INTERNATIONAL CRIMINAL COURT

Article 98

Agreement between the
UNITED STATES OF AMERICA
and ERITREA

Signed at Washington July 8, 2004

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."

ERITREA

International Criminal Court: Article 98

Agreement signed at Washington July 8, 2004;
Entered into force July 8, 2004.

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

The Government of the United States of America and the Government of Eritrea, 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 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 Eritrea 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 Eritrea.

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

5. This Agreement shall enter into force upon signature by both Parties. 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 at Washington, D.C., in duplicate, this eighth day of July, 2004.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

John R Bolton

FOR THE GOVERNMENT OF ERITREA: