CHAPTER - III
REGULATORY ENVIRONMENT FOR
PROJECT MANAGEMENT
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3.1. INTRODUCTION:

The influence of environmental factors over projects and their management is of utmost importance for the project manager, when he is making the appraisal. The Project Manager spends crores as rupees as the representative of his company, in signing the contracts has necessarily to be concerned with the legal aspects of his job. Project buying creates a peculiar legal relationship between the project authorities and the seller which has legal implications. *Ignorantia Juris nemi non-excusat* is an old legal maximum. The project manager cannot afford to ignore it. In this chapter, we take a look at various regulatory measures and controls prevailing in India. Giving details of these regulations is beyond the scope of the study, nevertheless, an attempt has been made to highlight the important legislations and their purpose in brief. The techniques of project appraisal which form the crux of this study have to be applied in the light of the legal, social, political, technical and economic environment prevailing in India.

An understanding of the environmental surrounding will help the project manager in identifying promising and lucrative investment opportunities. The environment can be broadly classified into four groups namely,

- Economic Environment
- Political Environment
- Social Environment
• Technical Environment

The environment is depicted in figure 3.1.

![Diagram: Project Environment]

**Fig: 3.1. Project Environment**

### 3.2. OBJECTIVES:

The basic objective behind the whole process of regulations is to ensure that the results of operation conform as closely as possible to established standards of goods specified procedures, or instructions.

### 3.3. TYPE OF CONTROLS:

Government controls or regulations assume several forms. The controls are grouped into formal and informal, direct and indirect, promotional and regulatory and inductive and coercive controls.
3.4. CLASSIFICATION OF REGULATORY MEASURES:

i. **Formal and Informal Controls**: Formal controls are usually those emanating from legislation, as for example, the Industries (Development and Regulation) Act, 1951, the Companies Act, 1956, and The Monopolies and Restrictive Trade Practices Act, 1969. Formal controls are very powerful and when we think of government control over business, we generally mean formal controls. Informal controls refer to the controls which various groups impose upon themselves out of need and custom. Business firms in various lines of activity develop conventions, informal agreements, and accepted ways of doing things that have important regulative implications.

ii. **Direct and Indirect Controls**: When government fixes prices of certain products or services, it is an example of direct control. The administered price policy of the Government of India is a direct control measure. The variation of corporate income tax to
influence economic activity is an indirect control measure. Businessmen prefer indirect controls to direct regulations.

a. Government regulations designed to make competition work, the MRTP Act, for example.

b. Government competition with business firms as a means of setting standards of competition, or

c. Direct Government ownership and operation to supplement competition.

iii. Promotional and Regulatory Controls: Promotional measures are of a positive nature, and include such activities as expansion of public sector establishment and operation of development banks, revival of sick units, encouragement to small-scale units, removal of regional imbalances, provision of incentives and subsidies and export promotion.

Regulatory measures ensure orderly development of industries with the least wastages of resources. Regulatory measures include direct controls like the Industries (Development and Regulation) Act, the Monopolies and Restrictive Trade Practices Act, the Companies Act, the Foreign Exchange Regulation Act (now Foreign Exchange Management Act) and price and distribution controls, labour laws, and indirect controls like monetary policy and fiscal policy.

3.5. EXTENT OF GOVERNMENT INTERVENTION:

Ours being a regulatory economy, government intervention is enormous and all pervasive. State intervention is noticed in all aspects of a business establishment.
Figure 3.3: An attempt is made to bring out the spectral of regulations operative at different stages of industrial activities.

### INDUSTRIAL ESTABLISHMENT

<table>
<thead>
<tr>
<th>Formation stage</th>
<th>Constructio n stage</th>
<th>Machinery procurement &amp; installation</th>
<th>Pre-production &amp; production stage</th>
<th>Purchasing</th>
<th>Financing</th>
<th>Personal</th>
<th>Marketing</th>
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</thead>
<tbody>
<tr>
<td><strong>Industrial Policy</strong></td>
<td>Allotment of iron &amp; steel (Controller of iron &amp; steel)</td>
<td>Import of goods license</td>
<td>Working capital arrangement with bank</td>
<td>Import of raw material &amp; components</td>
<td>Financing institutions</td>
<td>Factories Act</td>
<td>MRTP Act</td>
</tr>
<tr>
<td><strong>Companies Act</strong></td>
<td>Allotment of cement (Directorate of Indutriesof Commerce)</td>
<td>Opening of L/C with banks</td>
<td>Registration for CST &amp; central excise</td>
<td>Customs clearance</td>
<td>RBI</td>
<td>ISI Act</td>
<td>Drugs Control Act</td>
</tr>
<tr>
<td><strong>IDR Act</strong></td>
<td>Sanction of electricity Board (concerned state Govt.)</td>
<td>Customs clearance</td>
<td>Allotment of indigenous scarce materials by the concerned Ministry, Govt. of India</td>
<td>Excise Duty</td>
<td>Monetary Policy</td>
<td>Workmen's Compensation Act</td>
<td>Exports Inspection Agency</td>
</tr>
<tr>
<td><strong>FERA</strong></td>
<td>Long term loans (if required) with IDBI, IFCI, Banks, SFI, etc.</td>
<td>Regd under Factories Act</td>
<td>Pollution Control (State Pollution preventive Board)</td>
<td>Import of finished goods</td>
<td>Excise Duty</td>
<td>Payment of Wages Act</td>
<td>Essential Commodities Act</td>
</tr>
<tr>
<td><strong>Control of capital issues Act</strong></td>
<td>Allotment of land by concerned state Govt.</td>
<td>Pollution Control (State Pollution preventive Board)</td>
<td>Patents (ISI marketing)</td>
<td>Quality Control</td>
<td>Wealth Tax</td>
<td>Minimum Wages Act</td>
<td>ESI</td>
</tr>
<tr>
<td><strong>Financial arrangement with development bank</strong></td>
<td>Sanction of Factory plan by concerned state Govt.</td>
<td>Patents (ISI marketing)</td>
<td>Quality Control</td>
<td></td>
<td></td>
<td>Payment of Bonus Act</td>
<td>Prevention of Food adulteration Act</td>
</tr>
<tr>
<td><strong>Allotment of land by concerned state Govt.</strong></td>
<td>Import of know-how</td>
<td>Quality Control</td>
<td></td>
<td></td>
<td></td>
<td>Industrial Disputes Act</td>
<td>Standards, weights &amp; Measures Act</td>
</tr>
</tbody>
</table>

**Fig. 3.3. Spectrum of Regulatory Controls**

### 3.5.1. Regulations:

Over the years, Central and State Government have enacted various measures to regulate the industrial undertaking at various stages. Such regulatory
enactments cover a very wide field from registration to pollution control. The controls embrace all activities of industrial activities, viz., layout, production, labour, marketing, profit etc. The small-scale enterprises are being regulated and governed by the following Acts

a. State Industries Acts
b. The Factories Act
c. Shops and Establishment Act
d. Indian Boiler Act (if applicable),
e. Payment of Wages Act
f. Minimum Wages Act
g. Workmen's Compensation Act
h. Employees Provident Fund Act
i. Employees State Insurance Act
j. Income-Tax Act
l. Drugs Control Act
m. The Payment of Bonus Act
n. The Industrial Employment (Standing Orders) Act
o. Industrial Disputes Act
In addition, the small-scale entrepreneur has to be well versed in excise, customs procedures, export import regulations and procedures. He should always seek assistance from the following professionals:

a. Inspecting Staff of Government,
b. Labour Consultants,
c. Financial Consultants,

**Industrial Policy Statement 1948:**

The amended version of the original policy statement as per the 'New Industrial Policy', 24th July 1991, allows some breathing space for the investors and entrepreneurs and focuses on the following as the Industrial Policy Resolution 1948 has been constantly undergoing various changes from the day of its introduction. The basic features of the policy statements are:

- **Promotion and development of small and village industries**: In order to promote small-scale sector, large number of incentives in the form of subsidies and grants of loans through nationalised banks and other agencies have been promulgated while reserving a large chunk of product range exclusively for the small-scale industrial sector where the large scale industries are prohibited to enter.

- **Reduction of regional imbalances and maintenance of parity among several industrial sectors of the entire economy, giving exclusive preference to cottage industries amongst the village-based industries**: To promote this objective, financial and non-financial incentives are being offered to the industries and projects that are
set up in backward belts, which would ultimately see that infrastructure is omnipresent and rare facilities become ubiquitous. These objectives of the industrial policy statement embark on the small scale sector and paves the way for new projects that can be set up in the backward areas with little investment.

**Industries (Development and Regulation) Act, 1951:**

This enactment helps envisage the development of industries by regulating the unauthorised industrial projects which are obnoxious to the society as a whole. The salient features of this Act are:

A licence is mandatory for an industrial project to be set up which is to be sought from the Ministry of Industries. However, the licensing requirement is not applicable in the following categories of industries provided they satisfy certain minimum conditions laid down in the Act:

a. Small scale units and ancillary units,
b. Units whose investment in plant and machinery and land and buildings is less than Rs 5 00 Crores,
c. Units that are based on indigenous technology or technology developed by national research laboratories.

The criteria of granting industrial licence include:

1. The objectives of industrial policy resolution,
2. The priorities under the five-year plans,
3. Techno-economic consideration.
Export potential,

Balanced regional development

- The manufacture of certain main articles is exclusively reserved for the small and village industries (approximately 800 items are reserved)

- Large industrial undertakings which are inter-connected with small and village industries or ancillary units with assets worth more than Rs 100 crores will also be eligible to contribute towards the growth of industries under the industrial licensing policy resolution

- The joint sector (combination of private and public sectors) can also be considered, in appropriate cases, for setting up industrial undertakings, with all the exemptions and exceptions at the discretion of the concerned Ministry

- Foreign investors or companies are also eligible to contribute to the growth of industrial base and establish industries in a manner that is conducive to economy, and should be judicially bound by the legislations of the jurisdiction where established

**Foreign Exchange Regulation Act (FERA 1973):**

(Now Foreign Exchange Management Act)

This chapterons the MNC's and boost the country's industrial base with a heavy technological lure and usher the economy to cope with the brunt of competition. In the process, FERA lays emphasis on some important provisions which are...
• Any investment made by a foreign investor or a company in India has to seek permission (special or general) from the Reserve Bank of India.

• Foreign companies and investors are eligible to participate in equities of the existing and newly established corporate sector according to the latest version of FERA regulations.

• Proposals for such issues have to undergo special permission from the RBI and act accordingly without violating the stipulations on foreign investment.

• If any remittance either in India or outside is made on behalf of a foreign company, then special permission has to be sought from the RBI.

**Monopolies and Restrictive Trade Practices Act (MRTP 1969)**

The objective of this Act is to safeguard the interest of both households and industries from any unethical incidents and caution towards such desperate straits. In the bargain, it seeks to prevent:

• Monopolies and Restrictive Trade Practices,
• Concentration of economic power in a few hands,

The basic functions of the Act are:

• Investigate the cases which have been brought by the consumers. The MRTPC inquires into the cases which have been brought to the fore by the group of 25 or more consumers, Central or State authorities, or Registrar of Companies etc., on any trade and monopolistic practices. When it is satisfied that allegations based on
such trade practices are true, then it takes sufficient action either to prevent such course of incidents in the future or restricts the entry of such firms into industry.

- Prevention of economic power is done by inquiring into the growth and expansion of the existing companies or industries whereby the capacities of plant, distribution possibilities having flanks to check and ensures with an eye to the type of industries (large or dominant undertaking, or amalgamated industries).

**Incentives for Export-Oriented Units:**

In the recent past, government has provided a strong base for export promotion by vetting blanket of incentives to export-oriented units. The important ones are:

- An upland in percentage of foreign equity is enabled for exclusively export-oriented units having an export commitment of over 60 per cent of their production.

- Providing non-restrictive import facilities, subject to the actual content of imports of the product and its FOB (free on board) value.

- Requiring the customs and central excise tariff incurred on raw materials used for the manufacture of the export-meant product, except central excise duty which is not payable on exported products.

- Supplying the necessary raw materials at controlled prices for specified export products.

- Exalting the transport system (roads, railways and airways) for the sake of export-oriented goods and extending vouchsafed behaviour for freight concession in
respect of raw materials intended to apply in the manufacture of export-oriented products

- Commercial banks and financial institutions advance finance for exports at special reduced rates of interest
- Covering the risk of the loss of goods while exporting by a provision of credit risk insurance which is undertaken by ECGC (Export Credit Guarantee Corporation) ECGC also furnishes sureties to banks and financial institutions and this enables exporters to enjoy better facilities
- Additional facilities for 100% Export-Oriented Units are being provided to trigger the competition in international markets
- Setting up of Free Trade Zones (FTZ) to promote export-oriented manufacturing units Consequently nine such zones have already been developed such as Kandla free trade zone, Santa Cruz free trade zone, etc The main facilities that are available in these zones are
  1. A single point clearance of goods with simplified procedures,
  2. Absence of import duty on capital goods, raw materials, components and consumables,
  3. Raw materials and components which are traded to these zones will be dealt as exports and are, therefore, eligible for all export benefits (in a way there is a fair chance of getting high quality raw materials that help in improving the quality of output) at slashed-down costs,
iv Relief is applicable in respect of many levies such as octroi, sales tax, property tax, etc.

**Incentives for Units of Industrially Backward Areas:**

For the sake of promoting the concept of balanced regional development, the Government of India has presaged certain incentives for those industries which are established in some select backward districts or areas. A few of these schemes are mentioned below:

- central outright grant or subsidy scheme,
- concessional finance scheme, and
- transport subsidy scheme

**Incentives for Small Scale Industries:**

In order to promote the development of small scale industries sector, several measures have been taken, they are:

- Delicensing those units in the small scale sector where the products manufactured do not fall under the purview of special regulations of Industrial Licensing Policy.
- Reservation of numerous items exclusively for the small scale sector to ward-off competition from large-scale industrial undertakings.
- Providing comprehensive assistance to small scale industrialists by covering the areas like financing, procurement of raw materials, supply of utilities (power, water, transport systems, warehouses), and boost their confidence by arranging buy-back packages with some of the giant industries in the same line of operations. The
SIDO (Small Industrial Development Organisation) is one such coxswing agency that shook hands with enterprising young industries to help mediate between small and big industrial houses. The fields that are generally focused by such agencies are market surveys, feasibility reports, training programmes, and guidance in procurement of various inputs and buy-back facilities.

- Driving the State Governments to render similar kind of exhaustive services to small entrepreneurs through their directorates of industries and encourage them while allotting land, factory sheds, and help them in procurement of further scarce raw materials, and obtaining finance, etc.

- Mobilising State Financial Corporations (SFCs) to set up units in all the States and provide term-lending (medium and long-term) to small scale industries out of their own funds. They may also have to disburse loans as agents of the State Governments.

- A new State Aid to Industries Act has been framed under which State Governments provide finance to small-scale industries in the form of loans, mandates for loans that sprang from banks, subscribing to shares and bonds, etc.

A table indicating the applicability of other statutes and their brief meaning is given in the Table 3.1:

**Table 3.1. Applicability of various statutes:**

<table>
<thead>
<tr>
<th>Name of the Act</th>
<th>Factories or establishments to which applicable</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apprenticeship Act 1961</td>
<td>-</td>
<td>Apprenticeship Adviser shall give a notice in writing to the employer</td>
</tr>
<tr>
<td>Contract Labour (Regulation and Abolition) Act 1970</td>
<td>Where contract labour is permitted</td>
<td>It is permitted if work is intermittent or of sporadic nature.</td>
</tr>
</tbody>
</table>
Establishment or contractors who employ or had employed 20 or more workers on any day in preceding 12 months

Principal employer/contractor is required to seek registration/licence. 1 employer required to furnish particulars to Regional Commissioner within 15 days of the application of the Act to his establishment. Those employees are eligible to become members whose wages do not exceed Rs. 1,000 per month.

Factories employing 20 or more persons and those industries which are specified in the Schedule

Vocational courses to Regional Commissioner within 15 days of the application of the Act to his establishment whose employees are eligible to become members whose wages do not exceed Rs. 1,000 per month.

Factories employing 20 or more persons, except specified seasonal factories

Vacations are to be notified to local Employment Exchange one week before the date on which interviews/test is to take place.

Factories where ordinarily 15 or more persons are employed

1 employment of children in those processes is prohibited. Child is defined as one who has not completed his 14th year.

Factories Act 1948

Act enjoins every employer to pay equal remuneration to men and women workers.

Factories Act 1948

Occupier is expected to obtain prior permission for construction of factory premises and seek licence for the factory.

Factories Act 1948

Employment Exchange (Compulsory Notification of Vacancies) Act, 1959

Act is applicable to other places where manufacturing process is carried on, even though number of workers is less than 10 or 20 if so notified by the State Government.

Equal Remuneration Act, 1976

It deals with procedures for settlement of disputes and stipulates compensation for lay-off, retrenchment and closure of establishments.

Factories where 10 or more workers with aid of power or 20 or more workers without aid of power are working or were working on any day in preceding twelve months and where manufacturing process is carried on.

Standing Orders relating to classification of workmen, terms and conditions of service, etc., are to be get approved from certifying officers.

Factories Act 1948

Industries Disputes Act, 1947

It deals with procedures for settlement of disputes and stipulates compensation for lay-off, retrenchment and closure of establishments.

Factories Act 1948

Industrial Employment (Standing Orders) Act, 1961

Standing Orders relating to classification of workmen, terms and conditions of service, etc., are to be get approved from certifying officers.

Maternity Benefit Act, 1961

Act is not applicable to any factory or establishment to which 1 employer State Insurance Act applies. A woman is entitled to maternity benefit at the rate of average daily wages for 12 weeks (6 weeks before and 6 weeks after delivery) if she has worked for 160 days in 12 preceding months.

Maternity Benefit Act, 1961

Minimum Wages Act, 1948

State Governments have fixed minimum wages for skilled, unskilled manual and clerical workers and have specified other conditions of service. Payment of Wages Act, 1936 is also applicable to these specified employments and processes.

Minimum Wages Act, 1948

Payment of Bonus Act 1965

A minimum bonus of 33% of the salary or wages paid or Rs. 10 whichever is higher is payable even if the establishment has made no profits. Maximum amount of bonus payable, in 20% per cent of the salary or wage.
Newly set up establishments are exempted from payment of bonus till they start deriving profit or for 5 years from their establishment whichever is earlier.

An employer is required to furnish particulars to the controlling authority when the Act becomes applicable, notify any change or closure of establishment.

Gratuity is payable after an employee has rendered five years of continuous service at the rate of 15 days of wages for a year's service subject to a maximum of 20 months wages.

Payment of Gratuity Act, 1972

Factories where 10 or more workers with aid of power or 20 or more workers without aid of power are working and mines or plantations, and shops or establishments employing 10 or more persons from their establishment whichever is later.

Payment of Wages Act, 1936

Factories where 10 or more workers with aid of power or 20 or more workers without aid of power are working, other industrial establishments as are specified, specified establishments included in the schedule to Minimum Wages Act.

Sales Promotion (Conditions of Service) Act, 1976

Establishments engaged in Pharmaceutical industry

Shops, commercial establishments, residential hotels, restaurant, eating houses etc.

Workmen's Compensation Act, 1923

Certain specified employments.

Compensation is payable to workmen whose monthly wages do not exceed Rs 1,000 for injury by accident or occupational disease.

3.5.2. Liberalisation:

The liberalisation pretexts signed by the recent government have certainly unveiled new exuberance to investors in the private and public sectors from within and outside the country. Most of them existing firms got inspired by these measures to diversify or modernise the operations and grow further. Some of the notable measures of this shackel-free economy are

- The hitherto prohibited area of the Schedule 'A' for private sector industries has opened flood gates for private sector units with no special privileges for public sector undertakings.

- The boundaries set for the entry of foreign companies and grant industrial undertakings according to the list of Industrial Licensing Policy of 1973 has been
expanded to facilitate the consumer market flooded with more competitive and quality products

- Allowing the private sector 'housing construction projects' to develop housing colonies and accommodate the public at large with shelter of the quality

- Permitting the private sector investors in the hotel and hospitality industry to a greater extent

- Boosting the private sector to set up and operate private power generation plants (Non-Conventional Energy Projects) e.g. solar power projects in Rajasthan by few international consortiums

- Allowing relaxations, obtaining licences or delicensing some manufacturing units or setting up plants in rural and backward areas and wherever applicable (only 15 industrial sectors need licensing that relate to security and strategic reasons such as to safeguard the environment, optimum use of scarce resources of the economy etc.)

All these measures have made the economy witness an investment - squirt multidimensional Precisely, the incentives drawn from liberalised environment have turned the roads to new vistas of promising growth However, he above canvas of socio-economic panorama would get substantiated only when the right sources of idea generation are also tapped simultaneously
3.6. CONCLUSION:

The industrial policy of India has shifted from promoting a regulatory and protective regime to a free and market oriented environment. The new policy to regulate the industrial economy was announced on 24 July 1991. The new industrial policy has deregulated substantially the economy.

Since 1956, seventeen industries which were in the nature of core industries were reserved for investment by the public sector. The seventeen industries included, among others, iron and steel, electricity, air transport, ship building, heavy machinery industries and telecommunications cables and instruments which were removed by the New Industrial Policy (1991) from the Reserved List. Industries which continue to be reserved for the public sector are in areas where security and strategic concerns predominate. Private Sector is accorded a wider role in important areas of the economy.

New Industrial Policy (1991) has abolished all industrial licensing, irrespective of the level of involvement, except for certain industries related to security and strategic concerns, social reasons, concerns related to safety, overriding environmental issues and manufacture of products of a hazardous nature. There are, however, certain locational guidelines designed to discourage the clustering of industries, particularly the polluting industries in the periphery of major urban centres.

Along with the abolition of industrial licensing for new units, existing industries have been allowed to expand capacity according to their market needs without obtaining price expansion of capacity clearance from the Government of India. Existing
manufacturers are now free to diversify and to manufacture any article in response to market demand.

Earlier large firms with assets of above Rs 100 crores, classified under Monopolies and Restrictive Trade Practices Act 1969 (MRTP Act), had to obtain approval for their investment proposals in addition to industrial license. Now the threshold limit of assets (Rs 100 crores) has been abolished and large firms are on par with others. They do not require prior approval from the government for investment in the delicensed industries. The amended MRTP Act places more emphasis on the prevention and control of monopolistic, restrictive and unfair trade practices to protect the consumers.

Foreign Technology agreements relating to high technology and high investment in priority industries framed within certain guidelines are now automatically approved. The guidelines allow royalty up to 5 per cent of domestic sales and 8 per cent of export sales, along with lump sum technology payments of up to Rs 1 Crore. The automatic approval is accorded to industries if payment is made without resort to free foreign exchange resources.

Firms are free to hire foreign technicians and get their indigenously developed technology tested abroad. Foreign investment in the form of equity up to 51 per cent is automatically approved in the high priority industries. The facility is available to firms which are able to finance capital equipment imports through foreign equity.

Foreign equity holding up to 31 per cent, in addition to hotels, is allowed now in the international trading companies and tourist related areas.
Deregulation has been extended to oil exploitation and refining and private sector can invest

Further the power sector has been opened for domestic and foreign private investment.

The New Industrial Policy 1991 has eliminated entry restrictions, licensing requirements and controls on industry.