

India

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Legislation

1 What are the main statutes and regulations relating to the environment?

The prime environmental laws in India include the:

- Water (Prevention and Control of Pollution) Act, 1974 (Water Act), which also gave shape to the powers, functions and hierarchy of the environmental agencies – the Central Pollution Control Board (CPCB) and the State Pollution Control Boards (SPCBs);
- Air (Prevention and Control of Pollution) Act, 1981 (Air Act);
- Environment (Protection) Act, 1986 (the EP Act), an umbrella law enabling the central government to take all such measures as it deems necessary to protect and improve the quality of the environment and to prevent, control and abate environmental pollution. A wide range of Rules and Notifications have been adopted under this umbrella Act, such as:
 - Hazardous Wastes (Management and Handling) Rules, 1989 (the HW Rules);
 - Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989;
 - Rules for the Manufacture, Use, Import, Export and Storage of Hazardous Micro-Organisms/Genetically Engineered Organisms of Cells, 1989;
 - Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1989;
 - Ozone-Depleting Substances (Regulation and Control) Rules, 2000;
 - Batteries (Management and Handling) Rules, 2001;
 - Coastal Regulation Zone Notification, 1991; and
 - Environment Impact Assessment Notification, 1994;
- Wild Life (Protection) Act, 1972;
- Forest (Conservation) Act, 1980;
- Biodiversity Act, 2002;
- Public Liability Insurance Act, 1991; and
- National Environment Appellate Authority Act, 1997.

These Acts often contain penal provisions for offences under the corresponding laws.

Because India is a common-law country, judgments by the Supreme Court of India and the various state-level high courts also form part of the law. Certain landmark decisions of the higher judiciary have had a strong impact on the state of environmental law in the country. In addition a new National Environment Policy was adopted in May 2006, which will further serve as a guide to actions by the three organs of state.

2 Is there a system of integrated control of pollution?

No. Environmental pollution control in India concentrates on the contamination of individual environmental media rather than taking a holistic look at the comprehensive environmental outcomes of processes. Even the aforementioned National Environment Policy, often an indicator of plans for the future, does not address the need to adopt a more integrated prevention and control mechanism for polluting industries and activities.

3 What are the main contents of the rules applicable to soil pollution?

India has no specific environmental regime in place pertaining to the contamination of land. Indirectly, pollution on land may also be taken into account by environmental authorities. For instance, the Water Act provides that no person shall knowingly cause or permit any poisonous, noxious or polluting matter to enter (whether directly or indirectly) into any stream, well or sewer, or on land. The EP Rules (adopted under the EP Act) at times also specify standards for certain sectors (such as the pulp and paper industry, the rubber industry, etc) in terms of pH, suspended solids and biochemical oxygen demand (BOD) levels for 'disposal on land'.

4 How is waste defined?

In India, four main categories of waste are governed by separate Rules: hazardous waste; radioactive waste; biomedical waste; and municipal solid waste (the latter being applicable to municipal authorities only). The most comprehensive and relevant law for companies is found in the HW Rules.

Hazardous waste is defined as any waste that by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics causes danger or is likely to cause danger to health or the environment, whether alone or when in contact with other waste or substances, and includes, inter alia:

- hazardous waste generated by 36 categories of processes (independent of concentration levels); and
- waste containing any of the identified 75 types of constituents, which are listed under five categories with different concentration limits.

Importantly, as per the HW Rules, the import of waste from any country shall not be permitted for dumping and disposal. The import of such waste may, however, be allowed for processing or reuse as raw material, after each case has been examined on merit by the relevant SPCB, and finally approved by the Ministry of Environment and Forests. By order of the Supreme Court, all hazardous waste listed under annex VIII of the Basel Conven-

tion on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989, are banned from import (independent of their use).

5 What types of waste are regulated and how?

Every occupier (person having the control over the affairs of the factory or premises) handling and storing hazardous waste, every recycler of waste and every operator of a facility for the collection, reception, treatment, storage and disposal of hazardous waste must obtain prior authorisation from the relevant SPCB.

The producers of waste shall retain liability for the said waste, based on the joint reading of the various liability principles pertaining to hazardous waste. First, the occupier and the operator of a facility shall both be responsible for the proper collection, reception, treatment, storage and disposal of hazardous waste. Second, the occupier, transporter and operator of a facility shall all be liable for damages caused to the environment owing to the improper handling and disposal of hazardous waste. Third, the occupier and the operator shall also be liable to reinstate or restore damaged or destroyed elements of the environment at their cost.

6 Which are the main features of the rules governing air emissions?

As per the Air Act, a person must obtain previous consent from the SPCB to establish or operate any industrial plant in an 'air pollution control area'.

The Air Act empowers the SPCBs to notify standards for emission of air pollutants into the atmosphere from industrial plants and automobiles, or any other source (not being a ship or an aircraft). The EP Act enables the central government to lay down emissions standards, and the EP Act prevails over provisions found in other environmental laws (with the exception of the penalty provisions). The EP Rules prescribe emission norms for specific industries (such as the rayon industry, coke oven plants, brick kilns, etc). In the absence of industry-specific norms, the general emission standards would apply.

7 Are there any specific provisions made for climate change?

India ratified the UN Framework Convention on Climate Change in 1993 and the Kyoto Protocol in 2002 but, not being an annex-I country, it will not take part in the flexibility mechanisms foreseen for developed countries (emission trading and joint implementation). On the other hand, India is at present a leading host country of Clean Development Mechanism investments, enabling annex-I countries to invest in emission-reducing projects in developing countries (thereby earning certified emission reductions). India has not yet adopted market-based instruments (MBIs), such as the trading of emission allowances, in its environmental laws.

8 How are fresh water and seawater, and their associated land, protected?

Water is protected by the provisions of the Water Act and the EP Act. The Water Act lays down that no person shall without the previous consent of the state board, establish or take any steps to establish any industry, operation or process, or any treatment and disposal system, that is likely to discharge sewage or trade effluent into a stream, well or sewer or on land. The EP Rules set standards for certain pollutants in water. The Pollution Control Boards also lay down standards and guidelines for the discharge

of pollutants into water. The word 'stream' in the context of the Act includes a river, water course, inland water, subterranean waters and sea or tidal waters.

Marine pollution in India is controlled by the Territorial Waters, Continental Shelf (CS), Exclusive Economic Zone (EEZ) and Other Maritime Zones Act, 1976. This Act asserts India's sovereignty over the natural resources in the CS and the EEZ, and confers exclusive jurisdiction to the central government to preserve and protect the marine environment and to prevent and control marine pollution within the CS and EEZ. This is complemented by the Merchant Shipping Act, 1958, which governs the civil and criminal liability regimes in the event of oil spills.

Development along the coastal stretches of India is governed by the Coastal Regulation Zone (CRZ) Notification, 1991. The CRZ Notification prohibits 13 types of activities, including the establishing of new industries and the expansion of existing industries, with the exception of activities which require water front and foreshore facilities. It further classifies the coast into four categories, depending on their ecological sensitiveness in which different types of activities are prohibited or allowed.

According to the Indian Constitution, water is a subject covered by the 'state list'. That is, the states have control over the extraction of ground water from surface water sources. However, there is no comprehensive Act to cover groundwater extraction. A model Bill to regulate and control the development and management of groundwater was prepared in 2005. It has been adopted by some states, though it has yet to be enacted as a law. Certain states like Maharashtra (of which Mumbai is the state capital) have enacted separate laws to regulate the extraction of groundwater to the extent that it affects drinking water supply.

9 What are the main features of the rules protecting natural spaces?

The Indian Forest Act, 1927 provides states with jurisdiction over both public and private forests, and regulates the extraction of timber for profit. The forests are divided into three categories: reserve forests, village forests and protected forests. Once an area is notified as a reserve forest, all previous individual and community rights over the forest will be extinguished, and access to the forest and forest products becomes a matter of state privilege.

It must be added that the Supreme Court has set up a Central Empowered Committee to closely supervise timber availability in India and regulate all wood-based industries, including saw-mills, veneer and plywood plants, as well as, to a certain extent, secondary users of timber (eg, users of wooden packing crates), which all require prior permission to operate. This illustrates to what extent the judiciary in India can be involved in the enforcement of environmental laws.

There are 25 wetland sites notified by India under the Ramsar Convention on Wetlands, 1971, which are well protected. Other wetland sites are less well protected.

10 What are the main features of the rules protecting flora and fauna species?

The Wildlife (Protection) Act, 1972 adopts a twofold conservation strategy: (i) certain listed endangered species are protected regardless of their location; and (ii) all species are protected in designated areas, ie, sanctuaries and national parks. Recently, two new types of reserves have been created: conservation reserves (state-owned land) and community reserves (community or private land), to improve the socio-economic conditions of people living in such eco-sensitive areas as well as ensuring conservation of wildlife.

The Wildlife Act also implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973, by regulating trade and commerce in wild animals (listed in various categories depending on whether the species is endangered), animal articles, trophies and derivatives from animals.

11 What are the main features of the rules governing noises, odours and vibrations?

The Noise Pollution (Regulation and Control) Rules, 2000, were made to regulate and control noise producing and generating sources. It lays down limitation on noise levels and specifies the existence of silence zones around hospitals, educational institutions, courts, religious places and any such area declared by the competent authority. There are restrictions on the use of loud-speakers and public-address systems. Contravention of the Noise Pollution Rules will lead to penalties under the EP Act. Under the Air Act, an air pollutant is defined to include noise and the provisions of the Air Act extend to noise pollution as well. The Air Act provides for the identification of air pollution control areas, in which pollutants are regulated.

12 Is there a general regime on liability for environmental damage?

There is no singular regime dealing with liability for environmental damage. The various Acts and Rules governing environmental pollution in India contain provisions for penalties in the case of contravention of the various laws, with the EP Act serving as an umbrella or almost 'residual' legislation. The EP Act provides that whoever fails to comply with or contravenes any of the provisions of the Act, or the rules made or orders or directions issued under the Act, shall be punishable. Thus, the effect of contravening any of the Rules made under the umbrella of the EP Act would be construed as a violation of the provisions of the EP Act and would attract the penal provisions as laid down in the Act, apart from the specific statutory provisions for penalties. Many environmental petitions have been filed via the public-interest litigation route by concerned citizens or NGOs. Under the Constitution, Supreme Court judgments become law. We may add that in the context of hazardous chemicals, the Supreme Court had adopted the concept of 'absolute' liability, as discussed below.

Hazardous activities and substances

13 Are there specific rules governing hazardous activities?

The HW Rules constitute the principal law dealing with hazardous substances. Any person who intends to be an operator of a facility for the collection, reception, treatment, transport, storage and disposal of hazardous waste must obtain a prior authorisation from the SPCB. See question 5.

Under the Public Liability Insurance Act, 1991, every person owning or having the control over the handling of hazardous substances (that is, manufacturing, processing, treating, packaging, storing, transporting, converting, selling or transferring hazardous waste) must take out insurance policies, to give relief to any person (but not a workman, who will be protected by labour laws) in case of death, injury, or damage to property that has resulted from an accident. Importantly, this Act imposes a 'no fault' liability upon the owner of the hazardous substances, and the claimant shall not be required to plead and establish that the death, injury or damage was a result of any wrongful act, neglect or fault of any person.

14 What are the main features of the rules governing hazardous products and substances?

No general environmental legislation applicable to 'hazardous products' has been adopted in India. There are, however, specific regulations applicable to certain products that are hazardous. For instance, under the Batteries (Management and Handling) Rules, 2001, the manufacturer, importer, assembler and reconditioner of batteries (used in the automotive, industrial and power sectors), must ensure that used batteries are collected, that collection centres are set up, etc.

The Rules for the Manufacture, Use, Import, Export and Storage of Hazardous Micro-Organisms and Genetically Engineered Organisms or Cells, 1989, also require that any person who imports, exports, transports, manufactures or sells any hazardous micro-organisms or genetically engineered organisms and substances or cells, or products containing such organisms, must first obtain a prior approval from the Genetic Engineering Approval Committee.

The Rules for the Manufacture, Storage and Import of Hazardous Chemicals, 1989, deal with the definition of 'hazardous chemicals' and the various activities covered by the regulations. The duties of the various authorities and well as those of the occupier of any site dealing with the specified hazardous chemicals are laid out in the Rules.

Industrial accidents

15 What are the measures to prevent industrial accidents?

Pursuant to the aforementioned Rules for the Manufacture, Storage and Import of Hazardous Chemicals, every occupier that has control of an industrial activity in which a hazardous chemical (specified under the Rules) is involved or stored (above a certain threshold quantity), must provide evidence to the relevant authority (which may be the SPCB or the chief inspector of factories) that he has identified the major accident hazards, and taken adequate steps to prevent major accident and to limit any consequences to persons and the environment, as well as provided the persons working on-site with the necessary information, training and equipment to ensure safety. A written report must be submitted in this regard at least three months before commencing the activity.

The Factories Act, 1948, as part of its general environmental, health and safety (EHS) provisions pertaining to hazardous processes in factories, requires that every occupier, with the approval of the chief inspector, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to his workers and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident.

Environmental aspects in transactions

16 What are the main environmental aspects to consider in M&A transactions?

The key aspects that must be assessed are: the presence, validity and conditions contained in the consent order issued by the SPBC under (i) the Water Act, 1974; (ii) the Air Act, 1981; and (iii) the HW Rules, 1989. For companies undertaking hazardous activities or handling hazardous substances, other clearances or compliances, described above, such as under the Chemical Rules, Factories Act, Public Liability Insurance Act, etc, would also have to be verified.

Whether by sale of shares or sale of the whole of the assets of the transferor company, mergers and takeover transactions

require prior approval from the Company Law Tribunal, and both types of sale will have to follow the same procedures. The tribunal will approve the arrangement between the transferee and transferor company. More specifically, the tribunal will sanction and make provision for all matters, including the transfer of property or liabilities, including environmental liabilities and pending litigation, the allotment of shares, the continuation by or against the transferee company of any legal proceedings, the dissolution of any transferor company, and any other incidental matters.

17 What are the main environmental aspects to consider in other transactions?

Apart from the environmental permits described in question 16, in case of financing and IPOs, one would also analyse whether the government has provided fiscal incentives to entities using environmentally-friendly technologies, state-of-the-art pollution-control equipment, etc.

For real-estate transactions, one would also have to take into account the relevant local zoning laws, notifications and possible demarcations by the high courts or Supreme Court, the details of which can be obtained from the local town and country planning departments, environment departments or forest officers.

Environmental impact assessment

18 Which types of activities are subject to environmental assessment?

The Environment Impact Assessment Notification, 1994 (EIA 1994), adopted under the EP Act, prescribed a mandatory EIA procedure for various types of projects. The notifications and all its amendments have now been replaced by a comprehensive EIA Notification published on 14 September 2006 (EIA 2006). The EIA 1994 will still be relevant for pending applications and the EIA 2006 contains specific interim guidelines for such cases.

In EIA 2006, various activities have been identified where an EIA report is mandatory. The notification envisages that the various activities be classified into two categories, 'A' and 'B', based on the spatial extent of potential impact, and possible effects on human health and natural and man-made resources. New projects as well as expansion and modernisation of existing projects falling under the mentioned activities will require prior environmental clearance. Whereas category-A activities require clearance from the central government, category-B activities require clearance from a state-level Environment Impact Assessment Authority (SEIAA).

The identified activities requiring prior clearance include:

- mining of minerals;
- offshore and onshore oil and gas exploration, development and production;
- oil and gas transportation pipelines;
- thermal power plants;
- nuclear power projects and processing of nuclear fuel;
- coal washeries;
- mineral beneficiation;
- metallurgical industries (ferrous and non-ferrous);
- cement plants;
- petroleum-refining industry;
- coke oven plants;
- asbestos milling and asbestos-based products;
- chlor-alkali industry;
- soda ash industry;
- leather, skin and hide processing industry;

- chemical fertilisers;
- pesticides industry;
- petrochemical complexes;
- man-made fibres manufacturing;
- synthetic organic chemicals industry;
- distilleries;
- integrated paint industry;
- pulp and paper industry;
- sugar industry;
- isolated storage and handling of hazardous chemicals;
- ship-breaking yards;
- industrial estates and parks;
- building and construction projects;
- townships and area development projects, etc.

19 Do environmental assessments act as a licence? Do they only cover industrial projects, or programmes and plans as well?

The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of river valley projects, project life as estimated by EAC or SEAC subject to a maximum of 30 years for mining projects and five years in the case of all other projects and activities. It is mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions.

A prior environmental clearance granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor (or by the transferee with a written 'no objection' by the transferor) to the regulatory authority concerned, on the same terms and conditions under which the prior environmental clearance was initially granted, and for the same validity period. No reference to the expert appraisal committee concerned (see question 20) is necessary in such cases.

20 What are the main steps of the environmental assessment process?

There are four stages which have to be followed by typical projects to obtain clearance: (i) screening (only for category-B projects and activities); (ii) scoping; (iii) public consultation; and (iv) appraisal.

Public hearings are exempted for some projects, such as modernisation of irrigation projects, projects within industrial estates or parks, expansion of roads and highways not needing further land acquisition, all building, construction and area development and townships.

An expert appraisal committee (EAC) or state-level expert appraisal committee (SEAC) must complete its assessment and make a recommendation within 60 days of receipt of all requisite documents and the completion of the public hearing. The regulatory authority shall consider the recommendations of the (S)EAC and convey its decision to the applicant within 45 days of receipt of the recommendations of the (S)EAC, or in other words within 105 days of the receipt of the final Environment Impact Assessment Report. For projects that do not require an EIA (so-called 'B-2' projects identified by the SEAC in stage (ii) or 'scoping' stage), the final decision must be conveyed within 105 days of the receipt of the complete application with requisite documents.

Regulatory authorities

21 Which authorities are responsible for the environment and what is the scope of each regulator's authority?

The prime environmental enforcement agencies in India are the SPCBs and the CPCB. Though initially set up under the Water Act, 1974, the scope of their authority can be described as 'residual' in nature with regard to environmental pollution, and encompass the enforcement of the Air Act, various Rules adopted under the EP Act, etc, unless a specific authority has been set up under the Rules, such as the Genetic Engineering Committee, the Environmental Impact Assessment Agency, etc.

22 What are the typical steps in an investigation?

Under the Water Act and the Air Act, officers of a SPCB may take samples of any sewage or trade effluent that is passing from any plant or any emissions from any chimney, etc. The result of such sampling analysis is not, however, admissible in evidence in any legal proceeding, unless the detailed procedure prescribed by the Act has been followed.

23 What powers of investigation do the regulatory authorities have?

The SPCB officers have the power of entry and inspection of any place for the purpose of examining any plant, record, register, document or any other material object, or for conducting a search of any place in which he has reason to believe that an offence has been or is about to be committed. The provisions of the Code of Criminal Procedure, 1973, shall apply, as they would to searches and seizures made under the authority of a warrant.

The powers of investigation as provided for in the various environmental laws itself cannot be challenged; however the arbitrary application thereof can be challenged by way of writ petition before the high courts or the Supreme Court.

24 What is the procedure for making administrative decisions?

The right to be heard is a quintessential part of the well-recognised 'principles of natural justice', applicable to all administrative decisions in India. The infringement of these principles can be challenged by way of writ petition before the high court or Supreme Court, even during the decision-making stage.

25 What are the sanctions and remedies that may be imposed by the regulator for violations?

The Water Act and the Air Act were amended in the late 1980s to empower the SPCBs to issue directions to any person, officer or authority found to be in non-compliance with the environmental permit, including orders to close, prohibit or regulate any industry, operation or process and to stop or regulate the supply of water, electricity or any other service.

26 To what extent may decisions of the regulator be appealed, and to whom? What are the grounds and procedures for appeals?

The Water Act and the Air Act provide for a specific appeal procedure (time-bound) or revision procedure (not time-bound) to challenge the conditions contained in a permit (consent order), or the withdrawal of a permit, or the refusal to grant a permit.

Appellate authority (time-bound)

The Water Act and the Air Act provide for a route to challenge the conditions imposed by the SPCB in its consent order with a state-level appellate authority (which often consists of scientists as well as jurists).

An appeal with the appellate authority would have to be filed within 30 days from the date on which the new, revised or renewed consent order is communicated.

Importantly, the appellate authority may uphold, annul or substitute conditions imposed by the SPCB in the consent order.

Revision by the state government (not time-bound)

After the expiry of the 30-day period for filing an appeal with the appellate authority or after its decision, an industry may at any time approach the state government to seek a revision of a consent order issued by a SPCB.

Appeal: writ petition at the high court

After exhausting the above two remedies, a company would have the right to file a writ petition with the high court to challenge the consent order or failure to issue a permit, on the ground that the conditions imposed are, or the refusal is, unreasonable or arbitrary.

Judicial proceedings

27 Are environmental law proceedings in court civil, criminal or both?

The infringement of most of the environmental pollution laws, such as the Water Act or the Air Act, are criminal in nature and attract penalties and possible imprisonment. Infringements of, for example, environmental zoning notifications would, however, be civil in nature.

28 What are the powers of courts in relation to infringements and breaches of environmental law?

The courts, be it the regular courts or the environmental courts, would have the powers to impose penalties, imprisonment sentences, uphold closure orders by the SPCBs, etc.

29 Are civil (contractual and non-contractual) claims allowed regarding breaches and infringements of environmental law?

Both contractual and non-contractual claims would be allowed, even by way of the application of general principles of law. Tortious liability has, however, evolved in quite a unique manner in India. The principle of 'absolute liability' is discussed in question 30.

Furthermore, the Supreme Court evolved the so-called 'deep pocket' theory while determining the quantum of compensation in the *Shriram* gas leak case. In cases of accidents resulting from handling of hazardous substances, the Supreme Court held that the measure of compensation must be correlated to the magnitude and capacity of the enterprise, thereby challenging well-settled principles of tort law. Hence, as per Indian law, the larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activities.

Contractual claims would be upheld between private parties, but would not alter the relationship with the environmental authorities.

Update and trends

Among the various questions facing environmental governance in India are those related to the equitable and sustainable management of water resources, especially groundwater resources. The nuclear sector is poised for exponential growth and is bound to bring into focus various issues concerning the safe disposal of nuclear waste. India is in a phase of rapid industrialisation with large industrial complexes and mining fields being planned. These are also bound to bring to the forefront traditional issues about environmental regulation of large industries and mines. E-waste and the lack of adequate facilities for the safe processing and recycling of toxic components used in electronic devices is rapidly gaining momentum in the

framing and definition of environmental governance in India.

The National Environment Policy 2006 (NEP) is the principal reform document. It briefly describes the:

- key environmental challenges currently facing India;
- objectives of environment policy;
- principles underlying policy action;
- strategic themes for intervention and broad indications of the legislative and institutional development needed to accomplish them; and
- mechanisms for implementation and review.

The full text of the document can be accessed at www.envfor.nic.in/nep/nep2006e.pdf

30 What defences or indemnities are available?

There is no statutory law on joint tortfeasors' liability in India. In India's tort jurisprudence, largely following English case law supplemented by principles of equity to suit Indian conditions, the rules of joint and several liability are fully applicable, ie, the full amount of the compensation can be recovered from one of the liable persons alone. A judgment debtor can, in turn, enforce a right of contribution against other judgment debtors.

Enterprises engaged in hazardous or inherently dangerous activities would be absolutely liable to compensate those affected by an accident (such as the accidental leakage of toxic gas), and such liability would not be subject to any exceptions. The mere fact of the occurrence of the environmental and health damage would suffice to establish a company's liability and no defence could be put forward.

31 Are there specific defences in the case of directors' or officers' liability?

The Water Act, the Air Act and the EP Act all contain specific provisions pertaining to offences committed by companies, and to which such liability would be traced back. Under these Acts, every person that at the time the offence was committed was in charge, and was responsible to the company for the conduct, of the business of the company, as well as the company, shall be deemed guilty of the offence and shall be liable to be prosecuted and punished accordingly.

Nevertheless, a person shall not be held liable if he or she proves that the offence was committed without his knowledge or that he or she exercised all due diligence to prevent the commission of the offence.

Furthermore, if it is proved that the offence has been committed with the consent or connivance, or is attributable to any neglect on the part, of any director, manager, secretary or other officer of the company, the other person shall also be deemed to be guilty of that offence and shall be liable to be prosecuted and punished accordingly.

32 What is the appeal process from trials?

The appeal from a trial court would lie with the state-level high courts, which in turn can be appealed before the Supreme Court of India.

International treaties and institutions**33** Is your country a contracting state to any environmental international treaties etc?

India is an active player in international forums and has ratified numerous Multilateral Environmental Agreements, such as the Ramsar Convention on Wetlands, 1971; Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973; the Montreal Protocol on Substances That Deplete the Ozone Layer, 1987; the Basel Convention, 1989; the Convention on Biological Diversity, 1992, and its Cartagena

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Protocol on Biosafety, 1992; the UNFCCC and its Kyoto Protocol; the Rotterdam Convention On the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 1998; and the Stockholm Convention on Persistent Organic Pollutants, 2001.

34 To what extent is regulatory policy affected by these treaties?

Several of the national environmental laws have been directly motivated or impacted by multilateral environmental agreements, eg, the Biodiversity Act, 2002; the Ozone Depleting Substances (Regulation and Control) Rules, 2000; and the HW Rules. The preamble to the EP Act further refers explicitly to the UN Conference on the Human Environment. Hence, there is a clear correlation between India's role and participation at international level and its domestic environmental laws and environmental policy. The Supreme Court of India further relies extensively on international environmental developments while deciding environmental cases of national importance, which in turn shapes and defines India's environmental law.