

INTERNATIONAL CRIMINAL COURT

Article 98

**Agreement between the
UNITED STATES OF AMERICA
and ANTIGUA AND BARBUDA**

Effected by Exchange of Notes at Washington
September 29, 2003



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

ANTIGUA AND BARBUDA

International Criminal Court: Article 98

*Agreement effected by exchange of notes
at Washington September 29, 2003;
Entered into force September 29, 2003.*

**DEPARTMENT OF STATE
WASHINGTON**

September 29, 2003

Excellency:

I have the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of Antigua and Barbuda regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is

His Excellency

Sir Ronald Sanders,

Chief Foreign Affairs Representative with

Ministerial Rank of Antigua and Barbuda.

DIPLOMATIC NOTE

intended to complement and not supplant national criminal jurisdiction,

Considering that the Government of the United States of America and the Government of Antigua and Barbuda have each expressed their intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

I have the honor to propose the following agreement:

1. For purposes of this agreement, "U.S. persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

2. U.S. persons present in the territory of Antigua and Barbuda shall not, absent the express consent of the Government of the United States of America,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of Antigua and Barbuda extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Antigua and Barbuda will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the United States of America.

4. This Agreement shall remain in force until one year after the date on which one Party notifies the other of its intent to terminate the Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of Antigua and Barbuda, this note and Your Excellency's affirmative note in reply shall constitute an

agreement between our two Governments which shall enter into force on the date of Your note.

For the Secretary of State:

A handwritten signature in cursive script, reading "Stephen S. Rodionov". The signature is written in dark ink and is positioned below the typed name "Stephen S. Rodionov".



Ministry of Foreign Affairs

GOVERNMENT OF ANTIGUA AND BARBUDA

September 29, 2003

Excellency:

I have the honour to refer to Your Excellency's note of September 29, 2003, which reads as follows:

"Excellency:

I have the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of Antigua and Barbuda regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United

Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that the Government of the United States of America and the Government of Antigua and Barbuda have each expressed their intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

I have the honor to propose the following agreement:

1. For purposes of this agreement, "U.S. persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.

2. U.S. persons present in the territory of Antigua and Barbuda shall not, absent the express consent of the Government of the United States of America,

(a) be surrendered or transferred by any means to the International Criminal Court

for any purpose, or

- (b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of Antigua and Barbuda extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Antigua and Barbuda will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the United States of America.

4. This Agreement shall remain in force until one year after the date on which one Party notifies the other of its intent to terminate the Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of Antigua and Barbuda, this note and Your

Excellency's affirmative note in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your note."

I have the honour to inform Your Excellency that the proposed text in Your Note is acceptable to the Government of Antigua and Barbuda, assuring Your Excellency that Your Note and this Note shall constitute an agreement between our two Governments which shall enter into force on this date.

Chief Foreign Affairs Representative

With Ministerial Rank:

A handwritten signature in black ink, appearing to be 'L. J. ...', written over a horizontal line. The signature is cursive and somewhat stylized.