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March 5, 2018

LEAVES
OF
IMPORTANT
SURVIVAL
TREES
IN
INDIA —
MAHUA,
KHEJDI,
ALDER,
PALMYRA
AND
OAK

Dr B. Rajender
Joint Secretary (Plant Protection)
Ministry of Agriculture and Farmers' Welfare
Department of Agriculture, Co-operation and Farmers' Welfare
Krishi Bhawan,
New Delhi - 110001

Subject: CSE recommendations on draft Pesticides Management Bill, 2017

Dear Dr B. Rajender Ji,

This has reference to the draft Pesticides Management Bill, 2017 (hereinafter referred to as “**the draft Bill**”), which was released for comments on February 19, 2018.

The draft bill is of critical importance for health of people of this country. Today, agriculture in India is largely dependent on chemicals including pesticides and their overuse and misuse has a huge impact on the health of humans, animals and the environment. Instances of acute toxicity of farmers due to pesticides are common and chronic toxicity of pesticides is a big health threat for consumers.

CSE has been working on issues relating to pesticides regulation for about two decades now. We have been a strong advocate of pesticides management in India that preserves the health of humans and environment. We have conducted laboratory studies that found residues of pesticides in food products like soft drinks and bottled water. As a result of our study on pesticides residues in soft drinks, a Joint Parliamentary Committee was set up, which recommended that laws related to pesticide registration and pesticides' residues in food be strengthened. We also tested pesticides in human tissues from Kasargod (Kerala) and Punjab. In 2013, we assessed pesticide regulations and practices in India and highlighted key regulatory gaps and enforcement issues.

We have reviewed the draft bill and would like categorically mention that the proposed draft bill is very weak and fails to completely address the key issues at hand. A new completely-overhauled draft must be introduced to plug the fundamental gaps which exist in the current version. We have provided our detailed comments and rationale for the same in the Annexure I.

We hope that you consider our recommendations and come up with a robust law to effectively manage pesticides in the country

Please let us know if you have any questions. We would be happy to address.

Yours cordially,

Chandra Bhushan

Encl: Annexure- I: CSE Recommendations | Draft Pesticides Management Bill-2017

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Annexure I

CSE Recommendations | Draft Pesticides Management Bill-2017

1. The Ministry of Agriculture and Farmers' Welfare should not be regulating pesticides. It should be Ministry of Health and Family Welfare

- The Ministry of Agriculture and Farmers' Welfare (MoAFW), the existing regulator of pesticides in India, also happens to promote the pesticides. Since the objective of MoAFW is to increase productivity, it ends up irrationally promoting pesticides without realizing that pesticides are hazardous chemicals and they must be used judiciously and as a last-resort. There is a clear conflict of interest as the promoter cannot be the regulator.
- Since it is ultimately about health of the people, we recommend that Ministry of Health and Family Welfare (MoHFW) should take charge of pesticide management in the country. Therefore, the legislative powers to regulate pesticides should be transferred to MoHFW, whose mandate is to protect the health of people.
- Following are some of the country-level examples, wherein pesticides are regulated by those other than the agriculture ministry/department. For example:
 - In Sweden, Swedish Chemicals Agency reviews and authorizes sale and use of plant protection products with a view to reduce risks to human and environment by chemicals
 - In the United States, the Environmental Protection Agency with an objective to protect human health and environment regulates pesticides

2. The focus of the draft bill should be minimizing the use of pesticides in view of public health and attaining sustainability in agriculture. It should be not be about productivity

- The objective of the existing draft bill must consider minimizing the use of pesticides. Further, a preamble should be added which recognizes that pesticide use is not sustainable. It is a temporary stop-gap arrangement wherein the aim should be to use it as a last-resort.
- Not recognizing this would be a critical failure as using pesticides for decades has contributed significantly to the current ecological, economical and existential crisis the Indian agriculture sector is facing. Promoting pesticides will take India away from sustainable agriculture practices. Further, it would be in complete contradiction to the organic farming promotion that the government of India has started to get into.

3. State governments should have a greater role and say in pesticide management in their states

The current draft of the bill provides an inadequate representation to the state governments. While states have a limited representation in the Central Pesticides Board, they have no representation in the Registration Committee. Also, state governments can only prohibit sale of pesticides for reasons of public safety only for a period no longer than 180 days.



- The state governments should have the power to regulate pesticides as they have a better idea about the agro-ecological aspects including the soil, climate, crops and pests, etc. in their state. The draft bill must include suitable provisions to give power to states so that they can disallow use of a pesticide even if it is approved by the Registration Committee. This should be based on an assessment and recommendation by a state-level 'independent oversight committee' formed by respective states. However, states need not be given the power to allow a pesticide, which is otherwise not approved by the Registration Committee.
- In that context, Central Government must only be responsible for making laws/standards on the lines of minimum national standards (MINAS) such as for pesticide registration, approved use etc. and the state governments must have the final authority to regulate pesticides as desired.
- 'Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases' is a state subject as per Schedule VII of the Constitution of India. In addition, use of pesticides strongly affects health of the people, and 'Health' is also a state subject. With MoHFW taking charge of this bill, state health departments would be suited to support the execution.

4. Pesticides must be sold against a prescription by a professional and used accordingly

- Pesticides are hazardous chemicals with multiple, severe and even fatal acute as well chronic toxic effects. They must be sold and used cautiously under supervision like drugs. Therefore they should be allowed to be sold only under prescription of a professional expert and used accordingly. The draft bill must be amended to create this provision.
 - This is because, in both drugs and pesticides the target, dosing, mode of application is significant and an expert advice with no vested interest is extremely critical. But unfortunately, the current practices such as over-the-counter availability and dealer influence on gullible farmers is causing overuse and misuse of pesticides. In that background, an expert and unbiased advice and supervision is missing.
- Just like medical doctors and veterinarians are involved in human and animal health, a concept of '**plant health experts**' or '**plant health consultants**' must be introduced. These need not be the agriculture extension officers. A system should be established wherein a private plant health consultant, say on the lines of a 'poultry consultant' can prescribe and advise on which pesticide is to be used based on farm visits, farm size and nature of pest attack. Records of this prescription should be maintained by the shops selling pesticides.
- Provisions in the draft bill should be made to consider sale and use of pesticides other than prescription as unapproved and illegal

5. Penalties are not deterrent enough. Focus must be on financial penalties, which must be in proportion to value of total sales of the pesticide till date. Criminal prosecution need not be there at all.

- While the financial penalty is substantially increased in the draft bill from the Insecticides Act, 1968, but in most cases, it would not be enough deterrence for a big company selling pesticides worth crores of rupees. For instance, a fine of 1 lakh to 5 lakh rupees for selling



misbranded pesticides will not deter an industry giant in the business of manufacturing pesticides. Even a penalty of 10 to 50 lakh rupee proposed for certain cases may not be deterrent enough. Further, there is not much historical precedence that a substantial jail term has been awarded to decision makers in a pesticide manufacturing company.

- Therefore, the focus should be on financial penalties which should be proportional to the value of total sales of the concerned pesticide in India. It should not be based only on annual turnover because the damage may not be limited to one year.

6. Pesticide promotion must not be allowed. No advertisements. Company/dealer representatives to be barred from engaging with farmers; their income should be delinked from sales

Just like pharmaceutical drugs, pesticides due to their hazardous nature, must not be allowed to be promoted. In that light, provisions must be created in the draft bill for the following:

- All kinds of advertisements of pesticides must be banned in India. Advertisements are by design suited to the commercial interest of advertiser and aimed at influencing buying behavior of farmers, who are often uneducated and unaware of the marketing tactics. Advertisements include those in electronic and print media in national or local languages as well as disguised promotion through sponsorships, conferences, seminars etc.
- Interaction of pesticide company/dealer representatives with farmers must not be allowed. Such interactions should be considered illegal and the representative (and not farmer) should be held liable. The last point of contact with farmers should only be of agriculture extension officers.
- **Delink income of company/dealer representatives from sales of pesticides.** There should be no concept of commission.
- A '**code of conduct**' must be developed and followed by the pesticide companies. The progress and reports should be available for audit by the government.

7. Class I pesticides should be banned

- Based on acute toxicity, World Health Organisation (WHO) classifies certain pesticides as extremely hazardous (class Ia), highly hazardous (class Ib). Necessary provisions should be made in the draft bill to ban sale and use of class I pesticides.
 - There are 18 class I pesticides allowed in India. Few of them are used heavily and account for about 30 percent of the total pesticides used. These are also banned to be used in several countries (see Table 1)
 - Deaths related to pesticide poisoning in India are common. Data from the National Crimes Records Bureau shows that in 2014, there were 7,365 cases of poisoning due to accidental intake of insecticides/pesticides, out of which 5,915 died. In 2015, 7,060 deaths were reported out of 7,672 cases.



Table 1: Examples of class I pesticides used heavily in India and banned in other countries:

Pesticide	Banned in countries including EU*	Consumption during 2015-16 [†] (Metric tonnes)
Monocrotophos	60 countries	371
Triazophos	40 countries	315
Phosphamidon	49 countries	90
Carbofuran	49 countries	337
Methyl Parathion	59 countries	674
Phorate	37 countries	455

* Source: 'Consolidated list of banned pesticides' by Pesticide Action Network (May 2017); † Source: Directorate of Plant Protection, Quarantine and Storage

8. Registration of pesticides should be based on comparative assessment

- Comparative assessment here refers to assessing the safety and health risk (including impact on environment) posed by a pesticide and comparing it to safety and health risks posed by already registered pesticides being used for the same purpose. Pesticides with a lower overall comparative risk compared to the already registered pesticides should be allowed to be used to ensure lower risk to health and safety. Necessary provisions should be made so that pesticides posing higher risk of safety should be de-registered. This could be within a reasonable time frame and with due diligence. Further, this should involve:
 - Adoption of '**precautionary principle**' which involves anticipating the harm a certain action may cause and act proactively, even without concrete data.
 - Review by an independent committee every five years. At this time, every pesticide (even registered ones) must be treated like fresh applications. The report of these reviews should be made publicly available and comments should be invited, based on which decision regarding re-registration or de-registration must be taken.
 - Data should not be limited to those provided by pesticide companies.

9. Civil society and public health professionals must be adequately involved in the decision making

- As per the draft bill, both the Central Pesticides Board and Registration Committee are largely represented by the Central government or those nominated by it. In order to bring another perspective, these bodies must include representation of public health professionals and civil society organisations working in food safety, environment protection and consumer rights.

10. No pesticides should be allowed to be sold without personal protective equipments

- The draft bill must incorporate a provision which makes it illegal to sell a pesticide without personal protective equipments (PPE) or safety gear. It must place the responsibility of providing these on pesticide companies. The PPEs must be of appropriate quality and come with usage instructions in local languages.



- As per the International Code of Conduct on Pesticide Management, jointly released by FAO and WHO, *“pesticides whose handling and application require the use of personal protective equipment that is uncomfortable, expensive or not readily available should be avoided, especially in the case of small-scale users and farm workers in hot climates”*.
- The objectives in the draft bill mentions - *“create awareness among users regarding safe and judicious use of pesticides”*. Keeping this in mind state governments should ensure safe application of farmers

11. Systems and standard operating procedures for acute medical emergencies

- Necessary provisions must be introduced to facilitate an administrative and accountability mechanism to handle acute medical emergencies due to pesticide poisoning. This would involve an emergency response system which identifies and equips medical facilities with necessary drugs, resources and standard operating procedures for treating the patient with pesticide poisoning atleast upto the district level at no cost.

12. ‘Polluter Pays’ principle should be the basis for fixing liability and compensation

- In cases of public health and environmental damage due to pesticides, liability of environmental contamination and health impacts should be based on the ‘Polluter Pays’ Principle.
- Necessary provisions should be created in the draft Bill to factor-in this.

13. Comprehensive data repository and information management system

Necessary provision to be included in the draft bill, which facilitates a comprehensive data repository and information management system which generates, collects and analyze following aspects (not limited to):

- District-level data on pesticide poisoning
- Pests and pest attacks
- District level data on use of pesticides
- Studies related to efficacy and toxicity of pesticides
- Pesticide residue monitoring
- Studies related to environmental impact of pesticides
- Sales of misbranded and spurious pesticide and unapproved use