

INTERNATIONAL CRIMINAL COURT

Article 98

**Agreement Between the
UNITED STATES OF AMERICA
and INDIA**

Signed at New Delhi December 26, 2002



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.”

INDIA

International Criminal Court: Article 98

*Agreement signed at New Delhi December 26, 2002;
Entered into force December 3, 2003.*

Agreement between the Government of the United States of America and the Government of India regarding the Surrender of Persons to International Tribunals

The Government of the United States of America and the Government of India, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Considering that the Parties have each expressed their intention, where appropriate, to investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

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 any international tribunal for any purpose, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties, 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 any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties.
3. When the United States extradites, surrenders, or otherwise transfers a person of the other Party to a third country, the United States will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties, absent the express consent of the Government of India.

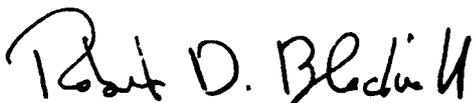
4. When the Government of India extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of India will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties, absent the express consent of the Government of the United States.

5. Each Party agrees 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 any international tribunal, unless otherwise obligated to do so by an international agreement to which both the United States and India are parties.

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 at New Delhi on the 26th day of December, 2002.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA



Robert D. Blackwill
Ambassador to India

FOR THE GOVERNMENT OF
INDIA



Kanwal Sibal
Foreign Secretary