

CUTS COMMENTS ON

THE DRAFT MODEL AGRICULTURE PRODUCE & LIVESTOCK CONTRACT FARMING AND SERVICES (PROMOTION AND FACILITATION) ACT, 2018

At the outset, CUTS International appreciates de-linking of contract farming from the APMC regime, which now is being advocated to be governed by a separate law. In this regard the Model “The ____ State / Union Territory Agricultural Produce & Livestock Contract Farming and Services (Promotion and Facilitation) Act, 2018” (i.e. Model Act) is a welcome step.

In order to improve the draft Model Act, following are CUTS Comments for kind consideration.

Objective of the Model Act deficient

In the narrative to the Model Act it is observed that:

“The singular guiding factor that informed the Committee in formulating this law has been protecting and promoting the interests (land ownership, higher productivity, reduced cost, higher price returns) of the farmers in general and small & marginal farmers in particular. Parallely, the Committee was guided by the necessity of incentivizing the sponsor, if the latter was to find it attractive enough to buy the market risks of a farmer. The provisions, therefore aim at building a win-win framework for the two principal parties to the Agreement.” (emphasis added)

The objective in the text of the Model Act is:

“To provide for improved production and marketing of agricultural produce and/or livestock and/or its product through holistic contract farming and to facilitate the contracting parties to develop mutually beneficial and efficient contract farming system, and also promote services contract, by putting in place a friendly and effective institutional mechanism and conducive regulatory and policy framework for contract

farming and services contract or such other contracts and lay down procedures and systems and the matters connected therewith and incidental thereto.” (emphasis added)

It is submitted that while “promoting interests of farmers” features in the narrative, it does not find place in the main text. Since, “objective” of an enactment have interpretative value in case of disputes, adding phrases like “promoting interests of farmers” suitably in the “objective” would be in farmers’ interest.

Several definitions restricts farmers to climb up in the value chain

It is well established that value addition at the farm gate is one of the most viable option to enhance farmers’ income. However, like in the Model APLM Act, 2017 the draft Model Contract Farming Act is also devoid of this vision. This can be gathered from cumulative effect of various (following) definitions provided under the Model Act.

“Agreement” means the Contract Farming Agreement between the Contract Farming Sponsor, who offers to purchase the agricultural produce and/ or livestock and/ or its products and the Contract Farming Producer, who agrees to produce the crop or rear the livestock, under which the production/rearing and marketing of an agricultural produce or livestock or its product is carried out as per the conditions laid down in the agreement. The Contract Farming Sponsor has to purchase the agricultural produce or livestock or its product as per predetermined price or price as in the agreement made prior to sowing of the crop in case of agricultural produce or at the time of making agreement for livestock or its product. The Contract Farming Sponsor may support the production/rearing activity through supply of inputs, feed, technical advice or any other activity related thereto, as may be mentioned in the agreement;

“agricultural produce” includes all produce, whether minimally processed or not, of agriculture, horticulture, apiculture, sericulture, or forest/ or any other such activity identified for contract under this Act (emphasis added).

(Definition of agriculture produce under Model APLM Act does include the word “minimally”).

“**processing**” means any one or more of a series of treatment including powdering, crushing, decorticating, de-husking, parboiling, aging, polishing, ginning, pressing and curing or any other manual, mechanical, chemical or physical treatment to which raw agricultural produce, livestock or its product is subjected to and processing also includes post-harvest management including cleaning, sorting, grading and such other value additions;

“**processor**” means a person that undertakes processing of any agricultural produce, livestock or its product on his own accord or on payment of a charge; (emphasis added)

“**marketing**” means all activities involved in the flow of agricultural produce or livestock or its product from production point commencing at the stage of harvest or otherwise, as the case may be, till the same reaches the ultimate consumers viz., grading, processing, storage, transport, channels of distribution and all other functions involved in the process; (emphasis added)

“**services contract**” means the agreement between the Farmer(s)/ FPOs and Services Contract Sponsor wherein former supplies the produce and latter provides the post-harvest management and marketing services to the produce like storage, primary value addition and such other services in the food value chain including marketing linkages to organized retailers, processors, exporters, futures/option trading etc. (emphasis added)

Mere by plain reading of the definitions of ‘agreement’, ‘agriculture produce’, ‘processing’, ‘processor’, ‘marketing’ and ‘service contract’ and taking into the emphasised phrases, it becomes very clear that farmers (or FPOs) are to be contracted only till harvest of a crop, and rest all the post-harvest tasks are in the domain of “service contract sponsor”. (Under the Model APLM Act also farmers are supposed to involve themselves only till harvest. Any activities after harvest would technically be “marketing” under the APLM Act and hence liable to be regulated as such.)

There seems to be a lack of vision among policy makers in which farmers (as any other producers) are visualised climbing up the agriculture value chain (basic processing, packaging etc.). This is despite the fact that most policy documents recognise value addition at farm level as a useful tool to enhance farmers' income; many leaders are also vocal about this. But when it comes to legal texts, the same is not reflected. Why?

Provisions in the model Contract Farming law should promote value addition at farm gate by farmers, if both the parties decide so; where farmers can do basic agri-processing and sponsors can use their brands to reach to the consumers. Can't it be contract for value added agriculture produce? The model law does seem to go against it, where it should be promoting it in farmers' interest.

The vision need to change first – farmers (whether individually or in group/FPOs) are capable of carrying processing (rice, pulse, atta, mango pulp etc.) and sell them in their own brand names. Unfortunately, both the model laws (APLM and Contract farming) are restrictive to such a vision. In addition, it also kills marketing innovation that can happen at farmers' level.

FPOs as sponsors?

It is understood that FPOs are being viewed, apart from mere aggregators, as a mechanism to add value to agricultural produce, which can also sell value added products directly to consumers under their own brand names. From the draft Model Act, it is not clear whether FPOs can also be contract farming sponsors? There may be a situation where FPOs would like to expand their farming area, without including more farmers as members. This would be particularly true for Farmer Producer Company – can they be able to expand farming activities adhering to contract farming route? The model law should clarify this.

Provision for standard clauses in the every agreement

Can the Model Act provide for certain standard clauses to be mandatory in the contract farming agreements based on the safeguards provided for farmers (e.g. S.24, 27)? If yes, it would useful in enforcement of such contracts even if there is no separate law for contract farming.
