

**INTERNATIONAL CRIMINAL COURT**

**Article 98**

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

Signed at Lilongwe September 23, 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.”

**MALAWI**

**International Criminal Court: Article 98**

*Agreement signed at Lilongwe September 23, 2003;  
Entered into force September 23, 2003.*

**ARTICLE 98 AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF MALAWI FOR THE INTERNATIONAL CRIMINAL COURT ROME TREATY**

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF MALAWI REGARDING THE SURRENDER OF PERSONS TO THE INTERNATIONAL CRIMINAL COURT

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF MALAWI, 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 GOVERNMENT OF THE UNITED STATES OF AMERICA HAS EXPRESSED ITS 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 THE UNITED STATES OF AMERICA.

2. PERSONS OF THE UNITED STATES OF AMERICA PRESENT IN THE TERRITORY OF MALAWI SHALL NOT, ABSENT THE EXPRESSED CONSENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA,

(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 MALAWI EXTRADITES, SURRENDERS, OR OTHERWISE TRANSFERS A PERSON OF THE UNITED STATES OF AMERICA TO A THIRD COUNTRY, THE GOVERNMENT OF MALAWI WILL NOT AGREE TO THE SURRENDER OR TRANSFER OF THAT PERSON TO THE INTERNATIONAL CRIMINAL COURT BY A THIRD COUNTRY, ABSENT THE EXPRESSED CONSENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

4. 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 DUPLICATE IN THE ENGLISH LANGUAGE AT LILONGWE, MALAWI THIS TWENTY-THIRD DAY OF SEPTEMBER, 2003.



Ambassador Steven A. Browning  
U.S. Embassy  
Lilongwe, Malawi



Honorable Lilian E. Patel  
Minister of Foreign Affairs  
and International Co-operation  
Republic of Malawi

