

[9 May, 2002]

RAJYA SABHA

श्री रमा शंकर कौशिक (उत्तर प्रदेश) : महोदय, मैं माननीय सांसद से स्वयं को संबद्ध करता हूँ।

SHRI MANOJ BHATTACHARYA (West Bengal): Sir, I associate myself with the sentiment expressed by the hon. Member.

श्री विजय सिंह यादव (बिहार) : सभापति महोदय, मैं माननीय सांसद से स्वयं को संबद्ध करता हूँ।

THE PATENTS (SECOND AMENDMENT) BILL, 1999

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI MURASOLI MARAN): Sir, I move:

"That the Bill further to amend the Patents Act, 1970, as reported by the Joint Committee, be taken into consideration."

Hon. Chairman, Sir, we may remember that the agreement on TRIPS forms an integral part of the GATT Uruguay Round. The Draft Final Act was signed in December 1993 and the Pact was signed at Marrakesh, on 15th April, 1994.

We are all aware that the text of the TRIPS is a masterpiece of ambiguity, couched in the language of diplomatic compromise, resulting in a verbal tight-rope walk, with a prose remarkably elastic and capable of being stretched all the way to Geneva.

The Bill further to amend the Patents Act, 1970 has five fold purposes.

First, we want to carve out a law, without permitting any ambiguity under the TRIPS agreement to come in our way, to enable us to safeguard our national security, national interests, public health and ensure availability of medicines at affordable prices, which is one of the human rights.

Second, we need to design a new system for a new era of explosions of state-of-the-art technologies, since internationally

approved patent protection regime has become the measuring rod of a country's technological and industrial progress and the protective shield for knowledge driven economy.

Third, the conscience of the humanity was awakened, which was helplessly watching while millions died, and millions more continue to suffer in silence because of HIV/AIDS. International public opinion turned very critical by saying that it was a blatant abuse not only of the very patent system, but also even of the Universal Declaration of Human Rights, and of human values. India, along with Brazil and about 55 African countries, took the lead and the result was the path-breaking Doha Declaration on the TRIPS and Public Health. It provided flexibilities and there is a need to make use of them to the fullest possible extent in our law.

Fourth, there, are international obligations flowing out of the TRIPS Agreement. Certain obligations had to be fulfilled by 1.1.2000, and we are already late by more than two years in spite of our best efforts.

And lastly, we have to make the administrative system more user-friendly.

I am happy to say that the JPC has taken full note of all developments in its comprehensive report and provided necessary safeguards which are required by availing the flexibilities in full. The Committee held 39 meetings over a period of two years to consider the provisions of the Bill and finalize its views. During its deliberations, the Committee also had meetings with different stakeholders.

The Committee has reinforced the flexibilities already provided in the legislation with a view to address national and public interest requirement/concerns, especially those relating to public health and nutrition. More importantly, the Committee has fully restructured the existing provisions relating to public interest, compulsory licensing,

Government use, national security, protection of traditional knowledge, protection of public health and nutrition, as contained in Chapter XVI (Working of Patents, Compulsory Licences and Revocation) of the Patents Act.

•I am happy to inform the House that the Government has decided to accept the Bill, as redrafted by the Committee, virtually in its entirety and totality. May I wholeheartedly convey to the Chairman, hon. Thiru T.N. Chaturvedi, and all other hon. members of the JPC our compliments for the re-working of the Bill to meet the needs of the nation? Some amendments, for which I gave a separate notice, are also proposed.

There are provisions in the Bill providing a wide-ranging and powerful weapon to the Government to extinguish the patentees' exclusive right immediately and acquire it if the occasion warrants. Let any crisis situation be visualised; the present Bill covers' all contingencies.

Therefore, we all can be proud that we have not diluted any of the earlier provisions nor compromised our positions and interests, rather we have designed a strong and modern IP Act.

I may mention upfront that introduction of the product patent regime for drugs, pharmaceuticals and agro-chemicals, is not contemplated in the present Bill because India is not obliged to provide that until 1.1.2005. A separate legislation in this regard will be necessary at the appropriate time.

Let us set aside the international and interna) 'Pharma-politics' and look at the future. The Indian drug-pharma industry has made the fullest use of the Patents Act of 1970 and we are now not only the net-exporter of generic medicines but also emerging as the new leader of the knowledge-based drug industry in the world, following software and IT. Now is the time for the rest of the industry to come out of its 'Reverse-engineering Mode' and move forward into the era of innovative R&D Mode', clinching the opportunities.

I have no doubt that our industry has the necessary strength, capability, dynamic thinking and growing confidence to take advantage of the new era. Many Indian companies have pioneered and demonstrated these qualities and they deserve our praise.

Those who want to specialize in generic medicines need not be worried, since around 90 per cent of medicines in the world are generic medicines only and the situation is likely to continue to be so, since thousands of patents are expiring every year. And none of the 279 drugs listed in the National Essential Drug List (1996) of Government of India, is covered by patents today.

Some tend to be unduly critical of the Bill, and say that this Bill is not TRIPS-compliant and it goes beyond that. These criticisms, if true, show that we are on the right track and our Bill is strong enough. But I would, categorically, state that those criticisms are misplaced because all aspects and relevant provisions of the TRIPS, the Paris Convention and the other Conventions, the post-TRIPS patent laws of different countries and Doha Declaration have been taken on board. All ambiguities have been removed, and available flexibilities are made use of to the maximum extent, to protect the varied interests of our nation.

As the Bill reflects the united will and wisdom of the JPC, and as we have discussed them many times earlier, I pray for a constructive consensus from all sections of the House. Let the world know that Indian democracy correctly honours its international commitments.

With these words, I place the Bill before this august House, and as it is a national endeavour, I appeal for support, transcending party-lines. Thank you.

The question was proposed.

MR. CHAIRMAN: Now, it is three minutes to one o'clock. Should we adjourn the House now?

SHRI PRITHVIRAJ CHAVAN (Maharashtra): Sir, I will start my speech after lunch.

MR. CHAIRMAN: Okay, he will start after lunch. The House stands adjourned till 2 o'clock.

The House adjourned for lunch at fifty-seven minutes past twelve of the clock.

The House reassembled after lunch at two minutes past two of the clock.

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA) in the Chair.

Re. Jaguar aircrash near Ambala

श्री सुरेश पचौरी (मध्य प्रदेश) : मैं आपकी आज्ञा से एक मिनट में सदन का ध्यान आकर्षित करना चाहता हूँ।

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): But we are taking up this discussion.

श्री सुरेश पचौरी . केवल एक मिनट लूंगा उपसभाध्यक्ष जी।

अभी अभी समाचार मिला है कि अम्बाला के पास भारतीय वायु सेना का जगुआर विमान गिर गया है। उसमें पायलट की भी मौत हो गयी है। उसके साथ काफी नुकसान हुआ है। मान्यवर, पिछले कई दिनों से ये समाचार मिल रहे थे कि मिग-21 दुर्घटनाग्रस्त हो रहे है। एक माह में चौथी वायु सेना के विमान की दुर्घटना है जो निस्संदेह देश के लिए चिंताजनक है। इसलिए मैं आपके माध्यम से सरकार से आग्रह करना चाहूंगा कि इसे बहुत गंभीरता से ले और अच्छा हो कि लगातार जो, चाहे मिग-21 की दुर्घटना हो रही है या भारतीय वायु सेना के अन्य विमानों की निरंतर दुर्घटना हो रही है, इनको गंभीरता से लेते हुए सदन में वक्तव्य दें।

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): Okay. Now, we take up discussion on the Patents (Second Amendment) Bill, 1999. Shri Prithviraj Chavan.

THE PATENTS (SECOND AMENDMENT) BILL, 1999 - Contd.

SHRI PRITHVIRAJ CHAVAN : Thank you, Mr. Vice-Chairman, Sir. Sir, I stand to support the Patents (Second Amendment) Bill, as amended. The Congress Party is committed to fulfil its obligations arising out of our signing of the Marrakesh Agreement which launched WTO eight years ago. The experience of last eight years has been mixed. In many areas, the promises made during the Uruguay Round negotiations have not been fulfilled by the developed world. The expected gains have not accrued in many areas. Learning from this experience, we have to look at this legislation. We have to tread very cautiously when you look at the entire