Agreement between the Government of the United States of America and the Government of the Republic of Equatorial Guinea Regarding the Surrender of Persons to the International Criminal Court

The Government of the United States of America and the Government of the Republic of Equatorial Guinea, hereinafter "the Parties,"

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 Parties 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,

Hereby agree as follows:

1. For purposes of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one 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 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 the United States of America extradites, surrenders, or otherwise transfers a person of Equatorial Guinea to a third country, the Government of the United States of America 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 Republic of Equatorial Guinea.

4. When the Government of the Republic of Equatorial Guinea extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Equatorial Guinea will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, 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 the International Criminal Court.

This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It 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.

Done in New York, in duplicate, this 25th day of September 2003, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE REPUBLIC OF EQUATORIAL GUINEA: