

### STATEMENT BY MINISTER

#### Merchant Shipping (Amendment) Ordinance 1993

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT (SHRI JAGDISH TYTLER) : Madam, I beg to lay on the Table a statement (in English and Hindi) explaining the circumstances which had necessitated immediate legislation by the Merchant Shipping (Amendment) Ordinance, 1993.

#### THE MERCHANT SHIPPING (AMENDMENT) BILL, 1993

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT SHRI JAGDISH TYTLER : Madam, I beg to move for leave to introduce a Bill further to amend the Merchant Shipping Act, 1958.

*The question was put and the motion was adopted.*

SHRI JAGDISH TYTLER : Madam, I introduce the Bill.

### STATEMENT BY MINISTER

#### Kalakshetra Foundation Ordinance, 1993

THE DEPUTY MINISTER IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF EDUCATION AND DEPARTMENT OF CULTURE) (KUMARI SELJA) : Madam, I beg to lay on the Table a statement (in English and Hindi) explaining the circumstances which had necessitated immediate legislation by the Kalakshetra Foundation Ordinance, 1993.

#### THE KALAKSHETRA FOUNDATION BILL, 1993

THE DEPUTY MINISTER IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF EDUCATION AND DEPARTMENT

OF CULTURE) (KUMARI SELJA) : Madam, I beg to move for leave to introduce a Bill to declare Kalakshetra of Madras to be an institution of national importance, to provide for the establishment and incorporation of a Foundation for its administration, to make provisions for further development of Kalakshetra in accordance with the aims and objects for which Kalakshetra was founded and for matters connected therewith or incidental thereto.

*The question was put and the motion was adopted.*

KUMARI SELJA : Madam, I introduce the Bill.

THE DEPUTY CHAIRMAN : Honourable Members, we have today the discussion on the Dunkel proposals. There is a Government Motion and the hon. Minister of Commerce is here. Everybody was keen for the last two or three sessions that we should have a very serious discussion on this subject. Now, I also have 17 Special Mentions listed before me. Now I would like to take the opinion of the House. We had decided that at one o'clock we would start the discussion on the Dunkel proposals. If we take up these 17 Special Mentions now, they won't be finished in half an hour. Shall we take them up in the evening?

AN HON. MEMBER : Tomorrow.

THE DEPUTY CHAIRMAN : We can take them up in the evening; no problem. If the House so agrees, I will ask Mr. Pranab Mukherjee to move the Motion.

SOME HON. MEMBERS : Yes.

#### DISCUSSION ON DUNKEL DRAFT TEXT

THE MINISTER OF COMMERCE (SHRI PRANAB MUKHERJEE) : Madam Deputy Chairperson, I beg to move the following motion :

"That this House do consider the implications of the Dunkel draft text on

trade negotiations with special reference to its effect on India's interests."

... (Interruptions)

Will the Hon. Members allow me ?

**THE DEPUTY CHAIRMAN :** Order in the House. Will you, everybody, please sit down ?

**SHRI PRANAB MUKHERJEE :** The Uruguay Round of multilateral trade negotiations, which is the Eighth Round of negotiation since the foundation of the GATT, to liberalise international trade was launched at Punta de Estel in Uruguay in September, 1986. The negotiations covered not only the traditional GATT subjects such as tariff and non-tariff measures on goods and improvement of the GATT rules and disciplines but also included new subjects.

**SHRI CHATURANAN MISHRA (Bihar) :** Will the statement be circulated ?

**THE DEPUTY CHAIRMAN :** He is moving the Motion and reading out the statement.

**SHRI PRANAB MUKHERJEE :** No, Mr. Mishra. You know ... you are one of the oldest Members of the House ... that at this moment of the Motion normally it is not circulated.

**SHRI CHATURANAN MISHRA :** That I know. I wanted to know whether you are circulating it ... (Interruptions)

**THE DEPUTY CHAIRMAN :** No. Don't interrupt, please. It is not a statement. He is moving a Motion. At this stage we never do it.

**SHRI PRANAB MUKHERJEE :** The negotiations covered not only the traditional GATT subjects such as tariff and non-tariff measures on goods and improvement of the GATT rules and disciplines but also included new subjects such as trade related aspects of intellectual property rights, trade-related investment measures and trade and services. These negotiations

were initially expected to conclude at the Ministerial meeting in Brussels in December, 1990. However, due to differences between major industrialised countries particularly on agriculture, the Brussels meeting ended in a stalemate. In the face of negotiations which ended in December, 1991, a serious attempt was made to resolve all outstanding differences. However, a complete agreement could not be reached, *inter-alia*, on trade, agriculture and textiles. To break the impasse, the then Director-General of GATT submitted a comprehensive document on the 20th of December, 1991, which embodied the results of the negotiations and presented compromise proposals where an agreement had not been possible.

These proposals have been the subject of debate in the public, industry and media. The matter was also discussed in Parliament first through a Private Member's Resolution in March, 1992 and thereafter through a Government motion in December, 1992. The Parliamentary Standing Committee on Commerce and the Consultative Committee for the Ministry of Commerce have also discussed these proposals extensively. Earlier this year I had also invited leaders of political parties for discussion and had benefited from their views. Hon. Members will recall that the Government has circulated two papers addressing the concerns raised in the country on the Uruguay Round issues. The first paper was circulated in May, 1992 and the second in August, 1993.

Madam, currently the negotiations have entered what is widely believed to be the final phase, and there is a general expectation that the Round would be concluded by 15th December. India has always had a stake in the continuation of a rule-based multilateral trading system, and we are participating in the negotiations to ensure a successful conclusion of the Round with balanced results acceptable to all the participants.

The debate in India is focussed most on issues concerning agriculture and intellectual property rights. I would like first

take this opportunity to clarify certain doubts which have been expressed on the impact of the Dunkel proposals on our agricultural sector. First of all our developmental schemes concerning agricultural, including research, extension, irrigation, soil conservation etc. are totally exempt from any restriction or discipline.

Secondly, there is no obligation on us to undertake any reduction commitments in respect of any of the input subsidies that we provide to our farmers, because such subsidies are far lower than the ceilings proposed in the draft final Text.

Thirdly, there is no obligation on us to establish minimum market access opportunities for agricultural products.

I had invited the present Director-General of GATT to visit New Delhi at the end of October. These implications of the Text had been explicitly raised with him and he has confirmed our conclusions. Our trading partners have also been confirming these to us.

Another set of misgivings has been expressed regarding the effect of the proposals on agriculture on our public distribution system. The language used in the Text could create an impression that it might impinge on the public distribution system. We have been assured by our trading partners that they have no dispute whatsoever with India's continuance with its public distribution system. This also I was able to confirm with the DG, GATT and we are negotiating to achieve a change in the language which will put the matter beyond any shadow of doubt.

The most emotive issues of all has been the misapprehension that we will have to grant patents for seeds and that our farmers will not be able to retain seeds for planting their subsequent crops; nor be able to make reciprocal seed exchange. Madam, I would like to assure the House is no obligation to us to patent seeds and we do not intend to do it. The matter has been deeply gone into and a view has

emerged that having some sort of protection for plant-breeders is in our own interest. To set all doubts at rest the Government intends to shortly draft a suitable legislation which will incorporate the farmer's right to retain his seed from one crop to another and to exchange seeds in the traditional manner.

One of the most difficult areas in negotiations has been that of patents in the proposed amendment on Trade-Related Intellectual Property Rights. There are two basic issues involved: The patenting of genetic material and the compulsory licensing in the case of non-working of a patent. Biotechnology is a new field and there is no unanimity or uniformity regarding the scope of patenting in this field even in developed countries. The draft agreement is itself ambiguous. We are seeking to obtain an explicit exclusion of naturally occurring genetic materials, howsoever derived, from the scope of patentability.

Another area of concern has been the question of the Government retaining the right to grant compulsory licence for the manufacture of a patented item in public interest. Apart from compulsory licensing for Government non commercial use and compulsory licence in cases of special anti-competition practices, these are rigorous conditions attached to the grant of compulsory licences in the draft agreement on TRIP. Grant of a compulsory licence on the sole ground that the patent is not being worked in a country is not envisaged. We are trying to obtain a provision for compulsory licensing in cases where patents are not worked. However, no agreement has been possible on this issue so far.

While the commitment to finally phase out import quotas and integrate textile trade into a normal GATT regime within a period of ten years represents a step forward, the draft agreement on textiles has been a source of great disappointment to us. The quota regime which we had hoped to end earlier, is proposed to be prolonged for another ten-year period.

The greatest amount of liberalisation in the trade will also take place at the end of the transition period. We are still trying to obtain enhanced market access in textiles and lock it in the multilateral process. The next few days are going to be crucial to the negotiations. I have briefly touched upon some of the most widely raised issues. A consideration of these by hon. Members of the House will undoubtedly provide very valuable inputs to the Government for participating in the concluding phase of the negotiations in securing our national interest as best as possible.

**SHRI G. G. SWELL (Meghalaya) :** Madam Deputy Chairman, can we have a copy of the statement?

**THE DEPUTY CHAIRMAN :** We can't have a copy of the statement. Mr. Murl Manohar Joshi. **जोशी जी आपकी पार्टी के 31 मिनट हैं और आपकी तरफ बोलने वाले दो लोग हैं।**

**DR. MURLI MANOHAR JOSHI (Uttar Pradesh) :** Madam, there are various important questions which have been raised by this Draft. I seek your indulgence to give me more time. I would not take a very large chunk of time. But still I may exceed my time. I am cautioning you right at the beginning.

**THE DEPUTY CHAIRMAN :** This time was allotted by the BAC.

**DR. MURLI MANOHAR JOSHI :** I would request the House to give me more time.

**THE DEPUTY CHAIRMAN :** Thirty-one minutes is the final. **आप बोलिए। शुरू तो करिए। इस तरह से अपना समय नष्ट कर रहे हैं ?**

**DR. MURLI MANOHAR JOSHI :** Madam, before I deal with the points which the hon. Minister has raised, I would like to give a brief summary as to how these negotiations and agendas

have been evolved and developed. Initially this GATT was a border paradise. You were dealing with what was happening on your borders, transactions on your borders. It never entered your sovereign economic space. You are dealing with tariffs. You are dealing with customs. You are dealing with multilateral trade talks. But never in the history of mankind has such a dangerous proposal been mooted in which the entire world would be ruled and dominated by a group of a few nations. They wanted other nations only to support the living standards of a few people. This is something where the entire human brain will be put under one corporate regime thereby denying the basic and fundamental democratic right. This is something which is very dangerous.

In the earlier round of multilateral trade negotiations, they did not alter the character of this border paradise. In the beginning of the GATT negotiations, they did not alter the character of this border paradise. But later on the parameters were shifted. I charge this Government with deliberately acquiescing and deliberately leaving the leadership of the Non-Aligned group of the Third World, poor nations in the world, at the mercy of those who want to exploit the natural resources of the world. They have supported a high exploitative international regime. I charge them with betraying the humanity when they are supporting them, when they are surrendering to them and when they are indicating that they are going to sign such a nasty draft which I think is one of the dirtiest drafts which the mankind has ever seen.

The Uruguay Round has completely changed the situation. Earlier the Uruguay Round of discussions were proceeding on the right direction. What did they do? The GATT system came under severe strain. Why? Because the Americans were losing their edge as a leader in the world industry. Even in automobiles, machine tools, electronics and in agriculture they were losing in the world market. What they were losing in the world market in the field of technology, automobile and agriculture,

they wanted to compensate for it by changing the system and incorporating the services, telecommunications, etc., banking etc., into the GATT. GATT has never dealt with them before. What was the necessity of bringing these sectors into the GATT? They insisted on bringing the so-called new issues of services, investments, intellectual property protection because in the field of knowledge, in the field of science and technology they are the monopolists. So these developed countries wanted to have a monopolistic control on scientific and technological research, in services, by having adverse trade relations, in agriculture and in investment areas. Now my question is: Why did this Government surrender to them? The GATT had never envisaged these issues. Why were these issues allowed to be incorporated in the GATT negotiations? What happened after Montreal discussions? India and Brazil were the leading nations. I do not know what happened in April, 1989. Earlier India and Brazil were going together. There was a group of nations. All these weak and poor nations have become helpless. America used arm-twisting Super-301 and so many other things. And, this Government replaced it by a banana and crushed and crumbled under only thumb. This is what I am saying. I saying, I charge this Government with behaving as a banana republic. You never stood with your spine high. If you have taken the leadership, gradually, India would have been one of the foremost leaders of mankind, of the sovereign humanity. I charge you with betraying that humanity.

After first introducing these reforms, these new areas of services, business investment and agriculture and of intellectual property rights, secondly, these nations tried to make newer definitions, their own definitions, in selected areas. Thirdly, they worked for an integrated enforcement mechanism for various areas under negotiation. Now, who will negotiate, who will arbitrate? A multilateral negotiating organisation. What will happen to the UNO? The UNO is the body which was looking after the interests of a large number of nations till date. Nobody can charge

the UNO with not listening to the voice of humanity. There might be Security Council resolutions against this or that. But, in normal conditions, nations had their voice there. You have completely relegated the UNO to the back seat. You have introduced a new integrated mechanism of a multilateral negotiating organisation. And, this will impinge upon our sovereign rights as I will mention later.

Now, why did the Dunkel Draft come into existence? As I told you, the rich nations brought these new areas. How to bring them? Start in one way or the other and slowly, by arm-twisting, extend it. They came to this conclusion. As I said, 1989 is the watershed. Who was ruling this country in 1989? What happened to the economic situation in the country in 1989? What was the pace of the liberalisation which you were proposing for the economic restructuring? If you say all of these have agreed, all of them will be immediately coterminous with what the Dunkel Draft has said today. You have been doing it from three years ago. That is how you have surrendered, that is how you have brought this nation to the brink of complete degeneration. That is my biggest charge against you.

Agriculture was brought here because America was losing its share in agriculture. The European Community were also worried because they were large exporters of agriculture. Who was purchasing agriculture? Some of the third-world nations; some of the African nations; some of the European nations. They thought that when exports from nations like India and China would grow, they would again lose their coveted sector of agriculture and so, agriculture should also be brought under the GATT.

Then, about bio-technology, they are saying that bio-technology is a new subject in India. As a student of science, I know it is not as new as they are saying. Bio-technology patent is the real source of trouble now. It will destroy the entire R & D if patents in bio-technology are granted, if the patent laws in India are changed to incorporate the patents of seeds and bio-

technology. The hon. Minister says that we have no obligation to patent seeds. But America can patent seeds. Cotton seed has been patented in America. There are genetic researches which are patented there. Then, how can you say that? According to the Dunkel Draft Text, import of a patent is the continuation of a patent. That is, you are obliged to manufacture here. You can import it and say, "I am the patent-right-holder and so I am importing it and it is a continuation of the patent. And, the patent is in America." You need not patent it here. The patent would be elsewhere and it could be imported. You can even invite Cargils for sending seeds and selling seeds and even for manufacturing salt. To what vagaries of these multinationals you will subject Indian nationals. That is the biggest question which I am going to ask.

Therefore, the whole spectrum of activity is relating to the service industry, investment, production, distribution, repatriation of profits. All these should be brought within the ambit of the GATT. That was what the trans-nationals, multi-nationals, wanted because the Governments of the U. S. and other countries wanted to introduce intellectual property rights. They wanted to introduce agriculture; they wanted to introduce services within the ambit of the GATT. The multi-nationals also thought, "Let us introduce investment rights also under the GATT". And, therefore, the TRIPS also come here; the services, including the investment rights. Why are these investment rights incorporated? These investment rights have been incorporated because of facilities to repatriate a large amount of profits. It would be almost a zero investment in this country as we are finding them purchasing our various industries for a song and then bringing back the profits to their respective countries. Even today there are something like a hundred foreign companies whose total equity capital is 141 lakhs. And then there is the sum total of the equity capitals of these companies which would be 10 crores to 15 crores. And out of that, they are repatriating profits of some 100 crores to their respective countries. What

will happen when all these multinationals will come with full protection for their investment and for repatriation of their profits? Everything goes away, and you will not only lose money but you will also lose your control on compulsory licensing. This compulsory licensing, in a limited sense, was necessary to protect certain sectors of this country. We have an obligation to the people of this country. I may introduce licensing or I may not; it may be the decision of the sovereign Government, but if there is an MNO, if there is a treaty under which you cannot make a licence, not only now, but once you agree to it, this business of compulsory licensing regarding patents is gone; this is never to be brought back. Either you come out of this GATT, this Dunkel Draft Text, this treaty or you continue with this free trade of all patented materials from that country to this country. Now this is something very dangerous. I will point its deleterious effect in short. Now this Dunkel Draft Text is itself a self-fulfilling treaty. There are 28 agreements and it is on 'take it or leave it' basis. You can't say, we are leaving this and we are taking that. So, if you take it, you take it in full measure; and if you take it in full measure, what happens is something very dangerous. Now, it is said that the multilateral trade organisations will become super organisations, enjoying enormous powers, deciding cases of cross retaliation against sovereign nations. The hon. Minister says that it is not at all harmful for India. But many issues of domestic agricultural policy have been incorporated. This would hamper food security in the long run. I am coming to how it impinges upon our right to our security. It is argued that some of the provisions of the agricultural test would not be applicable to India as we have the balance of payments problem. But it is very surprising, the Commerce Minister says that it will not be applicable because we are having a balance of payments problem and the Finance Minister says that there is no balance of payments problem. So, whom to believe or whom not to believe? Let the Government be clear in their mind whether there is a balance of payments problem or not and who decide that there is a balance of pay-

ments problem or not. For that, I will say, "Read the Dunkel text and get article 15 (2). Get article 15(2) "Exchange Arrangements". "In all cases in which the contracting parties are called upon to consider or deal with problems concerning monetary reserves, balances of payments for foreign exchange arrangements they shall consult with the International Monetary Fund." They should consult fully with the International Monetary Fund. "In such consultations the conflicting parties shall accept all findings of statistical and other facts presented by the Fund relating to foreign exchange, monetary reserves and balances of payments, and shall accept the determination of the Fund as to whether action by a contracting party in exchange matters is in accordance with the articles of agreements of International Monetary Fund or with the terms of a special exchange agreement between the contracting party and the conflicting parties etc." And then you see the interlinkages at page 54. What does it say? Para 10 says. "The interlinkages between the different aspects of Economic Policy required" — I am quoting from the Dunkel Draft Text—

"that the international institutions with responsibilities" —and which are the institutions? The IMF—"in each of these areas follow a consistent and mutually supported policy." "The GATT should, therefore, pursue and develop its co-operation with the international organisations responsible for monetary and financial matters."

Now IMF is a chief collaborator of Dunkel proposals. After the Dunkel proposals, the GATT would become a subsidiary of the IMF or they too will collaborate in exploiting the Third World to the best of their content. Then they say about the confidentiality requirements and necessary economy or autonomy in decision-making procedure of each institution and avoiding the imposition on Governments cross conditionality or additional conditions. The Ministers further recommend that the contracting parties invite the Director General of GATT, to review with the Managing Director of the International

Monetary Fund and the President of the World Bank the implications of GATT's future responsibility. Now the World Bank is also invited. It is a triumvirate now, the World Bank, the IMF and the MNO (Multinational Negotiating Organisation).

SHRI JAGESH DESAI : Professor, will you yield for one minute?

DR. MURLI MANOHAR JOSHI : What are they saying?

SHRI JAGESH DESAI : Will you yield for one minute?

AN HON. MEMBER : Don't interrupt him.

DR. MURLI MANOHAR JOSHI : Now you see what the other agricultural issues under the agricultural tax are. Now it says about the minimum market access. "Minimum Market Access on the basis of binding commitments and elimination of non-tariff barriers to provide for tariffication have been provided in the Text (Page L. 19, Para 5 & 15). I have got the Text." I am not reading it because of the shortage of time. I would request the hon. Minister to go through them. "This will be minimum 2% of domestic consumption in the first year to be raised to minimum 3.3% of domestic consumption over a period of 10 years for the developing countries". Now the first thing is : What is this consumption of food? Dairy products are also included in consumption of food. Fisheries are also under food. So, don't consider that it will only remain confined to agricultural produce. It will ultimately cover dairy products, animal products, meat and everything that is consumed. We should be very cautious in interpreting all these things. If any trade partner comes today and says, "No, no, Mr. Pranab Mukherjee, this is all what we are saying", please don't believe them. We have had the experience of East India Company, the Clives and the Dalhousies. We know them fully.

Now he says about the special safeguards—when they say that it will not hit

India—that “the special safeguard provisions against imports beyond 125% of these levels are quite weak (Page L. 4, Art. 5(1) (i). The ordinary customs duty can be raised and it shall not exceed 30% thereof (Page L. 5, para 4).” When we are going to stop their import, their import will continue. They go beyond the 3.3% also. The only thing which you can do is that you can impose a duty and that duty shall not exceed 30%. “If the current access opportunities are more, then, whichever is higher shall be applied (Page L. 19, para 6).” So, once you allow this, there will be unmitigated import of foodgrains—I am not limiting to foodgrains—all foodstuff which humanbeings consume to this country and the only thing that you can do is that you can raise a hue. This is what is going to happen. “The domestic support in the form of subsidy to agriculture producers will be reduced by 20% during a period of 6 years for the developing countries (10 years for the developing countries)” (Page L. 20, para 8). The developed countries are paying enormous subsidy to agriculture.” Japan pays in some cases 700%. Now they have to reduce it by 20%. It is only 140. Then also it remains 560%. What are you subsidising? Say, 8%, 7% or 6%. So reduce it by 20%. Their cost still remains high. We are forced to import at least 3.3% of our food consumption. So we are suffering both ways. We are not allowing to grow our food production and we are forced to import. Then you see what our consumption is. That has to be made openly and transparently known to them. What your amount of foodstuff for the Defence is, they must know and they can strangle it. We have had the experience in 1965 when America supplied us food only on a weekly basis. A similar situation can come with the type of seeds which they will throw into India. They can again manipulate the entire agricultural sector. You produce this, we will purchase it. You don't produce this, we cannot purchase it. Every time I hear from my friends that this has vast potentiality of exports. But what to export and what to produce? The Britishers came here. The East India Company came here. They forced farmers in Bihar and Bengal. Then it was all Bengal to produce indigo to get

rid of wheat and paddy. The East India Company was a much poorer company compared to these transnationals. They are much bigger than 20 East India Companies. This is how you are going to throw us to the winds, to those who will manipulate. But look what is happening in the entire Africa. What is happening to the Third World? What has happened in Malaysia? What has happened in other countries? All these multinationals projected a very high price for rubber. They grew rubber. Then suddenly they brought down the prices. The entire economy of those countries was crushed and crushed. Similarly, an international produce would be given high price for something and when the produce is ready, the price would be brought down and it would be exported at a very low price. This is how we have been seeing that the international market is being manipulated. I thought that the hon. Commerce Minister would look at these vagaries of commerce and trade and see how India is going to be affected adversely.

Then food purchase by Government shall be at current market prices and sales from food security stock shall not be less than the current domestic market price for the product and quality in question. You cannot announce the support price for farmers. That is the implication. This would mean that it would not be possible to announce support price for farmers for their agriculture produce. The volume of food stock shall correspond to a pre-determined target in consultation with GATT.

SHRI VISHVJIT P. SINGH (Maharashtra) : From where are you quoting?

DR. MURLI MANOHAR JOSHI : I am quoting from various GATT documents. This is page L-14, para 3.

The food scarcity will become transparent. There are going to be impediments in export of foodgrains due to sanitary and phytosanitary conditions. The hon. Minister was saying that if we are sellers and they are buyers, then we have to conform to the standards of the buyers. But who



determines the standards? The buyers determine the standards. Then they will say the sanitary conditions and the phytosanitary conditions of the Indian agricultural produce, horticulture produce and marine life are substandard and we don't want to purchase it. If you are interested in selling it, we will purchase it at a low price. Who determines it? Is there any international agency to do it? Can you have the same uniform standard of sanitary and phytosanitary conditions about food produces? There are countries which are not using pesticides. There are countries which are using pesticides. Every seed which the multinationals provide would be impregnated with fertilizer and pesticide. Then they will say the seed was ours but the soil was yours. They have mismanaged the whole thing. This is not exactly up to the standards of our country. Mr. Minister, whom are you befooling? (*Interruptions*). Come out of the self-deception. The world is not so simple. You have befooled this country enough. For the last 45 years ... (*Interruptions*). Please do not befool this country any more. This country is not a set of fools whom you can always carry along with you.

**SHRI PRANAB MUKHERJEE :** It just reminds me of 6 December of yesteryear.

**DR. MURLI MANOHAR JOSHI :** Whatever it is. Please don't quote anything about 6th December. This is what you are doing since 15th August, 1947 till this date. You have ruined this country. You have taken ... (*Interruptions*) ... three lakh crores of foreign money as a loan. (*Interruptions*). It has again come back into the Congress to support the multinationals and the World Bank.

When it comes to the new patent system, the main problem will arise from the following provisions :

Extending of patent protection for any invention, whether product or process in all fields of technology.

Now the process and product, both are patents. Today a process is patented

but a product is not patented but tomorrow process and product both will be patented.

As I have already said, there is no provision for compulsory licensing or licensing of right. There should be some provision for sub-licensing to the domestic manufacturers. So there will not be any transfer of technology. It is now impossible to get a technology. But you will get a finished product. The effect of this finished product on drugs and pharmaceuticals would be tremendous. I quote the International Comparison of Selected Drugs. This data was supplied to me by the IDMA. I will read some of them. Ciprofloxacin—500 mg  $\times$  4's, the Indian price today is Rs. 53.50. In Pakistan this sells for Rs. 302.75. This is roughly six times costlier in Pakistan. In the USA, the price is Rs. 299.17. This is again six times costlier. Then in the UK it is Rs. 363.60. Roughly seven times costlier. I can also tell you the names of the companies which are manufacturing them. Then Norfloxacin—400 mg  $\times$  10's, the Indian price is Rs. 33. 61. In Pakistan it is Rs. 161.94. This is five times costlier. In the USA, it is Rs. 613.77, that is, roughly 18 times costlier. In the UK, it is Rs. 290.88. Roughly nine times costlier. These are Anti-Bacterials. Coming to Anti-Inflammatories. Diclofenac, it is Rs. 5.67 in India. Rs. 72 in Pakistan. This is roughly 13 times more costly and it is 41.4 times costlier in the USA where it sells for Rs. 234.74. It is roughly 20 times costlier in the U.K. Now coming to Anti-Ulcerants. Famotidine which is 40 tablets in packets of 10, it is Rs. 26.24 in India and Rs. 336 in Pakistan which means it is 13 times costlier. In the USA it is Rs. 711.78. This is 28 times more costly. In the UK it is Rs. 575.70. This is 22 times costlier. About Cardiovasculars which is a life saving drug. Atenolol is 15 times costlier and there are so many other things. There will be havoc in the field of drugs. There will be havoc in the field of R&D. There will be havoc in the field of agriculture. You see what is happening in most of these cases is that you are surrendering your rights. Now you have to change your patent laws. You have to change your other laws. I will raise some of the constitutional questions if you just permit me.

The fundamental rights of the citizens of India; and especially the right to food, livelihood, health, self-governance and right to democracy, this is impinged—the sovereignty and integrity of India in as much as such sovereignty and integrity is part of the basic structure of the Constitution. Then the federal structure of the Constitution as a consequence of which the exclusive powers of the States would be lost to the Union without the consultation and concurrence of the States. The important constitutional questions some of which I raise here are: Whether, in the absence of any legislation under List I Entry 14 of the Constitution (and given the wide implications of and direct and inevitable consequences of the treaty making power), the treaty making power of the Union of India is not subject to procedural and substantive limitations in order to constitutionally discipline its use and abuse? Whether, in exercise of the treaty making power, the Union of India can enter into a treaty without keeping Parliament, the Legislatures of the States and the people of India fully informed on the manner and extent to which such treaty will have an impact on their rights, powers and responsibilities? Here I say you have been spreading disinformation, you have been keeping the country in the dark and you are betraying the democratic institution of the country and the very basic structure of our Constitution. Whether, in the exercise of the treaty making powers, the Union of India can surrender to some international body, institution or process decision making powers which will directly and inevitably affect the rights, powers and responsibilities of the persons living in India and the States without specific legislative measures being enacted in India to incorporate such changes by law? Whether, in the exercise of the treaty making power, the rights and powers of the States arising out of List II and III of the Constitution can ever be taken away, modified or limited in any way without their consent and due consultation? Health care is a programme which has to be executed by the States and you are severely impinging their right. Also, agriculture is a State subject. You are severely impinging its right.

(5) Whether article 253 of the Constitution must be interpreted along with the other articles in that part so that specific consent obtaining procedures and supportive limitations are read into the article so that the States do not lose their legislative power to the Union Parliament on the signing of a treaty without any further ado? You are impinging the federal structure of the Constitution. You are depriving the States of their rights which are given in the Constitution.

(6) Whether in the exercise of the treaty making power, Indian governance can lose its sovereignty and integrity to international bodies, institutions and processes?

(7) Whether in the exercise of its treaty making power the Union of India can impair its capacity to discharge the obligations it owes to its own people? You are responsible for health care. You have to supply food to the people. You have to defend this country. These are the obligations. But you are opening everything to this multi-lateral negotiating body.

(8) Whether in exercise of the treaty making power, the Union of India can pre-empt or appropriate the power of the States to make effective provisions for food, health, public distribution of necessities and provision of amenities and subsidies thereof?

(9) Whether in the exercise of the treaty making power, the Union of India can make basic and fundamental charges in the political economy of India without providing adequate information whether to the people of India or various constitutional fora of accountability?

(10) Whether the citizens have a right to information in respect of important policy changes which directly and inevitably affect them? If so in what shape and form?

You are coming to this House for discussion for the first time when you are already determined to sign it. It is accomplished on the 15th of December. Is this the way

you are trying to govern this country? You are taking us for a ride. This is not the way Parliament should be treated. This is not the way the country should be treated. Now there may be some more questions which I leave out. Now, you will ask as to what the alternative is. Is it possible to evolve some strategy even at this late stage not? That is the question which my friend asked a couple a days ago. Now, let us buy some time, if we can, in regard to the emerging unequal treaty. The answer possibly lies in insisting on the contracting parties of GATT to follow the amendment route Provided in article 30 of GATT. Under this article, amendment to part I of GATT, which guarantees non-discriminatory treatment to all contracting parties, can be possible only with unanimous acceptance; that is, you are changing the character of the GATT, it must be unanimously accepted. Even one single contracting party can hold back the amendment to this part. What is more, any denial of such treatment as a result of other agreements can be questioned as impairment of the basic right. In the past, this route was not adopted while formulating new disciplines like the one on government procurement because of rather difficult and cautious procedure prescribed in this article for the process of amendment. This article also ensures, according to the Vienna Law of Treaties, that amendment to other parts of GATT can be effective only if adopted by a two-thirds majority, binding only those who accept it. This leaves considerable flexibility for parties to respond to newer fields of disciplines that GATT seeks to evolve. If the developing countries which constitute a clear majority in the contracting parties of GATT choose to exercise their legal right under the existing agreement and insist that the major trading entities follow the route provided in article 30, it will, at best, provide them the necessary flexibility in responding to DDT/MTO/GATT II options; at worst, it will buy them time. And time, in such situations, may provide a new slot of opportunity. Perceptions about the efficacy or appropriateness of a given strategy may vary, as they vary with me and the hon. Minister. But the real question is: Whether

there is the will to withstand the unequal treaty? Whether you feel that you will be isolated? I am, sometimes, surprised by the argument that we would be isolated. You are isolated on the nuclear non-proliferation treaty. What is the harm if you are isolated? Why should you not have a spine, a spine of steel and say, "All right, we are ready to face"? You have to save the nation. It is the nation's interest which has to be saved. You are now hankering, you are now angling, only to save the interests of the rich ... (*Interruptions*)

**SHRI CHATURANAN MISHRA :** Steel spine has to be imported.

**DR. MURLI MANOHAR JOSHI :** India produces that ... (*Interruptions*) ... Madam, now I will give you one more example. How do we see the entire Dunkel Draft Text? It is nothing but a repeat of what the East India Company did, how it fleeced and looted and the type of mechanism it evolved. You are now accepting it. The country revolted against the East India Company. Now you are trying to bring it back. For God's sake, you must discriminate between sovereignty and slavery, between dignity and indignity, between self-respect and salvery. Don't destroy the tiller. Come up with a steel frame. We will provide you enough strength if you seek it from the nation. Come to the nation if you have any energy in you, if you have any self-respect in yourself, if you want to take out this country from the morass of indebtedness, if you want that this country should hold its head high among the comity of nations, if you want the tricolour fly high in the UNO and if you want the people outside listen to the voice of India. For God's sake, don't surrender to this unequal treaty. This is unacceptable to the nation in its present form. If you any love for this country, for the interests of this country, for the poor masses of this country, for heaven's sake and in the people's name, I call upon you not to sign this treaty.

Thank you very much, Madam.

**SHRI VISHVIJIT P. SINGH :** Madam Deputy Chairman, I thank you for permitting me to speak on this important topic.

Since the lunch hour is fast approaching, I am sure you will be adjourning the House in a short while ... (*Interruptions*) ...

AN HON. MEMBER : There is no lunch today.

SHRI VISHVJIT P. SINGH : No lunch !

THE DEPUTY CHAIRMAN : We have taken a decision—it was a conscious decision of everybody—that we would not have lunch hour today. If the House feels that we should have lunch hour, we can adjourn the House for half-an-hour because we have enough time and the reply is going to be given tomorrow. We can adjourn the House for half-an-hour.

SHRI CHATURANAN MISHRA : There is no lunch under Dunkel.

THE DEPUTY CHAIRMAN : Do you want the House to be adjourned?

SHRI VISHVJIT P. SINGH : If you allow me to speak for ten minutes .... (*Interruptions*) ...

THE DEPUTY CHAIRMAN : Let him speak. At 1.30 p.m. we will adjourn.

SHRI VISHVJIT P. SINGH : I would just like to say two things about what Mr. Joshi has said.

THE DEPUTY CHAIRMAN : Let him complete in ten minutes. Why waste the time of the House ?

SHRI VISHVJIT P. SINGH : Madam, may I carry on speaking and finish my speech ?

THE DEPUTY CHAIRMAN : you start speaking now. If you don't finish, you will be allowed at 2. p.m. to continue.

SHRI VISHVJIT P. SINGH : Madam, I am afraid there is a tremendous amount of disinformation and misinformation and a combination of both the things. Those who don't know or misinformed and those who do know are attempting to spread disinformation and this is resulting in the whole

issue being obfuscated. I think our attempt here today ... (*Interruptions*). I hear some echo from the right side of the House.

THE DEPUTY CHAIRMAN : I think so. I also heard that.

SHRI VISHVJIT P. SINGH : I think we should ask the Secretariat to kindly check whether there is something wrong with the acoustics in this House because it is giving some sort of an echo. It keeps coming from the right side of the House.

DR. MURLI MANOHAR JOSHI : There may be something wrong with your hearing.

SHRI VISHVJIT P. SINGH : Our attempt today is to demystify the whole process. I think we should lay bare the process. I agree with Dr. Joshi, my elder and better, that we must demystify the whole process, bring it out into the open. We must correct the distorted picture which is sought to be projected. We must correct the misconceptions. It is only then will this House be able to understand what is really happening. Several issues were raised today which had no bearing on these GATT negotiations. Issues were sought to be raised. For example, I heard today the most amazing statement from Dr. Joshi about UNO vs. GATT. I really don't understand how a man of his learning and knowledge could have said such a thing. GATT is very much a part of the UN which recognises it. That is number one. The second thing is that, today, 107 countries of the world, accounting for 90 per cent of the world trade, are members of the GATT. It was founded in 1948 with 23 members and India was one of the founding-members.

SOME HON. MEMBERS : So what ?

SHRI VISHVJIT P. SINGH : It is not the UN's job to monitor the world trade.

DR. MURLI MANOHAR JOSHI : I am not saying that.

SHRI CHATURANAN MISHRA : That is wrong. It is wrong on his part to say that. A Committee was appointed under the GATT and it was found that a discri-

minatory attitude was taken against the developing countries. Then the third Committee reported that this should not be done and the developing countries should be given preference. GATT did not agree to implement it and then the matter was brought to the UN. I can give you a copy of the UN Resolution. It said, "No. Preferential treatment should be given to the developed countries." If you want, I can give you a copy.

SHRI VISHVJIT P. SINGH : I agree with you. You are only supporting what I am saying. The UN then prevailed upon GATT ... (Interruptions) ...

SHRI CHATURANAN MISHRA : It was not implemented.

SHRI VISHVJIT P. SINGH : This selective quotation, I am afraid will not work. To talk of the UN, of there being a conflict between the UN and the GATT, taking over of the functions of the UN by GATT, is all wrong. There is nothing of that sort. Talking about biotechnology, is he aware of the kind of investment that is required in biotechnology? Are you aware of the advances that have taken place all over the world in the field of biotechnology? There are seeds available today which do not require pesticides because they look after the pests themselves. There are seeds available which give a fantastic level of production. The crop yields are tremendous. There is more research going on. Do you want access to this biotechnology or do you not want it? That is the only we would be able to feed the country. Even the Standing Committee of parliament on Agriculture has recommended in its Report that biotechnology is the only way by which the country can be fed. Today, if we want to feed our people, we have to make a tremendous investment in biotechnology and the only way we can do it is by having foreign investment. Investment is not coming from within the country. We have tried. We are talking of the balance of payments problem. The fact of the matter is that if you quote selectively from the Dunkel Text, you are in for trouble. The fact is that the Text says that

wherever there is a balance of payments position—it does not talk of problem, it talks of position—the cover is not there immediately. You are not bound by the various provisions, the exemption provisions, apply to you. That is very clear there.

Finally, I had myself totally at sea when I am told this year, the Year of Grace 1993, that India should go isolationist. But the world is changing and yesterday's rhetoric does not apply to today's situation. Wake up; the world is changing. We do not want to be left behind. China was at the same level of exports as India and, today, China is ten times ahead of us. Indonesia and Thailand were behind us ten years ago. But, today, they are ahead of us. Even our neighbouring countries are overtaking us. It is high time we woke up. We cannot function in an isolationist atmosphere.

THE DEPUTY CHAIRMAN : Mr. Vishvjit, we will adjourn the House for half an hour for lunch, and you can continue at 2 o'clock. Now the House stands adjourned for lunch till 2 p.m.

The House then adjourned for lunch at thirty minutes past one of the clock.

The House reassembled after lunch at six minutes past two of the clock, The Vice-Chairman (Shrimati Jayanthi Natrajan) in the Chair.

#### DISCUSSION ON DUNKEL DRAFT TEXT—contd.

SHRI VISHVJIT P. SINGH : Madam Vice-Chairman, to resume my argument where I left off, I was dealing with the isolationist argument put forward by Dr. Murli Manohar Joshi. He was in favour of India taking the isolationist approach towards the GATT negotiations, of India becoming an insular country, completely divorced from the world. As I said earlier, we cannot allow yesterday's rhetoric in today's situation, I will show you why we