

Govt to set norms to decide drug patent holder's royalty

Our Delhi Bureau

13 OCTOBER

MULTINATIONAL drug makers wanting to sell their medicines here after patenting them, will get a fair deal in royalty when they talk to local companies which are already selling cheaper copies here.

Presently, the law says a 'reasonable' royalty could be negotiated between the patent holder and the generics seller, but does not say how much would be reasonable. A patent holder has to agree for a royalty deal and cannot force a generics seller out of the market if the patent application was made between 1995 and 2005.

The government will set the parameters for deciding how much would be reasonable so that the ambiguous provision will not lead to a wave of litigation between the patent holder and the Indian companies already selling the product's copy here. It will be linked with the cost of innovation, said Dr Ajay Dua, secretary, department of industrial policy and promotion, at a seminar on patent law organised here today by Healthcare & Industry Information Centre.



Dr Dua said that at last week's Geneva talks of World Intellectual Property Organisation (WIPO), India could make the developed countries agree to talk on our concern of protecting traditional knowledge.

He said that India could reverse the priorities set at WIPO's Casablanca meet earlier, according to which, developed nations' priority areas were to be discussed first. India has also agreed to discuss harmonisation of its patent laws with that of the developed world.

The US had been demanding acceler-

ated talks for a common definition of four key issues—public domain knowledge called 'prior art', novelty of an invention, patentability and the grace period during which an inventor need not share the benefits with the original holder of traditional knowledge—which has not been accepted. These areas which are of interest to the West, will be discussed only together with India's concerns of protecting traditional knowledge and biological resources. The discussions will be holistic and no issue will be given a priority, said Mr Dua.