

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

UNSTARRED QUESTION NO:5014
ANSWERED ON:26.04.2010
TRIPS AGREEMENT
Reddy Shri Anantha Venkatarami

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

- (a) whether certain provisions of Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement reached with World Trade Organisation (WTO) member countries provide for mandatory review from time to time;
- (b) if so, the details thereof;
- (c) whether some of the developing countries have sought a delay in the implementation of TRIPS Agreement; and
- (d) if so, the details thereof and the reaction of the Union Government thereto?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI JYOTIRADITYA M. SCINDIA)

(a) Yes, Madam.

(b) TRIPS Agreement provides four in-built mandatory Reviews by the Council for TRIPS:

(i) Review of provisions relating to geographical indications under Article 24.2

(ii) Review of provisions relating to exclusion from patentability in Article 27.3(b);

(iii) Review of implementation of this Agreement under Article 71.1, after expiration of transitional period provided in paragraph 2 of Article 65; and

(iv) Review of laws and regulations and final judicial decisions and administrative rulings of general applications in respect of intellectual property rights covered under the TRIPS Agreement, notified under Article 63.2.

The intellectual property laws and regulations are subject to periodic reviews under the Trade Policy Review Mechanism (TPRM) of WTO.

(c) & (d) Paragraph 2 of Article 65 of TRIPS Agreement provides that a developing country member is entitled to delay for a period of upto five years from the date of application of this Agreement, i.e. upto 1.1.2000, provisions of this Agreement other than provisions relating to National Treatment (Article 3), Most Favoured Nation Treatment (Article 4) and Multilateral Agreements on Acquisition or Maintenance of Protection (Article 5) of this Agreement.