

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

UNSTARRED QUESTION NO:940

ANSWERED ON:12.08.2013

. PATENTS TO TRADITIONAL AYURVEDIC MEDICINE

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

- (a) the number of applications received/granted by the Government from foreign companies to get the patents of readymade formula of traditional Indian Ayurvedic System of Medicine, company-wise;
- (b) the details of the patents granted of Ayurvedic/Unani Medicines to Indian/foreign companies;
- (c) the action taken by the Government to restrict the grant of patents for the formulae of Indian Ayurvedic System of Medicines to the Indian companies only;
- (d) whether the Government has held any discussion with the State Governments before granting patents of indigenous medicinal plants and their products in the country; and
- (e) if so, the details thereof and if not, the reasons therefor?

Answer

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

(a) & (b) : Any readymade formula of traditional Indian Ayurvedic System of Medicine cannot be patented since an invention, which in effect, is traditional knowledge or duplication of known properties of traditionally known components has been made non-patentable under Section 3(p) of the Patents Act, 1970. Moreover, the substantial improvements over traditional medicines which meet the requirements prescribed for patentability in the Patents Act, 1970, can be granted patents.

As on 31st March, 2013, 86 applications were filed by foreign entities and 523 applications were filed by Indian entities for grant of patents for products, formulation, compositions & processes in the field related to traditional ayurvedic medicine, medicinal plants and herbal based formulations. Of these, as on that date, 26 patents have been granted to foreign entities and 93 patents to Indian entities. The details of the applications filed and the patents granted are available on the website of office of the Controller General of Patents, Designs and Trade Marks (CGPDTM), i.e., www.ipindia.nic.in.

(c): Under the Agreement on Trade Related Intellectual Property Rights (TRIPS Agreement) to which India is committed, every country is required to accord to the nationals of other countries, treatment which is no less favourable than it accords to its own nationals with regard to the protection of intellectual property. Therefore, the question to restrict the grant of patents for inventions based on Indian Ayurvedic System of Medicine to Indian companies only does not arise.

(d) & (e): Section 6(i) of the Biological Diversity Act, 2002 requires an applicant to obtain the previous approval of the National Biodiversity Authority before applying for a patent for any invention based on biological resources obtained from India. The process of granting such approvals by the National Biodiversity Authority is carried out in consultation with the State Biodiversity Boards, if necessary. Further, the Patents Act, 1970 requires an applicant who applies for such patents, to obtain the necessary permission from the National Biodiversity Authority and submit the same to the office of CGPDTM before the grant of patent.