

INDIA - PATENT PROTECTION FOR PHARMACEUTICAL
AND AGRICULTURAL CHEMICAL PRODUCTS

Request for Consultations by the European Communities

The following communication, dated 28 April 1997, from the Permanent Delegation of the European Commission to the Permanent Mission of India and to the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article 64 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) in conjunction with Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), I request consultations on behalf of the European Communities and their Member States with the Government of India regarding the absence of patent protection for pharmaceutical and agricultural chemical products or the absence of formal systems that permit the filing of patent applications of and provide exclusive marketing rights for such products.

Under Article 70, paragraphs 8 and 9, of the TRIPs Agreement, all WTO Members which do not provide for patent protection for pharmaceuticals and agricultural chemicals on the date of entry into force of the WTO Agreement pursuant to Article 27 TRIPs Agreement are obliged to establish a means by which applications for patents of such inventions can be filed and a system whereby exclusive marketing rights will be granted for such products.

India's law does not currently contain any provision to protect pharmaceutical and agricultural chemical products by patents nor does it provide for a permanent system that conforms with Article 70, paragraphs 8 and 9, TRIPs Agreement. In the view of the European Communities and their Member States, the Indian legislation is therefore not compatible with India's obligation under the TRIPs Agreement.

I look forward to receiving your reply to the present request for consultations and to agreeing on a mutually acceptable date on which these consultations can be held.