

Legislative Brief

The Agricultural Biosecurity Bill, 2013

Highlights of the Bill

The Bill was introduced in the Lok Sabha on March 11, 2013 by the Minister of Agriculture, Sharad Pawar.

The Standing Committee on Agriculture (Chairperson: Basudeb Acharya) submitted its report on January 4, 2014.

- ◆ The Bill establishes the Agricultural Biosecurity Authority of India (ABAI) to protect plants, animals and related products from pests and diseases to ensure agricultural biosecurity.
- ◆ ABAI will regulate imports and exports of plants and animals, as well as their inter-state movement. Imports and exports of plants and animals shall only be allowed if they are issued permits by the respective authority in the originating country or by ABAI, respectively.
- ◆ ABAI will also conduct surveillance of pests and diseases in the country, undertake pest risk analysis, and interact with research institutes and state governments on plant and animal protection.
- ◆ ABAI may notify quarantine pests. It may also declare an area as a controlled area if it is suspected of being infested with pests. It shall communicate the measures to be taken by the state government.
- ◆ If a state government fails to take the required measures, ABAI can take necessary steps to eradicate or contain a quarantine pest in a controlled area. The state government shall reimburse ABAI with the costs incurred for such purposes.
- ◆ The central government may declare a biosecurity emergency on the recommendation of ABAI in case of a pest or disease outbreak.
- ◆ ABAI shall discharge international obligations under various international trade, sanitary and phytosanitary agreements.

Key Issues and Analysis

- ◆ Currently, import, export, quarantine, and the inter-state spread of plant and animal diseases are regulated by various entities under different laws. These functions will be subsumed under the proposed ABAI.
- ◆ Other countries have established biosecurity systems similar to the one proposed under the Bill. Most of them have established national authorities that regulate imports, exports, quarantine and inter-state movement of plants and animals.
- ◆ The Standing Committee examining the Bill recommended a higher representation of states in ABAI. It also recommended removing the requirement for states to reimburse ABAI for measures taken by it to contain a quarantine pest or disease.

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PART A: HIGHLIGHTS OF THE BILL¹

Context

The protection of humans, plants, animals, and the environment from the adverse effects of disease-causing organisms is referred to as biosecurity. Currently, biosecurity issues in the country are regulated by different laws. The Destructive Insects and Pests Act, 1914 (DIP Act) regulates biosecurity among plants and crops. The Livestock Importation Act, 1898 (LI Act) regulates biosecurity issues through the import of livestock. Lastly, the Prevention and Control of Infectious and Contagious Diseases in Animals Act, 2009 (PCDA Act) regulates biosecurity with respect to the inter-state spread of diseases affecting animals.

Various government committees have highlighted the ineffectiveness of the existing Acts and the need for an integrated approach to handle biosecurity issues. In 2007, the National Commission on Farmers recommended an integrated National Agricultural Biosecurity System covering crops, animal husbandry, fisheries, forestry and agriculturally relevant micro-organisms.² In 2009, a Core Group constituted by the Department of Agriculture and Cooperation recommended introducing a new legislation with an integrated biosecurity system.³

The Agricultural Biosecurity Bill, 2013 was introduced in March 2013 to establish an integrated national authority covering plant, animal and marine health with respect to biosecurity matters. The Bill repeals the DIP and LI Acts. The proposed authority will meet India's obligations to promote research and prevent pests and diseases under the International Plant Protection Convention and the Office International des Epizooties. According to the Statement of Objects and Reasons of the Bill, this integrated approach will help counter risks arising from emerging factors such as genetic engineering and trans-boundary diseases. The Standing Committee on Agriculture examined the Bill and submitted its report on January 4, 2014.

Key Features

The Bill establishes the Agricultural Biosecurity Authority of India (ABAI) to regulate plant health, animal health, marine protection, and agriculturally important micro-organisms. ABAI seeks to safeguard the country's agricultural biosecurity by regulating the movement of plants and animals into, from and within the country.

Functions of Agricultural Biosecurity Authority of India

- The functions of ABAI include: (i) regulating the import and export of plants, animals and related products to prevent the introduction of quarantine pests; (ii) implementing post-entry quarantine measures; (iii) regulating the inter-state spread of pests and diseases relating to plants and animals, (iv) undertaking surveillance of pests and diseases, and (v) regulating the import of transgenic materials for biosecurity issues.
- ABAI will act as the national organisation to discharge obligations to ensure plant and animal health under the International Plant Protection Convention and the Office International des Epizooties. These agreements require each member country to establish national organisations to conduct surveillance of plants and animals; prevent the outbreak of diseases; and coordinate with other countries to prevent outbreaks.

Composition of ABAI

- ABAI shall be headed by a Director General, appointed by the central government, and comprise 20 members. The members shall be a mix of experts in plant and animal protection from organisations such as the Indian Council of Agricultural Research and the Food Safety and Standards Authority of India, and representatives from various ministries such as agriculture, forestry, and biotechnology.
- ABAI shall appoint technically qualified persons as Designated Officers to implement the Act. They shall be empowered to search and seize goods, stop distribution, and order the treatment of plant or animal diseases.

Imports and exports

- Imports of plants, animals, and plant or animal products shall only be allowed if they have been issued permits by ABAI. They shall also require sanitary or phytosanitary (relating to the health of animals and plants, respectively) certificates from the respective authority in the countries of origin and re-export.
- Exports of the above products shall only be allowed in cases where an officer of ABAI has issued a sanitary or phytosanitary certificate. Such a certificate will be necessary only if the country of destination requires it.
- The Customs Act, 1962 will also apply to plant and animal imports, which are prohibited and require permits from ABAI.

- An officer may require an owner to remove a product from India within 30 days, if it was imported in contravention of the Act. If the owner fails to do so, the officer may seize the product and destroy it.

Procedure to manage diseases and quarantine pests

- A person may not possess or move plants or animals if he believes them to be carrying a quarantine pest.
- If a person becomes aware of the existence of quarantine pests or plant or animal diseases in an area, he is required to provide information immediately.
- ABAI may notify any pest to be a quarantine pest. It can also notify an area to be a controlled area if it suspects that the area is infested or infected with a quarantine pest.
- ABAI shall communicate the quarantine measures that the state government shall implement in a controlled area. Such measures include the treatment, disposal of plants, animals, and ways to control their spread.
- ABAI can take necessary steps for the eradication or containment of a quarantine pest in a controlled area, if a state government fails to take the required measures. The state government shall reimburse ABAI with the costs incurred for such purposes.

Biosecurity emergencies

- ABAI may recommend to the central government to declare a biosecurity emergency in an area in case of an outbreak of a pest or organism, which has the potential to cause a significant loss to biosecurity. The declaration shall cease to have effect after six months unless revoked earlier.
- During the biosecurity emergency, the central government may direct ABAI to implement measures to manage or eradicate the harmful organism. ABAI may notify a scheme for the management or eradication of such an organism, with the prior approval of the central government.

Grievance redressal and penalties

- Persons aggrieved by any order of the Designated Officer, may appeal to the central government within a period of 30 days of the order. The centre may revise the order within the specified time period.
- ABAI may award a reasonable compensation to a person for loss or damage to non-infested plants, animals or related products incurred by him as a result of any sanitary or phytosanitary measures.
- Penalties have been specified for interfering with seized items, providing false information, obstructing Designated Officers, and contraventions in relation to imports and exports. The penalty for these offences is imprisonment ranging from three months to two years and a fine between Rs 1 to 2 lakh. The punishment for subsequent offences has also been specified.

PART B: KEY ISSUES AND ANALYSIS

Comparison of Bill with existing laws

Currently, biosecurity issues pertaining to plant, animal and marine health are regulated under different laws and by various entities. The Bill seeks to establish ABAI to integrate the varied approaches to biosecurity. Table 1 shows the current regulation of different aspects of biosecurity, which will be subsumed under ABAI.

Table 1: Current regulation of biosecurity

Provision	Current
Import	Department of Plant Protection Quarantine and Storage (DPPQS; Dept. of Agriculture) certifies plants for import Animal Quarantine and Certification Service (AQCS; Dept. of Animal Husbandry) certifies animals for import
Biosecurity threats	Managed by Department of Agriculture, and Department of Animal Husbandry
Quarantine	DPPQS, AQCS and state governments ¹
Inter-state movement	DPPQS regulates the inter-state movement of plants State governments regulate the inter-state spread of animal diseases ¹
Export	DPPQS regulates exports of plants, AQCS regulates exports of animals Agricultural and Processed Food Products Export Development Authority fixes standards and inspects meat products before export

Sources: Destructive Insects and Pests Act, 1914; Livestock Importation Act, 1898; The Prevention and Control of Infectious and Contagious Diseases in Animals Act, 2009; PRS.

In addition to the above activities, ABAI will also hold other responsibilities. These include: (i) regulating the introduction of new or beneficial organisms; (ii) undertaking surveillance of plant and animal pests and diseases and pest risk analysis; (iii) interacting with research institutes and state governments on plant and animal quarantine; and (v) regulating the import of transgenic materials.

Comparison of biosecurity systems across countries

Other countries have implemented biosecurity systems similar to the one proposed under this Bill. Australia, the United States, China and New Zealand have established national authorities that function under the oversight of central government departments.⁴ As is with ABAI, these authorities manage biosecurity issues through an integrated system, regulating the import and export of plants and animals, their inter-state movement, and quarantine measures in the country. In addition, the Australian authority also provides for the quarantine of human beings to prevent the spread of infectious diseases.

Recommendations of the Standing Committee

The Standing Committee examining the Bill made some recommendations:

- **Representation of states in the Authority:** ABAI should have at least one representative from states in each region of the country rather than only three state representatives. Provisions should also be made to include a member from a state where there has been an outbreak of a pest or disease.
- **Costs recovered from state governments:** ABAI can recover costs for measures taken by it, from states that fail to take measures in a controlled area. The Committee recommended deleting this provision because it may dis-incentivise state governments from proactively reporting outbreaks of pests to ABAI.
- **Duty to inform ABAI regarding existence of pests:** The Committee recommended that the Bill specify that ABAI is the authority that individuals should inform once they become aware of the existence of a quarantine pest/disease of a plant or animal.
- **Bar on jurisdiction of civil courts:** Under the Bill, civil courts do not have jurisdiction on matters under the purview of ABAI or the central government. The Committee noted that this provision may be unconstitutional in its current form and recommended amending the Bill to allow for courts to intervene on all matters except technical decisions of ABAI.

Notes

1. This Brief has been written on the basis of the Agricultural Biosecurity Bill, 2013, introduced in the Lok Sabha on March 11, 2013.
2. “National Policy for Farmers 2007”, National Commission on Farmers, Ministry of Agriculture, September 11, 2007, <http://agricoop.nic.in/NPF/npff2007.pdf>.
3. Statement of Objects and Reasons, The Agricultural Biosecurity Bill, 2013.
4. Biosecurity in Australia, Department of Agriculture, Australian Government, <http://www.daff.gov.au/biosecurity>; Animal and Plant Health Inspection Service, United States Department of Agriculture, <http://www.aphis.usda.gov/wps/portal/aphis/home/>; Ministry for Primary Industries, New Zealand Government, <http://www.biosecurity.govt.nz/>; General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) Association, State Council of the People’s Republic of China, <http://aqsiq.net/>.

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