

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

UNSTARRED QUESTION NO:35

ANSWERED ON:05.08.2013

. PATENTS TO MEDICINAL PLANTS

Das Shri Ram Sundar;Karwariya Shri Kapil Muni

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

(a) whether the Government has granted patent of some indigenous medicinal plants and products to certain foreign companies/institutes;

(b) If so, the details thereof, Company-wise along with the assessment made by the Government and its likely impact on Indian companies; and

(c) the steps taken by the Government to protect the interest of Indian companies and also check exploitation of India's heritage and traditional knowledge?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (DR. E.M. SUDARSANA NATCHIAPPAN)

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

STATEMENT REFERED TO IN REPLY TO LOK SABHA UNSTARRED QUESTION NO. 35 FOR ANSWER ON 05.08.2013 REGARDING PATENTS TO MEDICINAL PLANTS

(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 Patents Act, 1970, can be granted patents. So far, thirty two (32) such patents have been granted to foreign companies. The patents are granted after following the procedures as in the Patents Act, 1970, which includes pre-grant opposition under section 25(1). Any Indian Company aggrieved by the grant of this patent can also oppose the grant of patent under section 25(2) of the Act. The details of the patents granted for products derived from medicinal plants are enclosed at Annexure.

(c): The Biological Diversity 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 which 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".

Further, 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.