

INTERNATIONAL CRIMINAL COURT

Article 98

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

Effected by Exchange of Notes at
Podgorica April 17 and 19, 2007



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.”

MONTENEGRO

International Criminal Court: Article 98

*Agreement effected by exchange of notes at Podgorica
April 17 and 19, 2007;
Entered into force April 19, 2007.*

No. 15/2007

The Embassy of the United States of America at Podgorica presents its compliments to the Ministry of Foreign Affairs of the Republic of Montenegro and has the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of the Republic of Montenegro 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 Montenegro 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,

DIPLOMATIC NOTE

Bearing in mind Article 98 of the Rome Statute,

Hereby 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 Government of the United States of America extradites, surrenders, or otherwise transfers a person of the Republic of Montenegro 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 Montenegro.

4. When the Government of the Republic of Montenegro extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of Montenegro 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. 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 the Republic of Montenegro, 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 the Republic of Montenegro the assurances of its highest consideration.

Embassy of the United States of America

Podgorica, April 17, 2007





Republic of Montenegro
Ministry of Foreign Affairs

NO. 03/05 334

The Ministry of Foreign Affairs of the Republic of Montenegro presents its compliments to the Embassy of the United States of America at Podgorica, and has the honor to refer to the Embassy's Note number 15/2007 dated April 17, 2007, which reads as follows:

"The Embassy of the United States of America at Podgorica presents its compliments to the Ministry of Foreign Affairs of the Republic of Montenegro and has the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of the Republic of Montenegro 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 Montenegro have each expressed their intention to investigate and to prosecute where appropriate acts within 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,

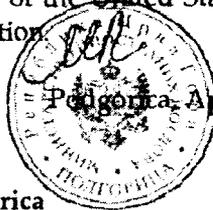
Hereby proposes the following agreement:

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

The Ministry of Foreign Affairs has the honor to confirm that the proposal set forth in the Embassy's note is acceptable to the Government of the Republic of Montenegro and that this note and the Embassy's note number 15/2007 constitute an agreement which shall enter into force on this date.

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



Podgorica, April 19, 2007

Embassy of the United States of America
Podgorica