

PESTICIDE MANAGEMENT BILL 2020

CropLife India's Suggestions, Recommendations

India has vast agro-climatic diversity and limited farmland and needs wide range of crop protection product. According to government sources 15-25% of Indian agri production lost due to pests.

Crop Protection (CP) is a key enabler of the government's objectives of food security, doubling farmer incomes and safer food through newer and better products.

Indian Crop Protection industry is a Net Exporter. It has the potential to become a major global supply hub, supporting the government's objectives for Atmanirbhar Bharat, Make in India and Go Global.

Facts about Crop Protection Use in India and other countries

Comparative analysis of agriculture productivity in India with other countries is presented:

One of the reasons for lower agri-

culture productivity in India is low use of crop protection solutions. Due to climate change and changing cropping patterns, new pests and diseases are emerging. Farmers need newer products with



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lower doses/ha, better efficacy, which are environment friendly.

Objective of PMB 2020

The PMB 2020 was expected to reform and create a predictable, forward looking science based policy and regulatory regime for the benefit of Indian Farmers and growth of the crop protection (CP) sector in the following ways.

- Farmers must get quality crop protection products
- Farmers must get environmentally safe, better and more effective products
- Farmers must get access to newer products and technology to mitigate risks of climate change and changing pest invasions
- Healthy competition must ensure choice for farmers and doubling of farmers' income
- Increase investments in local manufacturing and employment, through transparent and efficient regulatory environment
- Facilitate India to become a global hub for agrochemical exports by adopting globally compliant regulatory framework, and on the back of a strong indigenous market
- If above objectives are met, it will result Indian Agriculture to become US\$ 1 trillion economy (currently US\$ 280 billion), due to increased farm productivity.

PMB 2020 – A Disillusionment

While, the PMB 2020 aims to replace the more than 50 years old Insecticides Act, 1968, a close reading of the PMB 2020 confirms that more than 80% of the



S No.	Country	No. of Regd. Pesticides ¹	Use per ha ²	Agricultural Productivity (Yield in tons per ha) ³		
				Cotton	Rice	Wheat
1	USA	481	2.5	2.68	8.63	3.2
2	EU (France)	467	3.6	-	6.88	6.84
3	Japan	583	11.8	-	4.13	3.61
4	Brazil	477	6.0	4.31	4.62	2.62
5	Israel	900	12.6	0.55	3.98	-
6	China	681	13.1	5.28	5.37	5.42
7	India	282	0.3	1.19	2.66	3.37

Source- 1-Registration Authorities in respective countries & www.homologa.com 3-Ourworldindata.org; 2Faostat (Accessed on 11th December 2019)

PMB 2020 is a repetition of the Insecticides Act with many of the old clauses merely redrafted, and a few additional definitions. It is unclear how and in what manner PMB 2020 is an improvement on the Insecticides Act, 1968.

Also few critical clauses which were there in PMB 2008 are found to be missing in PMB 2020.

Major refinements in PMB are crucial to meet the requirements of Indian farmers for new, innovative and better products.

MAJOR OMISSIONS IN PMB 2020

Accountability of Pesticides Inspector and Analysts

While PMB 2020 seeks to ensure availability of safe pesticides; challenges of inadequate monitoring and testing capacity could limit the impact of this legislation.

Inspector and analysts must be liable for penalty for misusing their authority in the spirit of transparency and accountability of all stakeholders involved in the Pesticides Sector. In fact, Drugs and Cosmetics Act, 1940 (S.34AA) and Food Safety and Standards Act, 2006 (S.39) already have such provisions pe-

nalising erring officers.

Also, Central Insecticides Laboratory (CIL) and State Pesticides Testing Labs (SPTLs) require major investments for upgrading their infrastructure and equipment, changes in procedure to procure best quality reagents (rather than having to buy on basis lowest quotations) and regular training and upgradation of the Pesticides Analysts.

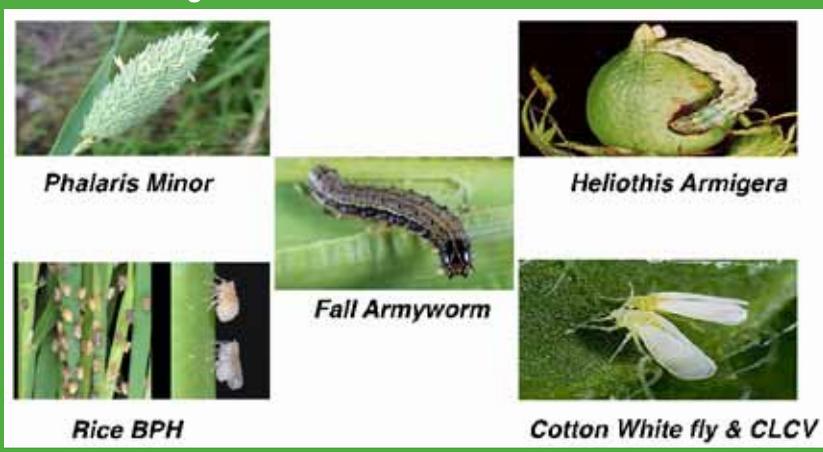
Legal provisions to support innovation and new products registrations

There is no provision in PMB 2020 to provide any legal support to innovation and new products registrations.

Farmers require newer and more broad based crop protection solutions. Just as due to spread of COVID-19, Govt decided to permit many vaccines, same way many more & newer pesticides products must be registered in India.

But to register a new CP product for first time in India costs, it costs INR 30-Rs 50 crores: hence first-time registrant requires about 5 years of exclusivity in order to recover his costs, and therefore there is a need to bring provision for

Contribution of Agrochemicals to Indian Agriculture during National Emergencies





PMB 2020 has removed the timelines for the registration of a new pesticide. This will seriously discourage and delay availability of new products affecting the availability of environmentally safe newer chemistries for the benefit of the farmers. A period of maximum 15 months should be provided with consequences of delays

regulatory data protection for new molecules introduced for the first time in the country.

This is the reason that the following clause was incorporated in the PMB-2008, which reads as under: Section 12(8) of PMB 2008:

“Notwithstanding anything contained in this section, where a pesticide has been registered on the application of any person, any other person desiring to import or manufacture the pesticide or engaged in the business of import or manufacture thereof, shall, on application and on payment of prescribed fee, be allotted a registration number and granted a certificate of registration in respect thereof on the same conditions on which the pesticide was registered under sub-section (4): Provided that registration in respect of a pesticide, data of which cannot be relied upon under sub-section (6) shall not be granted during a period of three years of the date of its registration unless a letter of consent is enclosed with the application, in original, from the registrant of that pesticide.”

This issue was critically examined by the Standing Committee of Parliament (2008-09) which evaluated the PMB-08 and recommended the following in its



46th Report of the Standing Committee on Agriculture, dated Feb 2009 - “The Committee recommend that the period for data protection under clause 12(6) may be raised from three to five years from the date of its registration under clause 12(4).”

It is therefore pertinent to include the clause 12(8) of PMB 2008 into the PMB 2020. Without this clause Indian farmers will not be able to get new products and more choices to fight pests/diseases and weeds. Availability of New Pesticides brings in healthy competition and far greater choices to the farmers for fighting the pests. This would be possible if the PMB 2020 includes the law of giving data protection for the introduction of new products.

OTHER MAJOR REFINEMENTS NEEDED IN PMB 2020

A. Time limit for granting registration

The PMB 2020 has removed the timelines for the registration of a new pesticide. This will seriously discourage and delay availability of new products affecting the availability of environmentally safe newer chemistries for the benefit of the farmers. In fact, a period of maximum 15 months should be provided with consequences of delays.

B. Prohibition by the central or state government

Under the existing Insecticides Act, 1968, for reasons of public safety, the central or state government may prohibit the sale, distribution and use of an insecticide for 60 days, extendable by 30 days. However, it is observed that the PMB 2020 extends the government's power to prohibit a pesticide for a period up to one year. While prohibition of sale for safety reasons is nothing new in PMB 2020, but extending temporary bans (without even a review) to one year will virtually destroy the future of the product.

There is no reason why Govt. cannot review it within the maximum 60 days. Such a long delay will discourage introduction of new molecules for the Agriculture and Farmers in India. Recent experiences of arbitrary ban orders by states without an investigation, during middle of peak season, has taken away the right of farmers to use the registered and approved products and impacted the farm yields, and it may also have led to use of spurious pesticides. Further misuse of authority by state(s) and coercive action on the products already approved by the national regulatory body – CIB&RC - is counter-productive.

C. Terms - “Safer Alternatives”, “Necessity” in PMB 2020

The use of the terms -“safer alternatives” defeats the very objectives of the PMB

2020 which mandates the RC to ensure that any pesticide molecule which is allowed to use in India shall be safe. In other words, if the Registration Committee after having examined all the toxicological, chemistry, bio efficacy, shelf life and keeping quality, packaging and transportation, setting of maximum residue limits etc concluded that the product is safe for use in India, then why should this be judged against the safety of another product? As example, how does one choose which is a ‘safer’ painkiller, aspirin or paracetamol? In any event, if a pesticide is found to be unsafe, RC can cancel registration under Clause 22. Therefore, these terms - “safer alternatives”, “necessity”, should be removed from PMB 2020 (Section 18 (4) – Decision regarding Registration; and 4 (iv) – Statement of Objectives and Reasons).

In fact, such subjective wordings in the law has serious implications and can lead to witch hunt and give vast discretionary powers which are bound to be misused.

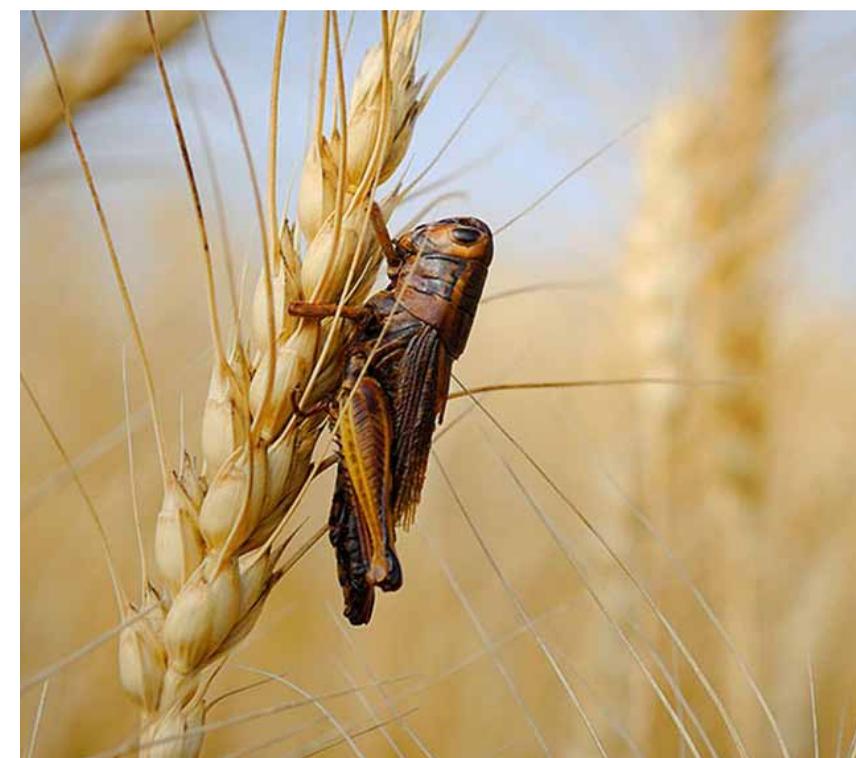
D. Punishment for certain offences

The whole concept of offences and punishment needs major changes to ensure transparency and quick disposal of justice. Punishments should also be decriminalised in keeping with this positive change initiated by the Hon'ble Prime Minister, Shri Narendra Modi.

For minor/ routine violations which do not involve any criminal intent and do not cause significant harm to public health or environment (such as minor labelling errors, minor deviations from approved quantity of active ingredient, etc.), the following measures are suggested:

- Only reasonable fines (and NOT imprisonment) should be imposed;
- Company should be allowed to compound the violation; and

Violation should be tried in a quick and summary manner by an adjudicatory body, and not criminal court. This will unlog overburdened criminal courts



tried before a criminal court; and punished with imprisonment.

E.g. – manufacturing or selling counterfeit or spurious products, or manufacturing or selling products without registration or license, etc.

The government has already implemented this dual philosophy in modern regulatory statutes. E.g.– Food Safety and Standards Act, 2006; Companies Act, 2013

E. Regulation of price

It is surprising that price control clause is proposed in a law which is essentially for safety. Pesticide industry has robust competition in India ensuring availability of pesticides to farmers at reasonable prices. There is absolutely no case for artificial price control in this sector. A threat of price control will drive away fresh investment in this sector. This needs to be deleted.

Conclusion

Without these changes, the real expectations and purpose of PMB 2020 shall not be served.

and also ensure that stakeholders are not dragged to criminal courts for years on end, even for minor violations. And importantly, the offenders will be fined/ penalised to meet the ends of justice.

Only grave offences involving criminal intent and having significant impact on public health and safety should be