

**GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA**

UNSTARRED QUESTION NO:2674
ANSWERED ON:18.03.2008
PATENTING OF ANCIENT HERITAGE
Singh Shri Sugrib

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

- (a) whether the ancient heritage of India has been patented in various foreign countries;
- (b) if so, the details of our heritage and traditional items patented in various foreign countries, country-wise;
- (c) the action taken by the Government in this regard; and
- (d) the steps being taken by the Government to check the same?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY(SHRI ASHWANI KUMAR)

(a) to (d): Patents are granted under the sovereign prerogative of countries according to their respective patent laws and have territorial effect, that is, they are effective only in the country of grant. In order to qualify for grant of patent in any country an invention, whether process or product has to meet the criteria of patentability, namely, novelty, inventiveness and industrial applicability. Indian goods/items, which are already in public knowledge/domain, cannot be patented. Data on goods / items patented worldwide is not maintained.

As patents are essentially private rights they are normally challenged, in accordance with the patent laws of the country concerned, by the person(s) whose interests are affected/jeopardized. As and when information is received about patents being obtained on certain items which are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patent can be challenged under the patent laws of the country concerned. Earlier a patent granted in the United States of America on the use of turmeric in wound healing was successfully challenged and was also cancelled by the Patent Office of the country concerned. Similarly, a patent on the fungicidal property of neem, granted in Europe, was successfully challenged. The claims of the patent on Basmati Rice lines and grains granted in the United States of America which had the potential of affecting India's commercial interest were also challenged. The said claims were subsequently cancelled by the United States Patent and Trademark Office and the title of the patent was also amended.

In order to protect traditional knowledge from being patented, provisions have been made in the Patents Act, 1970. Section 3 (p) of the said Act provides that an invention, which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components is not patentable. Section 3(j) of the said Act further provides that plant in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants are not patentable. As per Section 3 (c) of the said Act, the mere discovery of any living or non-living substance occurring in nature is also not patentable. Sections 25 and 64 of the said Act include anticipation of invention by available local knowledge, including oral knowledge, as one of the grounds for opposition as also for revocation.

The Government has developed a Traditional Knowledge Digital Library (TKDL) database which includes codified knowledge of traditional medicine, including Ayurveda and Unani, in five international languages, namely, English, German, French, Spanish and Japanese to prevent patenting of inventions which are mere traditional knowledge.