

7. Likewise, the Sub-Divisional Level Committee may be advised to organize for each tehsil or block in the sub-division, one or more awareness camps to sensitize members of the Gram Sabhas including Forest Rights committees, civilian representatives including teachers, women's groups, political leaders, social workers activist and lawyers to acquaint them with the objectives, provisions and procedures of the Act and the Rules.
8. We will appreciate if you apprise us of your preparedness and the operational schedule.

Yours sincerely,
Sd/-
(G.B. Mukherji)

Shri Ajit Ku. Tlripathy,
Chief Secretary,
Government of Orissa,
Bhubaneswar.

Copy, along with copies of the notifications dated 31st December, 2007 and 1st January, 2008, referred to above, forwarded for information to Shri Tara Dutt, Secretary, SCs and STs Welfare Department, Government of Orissa, Bhubaneswar.

Sd/-
(Dr. Bachittar Singh)
Joint Secretary

**GOVERNMENT OF INDIA
MINISTRY OF PANCHAYATI RAJ
KRISHI BHAWAN, NEW DELHI - 110001**

D.O.NO. N-11016/7/2008-RBH,

Date: February 15, 2008

Dear Chief Secretary/Administrator,

I would like to invite your attention to the letter from Hon'ble Prime Minister dated January 8, 2008 addressed to the Chief Minister of your State highlighting the need for expeditiously implementing the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act and Rules. Please also refer to the communications in this regard from the Ministry of Tribal Affairs (MoTA). I hope the process of constituting State Level Monitoring Committee and Committees at District and Sub-Divisional Levels has been completed by now.

Clause 6(1) of the Act authorizes the Gram Sabhas to initiate the process for determining the nature and extent of Individual/Community Forest Rights. In this regard Gram Panchayats have to convene the meeting of Gram Sabhas wherein the members of the Forest Rights Committee (FRC) shall be elected. The FRC is required to collect claim filed in the prescribed formats and give acknowledgement to the claimants, keep proper records of the claimants, verify the claims and present their findings to the Gram Sabhas. The Gram Sabhas are required to pass their resolutions on each individual claim and submit the same to the Sub-Divisional Level Committee for further processing. The FRCs are accountable to the Sub-Divisional Level Committee that also has to ensure that the Gram Sabhas are made aware of their roles and responsibilities, the proforma for fill claims are easily available to the claimants and the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum etc.

To properly perform their responsibilities within the time frame provided by the Rules, the Gram Panchayats and Gram Sabhas must understand the entire process and specifically their assigned roles and responsibilities. The Hon'ble Prime Minister has proposed that the Gram Sabhas in the country should meet on a single day for this purpose. The Ministry suggests that all States may organize Gram Sabhas on the February 28, 2008 during which the provisions of the Act & Rules and the roles and responsibilities of PRIs, Gram Sabhas and FRCs are explained.

Please take action as suggested above and complete arrangements for holding the Gram Sabhas on February 28, 2008. The nodal Secretary for implementing the Act in the State may be directed to confirm the action taken in this regard, when he/ she attends the Review meeting convened by Ministry of Tribal Affairs on February 18-19, 2008.

With best regards,

Yours sincerely,

Sd/-
(Sushma Singh)

To

Chief Secretaries of all States/Administrators UTs.

Copy to: (I) Secretaries of PR/Tribal Affairs of all State Governments.

No.17014/02/2007-PC & V (VOL.VI) (Pt.)
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi-110015
February 20, 2008

To

The Principal Secretary
Department of STs & SCs Welfare
Government of Madhya Pradesh
Mantralaya, Vallabh Bhawan
Bhopal -462 004

[Atten: Shri O.P. Rawat]

Sub: Clarification on provisions in Section 3(1)(c) of Forest Rights Act vis-à-vis Section 4(m)(ii) of PESA Act.

Sir,

I am directed to refer to your D.O. letter No.F.9-1/2007/5/25 dated 8.1.2008 regarding certain points raised by you in the context of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and to clarify the position regarding conflict between Section 3(1) (c) of the Forest Rights Act, 2006 and Section 4 (m)(ii) of PESA Act, 1996 as follows:

The Forest Rights Act seeks to vest traditional rights. PESA begins by emphasizing that customary and traditional practices must override (Section 4 (a), Section 4(d) of the PESA Act entrusts the Gram Sabhas to safeguard and preserve the traditions and customs. The Forest Rights Act only emphasizes/ addresses these concepts, and is, therefore, not in violation of the subsequent ownership concept under section 4(m)(ii) of the PESA Act, 1996.

2. The above clarification issues in consultation with the Ministry of Panchayati Raj.

Yours faithfully,

Sd/-
(A.K. Srivastava)
Director

Copy to Ministry of Panchayati Raj (Shri B.K. Sinha, Addl. Secretary), Sardar Patel Bhawan, Parliament Street, New Delhi.

Copy for information to:
All Secretaries of Tribal Development / Welfare Department of other States / UTs.

Sd/-
(A.K. Srivastava)
Director

**GOVERNMENT OF INDIA
MINISTRY OF TRIBAL AFFAIRS
SHASTRI BHAWAN, NEW DELHI – 110115**

D.O. NO. 17014/8/2007-PC & V

Dated: 13.5.08

Kindly find enclosed a copy of a letter dated 2.3.2008 from Shri Chandra Sekhar Sahu, Minister of State for Rural Development, Government of India, New Delhi, enclosing a request received from Orissa Adivasi Manch, Berhampur, Orissa, seeking more time for convening the meeting of the Palli Sabha for formation of Forest Rights Committee for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

2. In their letter, the Orissa Adivasi Manch has alleged that the Government of Orissa, ignoring the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, instructed to its district authorities to complete the formation of Forest Rights Committee at a meeting to be convened on 16th and 23rd March, 2008 at Palli Sabha without any reference to the local Gram Panchayats and its Sarpanchs and elected members, which seems to be unconstitutional and also goes against the spirit of the newly enacted Forest Rights Act. The Manch has further stated that there are 2600 scheduled panchayats covering 143 blocks of 15 districts of Orissa and it is practically impossible to complete the process of Forest Rights Committees.

3. We shall be grateful if the comments of the State Government on the issues raised by the Orissa Adivasi Manch are furnished to this Ministry urgently for sending a reply to the Hon'ble Minister of State for Rural Development.

With regards

Yours Sincerely,
Sd/-
(Dr. Bachittar Singh)

**Dr. Tara Dutt
Commissioner-cum-Secretary,
SC & ST Welfare Department,
Government of Orissa,
BHUBANESWAR.**

MOST IMMEDIATE
REMINDER - I

No. 4 - 1 / 2007 - FP
Government of India
Ministry of Environment & Forests
(F.P. Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110003.

Dated: 13th May, 2008.

To

The Chief Secretary,

All State / UT Governments.

Sub.: Disposal of petty forest offence cases by tribals and other deprived sections of society.

I am directed to refer to this Ministry's letter of even number dated 17/20.2.2008 on the above mentioned and to say that action taken report in the matter has not been received so far. It is, therefore, once again requested that the same may please be expedited urgently.

Yours faithfully

Sd/-

(S.P. Yadav)

Asst. Inspector General of Forest (FP)

Tele Fax No. 011 - 24360627

**Government of India,
Ministry of Tribal Affairs**

Shastri Bhawan, New Delhi
Dated June 09.2008

To

All State Secretaries in-charge of Tribal Welfare

[All States/UTs, except J&K]

Sub.: Implications of the phrase “primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs” appearing in sections 2 (c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

1. As you are aware, Section 2(c) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 defines the expression ‘forest dwelling Scheduled Tribes’ to mean the members or community of Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities. Similarly, Section 2(o) of the Act defines the expression “other traditional forest dweller” to mean any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or the forests land for bona fide livelihood needs.
2. This Ministry has received references from certain States seeking clarification about the implications of the phrase “primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs” appearing in sections 2(c) and 2(o) of the Act as to whether this would cover the Scheduled Tribes and Other Traditional Forest Dwellers who are not necessarily living inside the forests but are depending on the forests or forest lands for their bona fide livelihood needs. This issue was also raised in the meetings of the Secretaries of Tribal Welfare / Development Department of the States on the implementation of the Act held on 18th-19th February, 2008 and 16th May 2008 in New Delhi.
3. The matter has been examined in consultation with the Ministry of Law & Justice and it is clarified that the implication of using the word ‘primarily’ is to include the Scheduled Tribes

and Other Traditional Forest Dwellers who have either habitation, or patches of land for self-cultivation for livelihood, and would, therefore, be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land. Therefore, such Scheduled Tribes and Other Traditional Forest Dwellers who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs would be covered under the definition of 'forest dwelling Scheduled Tribes' and 'Other Traditional Forest Dweller' as given in Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act. 2006.

4. This may be noted and communicated to all concerned with implementation of the Act.

Yours faithfully,

Sd/-

[Sunil Garg]

Under Secretary to the Govt. of India

Copy to:

1. Ministry of Environment & Forests (Ms. Meena Gupta, Secretary), Paryavran Bhawan, CGO, Complex, Lodhi Road, New Delhi-110 003 for information.
2. Prime Minister's Office (Ms. Kalpana Awasthi, Director) South Block, New Delhi for information.

Sd/-

[Sunil Garg]

Under Secretary to the Govt. of India

File No. 9-5/2006-NTCA (Part)
GOVERNMENT OF INDIA
NATIONAL TIGER CONSERVATION AUTHORITY

Annex No. 5, Bikanor House,
Shajahan Road, New Delhi
Date 8th September, 2008

The Chief Wildlife Warden (s),
All Tiger Range States

Sub: Identification/ notification of core/critical tiger habitats and relocation of people from such areas, and Identification / notification of buffer or peripheral areas under section 38V of the Wildlife (protection) Act, 1972.

Ref.:

1. This Ministry letter No. 1501/11/2007-PT (Part) dt. 16.11.2007
2. This Ministry's letter No. 1501/11/2007-PT (Part) dt. 3.12.2007
3. This Ministry's letter No. PS-MS (NTLA)/2007... dt. 31.1.2008
4. This Ministry's letter (s) No. 3-1/2003-PT dt. 27.2.2008, 26.2.2008, 25.2.2008, 27.2.2008 and 19.03.2008.

Sir,

The process of relocation of people living in the core/critical tiger habitats of tiger reserves has been elaborately dealt with under section 38V of the Wildlife (Protection) Act, 1972. Detailed guidelines in this regard, inter alia, have already been issued vide reference(s) cited above.

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has come into force with effect from 31.12.2007, and the rules framed under the said Act are in force with effect from 1.1.2008. Hence, the relocation of villages from core/critical tiger may be carried out keeping in view the overall interest of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Further, identification of core/critical tiger habitats in new tiger reserves after the coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 would involve action as contained in section 38V of the Wildlife (Protection) Act, 1972 read with the provisions contained in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

It is also requested that the buffer or peripheral areas of tiger reserves may also be identified/delineated as per 38V of the Wildlife (Protection) Act, 1972 as suggested, vide reference 1st and 3rd cited, at an early date under intimation to this Ministry.

Yours Faithfully

Sd/-

(Dr. Ranjit Gopal)

IGF & Member Secretary, (NTCA)

Copy to:

1. The Principal Secretary (Forests), All Tiger Range States.
2. The Principal Chief Conservator of Forces, All Tiger Ranges States.
3. The Field Directors, All Tiger Reserves.

**Government of India
Minister of Tribal Affairs,
Shastri Bhawan, New Delhi - 110115**

D.O.No.23011/ 6 / 2008 – FRA

Dated the 29th October, 2008

Dear Sir,

Kindly refer to my D.O. letter of even number dated 21.9.2008 seeking comments of the State Government on the issues raised in the letter No. IS/GEN/141 dated 11.9.2008 received by this Ministry from Shri Sanjoy Patnaik, Director, NRM Programme, Regional Centre for Development Corporation, Bhubaneswar alleging faulty processes being employed in verification of claims under the Forest Rights Act in Gajapati District, Orissa.

2. I shall be grateful if the comments of the State Government are furnished to this Ministry **urgently**.

Yours faithfully.

Sd/-
(Dr. Bachittar Singh)

Shri Ajit Kumar Tripathy,
Chief Secretary to the Govt. of Orissa,
Bhubaneswar

Copy to :

Dr. Tara Datt, Commissioner-cum-Secretary SC/ST Welfare Department, Government of Orissa, Bhubaneswar for information and furnishing the comments immediately.

Sd/-
(Dr. Bachittar Singh)
Joint Secretary

**F.No:7-1/2008-FP
Government of India
Ministry of Environment & Forests
FP-Division**

**Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi -110003**

To

Dated: 18.11.2008

**The Secretary (Forests)
All States/ UT Governments**

**Sub: Monitoring formats for Implementation of the Scheduled Tribes and Other
Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.**

Sir,

Kindly refer to this Ministry letter of even no. dated 08.10.2008. The monitoring formats have been put on the Ministry website i.e. <http://envfor.nic.in> in the slot of Forest Policy Division.

The return can be submitted through e-mail also i.e. aig_rtdlv@yahoo.com. Please ensure to send the first quarterly report immediately.

Yours faithfully,

(Rajan Sehgal)

**Sr. Assistant Inspector General of Forests
Tele Fax No.011-24363970**

Copy to:-

- Principal Chief Conservator of Forests of All States/ UT Governments.
2 Chief Wildlife Wardens of All States/ UT Governments.**

**THE SCHEDULED TRIBES & OTHER TRADITIONAL DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006
IMPLEMENTATION SHEET - FC ACT PERMISSIONS**

Sl.No	Name of the State/UTs	Resolution passed by GS for requirement of forest land for infrastructural facilities under Section 3 (2) of Rights Act			Permissions given by DFO under Section 3(2) of Rights Act, for infrastructural facilities			Conversion of Forest villages into Revenue villages		
		No. of villages/FRCs	No of cases	Area required	No. of villages/FRCs	No of cases	Area diverted (ha.)	No of forest settlements	No of resolution passed	No of settlements converted into revenue villages after necessary permissions
1	Andhra Pradesh									
2	Arunachal Pradesh									
3	Assam									
4	Bihar									
5	Chhattisgarh									
6	Goa									
7	Gujarat									
8	Haryana									
9	Himachal Pradesh									
10	Jharkhand									
11	Jammu & Kashmir									
12	Karnataka									
13	Kerala									
14	Madhya Pradesh									
15	Maharashtra									
16	Manipur									
17	Meghalaya									
18	Mizoram									
19	Nagaland									
20	Orissa									
21	Punjab									
22	Rajasthan									
23	Sikkim									
24	Tamil Nadu									
25	Tripura									
26	Uttar Pradesh									
27	Uttaranchal									
28	West Bengal									
29	Andaman & Nicobar Islands									
30	Dadar & Nagar Haveli									
31	Chandigarh									
32	NCT of Delhi									
33	Lakshadweep									
34	Daman & Diu.									

TO BE SUBMITTED BY PCCF OF STATE/ UT

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006												
IMPLEMENTATION SHEET - CRITICAL WILDLIFE HABITATS												
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Sl.No	Name of the State/UTs	Constitution of State Level Committees	1st Consultation for each Protected Area	2nd Consultation for each Protected Area	3rd Consultation for each Protected Area	Final recommendation of State Level Committee	If decided for relocation, identification of alternative sites for relocation	Number of villages to be relocated	Recognition of Rights completed or not	Final recommendation on forward to Central level Committee	Issue of Notification by MoEF	Remarks
			(wherever required if area large)									
1	Andhra Pradesh											
2	Arunachal Pradesh											
3	Assam											
4	Bihar											
5	Chhattisgarh											
6	Goa											
7	Gujarat											
8	Haryana											
9	Himachal Pradesh											
10	Jharkhand											
11	Jammu & Kashmir											
12	Karnataka											
13	Kerala											
14	Madhya Pradesh											
15	Maharashtra											
16	Manipur											

17	Meghalaya											
18	Mizoram											
19	Nagaland											
20	Orissa											
21	Punjab											
22	Rajasthan											
23	Sikkim											
24	Tamil Nadu											
25	Tripura											
26	Uttar Pradesh											
27	Uttaranchal											
28	West Bengal											
29	Andaman & Nicobar Islands											
30	Dadar & Nagar Haveli											
31	Chandigarh											
32	NCT of Delhi											
33	Lakshadweep											
34	Daman & Diu											

Indicates State level Committees constituted

* The Ministry has nominated nodal officers to oversee the implementation of the Act.

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006
IMPLEMENTATION SHEET - CRITICAL WILDLIFE HABITATS

Name of States/UTs:

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Sl.No	Name of Protected Area	Constitution of State Level Committee	1st Consultation for each Protected Area	2nd Consultation for each Protected Area	3rd Consultation for each Protected Area	Final recommendation of State Level Committee	If decided for relocation, identification of alternative site(s) for relocation	Number of villages to be relocated	Recognition of Rights completed or not	Final recommendation forwarded to Central level Committee	Issue of Notification by M&EF	Remarks
			(wherever required if area large)									
1												
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Guidelines to notify critical wildlife habitat including constitution and functions of Expert Committee, scientific information required and resettlement and matters incidental thereto.

As envisaged in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Critical Wildlife Habitats are to be declared by the Central Government in the Ministry of Environment and Forests after a process of consultation by Expert Committees. In this regard, these guidelines are issued, which include both criteria as well as the process.

1. Application for notification of critical wildlife habitat :

- (a) The State Government shall initiate the process for notification of a critical wildlife habitat by submitting an application on a case by case basis, to the Ministry of Environment and Forests, under intimation to the nodal agency under the said Act. The application shall include, among others, information as required under these guidelines.

2. Criteria and Process for deciding Critical Tiger/wildlife habitats in tiger reserves / protected areas

With the aim of maintaining viable populations of tiger and other faunal and floral species to conserve biodiversity and life support ecological systems in natural wilderness areas, the following criteria would be followed:

- a. Delineation of critical tiger/wildlife habitat (inviolate space/habitat) required for the sustenance of a viable populations of tiger and other wild animals in tiger reserves and protected areas vis-à-vis the Wildlife (Protection) Act, 1972, as

amended in 2006, and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

b. A minimum inviolate space of 800-1000 sq. km. should be maintained as the inviolate area to support a viable population of tiger in tiger landscapes, based on tiger life history parameters, territory sizes and populations viability analysis.

c. For National Parks and Sanctuaries, other than Tiger Reserves, critical wildlife habitat area should be demarcated on the basis of species area curves specific for each bio-geographical area, as classified by the Wildlife Institute of India (Rodgers and Panwar, 1988). The size of the inviolate area within each critical habitat zone will be based on its potential to harbor viable populations of umbrella species (endemic species, top carnivores, mega-herbivores, indicator, wild relatives of species of economic value, endangered and threatened, and migratory species), which would serve to conserve the entire biodiversity of the area.

d. Besides National Parks and Sanctuaries, identified corridors of significant wildlife values should also be examined according to the above criteria for delineation as critical wildlife habitat.

3. Expert Committee, its composition and functions

3.1 For completing the process of deciding inviolate areas as per the criteria prescribed above, the following Committees would be constituted:

Central Committee

a. Additional DG Forests (Wildlife)	Chairman
b. Chief Wildlife Wardens of concerned state	Member
c. Director, WII, Dehradun	Member

d. Shri Valmik Thapar,

Member

e. Shri Mahendra Vyas

Member

f. Representative from the Ministry of Tribal Affairs,

Member

g. Wildlife Scientist familiar with the area

Member

h. Member Secretary, NTCA/)

i. Inspector General of forest (WL)

Member Convener

3.2 The Central Committee would examine, on a case-by-case basis, proposals received from States for declaration of critical wildlife habitats in tiger reserves/protected areas, within 30 days of its receipt, for final notification.

3.3 State Level Committee

i. The State Government shall notify a State level Committee with the following composition:

- a. State Chief Wildlife Warden Chairman
- b. Representative of Ministry of Environment and Forests, Government of India Member
- c. Representative from the Ministry of Tribal Affairs, Government of India Member
- d. Two State level experts in the field of wildlife Members
- e. One local representative in the field of sociology/conservation or a representative from Gram Sabha Member
- f. Protected Area Manager Member Convener

3.4 Terms of Reference for State level Expert Committee

- (i) The Expert Committee shall determine the extent of inviolate area required for wildlife conservation, based on above criteria, evidence and analysis

presented by the State Government in its application; deliberations during the consultation and other studies or information from its own investigation;

- (ii) The Expert Committee, in arriving at such a decision, may, among others,
 - (a) have the power to summon witnesses, call for documents, and undertake any other actions or investigations it feels necessary;
 - (b) consult the Gram Sabhas that would fall within or are dependent on resources within the proposed critical wildlife habitat, the Director of the concerned National Park or Sanctuary, Divisional Forest Officer as well members of the civil society organizations working on social and environmental issues in the area.
- (iii) The Expert Committees may further
 - (a) request additional information or return the said application to the State government along with its reasons for doing so, within a specified period
 - (b) independently verify that complete and correct information was provided to the concerned Gram Sabha which are included in the proposed critical wildlife habitat
 - (c) act on requests from concerned Gram Sabhas and provide support to collect relevant information on the proposed critical wildlife habitat
- (iv) The State Government or any affected Gram Sabha or individual may send objections, comments or additional evidence to the Expert Committee on its decision within 30 days from the date of first hearing of the State Committee.
- (v) The Expert Committee shall consider these submissions and give a final recommendation to the Ministry of Environment and Forests within 15 days.

Information to be submitted with application for critical wildlife habitat

The State Government shall include the following information while submitting the application for critical wildlife habitat, namely: -

- (i) Physical, topographical and ecological details along with relevant maps of the areas to be determined as critical wildlife habitat;

- (ii) Location of human habitations within the proposed critical wildlife habitat along with their demographic, economic and social details;
- (iii) A list of families and settlements likely to be affected by the declaration of the critical wildlife habitat;
- (iv) Scientific studies including documentation of biodiversity that at least provide the ecological data on the habitat and population of the significant plant and animal species;
- (v) Data on human animal conflict and assessment of impact of human presence on animal numbers and animal habitat;
- (vi) Studies on the extent of dependence and interaction of the affected Communities with the forest resources within the proposed critical wildlife habitats;
- (vii) Resolution of the Gram Sabha certifying that in areas included within the proposed critical wildlife habitats, the process of recognition and vesting of rights has been completed;
- (viii) Resolution of the Gram Sabha certifying that the affected Gram Sabhas have been informed in writing that it is proposed to include their habitations and habitats in critical wildlife habitats and that a copy of the complete proposal prepared by the State Government for the same has been provided to it;
- (ix) The State Government ensure that the requirement under Sections 4(2)(b) and 4(2)(c) of the Act has been fulfilled and the basis therefore.

Consultation for determining critical wildlife habitat

- (i) The Expert Committee shall initiate open process of consultations on the said application in the following manner:
 - (a) One or more hearings close to or within the critical wildlife habitat, ensuring that reasonable opportunity is provided for all affected to attend the said hearings;
 - (b) Public notices in local languages shall be issued, broadcast on the radio, posted on the web and all appropriate publicity methods used at least thirty days prior to public hearings;

- (c) Gram Sabhas can invite additional experts to be present and participate in the public hearing.
- (ii) At the hearing, the State government shall in the local language
 - (a) Describe the areas and boundary of the proposed critical wildlife habitat;
 - (b) Details of the various habitations and persons to be affected
 - (c) Data provided in the application to the Ministry of Environment and Forests

The quorum for the hearing shall be two-thirds of the adults in the area for which the hearing is being held shall be required. If there is no quorum then the hearing may be reconvened at a later date with sufficient notice where the quorum shall be half of the adult members in the area. Later date with sufficient notice where the quorum shall be half of the adult members in the area.

6. Subsequent Action by the Ministry of Environment & Forests

- (i) The Ministry of Environment and Forests may notify the critical wildlife habitat taking into account the recommendations of the Expert Committee and make this information public.
- (ii) Such notification will be in English and in the official language of the state, and posted on the web.
- (iii) The Central Government, only after such notification of critical wildlife habitat, may initiate a process of creating inviolate areas for wildlife conservation in such critical wildlife habitat where forest rights may be modified or holders of forest right may be resettled as per the Section 4(2) of the Act.

No.23011/28/2008-SG-II
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi
Date: 03.12.2008

To

All State secretaries in charge of Tribal Welfare

(All States/UTs, except J&K, Haryana, Nagaland and Lakshadweep)

Sub.: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 - clarification regarding.

Sir

1. As you are aware, Rule 11(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 provides that the Gram Sabha shall call for claims and authorize the Forest Right Committee to accept the claims in the form as provided in Annexure-I of these Rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of 3 months after recording the reasons thereof in writing.
2. As the Rules provide for three months time for filing the claims, a question has been raised as to whether the Gram Sabha can consider the clear cases immediately or the Gram Sabha has to consider the cases only after the expiry of three months period. It is clarified that the period of three months for filling the claims is to be reckoned from the date of calling of claims after the constitution of Forest Rights Committee. Gram Sabhas can consider undisputed cases provided the procedure as laid down in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 has been followed.

Yours faithfully,
Sd/-
(Sunil Garg)
Under Secy. to the Govt. of India

Dated May 18, 2009

**Government of India
Ministry of Tribal Affairs**

Procedure for seeking prior approval for diversion of forest land for non forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the Government, as specified in that Section, which involve felling of trees not exceeding seventy-five trees per hectare, provided that such diversion of forest land shall be allowed only if, -

- (i) the forest land to be diverted for the purposes mentioned in the said sub-section is less than one hectare in each case; and
 - (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.
2. For implementation of the provisions of sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) act, 2006 the Central Government hereby lays down the following procedure:-

2.1 Definitions:-In the procedure, unless the context otherwise requires:-

- (a) "Acts" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- (b) "District Level Committee" shall mean the Committee constituted under Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Rules, 2008;
- (c) "Forest Land" shall have the same meaning as defined in Section 2(d) of the Act;
- (d) "Gram Sabha" shall have the same meaning as defined in Section 2(g) of the Act;

- (e) "Nodal Officer" means any officer not below the rank of Conservator of Forests, authorized by the State Government to deal with matters relating to diversion of forest land under the Act;
- (f) "Section" means a section of the Act;
- (g) "User Agency" means a Department of the Central or state Government or a District Panchayat making a request for diversion of forest land for developmental projects managed by the Government as specified in sub-section (2) of Section 3 of the Act;
- (h) "Village" shall have the same meaning as defined in Section 2(p) of the Act.

2.2 Submission of the proposals seeking approval for diversion of the forest land under sub-section (2) of Section 3 of the Act. –

- (i) Every User Agency, that wants to use any forest land for any developmental project, specified in Section 3(2) of the Act, shall make a proposal in the appropriate Form appended, i.e. Form 'A', and place it before the general assembly of the concerned Gram Sabha for adopting a resolution to that effect.
- (ii) A quorum of atleast half the members of the gram Sabha should be present for adopting a resolution recommending the diversion of forest land.
- (iii) On receipt of a recommendation of the proposal by the gram Sabha, the User Agency will submit the proposal to the concerned Range Forest Officer (RFO) of the area, along with the resolution adopted by the Gram Sabha.
- (iv) The Range Forest Officer (RFO) concerned will carry out site inspection of the proposed area to opine on the acceptance of the proposal.
- (v) The Range Forest Officer (RFO) concerned will submit the proposal and his recommendation to the concerned Divisional Forest Officer (DFO) in Form 'B' appended, along with his site inspection report and his opinion within three weeks from the date of receipt of complete proposal from the User Agency.
- (vi) The Divisional Forest Officer (DFO) concerned will consider the proposal, and if he agrees, he will accord his approval and communicate his decision to the Range Forest Officer (RFO) concerned with a copy to the Chairperson of the District Level Committee, within four weeks from the date of receipt of the proposal from the RFO.

- (vii) After receipt of the approval from the concerned DFO, the RFO will demarcate the area of the forest land approved for diversion and hand over the same to the User Agency under the supervision of the Gram Sabha.
- (viii) If the Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through the Range Forest Officer (RFO), he shall forward the proposal to the District Level Committee for a final decision.
- (ix) The District Level Committee will meet and take a final decision, will at least 1/3 quorum, and convey the decision to the DFO for implementation and correction of records and map if the proposal is accepted.
- (x) The approval for diversion of the forest land by the Divisional Forest Officer (DFO) or by the District Level Committee, as the case may be, shall be accorded subject to the condition that the land diverted for a specific purpose shall not be allowed to be used for any other purpose and the diverted land would be appropriated by the Forest Department if the activity for which the land was diverted is not started within one year of handing over the land to the User Agency.
- (xi) The DFO concerned will submit a quarterly report of the approvals accorded for diversion of forest land under Section 3(2) of the Act to the Nodal Officer of the State who, in turn, will furnish the consolidated information quarterly to the secretary, Tribal Welfare Department who will, in turn send the consolidated report to the Ministries of Tribal Affairs and Environment & Forests.
- (xii) The Nodal Officer will also monitor the progress.

APPENDIX

Form for seeking prior approval for diversion of forest land for non-forestry purposes for the facilities managed by the Government under sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

FORM – A

[See para 2.2(i)]

(To be filled up by the User Agency)

1. Project details:

- i. Short narrative of the proposed project / scheme for which the forest land is required.
- ii. Details of the forest land required (two options to be indicated)
 - a. Location – Survey No. / Compartment No.
 - b. Extent of the area (in hectare)
 - c. Forest Division
 - d. Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
- iii. Justification for locating the project in proposed forest land(s)
- iv. Number of trees to be felled (per hectare) and number that will be kept standing.
2. Detailed, purpose-wise break-up of the total forest land required with proposed building / activity area map.
3. Confirmation that User Agency will plant at least twice the number of trees to be felled, in the project or adjacent area and the amount to be provided annually for protection and maintenance of these plants for at least five years (Details to be enclosed).
4. recommendation of the Gram Sabha – Accepted / Rejected

[Please tick (✓), as the case may be], [Copy of the Gram Sabha resolution to be attached.]

Signature of the authorized person for the User Agency

(Name in Block letters) _____

Address _____

Date: _____

Place: _____

Serial No. of proposal _____

(To be filled up by the Range Forest Officer with date of receipt)

FORM – B

[See para 2.2(iv)]

(To be filled up by the concerned Range Forest Officer)

Serial No. of proposal

1. Location of the project / Scheme:

- (i) State / Union Territory
 - (ii) District.
 - (iii) Forest Division
 - (iv) Proposed forest land(s) (two options to be indicated)
 - i. Location – Survey No. / Compartment No.
 - ii. Extent of the area (in hectare)
 - (v) Whether part of biosphere reserve, tiger reserve, elephant corridor, etc.
2. Site inspection report (to be attached), containing the date of visit, and justified opinion on the acceptability of the proposal (separately for the two options).
3. Specific recommendation of the Range Forest Officer for acceptance or otherwise of the proposal and the better option.

Signature of the RFO

Name _____

Official Seal

Date: _____

Place: _____

Accepted / Not accepted
with reasons to be recorded

Signature of the DFO

Name _____

Official Seal

Date: _____

Place: _____

No. 14020/15/2005-SG-II

**Government of India
Ministry of Tribal Affairs**

Shastri Bhawan, New Delhi – 11001

Dated: 30th June, 2009

To

**The Principal Secretary / Secretary / Secretary-cum-Commissioner
Tribal welfare Department
Assam, Chhatisgarh, Gujarat, Jharkhand, Madhya Pradesh,
Meghalaya, Mizoram, Orissa, Tripura, Uttar Pradesh,
Uttarkhand and West Bengal.**

Sub.: Development of forest villages – details of Population.

1. The undersigned is directed to state that this Ministry is required to furnish to parliament etc. details of the population of the each forest village being funded under the programme. You are requested to furnish number of the people living in the each forest villages immediately by return fax.
2. In this connection, it is brought to your attention that representatives of this Ministry, Planning Commission, Ministry of Environment & Forests and National Commission for Scheduled Tribes (NCST) are planning to undertake visits of selected villages to get firsthand information on the implementation done your State. Details of visits of such teams shall be intimated to you separately.

Yours faithfully,

Sd/-

**[N. Ramakrishnan]
Under Secretary.**



F. No. 11-9/1998-FC (pt)
Government of India
Ministry of Environment and Forests
(FC Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110510.
Dated : 30.07.2009

To

The Chief Secretary / Administrator
(All State/UT Governments except J&K)

Subject: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 - ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.

Sir,

I am directed to invite the attention of the State Government to the operationalization of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which has become effective from 01.01.2008. It is observed that the proposals under the Forest (Conservation) Act, 1980 are being received from different states/UT Governments with the submission that the settlement of rights under Forest Rights Act, 2006 (FRA) will be completed later on.

Accordingly, to formulate unconditional proposals under the Forest (Conservation) Act, 1980, the State/UT Governments are, wherever the process of settlement of Rights under the FRA has been completed or currently under process, required to enclose evidences for having initiated and completed the above process, especially among other sections, Sections 3(1)(i), 3(1)(e) and 4(5). These enclosures of evidence shall be in the form of following:

- a. A letter from the State Government certifying that the complete process for identification and settlement of rights under the FRA has been carried out for the entire forest area proposed for diversion, with a record of all consultations and meetings held;
- b. A letter from the State Government certifying that proposals for such diversion (with full details of the project and its implications, in vernacular / local languages) have been placed before each concerned Gram Sabha of forest-dwellers, who are eligible under the FRA;
- c. A letter from each of the concerned Gram Sabhas, indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures if any, having understood the purposes and details of proposed diversion.



- d. A letter from the State Government certifying that the diversion of forest land for facilities managed by the Government as required under section 3(2) of the FRA have been completed and that the Gram Sabhas have consented to it.
- e. A letter from the State Government certifying that discussions and decisions on such proposals had taken place only when there was a quorum of minimum 50% of members of the Gram Sabha present;
- f. Obtaining the written consent or rejection of the Gram Sabha to the proposal.
- g. A letter from the State Government certifying that the rights of Primitive Tribal Groups and Pre-Agricultural Communities, where applicable, have been specifically safeguarded as per section 3(1)(e) of the FRA.
- h. Any other aspect having bearing on operationalisation of the FRA.

The State/UT Governments, where process of settlement of Rights under the FRA is yet to begin, are required to enclose evidences supporting that settlement of rights under FRA 2006 will be initiated and completed before the final approval for proposals.

This is issued with the approval of Minister of Environment and Forests.

(C.D. Singh)
Sr. Assistant Inspector General of Forests

Copy to:-

1. The PMO (kind attention: Director, PMO)
2. Secretary, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi.
3. The Principal Chief Conservator of Forests, All States / UTs.
4. The Nodal Officer (FCA), O/o the PCCFs, All States / UTs.
5. All Regional Offices of MoEF located at Bhopal, Shillong, Bangalore, Bhubaneshwar, Lucknow and Chandigarh.
6. The RO (HQ), MoEF, New Delhi.
7. Monitoring Cell, FC Division, MoEF, New Delhi for placing the same on the website of the MoEF.
8. Guard File.

(C.D. Singh)
Sr. Assistant Inspector General of Forests

File No. 9-5/2006-NTCA (Part)
GOVERNMENT OF INDIA
NATIONAL TIGER CONSERVATION AUTHORITY

Annexe No.5, Bikaner house,
Shahjahan Road, New Delhi- 1100

Email : dirpter@nic.in

Tele Fax: 23384428

Date the 8th September, 2009

To

The Chief Wildlife Warden (S),
All Tiger Range State

Sub: **Identification / Notification of core / critical tiger habitats and relocation of people from such areas, and Identification / Notification of buffer or peripheral areas under section 38V of the Wildlife (Protection) Act, 1972.**

Ref: 1. This Ministry letter No.1501/11/2007-PT (Part) dated 15.11.2007
2. This Ministry's letter No. 1501/11/2007-PT (Part) dated 3.12.2007
3. This Ministry's letter No. PS-MS (NTLA) (2007- Middle dated 31.01.2008
4. This Ministry's letter(s) No. 3-1/2003-PT DATED 17.01.2008, 26.02.2008, and 19.03.2008.

Sir,

The process of relocation of people living in the core/critical tiger habitats of tiger reserves has been elaborately dealt with under section 38V of the Wildlife (Protection) Act, 1972. Detailed guidelines in this regard, interalia, have already been issued vide reference(s) cited above.

As you are aware, the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has come into force with effect from 31.12.2007, and the rules framed under the said Act are in fore with effect from 01.01.2008. Hence the relocation of villages from core/critical tiger habitats may be carried out keeping in view the overall interest of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Further, identification of core/critical tiger habitats in new tiger reserves, after the coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 would involve action as contained in section 38V of the Wildlife (Protection) Act, 1972, read with the provisions contained in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

It is also requested that the buffer or peripheral areas of tiger reserves may also identified/delineated/notified as per 38V of the wildlife (Protection) Act, 1972, as suggested, vide reference and 3rd cited, at an early under interaction.

Yours faithfully,

Sd/-

(Dr Rajesh Gopal)

IGF & Member Secretary (NTCA)

Copy to:-

The Principal Secretary (Forests), All Tiger Ranges States.

The Principal Chief Conservation of Forests, All Tiger Ranges States.

The Field Directors, All Tiger Reserves.

Sd/-

IGF & Member Secretary (NTCA)

**Secretary to the Government of India
Ministry of Tribal Affairs
Shastri Bhawan, New Delhi – 110 001**

D.O. NO. 23011 / 23 / 2009 – FRA

4th December, 2009.

Dear

1. Please refer to my D.O. Letter of even number dated 9th June, 2009, addressed to the Principal Secretary, ST & SC Development Department, Government of Orissa, copy enclosed to your predecessor, with the request to consider conducting a study on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, on the lines indicated in my letter, either on behalf of the State Government or through IFAD, who are already working in Madhya Pradesh.
2. Your predecessor had told me that the State Government had also initiated a similar study. I would be grateful if you could inform me if the study report is out, and if not, when will it be out?

Yours sincerely,

Sd/-

(G.B. Mukherji)

Shri D.R. Birdi,
Principal Secretary,
SC and ST Welfare Department,
Government of Madhya Pradesh,
Bhopal.

Copy to Shri Ashok Kumar Tripathy, Principal Secretary, ST and SC Development Department, Government of Orissa, Bhubaneswar, in continuation of my D.O. letter of even number dated 9th June, 2009 referred to above. It is requested that the progress made in the long term study on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 entrusted to Nabakrishna Chaudhury Institute may kindly be intimated to this Ministry.

Sd/-

(G.B. Mukherji)

Secretary (TA)

No. 8-63/2007-FC

**GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS**

Paryavaran Bhavan, CGO Complex,
Lodhi Road, New Delhi
Dated the 8th January, 2010

Sub. : Diversion of 1253.225 ha of forest land for establishment of Integrated Steel Plan: and Captive Port by POSC-India Pvt. Ltd, Jagashinghpur district of Orissa.

Sir,

I am directed to refer to our letter of even number dated 29th December, 2009 conveying the approval of Central Government under Section 2 of the Forest (Conservation) Act, 1980 for diversion of 1253.225 ha of forest land for establishment of Integrated Steel Plan: and Captive Port by POSC-India Pvt. Ltd, Jagashinghpur district of Orissa. In order to implement the project it is clarified that the project can go ahead only after the conditions of MoEF letter dated 3rd August, 2009 including the conditions related to informed consent of the tribal people is fulfilled as per the provision of Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006. The condition No. 14 stipulated in our letter of even number dated 29th December, 2009 also said that the approval was subject to fulfillment of the following conditions besides the other 15 conditions stipulated:

"The rights of tribal people will be settled as per the provisions of Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 before implementation of the project.

The State Government is, therefore, requested that the conditions stipulated in our previous orders shall be fulfilled in their true spirit.

Yours faithfully,

Sd/-

(Ansar Ahmed)

Inspector General of Forest

**No. 17014/02/2007-PC&V(Vol. VII)(Pt.)
Government of India
Ministry of Tribal Affairs**

Shastri Bhawan, New Delhi

March 4, 2010

To

**The Principal Secretary,
Adim Jati Tatha Anusoochit Jati Kalyan -----
Government of Madhya Pradesh**

Subject: Review meeting held on 24.8.2009 in respect of the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – action regarding.

Sir,

I am directed to refer to your letter No. F-13-10/2009/25/5 dated 01.09.2009 on the above subject and to say that the issue raised in your letter has been examined in the ministry. It may be stated that the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 lay down an elaborate procedure for recognition and vesting of forest rights under the Act. The Gram Sabhas, Sub-Divisional Level Committees and District Level Committees are required to scrutinize the claims filed for recognition of forest rights under the Act. In detail, as per the procedure laid down in the said Rules, before the District Level Committee takes a final decision on the claims.

2. Claims rejected by DLCs cannot be reviewed but if the State feels that the rejections at earlier levels have been unduly large, then it can investigate the reasons and if it is due to an inadequate reading of the provisions of the Act and Rules, it can apply correctives. But to repeat cases finalized by DLCs cannot be re-opened.

Yours faithfully,
Sd/-
[A.K. Srivastava]
Director
Tel. 23387444

No. 17014/02/2007-PC&V (Vol. VII) (Pt.)
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

March 4, 2010

To

The Secretary,
Social Welfare & Tribal Welfare Department,
Government of Rajasthan,
Jaipur - 302 008

Subject: Large scale encroachment on Forest land during implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

I am directed to refer to the letter dated 7.8.2009 of the PCCF, Rajasthan, Jaipur, addressed to the Director General of Forests, Ministry of Environment & Forests, and copy endorsed to this Ministry, on the above subject (copy enclosed) and to say that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not prescribe any time limit for recognition and vesting of forest rights of the eligible claimants under the Act. As per Rule 11(a) of the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Act, the Gram Sabhas shall call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure - I of the rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.

2. As regards his apprehension regarding the misuse of the Act by the anti-social elements and fresh encroachments of large forest areas, it may be stated that the forest rights under the Act are to be recognized only in respect of the forest land under occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers before the 13th day of December, 2005. The fresh encroachments of forest lands after 13th December, 2005 would not qualify for recognition of rights under the Act. Further, misuse of the Act are to be checked by the prescribed bodies / authorities. The Act cannot be amended to accommodate any lapses on the part of such bodies / authorities.

Yours faithfully,

Sd/-

[A.K. Srivastava]

Director

Tel. 23387444

Copy for information to Director General of Forests, Ministry of Environment & Forests,
Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi - 110 003

Sd/-

[A.K. Srivastava]

Director

Tel. 23387444

No. 17014/02/2007-PC&V(Vol. VII)(Pt.)
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

March 4, 2010

To

**The Secretary,
Tribal Development Department,
Government of Maharashtra,
Mumbai – 400032.**

**Subject: Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Act, 2006 in Municipal Corporation Areas.**

Sir,

I am directed to refer to the letter No. TRT/Forest Act/FRA in Municipal areas/460 dated 1.12.2009 from the Commissioner, TR&TI, Pune, on the above subject and to say that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes the Gram Sabha as the authority to initiate the process of determining the nature and extent of the forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. As per the act and the Rules framed thereunder, the Sub-Divisional Level Committee has to examine the resolution passed by the Gram Sabha and prepare the records of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision on the record of forest rights.

2. It has been stated in the above letter that the Sub-Divisional Level Committee and the District Level Committee cannot be formed in the Municipal Corporation areas of the State as per the provisions of the Act. In view of this, the Act cannot be implemented in the concerned Municipal Corporation areas of the State.

Yours faithfully,
Sd/-
[A.K. Srivastava]
Director
Tel. 23387444

Copy to the Commissioner, Tribal Research & Training Institute, 28, Queens Garden, Pune – 411001 for information.

Sd/-
[A.K. Srivastava]
Director

No. 17014/02/2007-PC&V(Vol. VII)(Pt.)

**Government of India
Ministry of Tribal Affairs**

Shastri Bhawan, New Delhi

March 4, 2010

To

**The Director (Social Welfare)
UT Administration of Daman & Diu
Tribal Sub Plan Cell,
Collectorate, Dholar
Moti Daman – 396220.**

Subject: Delegation of power under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

I am directed to refer to your letter No. TSP/333/Forest/09/10/89 dated 07.01.2010 on the above subject and to say that this Ministry has already conveyed 'no objection' to the proposal of the Daman & Diu Administration for delegation of powers of the "State Government" under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, under Article 239 of the Constitution, to Ministry of Home Affairs, vide this Ministry's O.M. of even number dated 17.11.2009 (copy enclosed)

3. As regards the proposal for relaxation of the requirement of 2/3rd quorum of the members of the Gram Sabha for constituting the Forest Rights Committee at village level, it may be stated that the provision for the quorum of 2/3rd of all members of the gram Sabha for the meeting of the Gram Sabha in Rule 4(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 has been made with a view to ensure true representation of all the members of the Gram Sabha in such meetings so that the decisions taken therein are impartial and cater to the real objective of the meeting. These Rules do not permit relaxation of this requirement of quorum. The UT Administration may ascertain from the Governments of Madhya Pradesh, Gujarat, etc. as to how these States have been successfully operating this provision.

Yours faithfully,
Sd/-
[A.K. Srivastava]
Director

No.17014/02/2007-PC&V/FRA (Vol.VII)
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi
May 6, 2010

To

The Principal Secretary & Commissioner for Social Welfare
Government of Uttar Pradesh
Lucknow

Subject: Grant of land rights to *taungya* cultivators under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

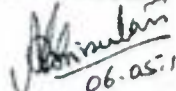
I am directed to refer to your letter No.568/26-3-2010-4(41)/2006 dated 12.4.2010 on the above subject and to say that under Section 4(3) read with section 4(6) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the following two conditions are required to be satisfied for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers in respect of forest land and their habitat:

- (i) they had occupied forest land before the 13th day of December, 2005; and
- (ii) they were in occupation of such land on the date of commencement of the Act, i.e., 31.12.2007.

In the case of the other traditional forest dwellers, the condition of at least three generations' stay (75 years) prior to the 13th day of December, 2005 is necessary

2. In the case of *taungya* cultivators of the State, if the above conditions are not satisfied, they would not be eligible for recognition of forest rights over forest land under their occupation under the Act.

Yours faithfully,


06.05.10
[A.K. Srivastava]
Director
Tele: 23387444

No. 17014/02/2007-PC&V (Vol-II) (Pt)

**Government of India
Ministry of Tribal Affairs**

Shastri Bhawan, New Delhi

Dated: 11.6.2010

To

Shri Vinod Kumar,
Special Secretary,
ST & SC Dev. & Minorities & B.C.W. Deptt,
Government of Orissa, Bhubaneswar

Sub: Supply of copies of clarifications on implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 issued in March, 2010.

Sir,

I am directed to refer to you D.O letter No. 21959/SSD/TD-II-32/08 (P) dated 19.5.2010 on the above mentioned subject.

2. A copy each of the following documents, are sent herewith:

- (i) Fixing time for receiving claims by Gram Sabhas.
- (ii) Review of claims decided (as rejected) by DLC, SDLC, Gram Sabhas.
- (iii) Applicability of FRA 2006 in Municipal Areas.
- (iv) Relaxation of requirement of 50% quorum of Gram Sabha for constituting FRC on requirement 50% quorum for forest diversion towards community claims under FRA 2006.

Yours faithfully,

Sd/-

(Sunil Garg)

Under Secretary to the Government of India

Tel. 011-23386893

BACHITTAR SINGH
JOINT SECRETARY
Tele: 23073489
Fax: 23070489

GOVERNMENT OF INDIA
MINISTRY OF TRIBAL AFFAIRS
SHASTRI BHAWAN, NEW DELHI - 110115
Email : bsingh@nic.in
Website : www.tribal.gov.in

D.O. No. 23011/14/2008-FRA

IMMEDIATE

Dated: 16.06.2010

Dear Sir,

Please refer to D.O. letter of even number dated 14.9.09 by Shri A.K. Srivastava, Director of this Ministry regarding furnishing of the information relating to the implementation of the Forest Rights Act, 2006 in the Left Wing Extremism (LWE) affected districts / areas of your State in the prescribed format. Subsequently, Shri Srivastava, vide his D.O. letter of same number dated 24.12.09 had requested you to issue necessary instructions to the concerned LWE district officials to ensure the entry of the district wise details relating to the implementation of the Act, on monthly basis, on the MIS Portal developed by Planning Commission. Shri Srivastava has again requested you, vide his D.O. letter of same number dated 18.01.2010, to ensure that the district-wise data is uploaded on the MIS developed by Planning Commission regularly.

2. It is observed that your State Government is not furnishing the requisite information relating to the implementation of the Act in the LWE affected districts / areas to this Ministry, on a regular basis. The Secretary, Planning Commission vide letter No. P - 12018/6/2010-RD(Pt.) dated 4.2.2010, has requested the Chief Secretary of your State to advise the District Collectors/District Magistrates of the SWE district in your State to upload district-wise data of January 2010 on their MIS in the revised format by 10th February 2010.

3. I request you to accord top-most priority to furnishing the requisite information to this Ministry, every month. It may also be ensured that the district-wise data is uploaded on the MIS developed by Planning Commission regularly. The MIS can be accessed on-line at <http://pcserver.nic.in/lwe>.

4. As the data uploaded on the SWE MIS Portal is analysed in the Planning Commission and the analysis report is sent to Cabinet secretariat, Prime Minister's Office and M/o Home Affairs, you are requested to advise the District Collector / District Magistrate to personally look in the timely loading and correctness of the data. You are also requested to intimate the action taken in regard to uploading district-wise data on the MIS developed by the Planning Commission in the revised format for the month of January, 2010 to May, 2010 and also furnish a copy of the same to this Ministry, at your earliest.

Yours sincerely,

Sd/-

(Dr. Bachittar Singh)

Shri Ashok Kumar Tripathy
Principal Secretary,
SC / ST Department,
Government of Orissa,
Bhubaneswar.

F.No.7-12/2010-FP
Government of India
Ministry of Environment & Forests
(FP –Section)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110003

Dated: 21.06.2010

To

The Principal Chief Conservator of Forests,
Department of Forests,
All States / UTs.

Subject: Compelling the Scheduled Tribes dwelling in the National Parks and Wildlife Sanctuaries to leave the premises of National Parks and Wildlife Sanctuaries without settling their rights under the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Sir,

Please find enclosed herewith a copy of D.O. letter No. 23011/29/2009-S.G.-2(FRA) dated 06.05.2010 as received from Shri Kanti Lal Bhuria, Hon'ble Minister of Tribal Affairs, Government of India on the subject cited above. In this regard, it is to inform that before taking any decision regarding the displacement of Schedule Tribes from National Parks and Wildlife Sanctuaries, it must be ensured that the Provisions of Scheduled Tribes and Other Traditional Forest Dweller (Recognition of Forest Rights) Act, 2006 have been duly complied with. This is also needed to evaluate the compensation to be paid to them through award of collector.

Yours faithfully,

Encl. As stated above
Sd/-

(Mohan Lal)
AIG (FC)

Copy to:

Member Secretary, NTCA, Govt. of India, Bikaner House, New Delhi for information.

Gautam Buddha Mukherji
Tele: 23381652
Fax: 23073160

Secretary to the Government of India
Ministry of Tribal Affairs
Shastri Bhawan, New Delhi - 110 001
Email : secy-tribal@nic.in
Website: www.tribal.gov.in

D.O. No. 23011/24/2009-FRA

15th July, 2010

Dear

The Ministry has been noticing that most States have been showing a higher percentage of rejection over acceptance of claims under the Forest Rights Act. This fact has also been pointed out by various civil society organizations. Admittedly, while processing of claims is a quasi-judicial exercise, it becomes an item of worry when the rejections are of such high order.

When the Ministry of Tribal Affairs are asked the reasons for such high rejection by States, only generalized replies are possible, based on the inputs received during conferences, workshops or from personal interactions. A time has, therefore, come when not only should we attempt to find out the categories / reasons for rejections by the Gram Sabha and at the Sub Divisional level, but there from also find out the ways of improving the quality of our otherwise considered excellent performance in the distribution of rights across the country.

Kindly, therefore, initiate an action immediately, on a statistically acceptable sampling basis, at the level of Gram Sabha and Sub Divisional level Committees for categorizing all rejections, with their numbers. We can suggest the following categories:

- a. Non-availability of written record;
- b. Non-availability of other criteria specified in Rule 13;
- c. Non-possession of forest land;
- d. Non-occupation on the date relevant to the Act;
- e. Multiple claimants;
- f. Doubtful tribal status;

You may like to add other criteria relevant to your State.

Kindly also include figures for other traditional forest dwellers (OTFD) separately from Scheduled Tribes in the above assessment.

The expenses for the survey can be met out of the grants under Article 275(1) proviso, as communicated to all States in early 2009. We hope that this exercise will be completed in three months and, thereafter, included in each monthly progress report.

Yours sincerely,

Shri Tarun Kanti Mishra,
Chief Secretary,
Government of Odisha,
Bhubaneswar.

Sd/-

(G.B. Mukherji)

D.O. No. 23011/24/2009-FRA

20th July, 2010

Dear Tarun,

The Status of implementation of the Forest Rights Act was recently reviewed in a very high level meeting. It was noted that while substantial progress had been made, it could have been better had such wide inter-state variations not been there. Concerns were also expressed regarding the high rates of claim rejection, difficulties expressed by claimants in accessing the requisite evidence, delays in the demarcation / handing over of land including provision of maps, insufficient emphasis on community rights, non-conversion of forest villages into revenue villages, non-involvement of the civil societies, academics, etc. in facilitating claims, especially those of the Particularly Vulnerable tribal Groups (PTGs), capacity building of the various committees set up under the Act, particularly the Forest Rights Committees and the Gram Sabha, etc.

2. In order to accelerate the pace of implementation of the Act and to address the concerns mentioned above, we would like to request that the following measures be taken by the State Governments immediately:

- (i) A scrutiny of reports received from the states so far reveals that till 30th June, 2010 only 1.76 per cent of the forest rights claims filed relate to community rights. Since most community claims relate to the ownership of minor forest produce, **State Governments should launch a special campaign, as is being undertaken in Orissa, for generating wide-spread awareness about these community rights, if necessary, by re-training field level functionaries engaged in the processing of such applications.** The Gram Sabhas in the State may be given instructions to facilitate the collection of more community right claims. Support of local resource institutions under the State Government may be enlisted.
- (ii) As per Rule 4(3), the Gram Sabha is to be provided with all necessary assistance by the authorities in the State in the discharge of its functions. In order to (a) overcome the difficulties experienced by the claimants in accessing the requisite evidence in support of their claims; (b) avoid the delays in preparation of a map delineating the area of each recommended claim; (c) facilitate claims; especially those of PTGs; (d) enhance capacity building of the Forest Rights Committees constituted by the Gram Sabha for assisting the Gram Sabha etc. , **the State Government may provide the gram Sabhas with the assistance of facilitators.** As in the case of Gram Sabhas, the State Government may also provide the Sub Divisional Level Committees with the assistance of facilitators for due discharge of functions assigned to them under Rule 6. These facilitators may be engaged with the involvement and approval of the District Collector. **The assistance of local Tribal Research Institutes (TRIs) can also be sought.** The expenses on the engagement of facilitators can be made out of the grants Article 275(1) proviso, as communicated to the States in early 2009.
- (iii) Rule 12 specifically lays down that Forest Rights Committees must ensure that claims from the members of the PTGs or pre-agricultural communities are verified in the presence of the members of such communities. If this is read with the list of evidence provided in Rule 13(1) (c) and Rule 13(1)(i) the establishment of claims for such communities is not likely to be a

problem. What is essential however is that such communities must be focused for specific attention as provided in Rule 8(b). **Hence, besides reiterating these provisions, kindly also facilitate collection and processing of the claims from such groups and communities in line with what has been suggested in sub-para (ii) of this letter.**

- (iv) **The Ministry has been noticing that the State Level Monitoring Committees (SLMC), in most States, have not been meeting regularly to take stock of field level problems. You may kindly schedule meeting at least once in three months – to monitor the process of implementation of the Act, take stock of the filed level problems and furnish a six monthly synoptic report to this Ministry on the status of implementation and field level problem, if any, as prescribed under Rule 10(d).**
- (v) **It is proposed to nominate a representative of the Ministry of Tribal Affairs to attend selected meetings of the SLMC in some States as an observer. Hence, a schedule of the SLMC meetings for the year may be drawn up and intimated to this Ministry well in advance so that a representative of this Ministry could be deputed accordingly.**
- (vi) Rule 14(1) requires that a person aggrieved by the resolution of the Gram Sabha may file a petition to the Sub Divisional Level Committee (SDLC) **within a period of sixty days from the date of resolution.** This presumes that the resolution of the Gram Sabha (or the SDLC) is communicated to the claimant on the day the resolution has been passed. There could, however, be a time gap between the date of the resolution and the communication of the same to the affected person. **Natural justice demands that the sixty days should count from the date of communication of the orders.** Likewise, though not specifically provided in the Rules, natural justice demands that the rejection of a claimant by the District Level Committee should also be communicated so that the affected person is aware, and can seek redressal as provided in the Act.
- (vii) The Forest Rights Act provides, under Section 3(1)(h), that after settlement of rights, forest villages should be converted into revenue villages. Similarly, individual rights also need to be recorded in the appropriate manner following the settlement rules prescribed to each State. As this aspect has not been attended to till now, and in the context of the large number of claims settled in the meanwhile, **the formal recording of these rights have to be attended to on priority basis, henceforth.** You may in the next meeting of the State Level Monitoring Committee decide on the time schedule for the completion of this activity.

3. We hope that following these measures, our quantitative achievements will now be supported qualitatively.

Yours sincerely,

Sd/-

*Shri Tarun Kanti Mishra,
Chief Secretary,
Government of Odisha,
Bhubaneswar.*

(G.B. Mukherji)

**No. 23011/16/2010-FRA
Government of India
Ministry of Tribal Affairs**

**Shastri Bhawan, New Delhi,
22nd July, 2010**

To

**The Chief Secretary,
Government of Odisha,
Bhubaneswar.**

Sub: Direction under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (in short Forest Rights Act).

Sir,

A direction is being issued under Section 12 of the Forest Rights Act to the authorities prescribed in Chapter IV of the Act that recommendation of the Gram Sabha for settling rights over minor forest produce (both individual and community) **should be just processed, not re-examined for quick acceptance.**

2. Such a direction will be in tune with both the Forest Rights Act {Section 6 (i) read with 3(1) (c)} and Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA) {Section 4 (m) (ii)}

Yours faithfully,

Sd/-

(G.B. Mukherji)

Secretary to the Government of India

Tel: 23381652

Arbind Kumar Chugh
Tele: 23381652
Fax: 23073160

Secretary to the Government of India
Ministry of Tribal Affairs
Shastri Bhawan, New Delhi – 110 001
Website: www.tribal.gov.in

D.O. No. 17011/1/2010-FRA

3rd September, 2010

Dear

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) act 2006 envisages the recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over forest land in the National Parks and Sanctuaries also.

2. As per the information available with the Ministry, critical wildlife habitats in the National Parks and Sanctuaries are yet to be determined and notified under Section 2(b) of the Act, and, therefore, no action has been taken by State / UT Governments for the recognition and vesting of rights of forest dwelling Scheduled tribes and other traditional forest dwellers occupying forest land in the National Parks and Sanctuaries.

3. It may be mentioned that the recognition and vesting of the forest rights under the Act is not related to the determination and notification of critical wildlife habitats in the National Parks and Sanctuaries. There is no provision in the Act to defer the process of vesting of forest rights till critical wildlife habitats are determined and notified. In fact, the rights need to be recognized first in the National Parks and Sanctuaries before undertaking any exercise for resettlement. No eviction and resettlement is permissible till all the formalities are completed.

4. Complaints were received in this Ministry that some Schedule Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights, under the Act, being decided one way or the other. The Ministry had accordingly taken up the matter with the Ministry of Environment and Forests to issue instructions to all State Forest Departments to faithfully implement the provisions of the Forest Rights Act before any decision is taken on the eviction of the Scheduled Tribes living in these areas.

5. Consequently, Ministry of Environment and Forests has requested all the State Governments to ensure that before taking any decision on displacement of Scheduled Tribes from National Parks and Sanctuaries, the provisions of the Scheduled tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) act 2006 should be duly complied with. In this connection, a copy of Ministry of Environment and Forests' letter No.7-12/2010-FP dated 21st June, 2010, addressed to the Principal Chief Conservator of Forests, Departments of Forest of all States / UTs is enclosed.

6. I shall be grateful if you could kindly bring the contents of the enclosed letter to the notice of all officers concerned with the implementation of the Act in your State for compliance.

Shri Tarun Kanti Mishra,
Chief Secretary,
Government of Odisha,
Bhubaneswar.

Yours sincerely,
Sd/-
(A.K. Chugh)

No. 17011/1/2010-FRA

3rd September, 2010

Copy, along with a copy of Ministry of Environment & Forests letter No. 7-12/2010-FP dated 21st June, 2010, forwarded to Secretary, Scheduled Castes and Scheduled Tribes Welfare Department, Government of Orissa, Bhubaneswar for information and necessary action.

Sd/-
(A.K. Chugh)
Secretary (TA)

F.No.12-1/2006-FP
Government of India
Ministry of Environment & Forest
(Forest Policy Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110003

Dated: 23rd September, 2010

To

The Chief Secretary,
All the States.

Sub: Implementation of FRA in States.

Sir,

With reference to the above subject, I would like to inform you that this Ministry has received comments from observers that in certain cases, District Collectors are issuing Pattas without proper identification of the actual parcel of (forest) land allotted, and without fixing any boundaries. This means that the patta-holders will have to wander around searching for a suitable piece of (forest) land to occupy, and their right to remain on a piece of (forest) land will always be under question because survey and demarcation has not been done. For the concerned forest officers, also, the situation is fraught with anxiety, as they can be hauled up any day for allowing unauthorized occupation and felling of forest lands.

It is requested to issue strict directions that the plots of land should be located on the ground, boundaries surveyed and plotted on a map duly signed by the concerned authorities, and Tribal Deptt. To give funds for erecting boundary pillars whose GPS readings should be recorded and entered in revenue and forest department records and on the patta. Where scattered plots of land have been occupied throughout a tract of forest, they may be brought to one corner of the forest to avoid honeycombing and subsequent fragmentation.

The compliance of the action may kindly be intimated to MoEF for needful action.

Yours faithfully,

Sd/-

(A.M. Singh)

DIGF (FP)

Copy to:-

PCCFs of all the States for verification & comments.

Arbind Kumar Chugh

Tele: 23381652

Fax: 23073160

Secretary to the Government of India

Ministry of tribal Affairs

Shastri Bhawan, New Delhi – 110 001

Website: www.tribal.gov.in

D.O. No. 17014/11/2010-FRA

20th January, 2011

Dear Bijay,

As you are aware, Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 provides for diversion of forest land for certain Government managed facilities. In this regard, vide letter No.23011/15/2008-SG.II dated 18th May, 2009, this Ministry has issued detailed guidelines and procedure, including the time lines, to be followed while processing the cases for diversion of forest land.

2. It has been brought to the notice of this Ministry in a review meeting that the prescribed time lines are not being followed and delays are occurring in processing these cases. I am to request you to issue strict instructions to all officials who are required to process such diversion requests, under the prescribed procedure, to strictly adhere to time lines. I shall also be grateful if the requests for diversion of forest land are monitored regularly by Deputy Commissioners, District Forest Officers / Conservator of Forest and other higher tiers of the related departments and that these are also reviewed by the State Level Monitoring Committee headed by you. I am also to request you to let us know the number of cases in which the prescribed time limit was not adhered to.

Shri Bijoy Kumar Patnayak,

Chief Secretary,

Government of Orissa,

Bhubaneswar.

Yours sincerely,

Sd/-

(A.K. Chugh)

No. 17014/02/2007-PC&V(Vol. VII)(Pt.)

Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

May, 5, 2011

To

The Special Secretary,
S.T & S.C Development Department
Government of Orissa
Bhubaneswar.

[Kind attention: Shri Vinod Kumar]

Subject: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – clarification on certain issues.

Sir,

I am directed to refer to your Chief Secretary, Government of Orissa's letter No. TD-II-32/08-40490/CS(STSC), dated 21.10.2010 on the above subject and to say that issues raised therein have been examined in this Ministry and are clarified as under:

Sl. No.	Issues	Clarification
1.	Need for fixing a time limit for filling and deciding the claims under the Forest Rights Act, 2006 to enable issue of a certificate as required by the Ministry of Environment & Forests' circular No. 11-9/1998-FC(pt.) dated 3.8.2009, which calls for a number of evidences from the State Governments for formulating unconditional proposals under the Forest (Conservation) Act, 1980, as in the absence of a cut-off date for claiming forest rights for the forest areas of the State, such a certificate can never be given and no forest diversion proposal can be formulated.	➤ As per Rule 11(a) of the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Act, the Gram Sabhas shall call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure – I of the Rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing. ➤ The Scheduled Tribes and Other

		Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not prescribe any time limit for deciding a filed claim. ➤ The act is being implemented by the State / UT Governments. They are requested to implement the Act in letter and spirit in a timely manner.
2.	In cases where Gram Sabha has not completed the process by fixing a date and initiating a process of determination of its community forest resources, as required under Rule 11(b) of the Forest Rights Rules, 2008, does it mean that no forest diversion proposal can be formulated for the said forest area in view of the requirements under MoEF circular dated 03.08.2009 or should any other authority asked the Gram Sabha to fix a date, initiate and complete the process.	➤ In cases where Gram Sabha has not completed the process by fixing a date for initiating the process of determination of its community forest resources, as required under Rule 11(b) of the Forest Rights Rules, 2008, then the SLMC can give directions to such Gram Sabhas to initiate the process in accordance with the law.
3.	Validity and applicability of MoEF circular dated 03.08.2009, requiring submission of a letter from each of the concerned Gram Sabhas about completion of all formalities / processes under the FRA and their consent for the diversion of forest land for non-forest purposes, considering that the FRA does not provide for any such mandatory provision for completion of the process under the FRA or consent of Gram Sabha before diversion of any forest land under Forest (Conservation) Act, 1980.	➤ The requirements under circular dated 03.08.2009 of Ministry of Environment & Forests have been decided by Ministry of Environment & Forests keeping in view of their information needs for deciding a case for use of forest land for non-forestry purpose.

Yours faithfully,

Sd/-

[A.K. Srivastava]

Director

Tel: 23387444

No. 23011/28/2008-SG-II(FRA)

Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

Dated: 1.9.2011

To
Santosh Sarangi
Commissioner-cum-Secretary,
S.T & S.C Development Department,
Government of Orissa,
Bhubaneswar.

[Kind attention: Shri Vinod Kumar]

Subject: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – clarification on certain issues.

Sir,

I am directed to refer to Chief Secretary, Government of Orissa's letter No. TD-II-32/08-40490/CS(STSC), dated 21.10.2010 on the above subject and to say that issues raised therein have been examined in this Ministry in consultation with the M/o Environment & Forests, M/o Panchayati Raj and M/o Law & Justice and are clarified as under:-

Sl. No.	Issues	Clarification
1.	In cases where there are no villages inside Reserve Forest areas or un-surveyed forest areas, but the Scheduled Tribes / OTFD, irrespective of where they stay, graze their cattle, or claim to collect MFP etc, then which Gram Sabha and at what distance from the concerned forest land should initiate action for settling the community rights of ST / OTFDs in such forest areas which are beyond the limits of a village boundary. Also, in the case of forest diversion proposal, which Gram Sabha, at what distance from the concerned forest land	➤ In such cases, the claimants have to file their claims for community forest rights before the concerned Gram Sabha of which they are the members. ➤ To decide the claims the procedure laid down in Rule 12 and particularly Rule 12(3) of the Forest Rights Rules, 2008, would need to be followed. ➤ Further, in the case of a forest diversion proposal in a situation of this type, the certificated as required under the circular issued by MoEF on 03.08.2009 will need to be taken from all the concerned Gram Sabhas to which of such a forest area is common. ➤ The Forest Rights Act, 2006 has been enacted for conferment of defined forest

should initiate action to enable the State Government to issue a certificate as required under a circular issued by MoEF on 3.8.2009 that the proposal for diversion of forest land has been placed before each Gram Sabha of forest dwellers under the FRA. Since, individual or community rights conferred under Section 4(4) of FRA, 2006 are heritable, but not alienable or transferable, whether after vesting of forest rights of STs and OTFDs on a particular forest areas, can the same forest area be diverted for non-forest use for developmental project or not under the Forest (Conservation) Act, 1980. If diversion of such forest land is permissible, whether the vested forest rights need to be compensated for and if 'yes' how? Is there any norm to compensate such forest rights? Can the forest rights be suspended, acquired or taken away by the State if situation demands?	rights, prescribing the procedure to be followed while conferring such rights and matters incidental to and connected therewith. ➤ The Forest Rights Act, 2006 does not deal with the issue relating to diversion of forest land for non-forest use after vesting of forest rights of FDSTs and OTFDs.
--	--

Yours faithfully,

Sd/-

[A.K. Srivastava]

Director

Tel: 23387444

24th May, 2012

Dear Hon'ble Chief Minister,

I am writing this to bring to your attention the problems arising in implementation of the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006.

2. In 2006, Parliament unanimously passed the historic 'The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act'. This watershed legislation has been enacted with the laudable objective to remedy the historical injustice done to the Tribals/Adivasis' and other forest dwelling citizens of our country. However, its implementation continues to suffer from many problems, as a result of which the majority of forest dwellers are not receiving their rights. This landmark legislation lamentably hasn't as such benefitted majority of forest dwellers and tribals even after lapse of more than five years of enactment of the Forest Rights Act. This goes against our professed adherence to rule of law.

3. In particular, rejection rates for claims for rights are still very high, and rejected claimants are not informed about the reasons for rejection or given an opportunity to appeal against the rejection. Where land rights are recognized, the area for which title is issued is often a fraction of the area that people are actually entitled to. Recognition of community rights, such as rights to minor forest produce, grazing areas, water bodies, habitats of Primitive Tribal Groups/pre-agricultural communities, pastoralists' routes etc. are very low. There have also been very few cases where the crucial right of forest dwelling communities to protect and manage their forests has been recognized or respected (and in some cases illegal conditions have been imposed on this right). As a result, large numbers of forest dwellers are facing eviction or harassment by forest authorities. Large numbers of them have also been illegally displaced from forest land without respect for their rights or due process of law.

4. The Ministry of Tribal Affairs is the nodal agency for the implementation of this law. From the experience of more than three years of implementation, we have identified certain procedural lacunae that have led to these problems. I wish to draw your attention to some steps that can be taken to address these lacunae. These are in the annexed note on "Steps for Better Implementation." The Ministry is also seeking to incorporate these points into Rules or directions under the Act.

5. I hope that these points will be taken into account by the State Government when implementing this law. If a clear signal is given to implementing authorities that all rights of forest dwellers must be adhered to and that the democratic process under this law must be respected, the forest dwellers of this country may finally find succor and could actually lay claim to their rights.

With regards,

Yours sincerely,

Sd/-

(V. KISHORE CHANDRA DEO)

Prof. Prem Kumar Dhumal
Chief Minister of Himachal Pradesh
R. No. 101 E, Himachal Pradesh Government Secretariat
Shimla - 171002
Himachal Pradesh

Shri Nelphiu Rlo,
Chief Minister of Nagaland,
Kohima,
Nagaland.

Shri Pu Lalthanhawla,
Chief Minister of Mizoram,
Aizawl,
Mizoram.

Shri Okram Ibobi Singh,
Chief Minister of Manipur,
Imphal,

Manipur.

Shri Tarun Gogoi,
Chief Minister of Assam,
Janta Bhawan,
Dispur,
Guwahati - 781006.

Dr. Mukul Sangma,
Chief Minister of Meghalaya,
Shillong,
Meghalaya,

Shri R. Raman Singh,
Chief Minister of Chhattisgarh,
Room No. 303, Mantralaya,
D.K.S. Bhavan,
Raipur (C.G.) 492001.

Shri Shivraj Singh Chouhan,
Chief Minister of Madhya Pradesh,
Mantralaya,
Vallabh Bhawan,
Bhopal.

Shri Prithviraj Chavan,
Chief Minister of Maharashtra
Mantralaya,
Madam Cama Road,
Churchgate,
Mumbai - 400032.

Shri Naveen Pattnaik,
Chief Minister of Odisha,
Odisha Secretariat,
Bhubaneswar - 751001.

Shri Vijay Bahuguna,
Chief Minister of Uttarakhand,
4 Subash Road, C.M. Office,
Uttarakhand Secretariat,
Dehradun - 0248001,
Uttarakhand.

Shri Manik Sarkar,
Chief Minister of Tripura,

Agartala,
Tripura.

Shri Nabum Tuki,
Chief Minister of Arunachal Pradesh,
Itanagar,
Arunachal Pradesh.

Shri Oommen Chandy,
Chief Minister of Kerala,
North Block,
Government Secretariat,
Thiruvananthapuram,
Kerala.

Shri D.V. Sadnanda Gowda,
Chief Minister of Karnataka,
Vidhana Soudha,
Bangalore - 560001,
Karnataka.

Selvi J Jayalalithaa,
Chief Minister of Tamil Nadu,
Chief Minister's Office,
Secretariat,
Chennai - 600009.

Shri N. Kiran Kumar Reddy,
Chief Minister of Andhra Pradesh,
C Block, 6th Floor, AP Secretariat,
Hyderabad,
Andhra Pradesh.

ANNEXURE

Areas of Concern and Suggested Actions

- ▲ There continues to be a lack of public awareness about this Act. Many people – particularly those who are non-ST “other traditional forest dwellers” – are being prevented from filing claims for rights. Therefore, fresh awareness raising campaigns could be initiated at all levels, including in villages; all forest areas and forest dependent communities should be covered; and extraneous evidence requirements should not be imposed on claimants who can produce admissible evidence of their eligibility or that of their community.
- ▲ The Act lays stress on a democratic process rooted in the gram sabhas. For this purpose the Act provides flexibility for the gram sabha to be called at the level of the actual settlement / hamlet (as is required in Fifth Schedule areas in any case). However, the gram sabhas for this Act have mostly been called at the larger level of the panchayat. Such gram sabhas may include multiple villages and be too large; they cannot claim for or exercise village community rights and it is very difficult for the quorum requirement to be met. Therefore, the State government may consider asking each panchayat to provide a list of actual villages within its boundaries, as well as permitting such villages to constitute themselves as gram sabhas through passage of a resolution. These should then be the units of implementation, which can be re-initiated on this basis, particularly for the recognition of community forest rights. Rights already recorded need not be disturbed.
- ▲ Claims have been rejected for incorrect reasons, often on the basis of official records (such as “encroacher lists” of the Forest Department) alone, when the purpose of this Act was to remedy the shortcomings of these records. All forms of evidence listed in the Rules to the Act are admissible. No claim accompanied by admissible evidence should be rejected on the basis of official records alone.
- ▲ The higher committees under the Act (the Sub-Divisional and District Level Committees) are often modifying and rejecting claims without hearing or even informing the claimants. To avoid this situation, when there is an objection to a claim which has been approved the gram sabha and has admissible evidence, the objecting agency can be required to appeal. The appellant and the claimant must then both be heard before deciding the claim. Incomplete claims can be remanded for reconsideration rather than being rejected outright.
- ▲ Gram sabha meetings for the Forest Rights Act, and especially for critical decisions such as diversion of forest land, should be videotaped and the videos made publicly accessible. This will ensure transparency and reduce manipulation and disputes.
- ▲ In many areas tribals and forest dwellers still face harassment and threats of eviction, forced relocation or displacement in violation of the Forest Rights Act. Action should be taken against all officials who try to harass or illegally evict forest dwellers prior to the recording of their rights, or in violation of those rights. The provisions of this law and relevant orders (in particular the Environment Ministry's July 30th, 2009 order on diversion of forest land) should be strictly followed. Relocation from tiger reserves and protected areas must follow section 4(2) of the Act; currently some tiger and wildlife habitats are being demarcated in violation of law and people are being asked to move without full compliance with all requirements.
- ▲ Rights to own, collect, use and dispose of minor forest produce have not been recognised or have faced incorrect restrictions in many areas. It should be clarified that forest dwellers have rights over any form of minor forest produce (as defined in the Act), in all forest and protected areas, and that this includes the right to ownership and sale.
- ▲ The Act took a key step forward in empowering communities to legally protect and manage forests. However this has largely either not been implemented or been mis-implemented; conditions have been imposed or rights have been vested in other bodies (such as Joint Forest Management committees). Officials should be instructed to respect the decisions of communities on forest protection (as provided in section 5 of the Act) and to ensure proactive recognition of community forest resource management rights within customary boundaries. Forest officials should be mandated to comply with these provisions.
- ▲ Conversion of forest villages to revenue villages is required by the Act, but is hardly being carried out. This should be carried out prior to recognition of individual rights in these villages and should include common areas and areas for basic facilities.
- ▲ Other community rights, such as use of and access to grazing areas by settled and nomadic communities, access to water bodies, habitats of primitive tribal groups, etc. have also not been widely recognised. These should now be proactively recognised and steps taken to remove procedural obstacles imposed on their recognition.

Some of the important issues raised by the States relating to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the clarifications given thereto.

Sl. No.	Issue	Clarification
(i)	Implications of the phrase "primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs" appearing in Section 2(c) and 2(o) of the Act.	The implication of using the word 'primarily' is to include the Scheduled Tribes and other Traditional Forest Dwellers who have either habitation, or patches of land for self-cultivation for livelihood, and would, therefore, be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land. Therefore, such Scheduled Tribes and other Traditional Forest Dwellers who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs would be covered under the definition of "forest dwelling Scheduled Tribes" and "other traditional forest dweller" as given in Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. [MoTA's letter No.17014/02/2007-PC&V (Vol.II) dated 9th June, 2008, addressed to all States/ UTs, except J&K]
(ii)	Constitution of various Committees under the Act in Jharkhand where the Panchayat elections had not been held.	In the absence of Panchayati Raj Institution in the State of Jharkhand, the State Government was directed to arrange meetings of the Gram Sabhas and ensure representation in the Sub-Divisional Level Committees, District Level Committees and the State Level Committees in consultation with the Department of Panchayati Raj and the Nodal Department of State Government on Forest Rights Act. [MoTA's letter No. 17014/02/2007-PC&V (Vol.VII) (pt) dated 9th July, 2008, addressed to Government of Jharkhand]
(iii)	Consideration of the revenue land under the occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers for determining the limit of an area of 4 hectares of forest land for habitation or for self-cultivation, referred to in Section 4(c) of the Act.	The term "forest land" is defined in section 2(d) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the said definition does not include revenue land. Therefore, the revenue land under the occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers is not to be taken into account for determining the limit of an area of 4 hectares of forest land for habitation or for self-cultivation, referred to in Section 4(6) of the Act. The area of encroachment of forest land shall, however, be included in the limit of 4 hectares, prescribed in section 4(6) of the Act

		However, section 3(1)(a) of the Act refers to “the right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood”, while rule 2(1) (b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 notified on 1.1.2008 defines “bona fide livelihood needs” as “fulfillment of sustenance need of self and family”. As the basic objective of the Act is to provide livelihood means to forest dwelling Scheduled Tribes and other traditional forest dwellers, the livelihood aspect also needs to be kept in view, while considering the maximum limit of an area of 4 hectares of forest land for recognition and vesting of forest rights. If the forest dwellers do not primarily reside on the forest land in their occupation and depend on the revenue land or the area of regularized encroachment of forest land for their bona fide livelihood needs, then they should not get title to the forest land in occupation. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Gujarat]
(iv)	Since 3 months time has been provided under Rule 11(a) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 for filing the claims, whether the Gram Sabha can consider the clear cases immediately or the Gram Sabha has to consider the cases only after the expiry of 3 months period.	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 provide that the Gram Sabha shall call for the claims and authorize the Forest Rights Committee to accept the claims. Such claims are to be made within a period of three months from the date of such calling of the claims. The period of three months for filing the claims is thus to be reckoned from the date of calling of claims after the constitution of the Forest Rights Committee. Gram Sabhas can consider undisputed cases provided the procedure as laid down in the Rule has been followed. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to all State/ UT Governments except J&K, Harayana, Nagaland and Lakshadweep]
(v)	Whether the forest villages can be converted into revenue villages by an administrative decision and whether claims have to be filed for the same	The State Government can convert the forest villages into revenue villages as per the guidelines issued by the Ministry of Environment & Forests, vide their letter No.13-1/90/FP(5) dated 18.9.1990. Action for conversion of such forest villages into

	before the Gram Sabha.	revenue villages can also be taken by the State Government when the forest dwelling Scheduled Tribes and other traditional forest dwellers file their claims for recognition of this right before the Gram Sabha, to be ultimately decided upon by the District Level Committee. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Madhya Pradesh]
(vi)	Whether powers can be delegated to the Revenue Divisional Officer for signing the claimant rights Pass Books i.e. title deeds, instead of District Collector and whether facsimile signature of the District Collector could be permitted in the claimant rights Pass Books i.e. title deeds.	As per Annexure-II & III of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, the title for forest land and community forest rights are to be signed by the District Collector/ Deputy Commissioner. Therefore, this power can not be delegated to the Revenue Divisional Officers. The facsimile signature of the District Collector can also not be permitted on the title deeds. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Andhra Pradesh]
(vii)	Whether the Principal Secretary of the Autonomous Councils in certain districts in the States governed under the provisions of the Sixth Schedule to the Constitution of India can be made the Chairperson of the SDLCs and DLCs under the Act.	As per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, Sub-Divisional Level Committees and the District Level Committees are to be headed by Sub-Divisional Level Officers or equivalent officers and District Collector or Deputy Commissioner respectively. During the review meeting of the State Secretaries/ Commissioners of Tribal Welfare held on 11.11.2008, it was informed that SDOs and District Magistrates were available in the six districts of the State, which were under the Sixth Schedule provision. Therefore, the District Level Committees and Sub Divisional Level Committees have to be constituted as per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 even if the forest and land revenue matters are managed by the Council authorities. These Rules do not provide for making the Principal Secretary of the Autonomous Councils as the Chairperson of these Committees. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Assam]

(viii)	Definition of the term "State Government" in relation to the Union Territories with reference to the Act.	The expression the "State Government" has not been defined either in the Act or in the Rules. Section 3 of the General Clauses Act, 1897 provides that the definitions given therein shall apply to this Act, and in all Central Acts and Regulations made after the commencement of this Act. These definitions are intended for a proper interpretation of all Central Acts made after the commencement of this Act and are subject to any context being repugnant. Clause (60) of section 3 defines the "State Government" as under: '(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the corresponding Province in a Part B State, the authority or person authorized at the relevant date to exercise executive Government in the corresponding acceding State and in a Part C State, the Central Government; (b) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a Part A State, the Governor in a Part B State, the Rajpramukh, and in a Part C State, the Central Government; (c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union territory, the Central Government; and shall, in relation to functions entrusted under Article 258-A of the Constitution of the Government of India, include the Central Government acting within the scope of the authority given to it under the Article.' In the light of the above legal position, the expression the "State Government" used in the Act and the Rules shall mean the "Central Government" in so far as the Union Territory of Daman & Diu is concerned. Therefore, the functions and powers of the State Government under the Act may be validly exercised by the Central Government in this Union Territory. [MoTA's letter No. 17014/02/2007-PC&V (Vol.VII) (pt.) dated 9.1.2009, addressed to Administration of Daman & Diu]
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(ix)	Tribals in some settlements are demanding that land under cultivation should be assigned in their common name. Whether this is permissible as per the Act? If yes, then is the ceiling of 4 hectares applicable on the communal allotment of land, or is the applicable ceiling 4 hectares x no. of families? i.e. can 100 acres under common cultivation be so assigned to a community with 40 families in the Form at Annexure II of the Rules?	Section 3(1)(a) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognises the right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers. The said Section, thus, permits the recognition and vesting of the right over the forest land under common occupation for cultivation in the name of a community of tribals. However, in view of the provisions of Section 4(6) of the Act, such forest land under the occupation of the community of tribals shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares. [MoTA's letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]
(x)	How is the Annexure II Title to be assigned to a couple who are married intercaste?	Section 4(4) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 inter alia provides that a forest right conferred under the Act shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin. There is no bar in the Act to the registration of the forest right conferred under the Act jointly in the name of both the spouses who are married inter-caste, provided the applicant is an ST or if not an ST, fulfils the criteria for a traditional forest dweller. [MoTA's letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]
(xi)	There are cases of tribals from Kerala requiring regularization of their rights under the Act in the forests of Karnataka, and vice versa. There could be similar cases with Tamil Nadu also. How is this to be tackled?	Section 4(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognises and vests forest rights in (a) forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes, and (b) the other traditional forest dwellers. The terms "forest dwelling Scheduled Tribes" and "other traditional forest dweller" are defined in Sections 2(c) and 2(o) of the Act.

		Further, Section 4(3) read with section 4(6) of the Act requires that the following two conditions should be satisfied for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers in respect of forest land and their habitat: (i) they had occupied forest land before the 13th day of December, 2005; and (ii) they were in occupation of such land on the date of commencement of the Act, i.e., 31.12.2007. The Scheduled Tribe status is State-specific and the forest dwelling Scheduled Tribes in Kerala would not carry their Scheduled Tribe status in Karnataka and vice versa. As all the conditions prescribed in Sections 2(c), 4(1)(a), 4(3) read with Section 4(6) of the Act would not be satisfied in the case of forest dwelling Scheduled Tribes in Kerala claiming recognition of forest rights in the forests of Karnataka, they would not be eligible for recognition and vesting of forest rights under the Act in the forests of Karnataka, and vice versa. Most important, the recognition of rights and the processing thereof has to be initiated by the concerned Gram Sabhas. The Gram Sabhas of one State cannot recommend the claims for recognition of forest rights over forest land in another State. [MoTA's letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]
(xii)	Relaxation of the quorum of two-thirds of all members of the Gram Sabha for the meeting of the Gram Sabha in Rule 4(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008.	The provision for the quorum of two-thirds of all members of the Gram Sabha for the meeting of the Gram Sabha in Rule 4(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 has been made with a view to ensure true representation of all the members of the Gram Sabha in such meetings so that the decisions taken therein are impartial and cater to the real objective of the meeting. These Rules do not permit relaxation of this requirement of quorum. [MoTA's letter No. 23011/28/2008-SG-II dated 21.1.2009, addressed to Government of Kerala] & [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 4.3.2010, addressed to UT Administration of Daman & Diu, Moti Daman]

(xiii)	Processing of the claims of the occupants of forest land in Municipal and Panchayat Areas of Korba district of Chhattisgarh.	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes the Gram Sabha as the authority to initiate the process of determining the nature and extent of forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. The term 'Gram Sabha' is defined in Section 2(g) of the Act and the term 'village', referred to in Section 2(g), is also defined in Section 2(p) of the Act. In case, the Municipal and Panchayat areas of Korba District of Chhattisgarh, which are having forest land, have Gram Sabhas within the meaning of Section 2(g) read with Section 2(p) of the Act, then the claims of the occupants of forest land in such areas for recognition and vesting of forest rights over the forest land under their occupation can be considered as per the procedure laid down in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008. In case these areas do not have Gram Sabhas within the meaning of Section 2(g) read with Section 2(p) of the Act, then the occupants of forest land in those areas would not be eligible for recognition and vesting of forest rights under the Act. [MoTA's letter No. 23011/28/2008-SG-II dated 21.1.2009, addressed to Government of Chhattisgarh]
(xiv)	Whether the cut off date of 13.12.2005 will be applicable for all forest dwelling Scheduled Tribes, irrespective of their State of origin, on migration from one State to another State.	The Scheduled Tribes of one State, on migration to another State, do not carry their ST status in the State of migration, unless they are notified as Scheduled Tribes in that State also. Therefore, the forest dwelling Scheduled Tribes who have migrated from another State to Orissa, would be eligible for recognition and vesting of forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 only if they are declared as Scheduled Tribes in the State of Orissa. Otherwise, they have to be treated as "other traditional forest dwellers" and will need to satisfy the condition of three generations of stay as on 13.12.2005 for recognition and vesting of forest rights under the Act and generation has been defined a period comprising twenty five years in Section 2(o) of the Act. [MoTA's DO letter No. 23011/28/2008-SG-II (FRA) dated 8.5.2009, addressed to Government of Orissa, Bhubaneswar]

(xv)	Whether a Committee other than the Forest Right Committee and comprising persons other than the members of the Gram Sabha can be formed for assisting the Gram Sabha in discharge of its functions relating to recognition and vesting of forest rights under the Act.	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules framed thereunder do not permit formation of any Committee other than the Forest Rights Committee for assisting the Gram Sabha in discharge of its functions relating to recognition and vesting of forest rights under the Act. Constitution of a Committee comprising persons other than the members of the Gram Sabha and assigning the role of initiating the process for determining the nature and extent of forest rights to such a Committee, as proposed by the State Government, would be a direct violation of the provisions of the Act and the Rules framed thereunder. Hence, the proposal of the State Government cannot be accepted. [MoTA's letter No. 23011/28/2008-SG-II (FRA) dated 31.8.2009, addressed to Government of West Bengal, Kolkata]
(xvi)	Whether a claimant under the Act who already owns some land other than forest land or when he is engaged in some occupation and is using the forest land under occupation for agriculture in addition to his occupation is to be considered eligible for recognition and vesting of forest rights under the Act?	As per Sections 2(c) and 2(o) of the Act, the eligibility of the forest dwelling Scheduled Tribes and other traditional forest dwellers for claiming forest rights depends upon the following factors: - (1) Primarily residing in the forests or forest lands; (2) Dependence on the forests or forest lands for bona fide livelihood needs (fulfillment of sustenance needs of self and family) This Ministry has clarified vide letter No.17014/02/2007-PC&V(Vol.VII) dated 9.6.2008 that implication of using the word 'primarily' in Sections 2(c) and 2(o) of the Act is to include the Scheduled Tribes and other traditional forest dwellers who have either habitation, or patches of land for self-cultivation for livelihood, and would, therefore, be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land. Therefore, it is for the Gram Sabha to examine, based on the findings of the Forest Rights Committee, as to whether a claimant under the Act who already owns some land other than forest land or when he is engaged in some occupation and is

		using the forest land under occupation for agriculture in addition to his occupation needs forest land under his occupation for the sustenance of bona fide livelihood needs of self and family, before passing a resolution and forwarding the same to SDLC for enabling the SDLC/DLC to adjudicate on the claim. The Ministry of Law Justice (Department of Legal Affairs) is agreeable to the view that the Gram Sabha has to examine each case individually after taking into consideration all relevant factors including the findings of the Forest Rights Committee. [MoTA's letter No.17014/02/2007-PC&V(Vol-VII)(pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune] and [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 4.3.2010, addressed to Government of Jharkhand, Ranchi]
(xvii)	Whether the term "self cultivation" appearing in Section 3(1)(a) of the Act shall include the forest land under plough only, but also forest lands which are used in activities ancillary to cultivation, such as, for keeping cattle, for winnowing and for other practices that are related to post-harvest activities?	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a welfare legislation. Keeping in view the spirit of this welfare legislation, if the agricultural operations take place adjacent to the place of actual cultivation, such operations and "self-cultivation" appearing in Section 3(1)(a) of the Act cannot be divorced. Each case has to be examined and decided individually by the Gram Sabha. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune]
(xviii)	Whether the quorum should not be at least 2/3rd (as against 1/3rd) as indicated in para 2.2(ix) of the procedure for seeking prior approval for diversion of forest land for non-forest purposes for certain facilities under Section 3(2) of the Act as circulated by the Ministry of Tribal Affairs on 18.5.2009 since the total number of members of the District Level	As per the procedure notified on 18.5.2009, the proposals for diversion of forest land for developmental projects specified in Section 3(2) of the Act are to be forwarded to the District Level Committee for a final decision only when the Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through the Range Forest Officer (RFO). As per the said procedure, at least 1/3rd quorum of members of DLC is needed for taking a final decision in such cases.

	Committee as prescribed in Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 framed under the Act are just 6?	It may be stated that DLC comprises the following members: (a) District Collector or Deputy Commissioner – Chairperson (b) Concerned Divisional Forest Officer or concerned Deputy Conservator of Forest – Member (c) 3 members of District Panchayat (d) An officer of the Tribal Welfare Department in charge of the district This Ministry has already clarified that the officer of the Tribal Welfare Department will be the Member Secretary of DLC. So, whenever the meeting of DLC is convened, the Chairperson and the Member Secretary would be present and at least one more member – either the concerned DFO / Dy. Conservator of Forests or Member of the District Panchayat – would also be attending the meeting. The possibility of only 2 out of 6 members of DLC deciding such cases is, thus, very remote. Since the process for providing the facilities under Section 3(2) of the Act is going on, it would not be desirable to change the provision relating to quorum at this juncture. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune]
(xix)	Whether a time limit should not be fixed for processing of cases under Section 3(2) of the Act as a one-time exercise considering the fact that by assigning the task of final decision making in respect of section 3(2) cases to the DLC, the DLC will continue to exist even after completion of the process of recognition of forest rights and the need for reconstitution of the Committee after every election of Panchayat body?	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules framed thereunder do not lay down any fixed tenure for the District Level Committees (DLC) constituted under the Act. The DLCs can continue to exist for considering the cases relating to the diversion of forest land under Section 3(2) of the Act that are referred to it by the DFO for final decision, even after the process of recognition of forest rights is completed under the Act. Such DLCs can be re-constituted if such re-constitution is so warranted on account of election of Panchayat bodies and nomination of new members from Panchayat Institutions. As regards the issue whether a time limit be fixed for processing of cases under 3(2) as a one time exercise, it may be stated that Section 3(2) of the Act does not prescribe a time limit for processing

		cases of diversion of forest land for the developmental activities specified in that Section. There is no bar in Section 3(2) of the Act for allowing diversion of forest land on more than one occasion for any of the development projects specified therein, as long as the forest land so diverted is less than one hectare in each case and such projects are recommended by the Gram Sabha. Hence, it is not advisable to fix a time limit for processing cases of diversion of forest land under the Act. The Ministry of Law Justice (Department of Legal Affairs) is also agreeable to the above views. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune]
(xx)	Whether the allotment of area indicated as upto one hectare in Section 3(2) of the Act is applicable to each developmental facility each time in the village or is it once only for all times to come?	As stated above, there is no bar in Section 3(2) of the Act for allowing diversion of forest land on more than one occasion for any of the development projects specified therein, as long as the forest land so diverted is less than one hectare in each case and such projects are recommended by the Gram Sabha. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune]
(xxi)	Whether a final date should be fixed for receiving claims for forest rights under the Act and a calendar drawn for disposal of the claims received upto the final date.	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not prescribe any time limit for recognition and vesting of forest rights of the eligible claimants under the Act. As per Rule 11(a) of the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Act, the Gram Sabhas shall call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of the rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.

		[MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 4.3.2010, addressed to Government of Rajasthan, Jaipur]
(xxii)	Whether the claims rejected by the District Level Committees can be re-investigated by the District Level Committees.	The Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 lay down an elaborate procedure for recognition and vesting of forest rights under the Act. The Gram Sabhas, Sub-Divisional Level Committees and District Level Committees are required to scrutinize the claims filed for recognition of forest rights under the Act, in detail, as per the procedure laid down in the said Rules, before the District Level Committee takes a final decision on the claims. Claims rejected by DLCs cannot be reviewed but if the State feels that the rejections at earlier levels have been unduly large, then it can investigate the reasons and if it is due to an inadequate reading of the provisions of the Act and Rules, it can apply correctives. But, to repeat, cases finalized by DLCs cannot be re-opened. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 4.3.2010, addressed to Government of Madhya Pradesh, Bhopal]
(xxiii)	Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal Corporation Areas	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes the Gram Sabha as the authority to initiate the process of determining the nature and extent of the forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. As per the Act and the Rules framed thereunder, the Sub-Divisional Level Committee has to examine the resolution passed by the Gram Sabha and prepare the records of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision on the record of forest rights. It has been stated in the letter of TR&TI, Pune, that the Sub-Divisional Level Committee and the District Level Committee cannot be formed in the Municipal Corporation areas of the State as per the provisions of the Act. In view of this, the Act cannot be implemented in the concerned Municipal

		Corporation areas of the State. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 4.3.2010, addressed to Government of Maharashtra, Mumbai]
(xxiv)	Whether there is any deadline for submitting applications for recognition of forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.	There is no time limit for receiving applications. Processing of applications by Gram Sabhas have to be done as per Rules especially Rule- 11 (1)(a) proviso. [MoTA's DO letter No. 23011/24/2009-FRA dated 10.3.2010, addressed to Government of Tripura, Agartala]
(xxv)	(i) How the title of forest land issued to a forest right holder under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 would be transferred to his heir(s) in the event of the death of the title holder, considering the fact that the status of the land for which he was issued the title deed remained "forest land". (ii) What will be the inheritance provision? How the title will be divided in the event of more than one child? (iii) If the right holder applies for bank loan for agricultural purposes, whether the banks would provide loans?	(i) & (ii): Section 4(4) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that a forest right conferred under the Act shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next of kin. In the event of the death of the title holder, the title shall be transferred to his/her direct heir or shall be divided where there are more than one child, as per the provisions of the relevant inheritance law and the Land Tenure Act applicable to the State/UT concerned. (iii): In view of the provisions of Section 4(4) of Act, the rights recognised and vested on the forest land cannot be pledged with a bank for receiving a loan for agricultural operations, such as, land development, sourcing inputs like fertilizers, etc. The Ministry had examined this issue in consultation with the Ministry of Finance (Department of Financial Services), in the year 2007, who had then informed as under: "The loans upto Rs. 50,000/- have been made collateral and margin free. This also means that even without mortgaging of land by a Tribal farmer, he can avail loan upto 100% requirement of any agriculture or allied purpose including for land development upto the limit of Rs. 50,000/-. Besides, no 'No Dues Certificate' is required for such amount of loan. Further, in order to overcome the

		problems faced by banks in lending to landless labourers, share-croppers and oral lessees due to the absence of documents verifying their identity and status, banks have been advised to accept certificates provided by local administration/Panchayati Raj institutions regarding cultivation of crops in case of loans to landless labourers, share-croppers and oral lessees. Besides, the Government has taken the following steps to ensure credit disbursement for agriculture purposes:- ❑ Short Term Crop loan upto 3 lakh is being disbursed @ 7% per annum at the ground level. ❑ Commercial Banks and Regional Rural Banks have been advised to finance 50 lakhs new farmers during each of the last three years. ❑ The Banks have been advised to simplify the procedure for documentation for agricultural loans. ❑ To bring the 'financially excluded' population within the formal banking system, Banks have been instructed to achieve financial outreach through provision of a General Credit Card to households, to open "No Frills" accounts with limited overdraft facilities, to extend financial outreach by utilizing services of Civil Society Organisation like Farmers Clubs, NGOs, Post Offices as Business Facilitator/Business Correspondent Model, etc." [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 30.3.2010, addressed to Government of Madhya Pradesh, Bhopal]
(xxvi)	Whether rubber cultivation should be allowed on forest land over which rights have been recognized.	Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which define the terms "forest dwelling Scheduled Tribes" and "other traditional forest dweller", clearly mention the conditions of "primarily residence in the forests or forest lands" and "dependence on the forests or forest lands <u>for bona fide livelihood needs</u>" for the forest dwelling Scheduled Tribes and other traditional forest dwellers to be eligible for claiming forest rights under the Act. Further, section 3(1)(a) of the Act also refers to "the right to hold and live in the forest land under the individual or common occupation for habitation or for <u>self-cultivation for livelihood</u>". Rule 2(1) (b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 notified

		on 1.1.2008 defines "bona fide livelihood needs" as "fulfillment of sustenance need of self and family". In view of the above mentioned provisions of the Act and the Rules, the forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers are to be recognized and vested over the forest land for fulfillment of their bona fide livelihood needs. Considering that rubber plantation is a commercial activity, this Ministry is of the view that the rubber cultivation should not be allowed on forest land over which the rights have been recognized under the Act. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 6.5.2010, addressed to Government of Tripura, Agartala]
(xxvii)	Whether the local bodies in the urban areas of a State having forest land can initiate the process of determining the nature and extent of individual and community forest rights to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers under Section 6 of the Act.	Section 6 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes the Gram Sabha as the authority to initiate the process of determining the nature and extent of forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. The term 'Gram Sabha' is defined in Section 2(g) of the Act and the term 'village', referred to in Section 2(g), is also defined in Section 2(p) of the Act. The concerned Urban Areas of the State having forest land may not have Gram Sabhas within the meaning of Section 2(g) read with Section 2(p) of the Act. If so, the occupants of forest land in such Urban Areas would not be eligible for recognition and vesting of forest rights over the forest land under their occupation under the Act. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 6.5.2010, addressed to Government of Madhya Pradesh, Bhopal]
(xxviii)	Whether taungya cultivators of Uttar Pradesh who do not fulfill the condition of occupation of forest land for three generations (75 years) at one place in the forests prior to 13.12.2005 would be eligible for recognition of forest rights under the Act.	Under Section 4(3) read with section 4(6) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the following two conditions are required to be satisfied for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers in respect of forest land and their habitat:

		(i) they had occupied forest land before the 13th day of December, 2005; and (ii) they were in occupation of such land on the date of commencement of the Act, i.e., 31.12.2007. In the case of the other traditional forest dwellers, the condition of at least three generations' stay (75 years) prior to the 13th day of December, 2005 is necessary. In the case of taungya cultivators of the State, if the above conditions are not satisfied, they would not be eligible for recognition of forest rights over forest land under their occupation under the Act. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 6.5.2010, addressed to Government of Uttar Pradesh, Lucknow]
(xxix)	Whether the condition regarding three generations prescribed in Section 2(o) of the Act can be relaxed in the case of other traditional forest dwellers.	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not permit relaxation of the condition relating to three generations' residence prior to 13th day of December, 2005 in the case of "other traditional forest dwellers" for recognition and vesting of their forest rights under the Act. Hence, it is not possible to relax this condition. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 6.5.2010, addressed to Government of Maharashtra, Mumbai]
(xxx)	Need for fixing a time limit for filing and deciding the claims under the Forest Rights Act, 2006 to enable issue of a certificate as required by the Ministry of Environment & Forests' circular No. 11-9/1998-FC(pt.) dated 3.8.2009, which calls for a number of evidences from the State Governments for formulating unconditional proposals under the Forest (Conservation) Act, 1980, as in the absence of a cut-off date for claiming forest rights for the	As per Rule 11(a) of the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Act, the Gram Sabhas shall call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of the Rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing. □ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act,