

**No. 017**

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and Cooperation of the Republic of Gabon, and refers to recent discussions between representatives of the Government of the United States of America and the Government of the Republic of Gabon 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 the Republic of Gabon 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,
- The Embassy proposes the following agreement:
  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 United States extradites, surrenders, or otherwise transfers a person of Gabon to a third country, the United States 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 Gabon.
4. When the Government of the Republic of Gabon extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Gabon 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.
5. This Agreement shall 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 the Republic of Gabon, 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 and Cooperation of the Republic of Gabon the assurances of its highest consideration.

Embassy of the United States of America  
Libreville, February 26, 2003.



## UNOFFICIAL TRANSLATION

The Ministry of foreign Affairs, Cooperation and Francophony presents its compliments to the Embassy of the United States of America to the Republic of Gabon and has the honour to acknowledge receipt of its Verbal Note N°17 dated 26 th of February 2003, relating to the draft bilateral agreement on the surrender of persons to the International Criminal Court between Republic of Gabon and the United States of America.

Thus, the Ministry of foreign Affairs, Cooperation and Francophony, bearing in mind the Rome Statute on the establishment of the International Criminal Court, expresses its agreement to be bound by the following provisions suggested by the Embassy of the United States of America:

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 United States extradites, surrenders, or otherwise transfers a person of Gabon to a third country, the United States 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 Gabon.

4. When the Government of the Republic of Gabon extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Gabon 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.

5. This Agreement shall 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.

The Ministry confirms to the Embassy of the United States that this Note as well as that the Embassy refereed to above represent a bilateral agreement between the Government of the Republic of Gabon and the Government of the United States of America entering into force at the date of this Note.

Libreville

[April 15, 2003]

**EMBASSY OF UNITED STATES  
OF AMERICA**

**LIBREVILLE**