

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

UNSTARRED QUESTION NO:2739
ANSWERED ON:07.12.2009
INTELLECTUAL PROPERTY RIGHTS
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Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether any Committee has been constituted to protect the secret information relating to agricultural, chemicals and medicines in the context of the provisions contained in the Article 39.3 of Trade Related Aspects of Intellectual Property rights; and

(b) if so, the details thereof alongwith the action taken by the Government in this regard?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI JYOTIRADITYA M. SCINDIA)

(a) & (b) On 19th February 2004, the Government constituted a Committee under the Chairmanship of Secretary (Chemicals & Petrochemicals) regarding the steps to be taken by the Government in the context of data protection under Article 39.3 of the WTO's TRIPS Agreement. The Committee submitted its report on 31st May 2007, wherein it recommended the need to lay down explicit legal mechanism in the Drugs & Cosmetics Act, 1940, the Insecticides Act, 1968 and the Rules there under the ensure that undisclosed data is not to put unfair commercial use. The Committee recommended the following period of data protection:

i) 3 years in respect of agrochemicals.

ii) 5 years in respect of proprietary test data for a new chemicals entity in pharmaceuticals after a transitional period.

iii) 5 years in respect of traditional medicines.

Regarding agrochemicals, the Pesticides Management Bill, 2008 was introduced on 21.10.2008 in the 214th Session of Rajya Sabha to replace the existing Insecticides Act, 1968. The Bill has a provision for data protection for three years for pesticides not previously registered. For patented pesticides the data protection is proposed to be limited to the period of patent. Regarding pharmaceuticals, the Government is currently holding extensive stakeholder consultations to facilitate the adoption of a coherent and consistent approach as the issue has serious implications regarding access to life saving drugs.