Brand name companies would benefit the most from the change. Their patented products would enjoy a longer period of market exclusivity before generic versions of the products are allowed into the market. This has prompted fear among consumer groups in India of a drastic increase in the price of pharmaceuticals. The Indian government has estimated that the prices of up to 15% of all drugs will increase due to the TRIPS agreement. Other estimates have placed the percentage up to 50%.

To allay this fear, the Indian government will retain the right to control the price of all drug products through its new regulatory body, the National Pharmaceutical Pricing Authority (NPPA), a division of the Ministry of Chemicals.

TRIPS also provides a 10 year transitional period (beginning January 1995) for developing nations, thus allowing India to continue to prohibit pharmaceutical product patents until 2005. Until that time, however, India must respect only a few minor TRIPS provisions.

Among these is the requirement to accept patent applications by January 1, 1995. Though a bill was presented to parliament in 1994, it expired six weeks later without being passed. Another bill, supposed to introduce product patents died this year when parliament was dissolved for national elections. The government has said it will accept patent applications retroactive to January 1, 1995 once a bill is passed.

Amendments to the patent act had been approved by the lower house (Lok Sabha), and were awaiting approval from the upper house, (Raiya Sabha) where opposition was stiff. The process must now start anew and be re-introduced by the new government. The timing and content of any new legislation will depend on the make-up of the new government.

In the meantime, the delay has exasperated trade frictions with the United States which claims to be losing over $US 400 million a year due to copying of its products. The U.S. recently announced that it would bring its complaint before the World Trade Organisation.

The impact of TRIPs on the Indian pharmaceutical market can be estimated through a comparison with the United States. 44% of pharmaceutical products presently sold in India are covered by product patents in the United States. Breaking these out by class we see that 99% of anti-ulcer drugs, 98% of antibacterial drugs, 51% of cardiovascular drugs, 43% of antibiotic medications and 42% of anti-asthmatic drugs are covered by U.S. patents. Therefore, one would expect in the next 10-15 years upwards of 50% of all pharmaceutical products would be under patent protection in India.