

INTERNATIONAL CRIMINAL COURT

Article 98

**Agreement between the
UNITED STATES OF AMERICA
and SINGAPORE**

Effectuated by Exchange of Notes at Singapore
October 17, 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.”

SINGAPORE

International Criminal Court: Article 98

*Agreement effected by exchange of notes at Singapore
October 17, 2003;
Entered into force October 17, 2003.*

No. 521/03

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Singapore and refers to recent discussions between representatives of the Government of the United States of America and the Government of Singapore regarding the surrender of persons to the International Criminal Court.

The Government of the United States of America and the Government of Singapore, hereinafter "the Parties,"

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

Considering that the Parties have each expressed their intention, where appropriate, to investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

Hereby agree as follows:

1. For the purposes of this Agreement, "persons" of either Party refers to all nationals of that Party and also includes current and former non-national military personnel of that Party with respect to acts or omissions allegedly committed or occurring while they are or were military personnel of that Party.

2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

(a) be surrendered or transferred by any means to any international tribunal for any purpose, unless such tribunal has been established by the UN Security Council, 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 any international tribunal, unless such tribunal has been established by the UN Security Council.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of Singapore to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of Singapore.

4. When the Government of Singapore extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Singapore will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of the United States of America.

5. Each Party agrees, subject to its international legal obligations, not to knowingly facilitate, consent to, or cooperate with efforts by any third party or country to effect the extradition, surrender, or transfer of a person of the other Party to any international tribunal, unless such tribunal has been established by the UN Security Council.

6. This Agreement will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this 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 Singapore, this note and the Ministry's affirmative note in reply shall constitute an agreement between the two Governments which shall enter into force on the date of the Ministry's note.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Singapore the assurances of its highest consideration.

Embassy of the United States of America

Singapore, October 17, 2003





TPN No: MFA/IOD/00793/2003

The Ministry of Foreign Affairs of Singapore presents its compliments to the Embassy of the United States of America and has the honour to refer to the latter's Note no. 521/03 dated 17 October 2003 incorporating the following:

"No. 521/03

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Singapore and refers to recent discussions between representatives of the Government of the United States of America and the Government of Singapore regarding the surrender of persons to the International Criminal Court.

The Government of the United States of America and the Government of Singapore, hereinafter "the Parties",

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

Considering that the Parties have each expressed their intention, where appropriate, to investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

Hereby agree as follows:

1. For the purposes of this Agreement, "persons" of either Party refers to all nationals of that Party and also includes current and former non-national military personnel of that Party with respect to acts or omissions allegedly committed or occurring while they are or were military personnel of that Party.
2. Persons of one Party present in the territory of the other shall not, absent

the express consent of the first Party,

- (a) be surrendered or transferred by any means to any international tribunal for any purpose, unless such tribunal has been established by the UN Security Council, 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 any international tribunal, unless such tribunal has been established by the UN Security Council.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of Singapore to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of Singapore.

4. When the Government of Singapore extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Singapore will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of the United States of America.

5. Each Party agrees, subject to its international legal obligations, not to knowingly facilitate, consent to, or cooperate with efforts by any third party or country to effect the extradition, surrender, or transfer of a person of the other Party to any international tribunal, unless such tribunal has been established by the UN Security Council.

6. This Agreement will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this 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 Singapore, this Note and the Ministry's affirmative Note in reply shall constitute an agreement between the two Governments which shall enter into force on the date of the Ministry's Note.

The Embassy of the United States of America avails itself of this

opportunity to renew to the Ministry of Foreign Affairs of Singapore the assurances of its highest consideration.”

The Ministry of Foreign Affairs of the Government of Singapore has the honour to confirm that the proposed Agreement set forth in the Embassy's Note is acceptable to the Government of Singapore and the Embassy's Note and this Note in reply shall constitute an agreement between the two governments which shall enter into force on the date of this Note.

The Ministry of Foreign Affairs of Singapore avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

SINGAPORE

17 October 2003

Embassy of the United States of America
Singapore

