

permitted. ...*(Interruptions)*... I cannot go on violating the rules. ...*(Interruptions)*... I cannot violate the rules. ...*(Interruptions)*... I cannot violate the rules.

SHRI SHARAD PAWAR: We have the support of these three. In all these three, some of them have been constructed; some of them have been hired. In the original statement I have made, it is stated that in the last few years, from 223 lakh tonnes, we have gone to 274 lakh tonnes. That means we have practically improved the capacity by 50 lakh tonnes. It might be hired also. By 'hired' I mean, it is taken not only from private agencies but it is taken from your Warehousing Corporation as well. That is also one of the Organizations which is under the same Ministry, but it is an independent Organization. There are some States where the Warehousing Corporation, where the Government also associates, supports them. We have to use their capacity also. The programme which we had taken is not only with the help of the FCI. We have taken this type of programmes with the help of other semi-Government and private agencies also.

GOVERNMENT BILLS

The Trade Marks (Amendment) Bill, 2009

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, we take up the Trade Marks (Amendment) Bill, 2009.

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI ANAND SHARMA): Sir, I rise to move:

That the Bill to amend the Trade Marks Act, 1999, as passed by the Lok Sabha, be taken into consideration.

Sir, with your permission, I would like to make a brief opening statement on this Bill before this House takes it up for consideration and passage.

During the last few years, India has endeavoured to develop a modern, vibrant and user-friendly Intellectual Property regime in the country. Our approach to intellectual property protection

has been a balanced one of ensuring protection of the rights of creators and innovators, and, at the same time, guaranteeing access to the same innovations for the rightful users.

With the globalization, the growing importance of trade has been recognized. It has become necessary, therefore, to put in place a Trade Marks regime that would reduce transaction costs for the domestic industry. The objective of the Trade Marks (Amendment) Bill, which is mentioned in the Statement of Objects & Reasons of this Bill, is, primarily, to align the Indian Trade Marks statute with the various provisions of the Madrid Protocol. That would enable India's accession to this Protocol which is already signed by 84 countries of the world. And what it will give to us, the accession to the Madrid Protocol, is important to mention, that as of now, in the absence of any, above being a member of this Protocol, if an Indian enterprise wishes to register the trade mark in other countries, separate applications have to be filed in the concerned country for the registration of their trade mark in the language of that country, paying a separate fee; as many countries the application is filed, as many times, the fee also has to be paid separately. But with the accession to the Madrid Protocol, it would enable that the Indian companies register their trademarks in all the member-countries of the Protocol through a single application as well as allow foreign companies to register their trade marks in India. Presently, though the timeframe for the registration of trade marks has been 26 months, this would now be done within a specified timeframe of 18 months. And this will also facilitate the subsequent management of the trade mark once registered; that is renewal, the change in ownership or in the name and address of the holder. The accession, therefore, will enable cheaper and simpler procedures for enterprises, making it possible for them to protect their trade mark.

Sir, it is, primarily, a facilitative, cost effective method of the registration of the trade marks globally.

Once this is done, once the accession agreement to the Madrid Protocol is signed, the holder of an Indian trade mark will be in a position to file an application in this country itself in English paying fee here and it automatically, through the international bureau, will be transmitted to all the countries

of Madrid Protocol. It does not require any more filing of applications, payment of fees and other attendant difficulties which they face. So, the need, therefore, for us is to align our own statute with the international best practices and this protocol. As of now, there is no provision under the Trade Marks Act, 1999 which can facilitate Indian nationals to file their applications and, for that matter, the foreign nationals or entrepreneurs who will have the same benefit, the same privilege of getting their trade mark registered, particularly, those countries which are members of this Protocol to ensure that their trade mark is provided not only the registration in all the countries but also they will secure simultaneous protection.

As I have said, this Bill, as such, is just to align, to facilitate. It makes no substantive changes to the trade marks law and grants no new substantive rights to the trade mark owners. Accession will entail amendments, therefore, to the Trade Marks Act and for that purpose we propose to suitably amend the Trade Marks Act incorporating therein Chapter IVA containing special provisions relating to the protection of international registration of trade marks under the Madrid Protocol. The proposed amendments seek to empower the Registrar to deal with international applications both originating from Indian applicants or received from the contracting parties, and prescribes the procedure for dealing with international obligations and consequential amendments like maintaining record of international registration, definition of the new terms, the modification of provisions relating to assignment and rules making powers of Central Government to implement the Protocol obligations.

In addition to the amendments proposed, it also includes the deletion of Chapter X of the Trade Marks Act which relates to the textiles. Now Chapter X was introduced under the Trade Marks and Merchandise Act, 1958 to encourage the promotion of textile trade in the country. Subsequently, all applications received from traders and producers of textile were of ordinary trade marks and not under Chapter X. The provisions of this Chapter have not been evoked in the last four decades. Therefore, it is felt that the deletion of this Chapter is justified and this deletion proposal has the approval of the Department-related Parliamentary Standing Committee on Commerce.

It is also proposed to remove the discretion of the Registrar to extend the time for filing notice of opposition of published applications and provide for a uniform time limit of four months in all cases.

Further, with a view to simplifying the law relating to transfer of ownership of trade marks by assignment or transmission and to bring the law generally in tune with the international practices and modern business needs, section 45 is proposed to be modified to ensure that unless the assignee is brought on the register, he cannot initiate infringement action.

As I have mentioned, the Bill was referred to the Parliamentary Standing Committee on Commerce which has examined it in great detail. All the suggestions which have been given by the Standing Committee have been accepted except one, that is, with regard to section 36H, which relates to applying the same trade description as to the standards of quality of its goods and services in all the contracting parties granting the protection and there are reasons for not doing so.

Sir, trademark primarily is a sign which is capable of distinguishing goods or services produced or provided by one enterprise from those of another enterprise. Trademarks can be words, letters, numerals, labels, pictures, shapes, colors, etc. It is not about quality. The basic function being this, it is also an indicator of the source of origin of the goods or services. As it does not represent quality, it is, therefore, not possible to include that. Due to the prevailing laws, consumer preference and availability and use of local raw materials, sometimes there are minor variations in the product being sold in one country using the same trademark as compared to that in another country, in another continent. There are other laws to deal with quality matters. The Consumer Protection Act, 1986 and the Drugs and Cosmetics Act, 1940 ensure that inferior quality goods and services are not sold to the consumers and provide necessary remedies. The provisions of the Consumer Protection Act, as we know, are compensatory as well as preventive and punitive in nature. The Act provides the right to be informed about the quality, quantity, potency, purity, standard and price. It also provides redressal against unfair trade practices. Neither the Paris Convention - this is important - for protection of industrial property nor the TRIPS Agreement nor the Trademark Law Treaty refers to this aspect. It is also important to register that Indian laws as such cannot mandate that the holder of an international registration of a trademark shall apply the same trade description as to the standard of quality of

goods or services not only in India but also in all member countries and seek to impose criminal liabilities for that breach. It is a question of the jurisdiction and the limitation.

[MR. DEPUTY CHAIRMAN in the Chair]

In addition to the recommendations that the Parliamentary Standing Committee made, there have been a few minor amendments in Clause (a) of Explanation below Section 11 (4) of the Trade Marks Act, 1999, which is purely of a drafting nature and does not materially alter the scope of the Bill, as proposed. It seeks to expand the definition of earlier trademarks to include pending applications.

The Trade Marks (Amendment) Bill, 2009, has been passed by the Lok Sabha on 18th December 2009. The Bill now proposed for consideration and passage in the Rajya Sabha is the same as passed by the Lok Sabha. With these words, Sir, I commend this Bill to the House.

The question was proposed.

श्री प्रकाश जावडेकर (महाराष्ट्र): महोदय, इस बिल को रखते हुए मंत्री महोदय ने सबसे प्रमुख आग्रहमेंट यह दिया है कि भारत के उद्यम जगत को इसका फायदा होगा। क्या फायदा होगा? फायदा यह होगा कि जिसको ट्रेडमार्क रजिस्टर कराना है दुनिया में मेड्रिड प्रोटोकॉल जोइन करने के कारण 84 देशों में उसको जाना नहीं पड़ेगा, अलग-अलग 84 भाषाओं में एप्लीकेशन नहीं देनी पड़ेगी। भारत में बैठकर ही एक कार्यालय में अर्जी देकर वह सुविधा प्राप्त कर सकते हैं और इसलिए यह सब किया है। सुनने में तो बहुत अच्छा लगा, लेकिन जरा आंकड़े देखेंगे तो सच्चाई पता चलेगी कि क्या सच है, क्योंकि जो बेनिफिट भारत को मिलने वाला है, भारतीय उद्यमियों को, The same benefit will be given to international entrepreneurs also who want to register their trade mark in India. So, what is the real picture? The only projected benefit of the association to the Madrid Protocol is for those people who would like to register trade mark in multiple jurisdictions. It is like a single window.

The latest Annual Report on Trade Marks says that there were 10,000-plus applications from foreigners for registration of trade marks in India, and there were 1,19,000 Indian applications for registration of trade marks in India. At a glance, it appears that 1,20,000 Indian entrepreneurs will be benefited, while there are only 10,000 applications from foreign entrepreneurs. But that is not the

case. What is the number of Indian entrepreneurs who want to register their trade marks outside India? That is what is relevant. And that figure is only 600. So, in effect, this Bill will only benefit 10,000-plus foreign entrepreneurs. Their process will be easy. I am not against that. But it will benefit only 600 Indian entrepreneurs who want to register their trade marks outside India. That is the first point which I wanted to raise.

Then, comes a more serious point. Does the Madrid Protocol have an international obligation on us? The answer is, 'No'. The Madrid Protocol is not like the TRIPS Agreement where it is an international obligation. We are joining it on our own. Now, when are we joining it? The timing is important. Sir, we are negotiating with the European Union - there is an on-going negotiation with the European Union - on the Bilateral Trade and Investment Treaty. We are bargaining this Treaty with the European Union. In this, there is one insistence of the European Union that India must join the Madrid Protocol. Now, when the negotiation is already going on, you should not succumb to the pressure during the course of negotiations. This undermines your benefits. This undermines your bargaining power. This is not done in international negotiations. So, you should be plain enough to tell us, "Yes; we have succumbed to the pressure of the European Union, and we have, unilaterally, accepted it." While accepting the Madrid Protocol, you could have gained one more thing from the European Union, which you have lost. That is the Bill which you are passing. So, that is my second point.

सर, इसमें एक छोटा मुद्दा है, लेकिन महत्वपूर्ण है। आज जो दस हजार लोग विदेश से आकर भारत में अपना ट्रेड मार्क रजिस्टर्ड करना चाहते हैं, वह किसके माध्यम से करते हैं - भारत के कानूनविद, फर्म हैं, लॉ फर्म हैं lawyers हैं, उनको इससे बहुत पैसा भी मिलता है, रोजगार भी मिलता है और बहुत सारे भारतीय लोगों का इसमें फायदा होता है। अब यह फायदा चला जाएगा, क्योंकि अब हर एक अपने देश में बैठकर एक एप्लीकेशन के द्वारा भारत में रजिस्ट्रेशन करेगा। लेकिन मैं इस बिंदु को इम्पोर्टेंट नहीं मानता, मैंने जो पहले कहा कि यूरोपियन यूनियन के साथ जो आप ट्रीटी निगोशिएट कर रहे हैं, उस ट्रीटी के दरम्यान इस तरह के unilateral Madrid Protocol को accept करना, यह अपनी पोजिशन को थोड़ा weaken करना है। हम लोग bargain में जो कुछ पा सकते थे, पाने

की क्षमता आपने खो दी है। There is one more question. He was mentioning about quality and other aspects. One of the conditions for registration of trademarks is that except in case well-known marks, it needs to be a mark used in India. However, in case we accede to the Madrid Protocol, persons having no business in India may be able to block certain trademarks indefinitely, which may, rightfully, belong to Indian entrepreneurs. सर, जो भारत के उद्यमियों का नैसर्गिक अधिकार है, जो उनको belong करते हैं, वैसे ट्रेडमार्क भी जो भारत में कुछ बेचने वाला नहीं है, वह भी ब्लाक करके रखेगा, हमने यह देखा है। सर वेबसाइट पर डाट काम का जब प्रचलन शुरू हुआ, तो लोगों ने अनेक-अनेक नामों से डोमेन नेम रजिस्टर्ड करके रखे और बाद में डोमेन नेम को बेचा। इसी तरह से ट्रेड मार्क रजिस्ट्रेशन की एक प्रैक्टिस शुरू हो जाएगी और जो इंडिया में नहीं बेचने वाला है, वह भी यहां पर ट्रेड मार्क रजिस्टर्ड करेगा, जिसका नुकसान भारत के उद्यमियों को हो सकता है। There is a strong lobby of developed countries and they have led their initiative to increase the IP enforcement beyond the TRIPS obligation through various initiatives including the plan to conclude Anti Counterfeit Trade Agreement. Secondly, the scope of the trademark has expanded to include not only names and logos, पहले ट्रेड मार्क क्या होता था एक लोगो होता था या ज्यादा से ज्यादा उसमें नाम होता है, लेकिन अब बदल रहा है। यह जो एसीटीएस आ रहा है, इसमें it is now being expanded to include not only names and logos, but also sound, taste, smell, etc. In the light of these developments, Madrid Protocol helps big multinational companies to obtain trademark protection in a cost effective manner globally and little to offer in terms of benefit to the Indian economy. यह मुद्दा है, इसलिए मैं मंत्री महोदय का इस पर खुलासा चाहूंगा। उन्होंने इस पर विचार किया होगा। उन्होंने एक स्टैंडिंग कमेटी का जिक्र किया कि स्टैंडिंग कमेटी ने बहुत सारे सुझाव दिए, हमने लगभग सभी को स्वीकार किया। मुझे उसमें एक सुझाव दिखाई नहीं दिया। मैं 36 (h) के बारे में पूछना चाहूंगा कि uniformity of standards का, कमेटी ने एक सुझाव दिया था, "The holder of the international registration of a trademark who is entitled to the protection of that trademark in India and any other contracting party shall apply as far as possible the same trade description as to the standard or quality of goods and services in all the contracting parties granting the protection. No alternation in the said trade description in a material respect shall be permissible in any contracting party unless required by its law". उन्होंने जो यह सिफारिश दी थी, उसके बारे में मंत्री महोदय खुलासा करेंगे कि उसको स्वीकार क्यों नहीं किया है, क्या उसकी जरूरत नहीं थी या क्या कुछ था?

4.00 P.M.

सर, एक मुद्दा और है, मैं स्टैंडिंग कमेटी के काम के बारे में विचार करना चाहता हूँ, जो सभी मंत्रालयों के लिए जरूरी है। आप स्टैंडिंग कमेटी के पास एक बिल भेजते हो, उस बिल पर हर स्टैक होल्डर की सुनवाई करके, आल पार्टीज हैं, एक मिनीअचर ऑफ पार्लियामेंट है,

[THE VICE-CHAIRMAN (SHRI KAJRAJ MISHRA) in the Chair]

It works impartially. It works across partylines. Without taking the usual partylines, Members take into account the facts. वे फेक्ट्स देखने के बाद अगर वे एक सुझाव दे रहे हैं, तो मंत्रालय उसका एक्सेप्टेंस क्यों नहीं करता? अगर करता भी है, तो एक बड़ी खतरनाक प्रैक्टिस हुई है और इसमें भी हुआ है कि जो बिल उसको दिया और उस पर जो सुझाव आए, कुछ स्वीकार किए, कुछ स्वीकार नहीं किए, उसके कारण बताए, लेकिन उसके बाद मंत्रालय बिल में कुछ और नए प्रोविजन्स डालता है, जो स्टैंडिंग कमेटी के पास जाते ही नहीं हैं। यह कैसा तरीका है? You cannot change it midway. If you want to change the Bill after you get the Parliamentary Standing Committee recommendations, then, for these provisions, at least, you must refer it back to the Standing Committee, which you are not doing. This injustice. इसलिए जो कंट्रोवर्शियल प्रोविजन्स हो सकते हैं, वे आप नहीं करोगे, बाद में डालोगे तो यह ठीक नहीं है। यह केवल आपके मंत्रालय के बारे में नहीं है, अन्य बहुत से मंत्रालयों के बारे में भी है, इसीलिए मैंने यह मुद्दा उठाया है।

मेरा लास्ट मुद्दा है कि जब पिछली बार यह चर्चा का मुद्दा आया था तो एक प्रमुख बात थी कि क्या हमारे ट्रेड मार्क ऑफिसर्स को पूरी तरह से इक्विप किया गया है, जो इंटरनेशनल इतनी एप्लीकेशन्स आएंगी, दस हजार, बीस हजार, तो उसका एक पीरियड है। अगर वह 18 महीने में पूरा प्रोसेस कर रहा है, तो उसके लिए हमारे ट्रेड मार्क ऑफिसर्स को आज की कंडीशन में जो पर्फेक्शन चाहिए थी, क्या उसकी पूरी तैयारी की है? कहीं ऐसा न हो कि कानून बदला है और ऑफिसर्स तैयार नहीं हैं। मेरा आखिरी मुद्दा क्वालिटी का है, जिसका जिक्र अभी मंत्री महोदय ने जाते-जाते किया है।

एक ही ट्रेड मार्क है, लेकिन क्वालिटी डिफरेंट है। यह चाइना की प्रैक्टिस है कि चाइना एक ही ट्रेड मार्क का जो माल अमरीका में बेच रहा है, वह अलग है और जो भारत में बेच रहा है, वह अलग है। क्या भारत सरकार की जिम्मेदारी नहीं बनती है कि भारतीय ग्राहक को भी अच्छी क्वालिटी का माल मिले? उसको कौन देखेगा? He says

that other laws are there to address it. But, you can still very well provide it here. ऐसा नहीं है कि एक प्रोविजन एक लॉ में किया है तो दूसरे लॉ में नहीं कर सकते हैं। चाइना जो एक्सपोर्ट करता है, वह सीधे-सीधे दो कैटेगिरी, तीन कैटेगिरी का माल एक्सपोर्ट करता है, लेकिन ट्रेडमार्क एक ही है। Trade mark does to guarantee me the quality. यह मेरी और देश की सरकार की चिंता होनी चाहिए और इस चिंता का रिफ्लेक्शन इस कानून में होना चाहिए था, जो नहीं हुआ है, उसके बारे में भी मंत्री महोदय बताएं। सर, यही मेरे मुद्दे हैं, धन्यवाद।

SHRI SHANTARAM LAXMAN NAIK (Goa): Mr. Vice-Chairman, Sir, I stand here to support the Trade Marks (Amendment) Bill, 2009. Sir, the original Act of 1999 had replaced the then Trade and Mercantile Marks Act of 1958. At that time, there was a demand that the old legislation has to be replaced for better protection of trade marks. There was a demand from trading community that procedures should be simplified, and therefore, an exhaustive Bill, like the Bill of 1999 has to be passed.

Sir, in 1995, the Congress Government introduced a Bill on the lines it is there in 1999. Then, the BJP opposed it. Javadekarji, you are always negative, that is why I am telling you. Even in 1995, when we tried to introduce the original Act - in the year 1999, you passed it you opposed it. In the same manner, you are opposing it today. It is negative thinking.

उपसभाध्यक्ष (श्री कलराज मिश्र): शांता जी, आपस में नहीं, चेयर की तरफ ध्यान देते हुए बोलिए।

SHRI SHANTARAM LAXMAN NAIK: Afterwards, when you came to power, the same Bill you brought forward. ...*(Interruptions)*... The same Bill was introduced by you. आपकी ट्यूबलाइट बाद में जलती है। Therefore, the Bill which we introduced in 1995, you opposed. In 1999, you introduced the same Bill. ...*(Interruptions)*... It was an exhaustive law.

श्री रामदास अग्रवाल (राजस्थान): सीधी बात यह है कि इन्होंने अपोज नहीं किया है, सुझाव दिए हैं।

उपसभाध्यक्ष (श्री कलराज मिश्र): इन्होंने बिल का विरोध नहीं किया है।

श्री शान्ताराम लक्ष्मण नायक: अपोज नहीं किया है, धन्यवाद।

Sir, the object of the Bill is very laudable. As has been told by the hon. Minister, it states, "At present, a person desirous of obtaining registration of his trade mark in other countries has to make separate applications in different languages and pay different fees in the respective countries. There is no provision under the Trade Marks Act, 1999 to facilitate Indian nationals as well as foreign nationals to secure simultaneous protection of trade marks in other countries." This was noted by the trading community, and they have represented also. It further states, "The Madrid Protocol, administered by the International Bureau of the World Intellectual Property Organisation, a specialized agency of the United Nations, was adopted in 1989." Thereafter, on that basis, although it took a lot of time, after signing the Madrid Protocol, the desired law was enacted.

Sir, yesterday, we had passed two very important Bills. One Bill was moved by Shri Anand Sharmaji and another was moved by Shri Pranab Mukherjeeji. The two Bills were the Securities and Insurance Laws (Amendment) Bill, 2010 and the Foreign Trade (Development and Regulation) Amendment, Bill, 2009. Both these Bills are very important for our national economy as well as international trade. The third Bill will be this Bill. So, these three Bills, two of yesterday's and one of today's, are going to create a revolution in the field of trade, both national and international.

In this atmosphere it is most unfortunate that one of the US Senators Charles E. Schumer has rendered our Infosys Technology, a reputed firm, as 'chop shop'. Even our Leftist friends whenever they refer to any American company, they use sober language. But this US Senator has referred to our company as 'chop shop'. Now, when there was global recession, we know as to what was the situation of the United States during that recession period. At that time, we never called it as a banana republic. Anybody would have been justified to call the US as a banana republic at that stage. But we never called it like that. But the US Senator, I do not why, preferred to use these words. If that is so, what shall we call the Union Carbide? We have to call it a slaughter house, forget

about chop shop. It was a slaughter house opened by the United States. Therefore, on this occasion of this Bill, I would like to express my feelings for the same. Now, I was going through some of the cases under Trade Marks Act. I found that several cases arise, and have arisen in the last ten years. There were very, very small disputes. One dispute was between MP Jewellers and new MP Jewellers. The MP Jewellers are the original one. Then somebody opened a shop as New MP Jewellers in Kolkata. Then there was a dispute and the original MP Jewellers won. Then there was dispute between Sunlight and Hindustan Lever regarding Ujjala King. I am mentioning this because these are the basic trade disputes which arise. Then we have another matter not related to Trade Mark but to Copyright. A playwright wrote a play called Hum Hindustani and a film producer approached him to make a film called New Delhi. The producer announced and produced the film without consulting the playwright. Then there was a dispute. Ultimately, there was a distinction shown between the two. Then there was Swastik Masalaa Pickles & Food case challenging the brand Swastik. Such disputes arise from time to time. Therefore, these sorts of legislations are very important for the purposes of having smooth and disciplined trade. Now, trade mark is not a small thing. Trade symbolises the owner of a company. It also symbolises the family honour in some cases. In families which run companies, it is the honour of the family. It is a symbol of emotions in many cases. It carries values also sometimes and sometimes it is priceless. You can count the value in crores of rupees, that is the symbol, but sometimes one calls it priceless. Therefore, this is the feature of a trade. It is just to acquaint the hon. House with some of the kinds of trade marks. In Label we know, we have got this Brook Bond Tea. Then we have this famous name Vimal and we know it as Only Vimal. This is a brand name called Only Vimal. In letters we know ICI, RBI, etc. and in numerical, those who smoke cigarette, they know the brand 555. It is a big brand name, trade mark. As the Minister has said, in the shape of bottles also it is there. A shape of a bottle can also be a trade mark. Then we have colour combination. Many of us who have used Signal Toothpaste will see that colour combination is there, which is also a trade mark. Then you have collective trade mark. If you have a firm or an association like Sugar Manufacturers' Association or Textile Mills or any other

association, you can have a collective trade mark. Then you have got examples of hybrid trade marks like Maruti-Suzuki, Lehar-Pepsi, Hero -Honda, etc. These are called hybrid trade marks.

Then there are property trade marks like IR, i.e. Indian Railway and IA, i.e. Indian Airlines. Then, there are certification marks like Agmark. We give certification. Various types of trade marks are there. But a trade mark with a global reputation is called a well known mark. Such marks may or may not be registered as trade marks but are entitled to protection because they enjoy world wide recognition. This is very important. They would not have registered. Like for example, Tatas, Bajaj, Maruti Suzuki, Mercedes Benz, Omega, Rolex. These marks, even if they are not registered have got a reputation whereby, if there is an infringement, these people can challenge. So, well known trade marks enjoy protection even if they are not registered under Trade Marks Act, 1999. I had a doubt. I got it clarified that it is there. Last time, I even asked my friend Bajaj whether it is so. He was not aware that his trade mark is such that if somebody infringes he can sue the other party even if it is not registered. Sir, there are various things where you can refuse registration. Like for instance, (a) trade marks which are devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of another person, (b) which consists exclusively marks and indications which may serve in trade to designate the time, quality, quantity, intended purpose, geographical origin or time of production of goods or rendering of the services or other characters of goods and services etc. So, there are the provisions where you can refuse trade mark. This is mentioned in the Original Act, Sections 9 and 11. (c) A mark shall not be registered as a trade mark under 9 (2) if it is of such nature as to deceive the public or cause confusion, it contains or compromises any matter likely to hurt the religious susceptibilities of any class or sections of the citizens of India. If it comprises or contains scandalous or obscene matter or (d) its use is prohibited under the emblem and names, Prevention of Improper Use Act, 1950. So, there are many instances where provisions are made when registration can be refused. Now, in general concept we may feel that trade mark is an elite thing. Elite thing means only businessman, company people are concerned. It is not so. Common man today is equally concerned, or rather I would say more concerned with trade mark because if somebody infringes upon somebody else's trade mark we will get drugs which are fake, we will get consumer items which are fake, dangerous to our health and dangerous to our life. Therefore, such fake trade marks affect common people. Therefore, common man is equally concerned regarding this. You know in Mumbai, the famous USA, Ulhasnagar Sindhi Association. They manufacture anything under the sun. If you go to Delhi market you can get Usha

fans, you can get Khaitan fans, you can get Bajaj fans, you can get microwave ovens of any brand. So, who is cheated in this? The common people are cheated. Therefore, Sir, authorities under the Consumer Protection Act have to take *suo motu* action, move in the market to see which are the fake goods and who are using original trade marks of other companies for cheating the public. If these things are done, Sir, this Act can be usefully implemented and I congratulate the hon. Minister for bringing this legislation. Thank you.

SHRI TARINI KANTA ROY (Wes West): Mr. Vice-Chairman, Sir, we are discussing the Trade Marks (Amendment) Bill, 2009, which was passed by the Lok Sabha.

This Bill intended to insert specific provisions into the existing Trade Marks law so as to make it in tune with the requirements of Madrid Protocol. It suggests some procedural changes. But, the basis question is whether we should join the Madrid Protocol. This is the basic question. According to the TRIPS, it is not mandatory. Each and every country has the right to take its decision according to their objective realities. Sir, I would like to know how it is beneficial to our country. According to the Statement of Objects and Reasons of the Bill, it is beneficial to the Indian Trade Marks. It would reduce the cost of filing and also the time for processing. Look at the website of the World Intellectual Property Rights Organisation. The vast majority of Trade Marks are from the developed countries. There are about 10,000 applicants waiting. They are eagerly waiting to register in India with easy procedures.

Sir, before going to accession to the Madrid Protocol, we should evaluate the experience since the passing of Trade Marks Act in 1999. I would like to know whether there is a proportional increase of registration of Trade Marks of Indian origin or is there an increase in registration of Trade

Marks of Indian corporate with foreign origin. This question should be addressed. I request the hon. Minister, through you, Sir, the existing Trade Marks Act should be revisited and the Government should come out with a new law to protect the national interest.

The second question is, whether the Register Office is sufficiently equipped with for implementing the provisions of this Bill. The Standing Committee has also raised this issue. Sir, Sub-Clause (6) of Clause 5 provides the Registrar shall notify the International Bureau its acceptance of extension of protection of Trade Mark with a period of eighteen months. The said Sub-Clause also provides for 'deemed extension of protection' in case of failure on the part of the Registrar to notify the International Bureau. In the present scenario, the deemed extension would be the order of the day. So, I suggest that this should not be incorporated now.

Sir, I would like to know whether the Government has planned to formulate different rules for national and international applicants. I would also like to know whether the Registrar Office is equipped to differentiate between national and international applications. These questions should also be answered.

The next point is the Amendment Bill does not prescribe the standard guidelines for prosecution of Trade Marks, as presently, every country will have independent standards for prosecution of Trade Mark applications and indeed some countries may have much stringent procedures for securing and/or maintaining trademark registrations. Also, the basic principles of Trade Mark law may differ from country-to-country, as for instance, an invented mark or a unique mark in India may be deemed as a generic or even obscene mark in some other country. Therefore, there is a need to introduce a common appraisal system with identified minimum thresholds for assessments.

Some legal experts have pointed out that the implementation of Madrid Protocol would conflict with section 24 of the Advocates Act. But in my point of view, the existing provision in the trademark rules that every applicant should have an address for service in India - is good. But the Government should address the contradiction between these two.

Sir, this Bill does not differentiate between trademarks and Certification Trademarks or Collective Trademarks and does not lay down any procedures for their treatment. This will have to be clarified.

There is an apprehension that while corporate will benefit from the deal, the Government and the local trademark attorneys may lose out as it would reduce local filings considerably. And also with more marks registered, there could be a decreasing availability of marks for small entities solely for domestic use.

So, I, once again, request the hon. Minister to revisit the 1999 Act itself and come with a new comprehensive Act.

Thank you very much.

श्री महेन्द्र मोहन (उत्तर प्रदेश): उपसभाध्यक्ष महोदय, मैं सर्वप्रथम मंत्री जी को बधाई देना चाहूंगा कि ये जो अमेंडमेंट बिल लाए हैं और जो मैट्रिट प्रोटोकॉल को इन्होंने अडॉप्ट करने की बात रखी है, यह निश्चित रूप से एक सराहनीय कदम है। मैं उनका ध्यान स्टैंडिंग कमेटी के उस रेकमेंडेशन की ओर दिलाना चाहता हूँ, जिसमें क्लॉज 3 के बारे में कहा गया है, "The Committee recommends that the proposed amendment to section 23 should not come into force till the trademark registry is sufficiently and adequately equipped to dispose of both, the domestic and the international applications, within the stipulated period of eighteen months from the filing of such applications." मैं यह तो नहीं चाहूंगा कि वे delay करें, लेकिन मेरा उनसे यह अनुरोध रहेगा कि जब वे इस बिल को introduce कर रहे हैं तो इसके साथ ही साथ वे वहां पर ऑफिस का arrangement ऐसा कर दें, उसको ऐसे properly equipped कर दें कि trademark की applications online लग सकें। अगर उन पर online decisions भी दिए जाएं तो बहुत अच्छा रहेगा जिससे कि इस कार्य में सहूलियत होगी और यह कार्य और अच्छे रूप में किया जा सकेगा तथा इस बिल का जो object है, उसे हम पा सकेंगे।

इसी प्रकार, 36 (h) Uniformity of standards के बारे में प्रकाश जी कह चुके हैं, मैं उस पर नहीं कहूंगा, लेकिन माननीय मंत्री जी उसके बारे में भी देखेंगे कि क्या कारण है कि उस recommendation को नहीं माना गया है। इसके साथ ही साथ मैं यह चाहूंगा कि आप जो मैट्रिट प्रोटोकॉल को ला रहे हैं, उससे हमारे देश को जो फायदे

होंगे, उसके बारे में कुछ और जानकारियां उद्योग जगत को दें। क्योंकि, हमारी जो इंडस्ट्रीज हैं, उनके ट्रेडमार्क की 620 applications इंटरनेशनल जाएंगी, जैसा प्रकाश जी ने कहा और 10 हजार applications उधर से आएंगी। इस अमेंडमेंट के द्वारा ये आगे आने वाले अमेंडमेंट के द्वारा ट्रेडमार्क में कुछ ऐसी चीजें भी की जानी चाहिए कि जो ट्रेडमार्क में रजिस्टर्ड नहीं हैं, लेकिन जो उद्योग के अंतर्गत बिल्कुल जाने-माने नाम हो जाते हैं, उसमें जो duplications होने लगती है, जैसा अभी कहा गया है कि उल्लासनगर सिंधी एसोसिएशन के अंतर्गत हर प्रॉडक्ट बन जाता है, तो उसके ऊपर भी ट्रेडमार्क ऑफिस द्वारा कुछ ऐसे कार्य किये जाने चाहिए या एक्शंस लिए जाने चाहिए कि उसका दुरुपयोग न हो, क्योंकि जब इस प्रकार की चीज का दुरुपयोग होता है तो उससे हमारे देश की बदनामी होती है।

इसी प्रकार, मैं उनका इस ओर भी ध्यान दिलाना चाहूंगा कि इन्होंने जो यह कहा है कि हम 18 महीने के अंदर इन सारी चीजों को कर लेंगे, रजिस्ट्रेशन के बारे में जैसा मैंने पहले पढ़ कर बतलाया, तो ये उस infrastructure को शीघ्र से शीघ्र पूरा करें। मैं इनका ध्यान एक और बात की ओर आकर्षित करना चाहूंगा कि ट्रेडमार्क के अंतर्गत रजिस्ट्रेशन के लिए अभी इसमें सारे रूल्स बनाये जाने हैं। उन रूल्स को बनाते समय आप इस बात का विशेष ध्यान रखें कि International Standards क्या चल रहे हैं, क्योंकि जब ट्रेडमार्क का रजिस्ट्रेशन होगा और सारे देश में मैट्रिट प्रोटोकॉल के अंतर्गत सारा कुछ आ जाएगा तो उसमें हमें यह देखना पड़ेगा कि किस देश का क्या कानून है, किन सिद्धांतों पर वहां laws बन रहे हैं, क्योंकि इसमें ट्रेडमार्क generic भी हो सकता है। वह generic trademark कहीं पर obscene बन जाता है और कहीं पर सही बन जाता है। इन सारी चीजों को भी देखें जिससे कि common appraisal system ऐसा बन जाए कि वे सारी जानकारियां समय पर ली जा सकें और उस कार्य को सही रूप से किया जा सके। इसका सही रूप से क्रियान्वयन किया जाए, यह बहुत आवश्यक है, क्योंकि केवल कानून बना देने से ही कार्य सिद्ध नहीं होगा। आप बहुत-बहुत बधाई के पात्र हैं।

SHRI SYED AZEEZ PASHA (Andhra Pradesh) : Sir, I thank you for having given me this opportunity. The hon. Minister has given a detailed explanation about the objectivity of this Bill. I think this Bill is going to simplify the procedure which was, previously, very long. Mr. Javadekar has expressed his apprehension, because, there are many persons who are in the habit of registering and keeping to themselves. So, we should be a little bit careful that this sort of infringement should not be there. Infringement is a big problem in some Asian countries like India, China and Vietnam.

Since these marks are easily available, some of these countries can manoeuvre the things. Therefore, it is really necessary that we should be over cautious in this. For example, in China, last year, it was close to 15,000 trade marks. Then, comes Russian Federation, Switzerland and European Union. In our country also, so many people are applying for trademarks. We should be very much cautious about this. As regards the disposal of registration, though we are saying that we are going to dispose it of within no time, we should ensure that the disposal of a case is done in the fastest way. Sir, I just want to ask two, three more things. Are we going to have a single window integrity system for the trademarks or not? This is number one.

Number two, I feel that there is a need for organizing awareness seminars and workshops for disseminating the advantages and other things. Then, we should further upgrade the IT infrastructure of the TMR. These are some of my suggestions. I hope the hon. Minister will take into consideration all these suggestions before giving the reply.

SHRI V.P. SINGH BADNORE (Rajasthan): Mr. Vice-Chairman, Sir, I stand to speak on this very important piece of legislation. It is important because, today, our traders are not just domestic, they are also going outside. They are selling their goods outside. If I remember very correctly, it was mandatory for us to join the WTO and before that we had to complete all these IPRs and trade mark was one of them. Nothing has been mentioned about the WTO, but I must say that since this legislation was referred to the Standing Committee, all this must have been really discussed there. I have a few things to ask from the Minister. Sir, I was reading the biography of Sony. If I remember correctly, it was a Japanese who started with very small radios that they used to make. Today, the trademark of Sony is very well known in the world. I remember that when he first went to the US, he got a big order of 250,000 radios but the only condition that the US firm, which was buying those radios, put was that, "you will have to put the trademark, the name that I want you to put, not the Sony." I remember that in that biography, it is mentioned that he could not sleep the whole night. He was worried as to whether he should give up this big order or go with Sony. Next morning, he said, "if you want to place an order with me, I will put the stamp of Sony and nothing else." That sort of important this Bill is. Today, the TATAs are buying the JAGUAR trademark.

We are in the world of takeovers. Our companies are going abroad, taking over big companies; mergers are happening. So, it is a very important piece of legislation. I want to ask the Minister a very specific question. Regarding this IPR and the Madrid Protocol that is going to be on board now, I want to know what did it really mean from 1999 to this date. That means, we could not have got our trademarks outside or was it something different? How many countries in the world today are going to accept it? Suppose the Chinese today get all the trade marks of our country and start selling all these fake goods in this country and have this trade mark, how are we going to stop it? Especially in the textile world, there is the fake cloth that is coming into the market with the branding and all that. That is very difficult. So, all this is very, very difficult. It is not all that easy as we are saying it. We are getting on board of this Madrid Protocol. So, I want to ask a few questions. My friend here raised very important questions. Those are very important questions that have to be addressed.

Then, Sir, talking about the substandard and the fake, a colleague of mine very rightly said that there are names like Omega and Rolex which even without the trade mark have a big name. But they are all trade marks and if somebody goes and buys a fake Omega or a Rolex, he can be hauled up, he can be really punished in different countries. In Singapore, if you go and buy a fake Omega and if you are caught at the airport, they can really punish you.

So, all those things are very important but I must say that this is a very important piece of legislation and we must go on board of the Madrid Protocol. Thank you very much.

SHRI SYED AZEEZ PASHA: Sir, I have a small suggestion. The Supreme Court for the trade mark of Field Marshals has laid down certain broad principles. I don't know whether you are aware of it or not. If you are not aware of it, I think, it will be good if you go through it and follow those broad principles laid down by the Supreme Court. That is the only suggestion.

SHRI ANAND SHARMA: Sir, while moving the Bill for the consideration and passage by this House, I had very clearly explained the objectives and the benefits, the need to align our Trade Marks

Act of 1999 with the Madrid Protocol so that the statutory provision is there for the filing of application, etc. The registration and the framing of rules will be done once the amendment is passed by the House, as has been passed by the Lok Sabha earlier.

I did explain that there is no substantive change in the Trade Mark Act which is being brought about. No substantive rights are being conferred. It is only a simple, cost-effective and facilitative process for the filing of applications for registration of the Trade Marks by Indian enterprises in other countries and by the enterprises which have registered trade marks in their respective countries for their registration in this country.

That, surely, would be done only after such an application has been made. Mr. Singh had asked about the benefits and Mr. Javadekar, my dear friend, had raised certain questions.

At the outset, I would like to make it absolutely clear that this has been considered by the Standing Committee. The Standing Committee's recommendations have been incorporated. We have not made any change except for one, which we could not accept. I did explain the reasons, but I would come back to it again for your absolute satisfaction. After the report of the Standing Committee, only an explanation to Section 11 was included, which I did mention in my opening statement, is purely technical in nature and nothing beyond that. So, it is not a question of Government not respecting the Standing Committee's wisdom and its consultations with the stakeholders; we do; that is why, those are incorporated. But, at the same time, it is not absolutely an imperative for the Government to accept in totality all the recommendations that have been made. But, yes, the Bill, as such, has to be passed by the hon. Members, by this august House, and, therefore, when a query is raised, it becomes the responsibility of the Government to respond to that and if there is an explanation required, to give the same. That is the spirit of our parliamentary democracy.

As I had said, after our accession to the Madrid Protocol, if once an application is filed, then, automatically, through the International Bureau it will be transmitted to all the countries which are party to the Madrid Protocol. But, that does not mean that there will be automatic registration,

whether in India or in other countries. Now, a trademark only distinguishes; it is an identity mark of what is produced or manufactured by an enterprise or entity here and the standard of that product; trademark never deals with the quality of the product; it is only for identity. The same product could be manufactured by hundreds of manufacturers, whether it is soap or talcum powder, whether it is pickle or burgers. An Indian enterprise which has a trademark will have the benefit. 'The benefit is this: In all those 84 countries, the Indian entrepreneur would have to go and file the applications and pay fee 84 times. The fee itself is fairly high; it is more than 653 Francs plus 73 Swiss Francs for every supplementary for each class or country. So, if you look at the fee, is it beneficial for an Indian enterprise to travel to 84 countries. Now Mr. Javadekar was saying that it is a question of the Indian lawyers. Now, how much business comes to the lawyers by filing applications in this country? How much will be lost by our small entrepreneurs in travelling or engaging law firms in 84 countries, filing applications in different languages whether French, German or Spanish? Or, is it beneficial that an application is filed here? And if automatically transmitted, the fee is paid here, not in Swiss Francs; you pay the fee here. But, why should there be benefits for entrepreneurs of other countries? As Mr. Javadekar was saying, it would benefit them too. Now we live in a globalization world, interconnected and inter-dependent. This House will appreciate that you cannot say, 'I will not join a regime, an intellectual property regime, which is becoming increasingly important considering that it is a product of mind, whether it is innovation or research, which can be traded like any other property'. That is why, there is the IPR regime, particularly, in the knowledge-based economies, it is going to become more and more important. But we have a balanced approach, not only to protect, but also to ensure that access is given.

But once it is filed there is 18 months' period for the examining authority, which will be under the Trade Marks Registry, to examine an application and that application examination of any foreign application will be as per the Indian law and as per the Trade Marks Act which we have. It will not be as per the law of any other country. Similarly when you file it, it will be examined in those countries. It

is not a question of number. I find it a bit strange when a number is given. I checked it but I found that we do not have this number that Indian enterprises have filed 600 applications. This is without disputing if you have said so, but Mr. Javadekarji, you must have done a good homework. But even assuming that this is a correct number, not accepting, and that in India 10,006 international applications have been filed - that is the case which you are trying to build up - now multiply 600 by 84 countries. What number is there? I was not a good student of mathematics, but it is 50,400. Sir, 10,000 applications come and your 600 applications go to 84 countries, look at the benefit and advantage. Of the 7,00,000 trade marks which have been registered here, 80 per cent have been given to the small and medium enterprises. So, most of the trade marks registration is for the small and medium enterprises; it is not by large enterprises and, therefore, the benefits are visible. The question is: is it binding? Again many Members such as Shri Tarini Kanta Roy and Shri Javadekar, have raised it. The answer is 'No'. Is it beneficial? The answer is 'Yes', which I have explained. When do we have it? There is no time-frame. By having this Amendment, we will bring our law and our Trade Marks Act in line, aligning it completely with the Protocol enabling us to sign it. But the timing will be of our choice when we are ready. I entirely accept that we have to ensure protection of our trade marks, that the violation should not take place. It was said that this is being done under pressure. The answer is 'No'. With all due respect, Javadekarji, if anybody has informed you that this has been done because of the India-EU ongoing negotiations for a bilateral trade and investment agreement and this demand has been made as a pre-condition, I am afraid that you have been wrongly informed. This is not correct information at all. India does not negotiate on the basis of pre-conditions; we do not sign international treaties or protocols under pressure. We are a sovereign country answerable to our people. There may be a disagreement between the Government and the Opposition and that is why both the Executive and the Opposition play a very important role. But, at the same time, raising an issue which is a non-issue perhaps is not useful and serves no purpose. What is being discussed there between India and the EU, I did explain it in a different context when I

had moved yesterday for the consideration of this House the Foreign Trade (Development & Regulation) Amendment Bill. Ten rounds of negotiations have been concluded and the negotiations continue. There is a negotiating mandate which is given to our negotiators by a Committee chaired by the Prime Minister of the country which includes all key Ministries and all sensitive Departments. Even negotiations and in-principle agreements do not mean a binding agreement unless and until it is cleared again by the entire Cabinet.

[THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair]

We have not reached that stage to discuss in public domain. But, I can say today again on record, which I said yesterday, that India's negotiators are sector-specific, subject-specific experts. As I informed earlier, what is a Government? It is not a Minister who negotiates. Ministers may know, at the macro level, what the subject is. But, when the specific technical details are required, that is the job of the experts. And, they are as sensitive to India's national priorities as you and I are. They are as committed to this country and its supreme national interest as any one of us is. So, we must trust them because they cannot come here and give an explanation each time that they are patriotic, they are nationalist, what they are doing is in this country's interest. There is no reason, while debating, to doubt either their intent or their commitment. Please, have that much of confidence and trust in our negotiating teams and the job which they are doing.

One question has been raised whether Indian trademarks can be blocked. Now, only if a trademark is genuinely registered in another country, then only a foreign enterprise can block it. Or, an Indian enterprise, if it has a trademark which is meant only to distinguish the product that it is made by this company, it is of this standard, then, they also have recourse to this provision. But, no registration, as I said, is automatic. It is after examination. It will be under our law. If our law or our examining authority does not find it worth registering, they can reject the application itself. It is not entering into a binding commitment situation where application filed gets registered. But, they have

very clear provisions. Just to share it with Mr. V.P. Singh, this is just an amendment. It has very limited purpose. This is not making substantive changes. The Trademark Act remains. And, there are penalties, penal provisions for falsifying and falsely applying for trademarks. That is in section 102, and penalty is prescribed in section 103 for applying¹ for false trademarks, trade descriptions. There are appellate provisions. There are penal provisions. That care has already been taken. This amendment Bill is not meant to address that issue which is already there. We are not taking these provisions away, nor are we changing them.

Many other matters have been raised about whether we are equipped. This is very valid concern. There are pending applications. We are in the process of strengthening our intellectual property regime. Therefore, the registering authorities, the offices, have to be upgraded in terms of human resources, infrastructure, technology, software. Under the Tenth Plan, a large sum was spent in creating four smart offices of the Trademarks and Patents Registration in Delhi, Mumbai, Chennai and Kolkata. Under the ongoing Eleventh Plan, Rs.300 crores have been earmarked for strengthening these offices. The process is on. And, I am sure that with the funds that have been allocated, we will be able to bring in more quality human resources and also upgrade the facilities so that the registration process, and prior to that, what is equally important is the examination of applications, the processing of applications, is done in an efficient manner.

There was some reference made by my dear colleague, Shri Shantaram Laxman Naik, on a remark made by a US Senator against one of our leading IT companies, Infosys. Well, our Members of Parliament, Members of other Parliaments, Senators, or others have a right in democracies to make their observations. It does not mean we will accept that.

But, however, the Indian IT industry has made a notable contribution. It is acknowledged globally. India is a world leader in IT-enabled services. Infosys is again a global name, a global brand. So, I will term any disparaging remark as unfortunate and avoidable.

Lastly, it is again a question, which I had mentioned right in the beginning, about the quality. When it comes to the trade marks, it is only to identify; it is a sign of identity, whether it is a number, it is a colour, it is a shape, and, that the product produced by this person or enterprise and

it is of this standard; but it is not so when it comes to the standard and the quality of service. Now, that is the difference when it comes to 36(h), which I did explain. Except distinguishing the goods and services, trade marks are not indicators of quality. That is why, I referred to other Acts, including the Consumer Protection Act, which deals with such issues.

When I referred to the local raw material, which is used, it was not without justification. Take for example, a trade mark of a pickle or Haldiram's Bhujia. Now, in Bhopal, it may taste slightly different because of the local ingredients, and, in Delhi, it may taste different. So, even within the country, you cannot say that from Cochin to Kolkata, it will be of the same flavour. The oil that is used, the local material that is used, and, even water have their impacts.

You are now talking of extra-territorial jurisdiction to all the countries. We register as per our law. Other countries also have their own laws and their own registration processes. We cannot mandate that what is done here has to be done in all the other countries. That is not done. Therefore, we are not doing anything which is improper or incorrect. We have examined it. And, this is the only provision where we are not in a position to do that because neither Paris Convention, TRIPS nor the International Patents Treaty accepts that. Therefore, going beyond that, is certainly not in our domain, not in our jurisdiction.

Sir, I have tried to respond to every query, every question, which the hon. Members have raised, and, I hope, considering what I have said, this august House will pass the Bill.

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): The question is:

That the Bill further to amend the Trade Marks Act, 1999, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, we shall take up clause-by-clause consideration of the Bill.

Clauses 2 to 10 were added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): In clause 1, there is one amendment no. 2 by the hon. Minister, Shri Anand Sharma.

Clause 1 - Short title and commencement

SHRI ANAND SHARMA: Sir, I move:

That at page 1, line 2, *for* the figure "2009", the figure "2010" be *substituted*.

The question was put and the motion was adopted. Clause 1, as amended, was added to the Bill.

ENACTING FORMULA

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): In the Enacting Formula, there is one amendment no. 1 by the hon. Minister.

SHRI ANAND SHARMA: Sir, I move:

That at page 1, line 1, *for* the word "Sixtieth", the word "Sixty-first" be *substituted*.

The question was put and the motion was adopted.
The Enacting Formula, as amended, was added to the Bill.
The title was added to the Bill.

SHRI ANAND SHARMA: Sir, I beg to move:

That the Bill, as amended, be passed.
The question was put and the motion was adopted.

STATEMENT BY MINISTER - Contd.

Oil spill off Mumbai coast

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI JAIRAM RAMESH): Sir, I rise to make a *suo motu* statement on the environmental implications of the recent incident of oil spill off Mumbai coast.

At around 09.15 a.m. in the morning of August 7, 2010, there was a collision in the Mumbai harbour between a container vessel MSC Chitra, which was proceeding from the Jawaharlal Nehru