



PESTICIDES

Law, Registration & FDI in India

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INTRODUCTION

India is one of the most dynamic generic pesticide manufactures in the world with approximately 60 technical grade pesticides being manufactured indigenously by around 125 producers consisting of large and medium scale enterprises (including 10 MNCs) and more than 500 pesticide formulators spread over the country.

FOREIGN INVESTMENT

India is the 4th largest producer of the agrochemical after USA, Japan & China. The agrochemicals market in India is Rs 4500 crores. The percentage share of the pesticides in the growth of exports is around 20.48% per annum and contributes a major chunk to the exports and the favoured destinations are USA, UK, France, etc. Indian Government is promoting research on the use of alternatives and safe pesticides. It is also providing incentives to encourage investments.

LEGAL SCENARIO

The Insecticides Act, 1968

The Insecticides Act, 1968 and Insecticides Rules, 1971 regulate the import, registration

process, manufacture, sale, transport, distribution and use of insecticides (pesticides) with a view to prevent risk to human beings or animals and for all connected matters, throughout India. All insecticides (pesticides) have to necessarily undergo the registration process with the Central Insecticides Board & Registration Committee (CIB & RC) before they can be made available for use or sale.

According to Section 3 (e) of Insecticides Act, 1968, the word “insecticides” means (i) any substance specified in the Schedule; or (ii) such other substances (including fungicides and weedicides) as the Central Government may, after consultation with the Board, by notification in the Official Gazette, include in the schedule from time to time; or (iii) any preparation containing any one or more of such substances. Thus, technically all insecticides (pesticides) in India are those substances that are listed on the “Schedule” of the Insecticides Act, 1968. The Schedule to the Act enumerates an exhaustive list of Insecticides which are legally covered under the Act.¹

The Registration Certificate mandates that a label be put on the packaging, which clearly indicates the nature of the insecticide (Agricultural or Household use), composition, active ingredient, target pest(s), recommended dosage, caution sign and safety precautions. Therefore, a

¹ “insecticides” and “pesticides” are used interchangeably in this article.

pesticide labelled for agriculture should not be used in a household.

Registration of Pesticides

- Any person desiring to import or manufacture any insecticide may apply to the Registration Committee for the registration of such insecticide.
- On receipt of such application, the Committee will make an inquiry and will conform to the claims made by the importer and after payment of a fee may prescribe the insecticide, allot a registration number and issue a certificate of registration in token thereof within a period of twelve months.
- The application shall be refused if the Committee is of opinion that the precaution claimed by the application involves serious risk to human beings or animals.
- An appeal against any decision of the Registration Committee shall be preferred in writing in duplicate to the Central Government in the Department of Agriculture.
- Every appeal shall be accompanied by a treasury challan evidencing the payment of relevant fee and a copy of the decision appealed against.
- Online registration facility is also available to aid

the applicant wherein the applicant needs to put in his PAN number to prove his credibility.

Banned Pesticides in India

The CIB & RC scrutinizes and periodically reviews all pesticides and their usage - some are banned from registration itself. Sometimes a pesticide can be banned even after registration when it causes serious environmental and public health concerns. Some pesticides are meant for "Restricted Use" which means that they can be used only for prescribed purposes and by authorised personnel by obtaining the appropriate Government license. The entire list can be viewed at: [List of Banned Pesticides in India](#).

Pesticides Management Bill, 2008

The Pesticides Management Bill, 2008 was introduced in the Rajya Sabha on October 21, 2008.

- The Bill seeks to regulate the manufacture, quality, import, export and sale of pesticides to control pests, ensure availability of quality pesticides and minimize contamination of agricultural commodities with pesticide residue. It repeals the Insecticides Act, 1968.
- "Pesticide" means any substance of chemical or biological origin intended for preventing or destroying any pest, which includes unwanted plants and animals during the production, storage and distribution of agricultural

commodities or animal feed.

- The Central Government shall constitute a Central Pesticides Board to advise the Central and State Governments on matters related to the law such as (a) prevention of risk to human beings, animals and environment during the manufacture, sale and transport of pesticides; (b) monitoring performance of registered pesticides; and (c) review of the safety of pesticides.
- The Central Government shall establish a Registration Committee to (a) register pesticides after scrutinizing their formulae and verifying claims made with regard to its efficacy and safety; (b) specify requirements of necessary infrastructure; and (c) specify protocols and good manufacturing practices for manufacture of pesticides.
- One has to apply to the Registration Committee for registration in order to manufacture, import or export pesticides. No pesticide shall be registered unless its tolerance level is specified for its residues on crops and commodities under the Food Safety and Standards Act, 2006.
- The Registration Committee may suspend the registration certificate for a maximum period of three months if it is satisfied that any violation of the provisions of the Bill has taken place. It may also inspect the manufacturing premises or processing facilities of the registrant and cancel the certificate if found inadequate.
- An order of refusal, suspension or cancellation of registration certificate may be appealed to the Central Government within a period of 30 days.
- Any person who wants to manufacture or sell pesticides or undertake commercial pest control operations with the use of pesticides may apply for a licence. The State Government may appoint licensing officers to grant such licences in the prescribed manner. The officers shall (a) maintain a register of persons engaged in manufacture or sale of pesticides; (b) provide information to the State Government on performance of registered pesticides; and (c) provide information to the State Government on infrastructure facilities of manufacturers.
- The licence may be revoked or suspended on grounds specified in the law. The decision can be appealed with such authority as prescribed.
- The Central Government may establish a Central Pesticides Laboratory under a Director and can accredit private laboratories to carry out the same functions as the Central Pesticides Laboratory.
- The Bill prohibits the manufacture, import and export of misbranded, spurious or sub-

standard pesticides and any pesticide that contravenes the law. A pesticide cannot be sold, stocked or used if it is not registered.

- The Central or State Governments may appoint pesticide analysts and pesticide inspectors in the prescribed manner. A Pesticide Inspector shall have the power to enter and search a premise if he has reason to believe that a violation of the law has taken place; to take registers and records maintained by the manufacturer; to stop the distribution, sale or use of pesticide with the permission of the Executive Magistrate; and to take samples of any pesticides and send it for analysis by a pesticide analyst within 48 hours.
- The Bill also mentions the procedure to be followed by the pesticide inspector in commission of his duties. It also states that the pesticide analyst shall furnish his report within 45 days.
- The State Government requires any person to report all occurrences of poisoning through handling of pesticides coming within his cognizance.
- The Bill lists a number of penalties for offences such as use of pesticide in contravention of the law and sale of misbranded or sub-standard pesticide.
- The State Government may notify certain courts

of Judicial Magistrates of First Class or a Metropolitan Magistrate to be special courts for speedy trials.

FDI POLICY

In the chemical sector 100% FDI is permissible. Manufacture of most chemical products *inter-alia* covering organic or inorganic, dyestuff & pesticides is delicensed.

Following items are covered in compulsory licensing list because of hazardous nature:

- Hydrocyanic Acid & its derivatives
- Phosgene & its derivatives
- Isocyanates & Di-isocyanates of hydrocarbon

If a foreign entity wishes to undertake / carry out business activity in India then it would require prior approval from Foreign Investment Promotion Board in addition to the compliance of laws relating to pesticides.

HOW INDIA JURIS CAN ASSIST

India Juris provides legal, regulatory and business advisory assistance to Indian and foreign companies. Our services in pesticides and chemicals are broadly summarized as under:

1. Advising on FDI Policy and Government schemes in this sector.

2. Suggesting structure and roadmap for entry into India.
3. Setting up Company, Liaison or Branch Office.
4. Joint Ventures / Collaboration / MoUs / Strategic alliances between manufacturers, formulators, distributors etc.
5. Approvals from various statutory bodies as may be required.
6. Legal assistance in registration of pesticides in India with the relevant authorities.
7. Liaisoning with Governmental authorities.
8. Taxation
9. Repatriation & remittance of money from India
10. For other legal services not included here, please contact us.

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