

**GOVERNMENT OF INDIA  
CHEMICALS AND FERTILIZERS  
LOK SABHA**

UNSTARRED QUESTION NO:3350  
ANSWERED ON:15.04.2010  
ANTI COUNTERFEIT LAW  
Paranjpe Shri Anand Prakash

**Will the Minister of CHEMICALS AND FERTILIZERS be pleased to state:**

- (a) whether the anti-counterfeit law passed by the Government of Kenya has labeled generic drugs exported by the Indian companies as illegal;
- (b) if so, the details thereof and the reasons for such a move;
- (c) whether some other African countries have also contemplated passing the similar legislation;
- (d) if so, whether the Government has taken up the matter with these countries to protect the interests of the Indian companies; and
- (e) if so, the details thereof?

**Answer**

MINISTER OF THE STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS (SHRI SRIKANT KUMAR JENA)

(a) and (b) Department of Commerce has reported that in January, 2009, it was brought to their notice by Indian Pharmaceutical Alliance about the move of Government of Kenya to enact Anti Counterfeit Legislation. The Anti-Counterfeit Act has since been enacted by the Government of Kenya. There is a provision in the Anti-Counterfeit Act of Kenya which recognizes Intellectual Property rights registered in any country of the world and not necessarily in Kenya. Even if a pharmaceutical product is not registered or patented in Kenya (destination country) or India (source country), but registered as a patent elsewhere it would be considered as counterfeit in Kenya when exported from India to it and legal action can be taken against it. The provisions in Kenyan Act are violative of the TRIPS Agreement.

(c) Similar moves were also reported from Zambia, Uganda and Ghana. It has been reported that no other country except Kenya has so far enacted a similar legislation.

(d)& (e) Department of Commerce has reported that the issue was taken up with the Kenyan Trade Minister by Commerce and Industry Minister and also with the Indian High Commissioner in Nairobi by Commerce Secretary and Indian Missions in Zambia, Uganda and Ghana to take up the matter with concerned authorities in their respective countries and bring to their notice that proposed move to regulate import of pharmaceutical products in their countries would adversely impact availability of Indian Generic drugs.