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Indian Nuclear Law General Update and Insights

The Parliament of India has deliberated over the SHANTI Bill, 2025 which changes the landscape regulating the nuclear and atomic power generation and development. The new regulation changes the previous framework but leaves some gap regarding certain aspects of nuclear waste. Department of Atomic Energy(“DAE”) is proposed to be a statutory body under the bill. Atomic Energy Regulatory Board(“AERB”) adopts the role of licensing and approval.

Foreign Direct Investment:

Final Consolidated Foreign Direct Investment(“FDI”) Policy under the SHANTI Bill, has recommended certain guidelines for Joint Ventures(“JVs”), subject to security vetting by the Ministry of Home Affairs and the Department of Atomic Energy.

For entities manufacturing Nuclear Component Manufacturing FDI has been allowed completely(100%) through automatic route.

For Joint Venture companies(JVs) operating reactors, FDI up to 49% is allowed through the Government or FIPB route. This implies that majority shareholder(51% or greater) would be Indian entity, which means that control and management of the venture should be carried from India.

For entities engaged in Research and Development related to Non-Power related components, FDI has been allowed without any limit(100%) through the government route.

Reprocessing of spent fuel is not permitted to be undertaken by Private entities.

Security and Protection:

The nuclear assets would be protected by state forces, Central Industrial Security Force(“CISF”), however, private operators can deploy private security personnel for non-reactor areas.

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Digital Twin or digital reactor, depicting the actual reactor, is required to be maintained and this data is required to be transmitted to National Nuclear Command & Control Centre for safety-related monitoring.

Proprietary and Intellectual Property:

Foreign entities can provide proprietary SMR technology, however, they are not mandated to share the core source code or enrichment secrets with their Indian JV partners, if AERB has full access for safety audits. Reactors must demonstrate automatic safety abilities to shut down without any human intervention.

Geopolitical Crisis-related Exit and Governmental Entry:

The bill covers global political destabilisation and multipolarisation, which is very futuristic and investor friendly. In case of such geopolitical crisis or foreign partner's exit, Government of India shall be empowered to take over operations of the plant with priority before any one else.

Liability, Indemnity and related Immunities:

The Bill makes separate rights and liabilities for Operator(JV company) and Shareholders(Indian or Foreign entity). All liabilities are passed on to the JV company or the operator. Foreign partners can be protected from third-party lawsuits, they can also include indemnity clauses in the JV agreement.

Mass-Tort Victim based Payments:

SHANTI Act provides that Central Government will appoint Claims Commissioner after every disaster to adjudicate over claims within 10 years for property damages, and 20 years for personal injuries and other harm. In case of severe disaster, Claims Commission would be set up, which would be provided with the same powers as a civil court but would follow summary procedure. When claims are verified, Government funds after utilising the Insurance Pool would be used to pay the victims, and operator only pay their limited liability.

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Damage under the law can constitute loss of income, environmental restoration, preventive measure costs and long-term health monitoring. In case victims are not appropriately (within three months) compensation, unpaid compensation can be treated as “arrears of land revenue”, which enables government to seize and auction operator’s assets.

Considerations in different aspects of law:

Intellectual Property (“IP”) and Tax: companies would have to plan their tax and IP licensing strategy. Their returns and royalty from such licencing would depend on the type of tax and IP strategy companies choose to undertake.

Projects, Infra and Energy: Power Purchase Agreements which bind future energy outputs at a pre-determined price can seep into margins and can be detrimental if operational costs increase over time.

Anti-trust and Competition: Companies would have to comply with antitrust and competition related compliances. Companies can assess whether the joint venture or wholly operated entity can be affected by such legislation, as competition law does not require acting collectively for liability to be imposed.

Asset Management, Private Equity, Capital Markets, Funds, Banking and Finance: Ownership related benefits are not transferable immediately, as they have to be approved by the Government.

Corporate: Companies have to structure such that Indian entity has control and management of the reactor, instead of the foreign owner.

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