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Bill No. 79 of 2008.

THE AGRICULTURAL AND PROCESSED FOOD PRODUCTS EXPORT
DEVELOPMENT AUTHORITY (AMENDMENT) BILL, 2008

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BILL

*to amend the Agricultural and Processed Food Products Export Development
Authority Act, 1985.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2008. Short title and commencement.

(2) It shall be deemed to have come into force on the 13th October, 2008.

5 2. In the Agricultural and Processed Food Products Export Development Authority Act, 1985 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

2 of 1986.

(a) in clause (g), for the words “Scheduled products”, the words “Scheduled products or, as the case may be, Special products” shall be substituted;

10 (b) in clause (i), for the words “the Schedule”, the words “the First Schedule” shall be substituted;

(c) after clause (i), the following clause shall be inserted, namely:—

‘(j) “Special product” means any of the agricultural or processed food products included in the Second Schedule.’.

Substitution of new section for section 3.

Power to amend the Schedule.

Amendment of section 4.

Insertion of new section 10A.

Functions in respect of Special products, etc.

Amendment of section 32.

Amendment of the Schedule.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

“3. The Central Government may, having regard to the objects to this Act, and if it considers necessary or expedient so to do, by notification in the Official Gazette, add to, or, as the case may be, omit from, the First Schedule or the Second Schedule any agricultural or processed food product and on such addition, or as the case may be, omission, such product shall be, or shall cease to be, a Scheduled product or Special product as the case may be.”

4. In section 4 of the principal Act, in sub-section (4), in clause (h), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) other Scheduled products or Special products industries;”

5. After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. Without prejudice to any law for the time being in force, it shall be the duty of the Authority to undertake, by such measures as may be prescribed by the Central Government for registration and protection of the Intellectual Property rights in respect of Special products in India or outside India.

Explanation.— For the purpose of this section, “Intellectual Property” means any right to intangible property, namely, trade marks, designs, patents, geographical indications or any other similar intangible property, under any law for the time being in force.”

6. In section 32 of the principal Act, in sub-section (2), after clause (h), the following clause shall be inserted, namely:—

“(ha) the measures for registration and protection of the Intellectual Property rights under section 10A;”

7. The Schedule to the principal Act shall be numbered as the First Schedule and after the First Schedule as so numbered, the following Schedule shall be inserted, namely:—

“THE SECOND SCHEDULE

[See section 2(j)]

Basmati rice.”

STATEMENT OF OBJECTS AND REASONS

The Agricultural and Processed Food Products Export Development Authority was established in the year 1986 through an Act of Parliament, namely, the Agricultural and Processed Food Products Export Development Authority Act, 1985 to undertake measures for the development and promotion of export of the specified agricultural and processed food products.

2. Several attempts have been made by some foreign traders and manufacturers to obtain Intellectual Property rights in respect of "Basmati rice" by filing applications for registration of trademarks or grant of patents which would have adversely affected the exports of the Indian basmati. Such infringements are also apprehended in other agricultural products. There is, therefore, a need to register and protect the Intellectual Property rights of all the stakeholder in specified Indian agricultural and processed food products. It is considered necessary to amend the Agricultural and Processed Food Products Export Development Authority Act, 1985 to empower the said Authority with the mandate to undertake the steps for registration and protection of the Intellectual Property rights in respect of specified agricultural and processed food products. In view of the urgency, the Agricultural and Processed Food Products Export Development Authority (Amendment) Ordinance, 2008 was promulgated on the 13th October, 2008 which was lapsed on the 27th November, 2008. However the Government decided to bring the present legislation for the said purposes. Hence the present Bill.

3. The salient features of the proposed legislation are as follows:—

(i) it empowers the Agricultural and Processed Food Products Export Development Authority to undertake measures as may be prescribed by the Central Government for registration and protection of the Intellectual Property rights in respect of the special products in India and outside India;

(ii) it empowers the Central Government to appoint, by notification in the Official Gazette, the representatives of industries engaged in Special products as members on the Agricultural and Processed Food Products Export Development Authority;

(iii) it provides for the protection of the Intellectual Property rights of a new category of agricultural or processed food products to be called "Special products" included in the proposed Second Schedule to the said Act. Basmati rice is the first such product;

(iv) it provides that the Central Government may, by notification in the Official Gazette, add or omit any product from the existing Schedule (which has been renumbered as the First Schedule, which is of consequential nature) and the proposed Second Schedule.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 16th December, 2008.

JAIRAM RAMESH

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill proposes to amend section 3 of the Agricultural and Processed Food Products Export Development Authority Act, 1985 so as to empower the Central Government to add or omit any agricultural or processed food product in the proposed First Schedule or the Second Schedule of the Act by a notification in the Official Gazette.

2. Clause 5 of the Bill empowers the Central Government to make rules by notification in the Official Gazette for the measures to be undertaken by the Agricultural and Processed Food Products Export Development Authority for registration and protection of intellectual property rights in respect of Special products in India or outside India.

3. The matters in respect of which the notification may be issued or rules may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE AGRICULTURAL AND PROCESSED FOOD PRODUCTS EXPORT DEVELOPMENT
AUTHORITY ACT, 1985

(2 OF 1986)

* * * * *
2. In this Act, unless the context otherwise requires,— Definitions.

(g) "processing" in relation to Scheduled products includes the process of preservation of such products such as canning, freezing, drying, salting, smoking, peeling or filleting and any other method of processing which the Authority may, by notification in the Official Gazette, specify in this behalf;

(i) "Scheduled product" means any of the agricultural or processed food products included in the Schedule.

3. The Central Government may, having regard to the objects of this Act, and if it considers necessary or expedient so to do, by notification in the Official Gazette, add to, or, as the case may be, omit from, the Schedule any agricultural or processed food product and on such addition, or as the case may be, omission, such product shall be, or shall cease to be, a Scheduled product. Power to amend Schedule.

CHAPTER II

AGRICULTURAL AND PROCESSED FOOD PRODUCTS EXPORT DEVELOPMENT AUTHORITY

4. (1) * * * * * Establishment and constitution of the Authority.

(4) The Authority shall consist of the following members, namely:—

(h) twelve members to be appointed by the Central Government to represent,—

(iii) other Scheduled products industries;

32. (1) * * * * * Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

LOK SABHA

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BILL

to amend the Agricultural and Processed Food Products Export Development Authority Act, 1985.

(Shri Jairam Ramesh, Minister of State in the Ministry of Commerce and Power)

GMGIPMRND—4480LS (S5)—17.12.2008.