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Report Name: Government of India Issues Three Ordinances Ushering in Major Agricultural Market Reforms

Country: India

Post: New Delhi

Report Category: Agriculture in the Economy, Policy and Program Announcements, Agricultural Situation

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Report Highlights:

On June 5, 2020, India's Ministry of Law and Justice issued three ordinances that will liberate existing market restrictions, eliminate free trade barriers in agricultural production, and empower farmers to engage directly with potential buyers in advance of harvest. The ordinances follow a June 3, 2020 Union Cabinet announcement approving three policy resolutions to further reform domestic agricultural marketing systems to support farmer income. Previously, on May 15, 2020, Finance Minister Nirmala Sitharaman had announced major market reforms as part of the Special Economic Package to stimulate India's agricultural sector in the post-COVID-19 economy.

Government of India Leveraged COVID-19 Crisis to Launch Market Reforms and Other Long-Term Measures to Help Indian Farmers

On May 12, 2020, Prime Minister (PM) Narendra Modi announced a multi-tranche economic package of 20 trillion Indian Rupees (INR) ($263 billion USD) to leverage the ongoing COVID-19 pandemic crisis into an opportunity for progress toward a "Self-Reliant" India (*Atmanirbhar Bharat*). Following the PM's national address, Finance Minister (FM) Nirmala Sitharaman conducted a series of press conferences to provide further details on the support measures included in each of the five tranches targeting various sectors of the Indian economy. Reform measures for agriculture and the rural sector were largely covered in the third tranche.

Early-on in the nearly three-month nationwide lockdown that started in late March, supply chain disruptions exposed critical infrastructure gaps and governance issues regarding the competitiveness of India's agricultural sector. Understanding that the COVID-19 crisis presented an opportunity to improve some of these marketing systems which Indian farmers were required, by law, to use, the Government of India (GOI) proposed major policy reforms to remove many of the long-standing hurdles constraining agricultural growth and farmer income. Specifically, in the third tranche of the economic package, the FM proposed to deregulate major food crops from the 1955 Essential Commodity Act (ECA); allow farmers to sell their agricultural products outside of government-regulated markets; and permit barrier-free inter and intra-state trade of farm commodities. The government also proposed providing a legal framework for farmers to facilitate contract-pricing schemes with processors and other market actors in the supply chains to reduce price risk.

Additionally, the economic package offered significant fiscal measures to strengthen credit supplies to farmer and agricultural processors, and additional funds for infrastructure development, logistics, and capacity building in the field crop, horticultural and livestock sectors. See IN2020-0048 for more details on the Special Economic Package for Food and Agriculture proposal.

Government Implement the Proposed Market Reforms through Ordinances

On June 3, 2020, the Union Cabinet approved three major decisions via central ordinances that impact India's agricultural sector, and on June 5, 2020, the Ministry of Law and Justice published the three ordinances following approval from India's President, Ram Nath Kovind. Although the ordinances came into immediate effect on June 5, 2020, they still need to be presented in Parliament for debate and final approval, which is expected to take place in the next three to six months. The three ordinances follow:

1. The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020

   Per the GOI, this ordinance will create an environment where farmers and traders will have the ability of free choice of sale and purchase of agricultural products. It will also eliminate barriers to inter- and intra-state trade and commerce outside physical market premises, which are normally regulated by state government Agricultural Produce Market Committees (APMCs). The ordinance aims to create additional trading opportunities outside established APMC market yards to help farmers get more competitive prices due to additional competition.

2. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020

   The GOI's press release states that this ordinance will empower farmers to engage with processors, wholesalers, aggregators, wholesalers, large retailers, and exporters on a level playing field without any fear of exploitation. It will transfer the risk of market unpredictability from the farmer to the sponsor and also enable the farmer to access modern technology and better inputs. It will reduce the cost of marketing and improve farmer incomes.

3. The Essential Commodities (Amendment) Ordinance 2020 (see Appendix 1)

   Under this ordinance, basic food items including cereals, pulses, oilseeds, edible oils, onions, and potatoes will be removed from the list of essential commodities, which will help address private investors' concerns of excessive regulatory interference in their business operations. The ordinance specifies that these commodities can only be regulated through stock limits under situations such as war, famine, extraordinary price fluctuations, or natural calamities. However, agricultural processors and exporters will remain exempted from stock limit impositions even under these "catastrophic" conditions.

These three ordinances will allow Indian farmers to remove previously state-imposed market intermediaries and directly sell their agricultural production (mostly perishable produce) to a much larger pool of buyers, including out-of-state markets. Potential new private sector actors have also been liberated and, as such, have an incentive to invest in warehousing, cold-storage facilities, and other market improvements.

GOI Initiates Reforms to Unleash the Domestic Market

Until now, the combination of the ECA and APMC laws determined—and severely limited how domestic agricultural produce could be bought and sold in India. Enacted in 1955 when the country was facing severe food shortages, the ECA was designed to control the production, supply, trade, and storage of certain commodities deemed to be essential, and gave state governments excessive powers to raid so called "hoarders," confiscate stocks, cancel licensing agreements, and even imprison offenders.

The APMC system forced farmers to sell their produce only through licensed traders at designated market yards (*mandis*) which, over time, severely constrained competition among agricultural marketing activities, which hurt farmers' bottom line. In addition, the APMC system's high operational costs were partially passed on to buyers through various charges and taxes at the point of sale (has varied from five to 14.5 percent from state to state), and the buyers, in turn, partially passed on the higher marketing costs to farmers by paying less for their produce. Further, by forcing farmers to sell their produce through designated channels, and placing arbitrary restrictions on holding inventory/stocks, the ECA-APMC system discouraged price discovery and private storage. This gave way to an inefficient regime of licenses/permits, a lack of investment in agricultural marketing and post-harvest infrastructure, increased post-harvest losses, and other drawbacks that have been well documented since the early 1990s.

The closure of the regulated market yards and breakdown of supply chains during the national lockdown underlined the need for having alternate or multiple marketing channels to sell local farm produce due to the problems in marketing the *rabi* (winter grown) crops harvested in March-April, particularly horticultural crops. Due to this supply chain disruption, several progressive farmer groups successfully experimented with direct marketing, primarily fresh fruits and vegetables, to consumers. Several state governments also allowed direct farmer marketing and purchases by non-licensee traders and processors by relaxing the ECA requirements during this period.

Appendix 1: The Essential Commodities (Amendment) Ordinance 2020

रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—20 REGISTERED NO. DL—(N)04/0007/2003—20

भारत का राजपत्र
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 5th June, 2020/*Jyaishtha 15*, 1942 (*Saka*)

THE ESSENTIAL COMMODITIES (AMENDMENT) ORDINANCE, 2020

No. 8 of 2020

Promulgated by the President in the Seventy-first Year of the Republic of India.

An Ordinance further to amend the Essential Commodities Act, 1955.

WHEREAS for the purposes of increasing the competitiveness in the agriculture sector and enhancing the income of the farmers, the regulatory system needs to be liberalised while protecting the interests of consumers;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Essential Commodities (Amendment) Ordinance, 2020. Short title and commencement.

(2) It shall come into force at once.

2. In section 3 of the Essential Commodities Act, 1955, after sub-section (1), the following sub-section shall be inserted, namely:- Amendment of section 3.

10 of 1955.

'(1A) Notwithstanding anything contained in sub-section (1), —

(a) the supply of such food stuffs, including cereals, pulses, potato, onions, edible oilseeds and oils, as the Central Government may, by notification in the Official Gazette, specify, may be regulated only under extraordinary circumstances which may include war, famine, extraordinary price rise and natural calamity of grave nature;

(b) any action on imposing stock limit shall be based on price rise and an order for regulating stock limit of any agricultural produce may be issued under this Act only if there is—

(i) hundred per cent. increase in the retail price of horticultural produce; or

(ii) fifty per cent. increase in the retail price of non-perishable agricultural foodstuffs, over the price prevailing immediately preceding twelve months, or average retail price of last five years, whichever is lower:

Provided that such order for regulating stock limit shall not apply to a processor or value chain participant of any agricultural produce, if the stock limit of such person does not exceed the overall ceiling of installed capacity of processing, or the demand for export in case of an exporter:

Provided further that nothing contained in this sub-section shall apply to any order, relating to the Public Distribution System or the Targeted Public Distribution System, made by the Government under this Act or under any other law for the time being in force.

Explanation.— The expression "value chain participant", in relation to any agricultural product, means and includes a set of participants, from production of any agricultural produce in the field to final consumption, involving processing, packaging, storage, transport and distribution, where at each stage value is added to the product.'.

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

Attachments:

No Attachments.