditors may be appointed by the CAG. The audit may also examine whether proper financial procedure has been followed in investing the funds.

Compensatory Afforestation Fund Bill, 2008

The Union Government introduced the **Compensatory Afforestation Fund Bill, 2008** in the Lok Sabha-

- To provide for transfer of Compensatory Afforestation amounts to **a Fund created Under Public Account of the Union of India** and
- To provide for **constitution of an Authority** for management of the said Fund,

The Bill was **passed by the Lok Sabha** on 23rd December, 2008.

However, the Bill could not be passed by the Rajya Sabha and **on dissolution of the 14th Lok Sabha, the Bill lapsed**

State CAMPA Guidelines July, 2009

- MoEFCC on 2nd July, 2009, in consultation with the State/ Union Territory Governments, formulated guidelines for State-CAMPA
- Constitution, in each State/UT a State CAMPA consisting of a Governing Body, a Steering Committee and an Executive Committee
- Constitution of NCAC at the National level to provide policy, technological and scientific support.
- Transfer 95% of funds accumulated with ad-hoc CAMPA to Bank Accounts of the respective State CAMPAs
- All future receipts to be deposited directly in the respective State CAMPA accounts

Supreme Court Order dated 10th July 2009

- The guidelines and the structure of the State CAMPA may be notified / implemented.
- Sudden release and utilization of large accumulated sum all at one time may lead to its improper use.
- Ad-hoc CAMPA to release, the sum of about Rs.1000 crore per year, for the next 5 years, in proportion of 10% of the principal amount pertaining to the respective State/UT
- Upto 5% of the amount released to the State CAMPA may also be released and utilized by the NCAC for monitoring and evaluation and for the implementation of the various schemes
- **Till an alternative system is put in place (after obtaining permission from Supreme Court)** the money towards CA, NPV and PA shall continue to be deposited in the Ad hoc CAMPA and its release will continue to be made as per the existing orders of the Court

Observations and Recommendations of C& AG ,2013

- Receipts accruing into the ad-hoc CAMPA fund are essentially payments being made for the acquisition of public assets viz. forest land by user agencies
- The receipts, so arising, in essence are non-tax revenue (treated as fee by the Supreme Court) of the concerned States.
- There is need by the Ministry to review the existing paradigm of CAMPA.
- This should be done in a way that enhances transparency, brings CAMPA within the broader focus of both Parliament and State Legislatures and in greater public view so as to ensure the largest possible stakeholders' participation.
- Towards this end it would be appropriate if the amounts lying in ad-hoc CAMPA are transferred into the Public Account
- Govt. may consider moving the Supreme Court for review of its decision with regard to the ad-hoc CAMPA fund so that it can be transferred into the Public Account

Draft CAMPA Order 2014

- MoEF in exercise of powers conferred under section 3 (3) of EP Act,1986 formulated draft CAMPA Order, 2014 for constitution of regular CAMPAs, both at Central Govt. and in each State/UT and transfer of CAMPA Funds to non-lapsable, non-alienable, dedicated, interest bearing “National Compensatory Afforestation Fund” and the “State Compensatory Funds“ to be created under public accounts of the Union of India and the each State respectively.
- Central Government on 27.03 .2014 approved the proposal of MoEF to:
 - File draft CAMPA Order, 2014 before the Supreme Court with the prayer that the MoEF may be allowed to publish the said Order in the official gazette and to take such further action as envisaged in the said draft Order for utilization of compensatory funds
 - Create one post each of CEO and Joint CEO of National CAMPA so that the CAMPA may be operationalized immediately on receipt of approval of the Supreme Court.
- MoEF filed the draft CAMPA Order, 2014 before the Supreme Court for their approval to publish it in the official gazette and to take further action for utilization of funds.

Advice of Ld. Attorney General for India

- I.A. filed by MoEF listed before Supreme Court on several occasions. However due to paucity of time it could not be heard.
- The Government may consider introducing a new Bill in line with the draft CAMPA Order, 2014.
- The Bill will have to address the judgment of the Court dated 26/9/2005 wherein following two reasons have been given in order to hold that the amounts in the CAMPA Fund do not come within the fold of Article 266 or Article 283 of the Constitution.
 - (i) Fund for regeneration of forests and maintenance of ecology and as such will not fall within the Constitutional provisions.
 - (ii) It is a 'fee' and not a 'tax'
- According to him, neither of the reasons are tenable.
- A legislation can always be introduced by the Government and there can be no fetter on account of the same.
- Judgment of the Supreme Court cannot be reversed by legislation, but the effect of the judgment of the Supreme Court can be nullified by removing the basis of the judgment. Thus, if a law, in the opinion of the Government, is required then the Bill must address itself to the judgment of the Supreme Court dated 26/9/2005.

Salient Features of the CAF Bill, 2016

- establishment of non-lapsable, interest bearing National Fund under public account of union of India and constitution of a National Authority for its management and utilization
- establishment of non-lapsable, interest bearing State Fund under public account of each State and constitution of a State Authority for its management and utilization
- establishment of a Monitoring Group to assist National Authority in monitoring and evaluation
- transfer of funds available with the ad-hoc CAMPA to National Fund, and further transfer of ninety percent to the respective State Funds
- credit of future receipts directly to respective State Funds
- transfer of ten percent of amounts credited directly into the State Fund during a year to the National Fund on year to year basis.

- money received for CA, addl. CA, penal CA, CAT plan and for any other site specific scheme may be used as per schemes submitted by the State along with the FC proposal
- NPV and penal NPV shall be used for artificial regeneration (plantation), assisted natural regeneration, forest management, forest protection, forest and wildlife related infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities in the manner as may be prescribed by the Central Govt.
- interest amounts shall be used for conservation and development of forest and wildlife in the manner as may be prescribed by the Central Govt.
- monies realised in accordance the decision of the NBWL and orders of Supreme Court in cases involving diversion of forest land in PAs shall form corpus and the interest from shall be used exclusively for undertaking protection and conservation activities in PAs including facilitating voluntary relocation from such PAs. In exceptional circumstance, a part of the corpus may also be used subject to prior approval of the National Authority.

- Steering Committee of each State Authority shall send the APO for each year to executive Committee of the National Authority.
- National Authority shall approve, within three months from the date of receipt, APO of State Authorities, with such amendments as it deems fit and proper.
- Central Government in consultation with the State Governments and after previous publication to make rules for carrying out the purposes of the Act.

Notice for Amendments in the Bill

Dr. T. Subbarami Reddy

- No. of PCCFs and **non-official experts** in Governing Body of National Authority may be increased from five to ten
Increase in number of members may **hamper quick and cohesive decision making**
- Amendment of **editing nature** in clause 9 (2) (ix)
Proposed amendment is editing in nature. **No formal amendment needs to be moved for the purpose**
- Increase the number of experts in Monitoring Group from **six to ten**
Increase in number of members may **hamper quick and cohesive decision making**
- Amend the one of the functions of executive committee of National Authority enumerated in clause 15 (1) (viii) from “maintain books of accounts and such other records” to “maintain books of accounts and such other records and device measures for transparency and accountability of its functions”
Clause 15 (1) (xii) already provides for transparency and accountability

Shri Jairam Ramesh

- No expenditure unless – informed consent to each specific activity with fifty percent quorum of Gram Sabha of each village in whose boundaries (customary, traditional, revenue) the proposed activity/ scheme/project falls, or whose members exercise community or individual rights in an area proposed for the project or which are within five kilometer of the project activity along with a certificate that process of implementation of FRA, 2006 is complete.

Consent of gram sabha to ameliorative measures is obtained before diversion of forest land

Use of funds will involve lakhs of villages. Requirement of obtaining consent of gram sabha of each village with 50% quorum for each activity to be implemented therein will delay utilization of funds

Rules to be framed under the Act will provide that in forest land under control of the SFD will be utilised as per the prescription of the approved Working Plan/Management Plan. Working Plan Code provides for management of jointly managed forests through the micro plans prepared by the community on PRA basis. It also provides that Working Plans shall provide for exercise of community forest rights within the frame of sustainable management.

Rules will also provide that amounts in the in forest land not under direct control of the SFD will be utilised as per the prescription of the micro-plan duly approved by the Gram Sabha.

- Any scheme / project/ activity within the boundary of an area over which rights of any forest dwellers have been recognised or claimable under section 3 (1) (b) (community rights such as *nistar*), 3 (1) (c) (right to MFP), 3 (1) (i) (right to protect, conserve, regenerate community forest) of FRA , 2006 shall be undertaken subject to a plan prepared and passed with fifty percent quorum and including the species to be planted, if any, by the Gram Sabha whose member(s) hold the said rights

The Rules to be framed under the Act will provide that in forest land under control of the SFD will be utilised as per the prescription of the approved Working Plan/Management Plan. provides for management of jointly managed forests through the micro plan Working Plan Codes prepared by the community on PRA basis. It also provides that Working Plans shall provide for exercise of community forest rights within the frame of sustainable management.

The Rules will also provide that amounts in the in forest land not under direct control of the SFD will be utilised as per the prescription of the micro-plan duly approved by the Gram Sabha.

Shri Hussain Dalwai

- **Increase** the number of experts in Monitoring Group from six to twelve
Increase in number of members may hamper quick and cohesive decision making
- **Amend the clause 16 (2) to provide that Monitoring Group shall meet at least once in every months** instead of once in three months.
Clause provides for **minimum frequency**. **If required, Monitoring Group will meet more frequently**
- **All works shall be executed through Gram Sabha** of villages directly affected by diversion of forest land or by afforestation or through Gram Sabha of villages geographically closest to the land being utilised for afforestation
Expeditious utilisation of large accumulated funds **will require involvement of all possible implementing agencies**. **Gram Panchayats, JFMCs/ VFDCs** will be among the implementing agencies
- While formulating **the rules** the **Central Govt. will be guided by** the provisions of **Article 244, Fifth Schedule, Sixth Schedule, PESA Act, 1996, and FRA, 2006**.
Even without making specific provision in the Bill, **Rules have to be in conformity** with the provisions of the Constitution and existing Statutes

Steps to be taken for effective utilization of CAMPA funds

- Enactment of the Compensatory Afforestation Fund Act, 2016
- Formulation of the draft CAF Rules, 2016 in consultation with States
- Publication of the draft CAF Rules, 2016 in official gazette
- Finalization of the CAF Rules, 2016 keeping in view the comments of States and other stakeholders
- Notification to appoint the date on which the Act to come into force
- Publication of the CAF Rules, 2016 in official gazette
- Establishment of National Fund and State Funds

- Transfer of amounts available with ad-hoc CAMPA to National Fund and further transfer of a part thereof to the respective State Funds
- Constitution of National Authority, State Authorities and Monitoring Group
- Appointment of CEO and other functionaries of the National Authority and State Authorities and Monitoring Group;
- Capacity building of National Authority, State Authorities, Monitoring Group and agencies identified for utilization of CAMPA funds

Process for Use of CAMPA Funds

- Formulation of **draft APO** containing **details of activities** proposed to be undertaken from CAMPA funds during a year along with details of implementing agencies and time schedule
- Scrutiny and **approval of APO by steering committee of State Authority** headed by **Chief Secretary**
- **Final approval** of APO by **executive committee of National Authority**, within 3 months of its receipt, with such amendments as it may consider necessary
- Issue of administrative approvals and financial sanctions by the State Authority
- Drawl of funds by the identified implementing agencies as per the approved work plan

CoS Meeting on 22-06-2016

- MoEF&CC may initiate action in consultation with State Governments for finalization of draft CAMPA Rules and also take preparatory steps for the creation of the required State level and National level Authorities/Bodies.
- MoEF&CC may constitute a Committee headed by DG (Forests), with Secretaries (Forests)/PCCFs of selected State Governments as members which may prepare draft CAMPA rules and guidelines within two weeks.
- Rules / Guidelines for utilization of CAMPA funds may provide for adequate flexibility at the State level to deal with specific local requirements, with sufficient checks and balances

State-UT-wise CAMPA Funds

Sl. No.	State/UT	Total Amount as on 31.03.2016			Distribution Between centre and State	
		Principal	Interest	Total	Centre	State
1	Andaman & Nicobar Islands	2.59	0.98	3.57	0.36	3.21
2	Andhra Pradesh	1,793.17	676.91	2470.08	247.01	2223.057
3	Arunachal Pradesh	1,179.61	445.30	1624.91	162.49	1462.42
4	Assam	213.35	80.54	293.89	29.39	264.50
5	Bihar	342.99	129.48	472.46	47.25	425.22
6	Chandigarh	11.31	4.27	15.57	1.56	14.02
7	Chhattisgarh	3,114.39	1175.66	4290.05	429.00	3861.04
8	Dadar & Nagar Haveli	9.96	3.76	13.72	1.37	12.35
9	Daman & Diu	0.77	0.29	1.06	0.11	0.95
10	Delhi	77.33	29.19	106.52	10.65	95.87

Sl. No.	State/UT	Total Amount as on 31.03.2016			Distribution Between centre and State	
		Principal	Interest	Total	Centre	State
11	Goa	100.61	37.98	138.58	13.86	124.72
12	Gujarat	892.86	337.05	1229.91	122.99	1106.92
13	Haryana	743.26	280.57	1023.83	102.38	921.45
14	Himachal Pradesh	1,125.38	424.82	1550.21	155.02	1395.19
15	Jammu & Kashmir	747.13	282.04	1029.17	102.92	926.25
16	Jharkhand	2,499.82	943.66	3443.48	344.35	3099.13
17	Karnataka	739.84	279.28	1019.12	101.91	917.21
18	Kerala	61.51	23.22	84.73	8.47	76.25
19	Lakshadweep	-	0.00	0.00	0.00	0.00
20	Madhya Pradesh	2,790.25	1053.30	3843.55	384.36	3459.20
21	Maharashtra	1,964.25	741.49	2705.75	270.57	2435.17
22	Manipur	259.50	97.96	357.46	35.75	321.72
23	Meghalaya	112.34	42.41	154.75	15.48	139.28

Sl. No.	State/UT	Total Amount as on 31.03.2016			Distribution Between centre and State	
		Principal	Interest	Total	Centre	State
24	Mizoram	67.99	25.67	93.66	9.37	84.29
25	Nagaland	-	0.00	0.00	0.00	0.00
26	Odisha	4837.24	1826.03	6663.27	666.33	5996.94
27	Puducherry	-	0.00	0.00	0.00	0.00
28	Punjab	633.32	239.08	872.40	87.24	785.16
29	Rajasthan	1149.44	433.91	1583.35	158.33	1425.01
30	Sikkim	183.68	69.34	253.02	25.30	227.72
31	Tamil Nadu	85.31	32.21	117.52	11.75	105.77
32	Telangana	301.18	113.69	414.87	41.49	373.39
33	Tripura	131.82	49.76	181.58	18.16	163.43
34	Uttar Pradesh	1060.37	400.28	1460.66	146.07	1314.59
35	Uttarakhand	1783.12	673.12	2456.24	245.62	2210.62
36	West Bengal	123.89	46.77	170.66	17.07	153.59
Total		29,139.60	11000.00	40139.60	4013.96	36125.64

Thanks