

**GOVERNMENT OF INDIA  
EXTERNAL AFFAIRS  
LOK SABHA**

UNSTARRED QUESTION NO:304

ANSWERED ON:19.02.2003

MUTUAL LEGAL ASSISTANCE TREATY WITH USA

AVSM, BRIG.(RETD.) KAMAKHYA PRASAD SINGH DEO;BASUDEB ACHARIA;MOINUL HASSAN AHAMED;SULTAN SALAHUDDIN OWAISI

**Will the Minister of EXTERNAL AFFAIRS be pleased to state:**

- (a) whether the attention of the Government has been drawn to the news-item appearing in the Indian Express dated January 21, 2003 under the caption 'Legal Treaty: US puts India in a fix';
- (b) if so, the details of the conditions laid down by the US; and
- (c) the response of the Government thereto?

**Answer**

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS ( SHRI VINOD KHANNA)

(a) Yes.

(b) Two conditions laid down by the US on Mutual Legal Assistance Treaty with India are:

(i) LIMITATIONS ON ASSISTANCE.-Pursuant to the right of the United States under the Treaty to deny assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(ii) SUPERMACY OF THE CONSTITUTION.-Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States. In addition the US Senate has put an understanding which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.- The United States shall exercise its rights to the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

(c) The response of the Government of India is under the consideration of various concerned government agencies and will be conveyed to the US after our internal assessment is over.