

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

STARRED QUESTION NO:248

ANSWERED ON:12.12.2011

PATENT OF MEDICINAL PLANTS AND PRODUCTS

Ananth Kumar Shri

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

- (a) whether the Government has granted the patent of some indigenous medicinal plants and products to certain foreign Companies/Institutes recently;
- (b) if so, the details thereof alongwith the assessment made by the Government of its likely impact on Indian companies; and
- (c) the steps taken by the Government to protect the interests of Indian companies and also check exploitation of India's heritage and traditional knowledge?

Answer

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI ANAND SHARMA)

(a) & (b): A statement is laid on the Table of the House.

Statement referred to in reply to Lok Sabha Starred Question No. 248 by Shri Ananth Kumar regarding Patent of Medicinal Plants and Products for answer on 12.12.2011.

(a) & (b) : Medicinal plants as well as the products derived from Medicinal Plants which is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components are not patentable under Section 3 (j) and Section 3 (p) of the Patents Act, 1970 respectively. However, substantial improvement in products derived from medicinal plants, which fulfils the criteria prescribed for patentability in the Patent Act, 1970, can be granted patents. So far, ten (10) such patents have been granted to foreign companies. Of these, four are derived from medicinal plants which are indigenous to India. The details of the patents granted are enclosed at Annexure-I. Since the granted patents are new products/processes, assessment of their likely impact on Indian companies cannot be made.

(c): In addition to Sections 3 (j) and 3 (p) of the Patents Act, 1970 which ensure that patent is not granted to medicinal plants or its products having properties of traditionally known component or components, Section 25 (1) (k) and 25 (2) (k) provide pre and post grant opposition against the grant of patent to an invention whose claims can be anticipated from the available traditional knowledge. Moreover, anticipation of invention by available local language including oral language is also one of the grounds for revocation of patents under Section 64 of the Patents Act.

Department of Ayurveda, Yoga, Unani, Siddha and Homoeopathy (AYUSH), Ministry of Health & Family Welfare have established the Traditional Knowledge Digital Library (TKDL) in collaboration with the Council of Scientific and Industrial Research (CSIR) for prevention of grant of patents to inventions which are traditional medicinal knowledge in India. This database contains traditional medicinal knowledge from the existing literature compiled from Ayurved, Unani, Siddha and Yoga presented in international patent classification format and in five international languages. The database, therefore, breaks the language and format barriers and makes knowledge accessible and searchable to patent examiners for establishing prior art. TKDL has been provided to the European Patent Office (EPO) Indian Patent Office, German Patent Office, United States Patent and Trademarks Office, United Kingdom Intellectual Property Office, Canadian Intellectual Property Office, IP Australia and Japan Patent Office through an Access Agreement on non-disclosure basis.