# TRIPS: A Blessing in Disguise to the Indian Pharmaceutical Industry

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## Abstract

Indian Pharmaceutical Industry flourished under the Process Patent regime ushered in by the Indian Patents Act of 1970. The Industry could export bulk drugs at competitive prices and made formulations for domestic consumption. Multinational pharmaceutical companies were reluctant to enter India in a big way as the process patent protection permitted reverse engineering of their products.

India was a signatory to the TRIPS agreement and so complied with the same through successive amendments to its Patents Act. Finally, the Product Patents regime was ushered from January 1, 2005 through the provisions of the Patents (Amendment) Act 2005. This Paper presents a critical analysis of the significant features of the Patents (Amendment) Act 2005 like Scope and Exceptions to Patentability, Pre- and Post-grant opposition, Compulsory Licensing, Lock-box Patents and Exclusive Marketing Rights, Bolar Provisions and Parallel Imports etc.

The Paper then takes up the issue as to how TRIPS compliance has spun off positive developments in the Indian Pharmaceutical Industry. There was a fear that Multinationals would crush the Indian Pharmaceutical Industry with their patented Products. However, the Industry showed surprising resilience accelerating its R&D efforts and adopting a growth strategy through the acquisition of foreign pharmaceutical firms. Also, it adopted several cost cutting strategies like the Novel Drug Delivery Systems and emerged as a cheap producer of Generic Drugs to the entire world.

As such, the TRIPS mandated Product Patent regime seems to be a blessing in disguise to the Indian Pharmaceutical Industry. The Product Patent protection encouraged the industry to seek patent-protection for its own home grown molecules in the US and the EU-countries. India has emerged not only as a producer of cheap bulk drugs but also as a savior of the poor of the World through a copious supply of life-saving generic drugs.