

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

STARRED QUESTION NO:386  
ANSWERED ON:19.12.2006  
PATENTING OF INDIAN HERBS & PLANTS  
Adhalrao Patil Shri Shivaji

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

- (a) Whether some developed countries and multinational companies have recently got various Indian herbs and medicinal plants/compositions based on properties of certain herbs/medicinal plants patented in their name;
- (b) If so, the details thereof; and
- (c) The steps taken in this regard ?

**Answer**

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI KAMAL NATH)

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

STATEMENT REFERRED TO IN REPLY TO PARTS (a) TO (c) OF LOK SABHA STARRED QUESTION NO. 386 FOR ANSWER ON 19.12.2006 REGARDING PATENTING OF INDIAN HERBS & PLANTS.

(a) : Herbs and medicinal plants, existing in nature, do not normally meet the criteria of patentability, viz., novelty, inventiveness and industrial applicability. However, patents have reportedly been granted on compositions, based on properties of certain herbs/medicinal plants.

(b)&(c) : No such information is maintained as patents are granted by various countries, according to their respective patent laws and are effective only in the country of grant. When information is received about patents being obtained on certain items, which are not considered patentable and which adversely affect Indian interests, possibilities are explored by the affected person to challenge it under the patent laws of the country concerned, e.g., a patent granted in the United States of America on the use of turmeric for wound healing was challenged and the said patent was got cancelled.

In order to protect bio-resources, the Patents Act, 1970, as amended last in 2005, contains provisions for mandatory disclosure of source and geographical origin of the biological material used in an invention, while applying for patents in India. As per Section 3 (j) of the Patents Act, 1970, plants and animals, in whole, or any part thereof, other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals, are not patentable. Provisions in Sections 10, 25 and 64 of the Act have been incorporated to include the non-disclosure or wrongful disclosure of source and geographical origin of the biological material as grounds for opposition and for revocation of a granted patent.

To protect traditional knowledge from being patented, provisions have been incorporated in Section 3 of the Patents Act that an invention which, in effect, is traditional knowledge, or which is an aggregation or duplication of known properties of traditionally known component or components, is not patentable. As per provisions in Section 25 of the Act, anticipation of invention by knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere, is one of the grounds for opposition to the grant of a patent. Similar grounds are provided in Section 64 of the Act for revocation of a granted patent. Government has also undertaken the development of a Traditional Knowledge Digital Library (TKDL) for Ayurveda, Unani and Siddha systems of medicine in patent application format to prevent patenting of inventions based on such knowledge.