

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

STARRED QUESTION NO:540

ANSWERED ON:14.05.2012

. PATENT TO MEDICINAL PLANTS AND PRODUCTS

Meghwal Shri Arjun Ram

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

- (a) whether the Government has granted patents to certain foreign companies for the indigenous medicinal plants and their products;
- (b) if so, the number of such companies which have been provided the patents and the names of the drugs for which it has been granted;
- (c) the likely impact of this decision on the conservation of the medicinal plants and their products in the country;
- (d) whether the Government has held any discussion with the State Governments before taking such decisions;
- (e) if so, the details thereof; and
- (f) if not, the reasons therefore?

Answer

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI ANAND SHARMA)

(a) to (f): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO.540 REGARDING PATENT TO MEDICINAL PLANTS AND PRODUCTS FOR ANSWER ON 14.05.2012.

(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, eighteen (18) such patents have been granted to foreign companies. Of these, five are derived from medicinal plants which are indigenous to India. The details of the patents granted are enclosed at Annexure-I.

(c) to (f): The Biodiversity Act, 2002 takes into account the impact of awarding an intellectual property to a product derived from medicinal plants, on the conservation of the medicinal plant. This process is carried out in consultation with state level biodiversity authorities. Section 6

(i) of the Biological Diversity Act states that "No person shall apply for any intellectual property right by whatever name called, in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application". However, this provision is subject to Section 40 of the Biodiversity Act, 2002, which states that the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities. Ministry of Environment & Forests vide their Notification dated 26th October 2009, has declared that the provisions of the Act would not apply to 190 biological resources which are normally traded as commodities.