

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

STARRED QUESTION NO:162  
ANSWERED ON:12.12.2003  
AVAILABILITY OF PATENTED DRUGS AT AFFORDABLE PRICES  
SURESH KURUP

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

- (a) Whether the TRIPS agreement on public health made in the WTO meeting will make patented drugs available at affordable prices;
- (b) if so, the details thereof;
- (c) if not, the future plans of the Government to make drugs available at low prices;
- (d) whether the Government has also taken any measures to establish a National Patent regime which enable affordable access to the latest medical and therapeutic discoveries; and
- (e) if so, the details thereof?

**Answer**

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY( SHRI S.B. MOOKHERJEE )

(a) to (e) : A Statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO PARTS (a) TO (e) OF THE LOK SABHA STARRED QUESTION NO. 162 FOR 2003 REGARDING AVAILABILITY OF PATENTED DRUGS AT AFFORDABLE PRICES

The TRIPS Agreement of the WTO obliges Member countries to provide patent protection to all products and processes. The TRIPS Agreement also provides for flexibility in usage of compulsory license. The Doha Declaration on the TRIPS Agreement and Public Health recognized that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. It reaffirmed the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement which provide flexibility for this purpose. The Declaration recognized that these facilities include the right of each Member to grant compulsory license and the freedom to determine the grounds upon which such license is granted, the right to determine what constitutes a national emergency or other circumstances of extreme urgency and the freedom to establish its own regime for exhaustion of intellectual property rights.

Paragraph 6 of the Doha Declaration recognized difficulties of WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector in making effective use of compulsory licensing under the TRIPS Agreement and instructed the Council for TRIPS to find an expeditious solutions to this problem and the report to the General Council before the end of 2002.

The General Council of the WTO took a Decision on 30 August 2003 for implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. The Decision allows manufacture and export of patented pharmaceutical products under a compulsory license to countries with limited or no manufacturing capacities in the pharmaceutical sector. This decision would enable countries with limited or no manufacturing capacities in the pharmaceutical sector to import pharmaceutical products at affordable prices.

The Patents Act, 1970 was amended in year 2002 to make its provisions consistent with the TRIPS Agreement. The Patents Act, 1970 currently does not provide product patent protection to pharmaceutical and chemical products. India, as a developing country can delay the application of the provisions on product patent under the TRIPS Agreement up to 1.1.2005 to areas of technology not so protectable in India on 1.1.2000.

The Patents Act, 1970 contains provisions of grant of compulsory license and revocation of patents if the reasonable requirements of the public have not been satisfied or the patented invention is not available to the public at a reasonably affordable price.