

INTERNATIONAL CRIMINAL COURT

Article 98

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

Effected by Exchange of Notes at
Manila May 9 and 13, 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.”

PHILIPPINES

International Criminal Court: Article 98

*Agreement effected by exchange of notes
at Manila May 9 and 13, 2003;
Entered into force May 13, 2003.*

EMBASSY OF THE
UNITED STATES OF AMERICA

Manila, May 9, 2003

0470

Excellency:

I have 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 the Philippines regarding the surrender of persons to international tribunals.

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 to, where appropriate, investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

I have the honor to propose 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 any international tribunal for any purpose, unless such tribunal has been established by the UN Security Council, 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 such tribunal has been established by the UN Security Council.

His Excellency

Blass F. Ople,

Secretary of Foreign Affairs,

Department of Foreign Affairs,

Manila.

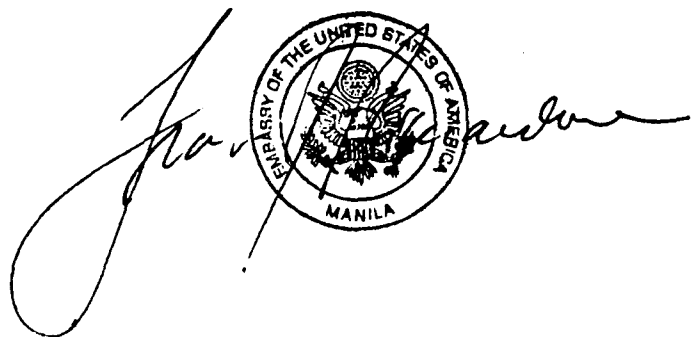
3. When the United States extradites, surrenders, or otherwise transfers a person of the Philippines to a third country, the United States will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of the Republic of the Philippines.

4. When the Government of the Republic of the Philippines extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of the Philippines will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, 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 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 the Philippines, this note and Your Excellency's affirmative note in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your Excellency's note.

Accept, Excellency, the renewed assurance of my highest consideration.

The image shows a handwritten signature in black ink, which appears to be "John F. Kennedy". To the right of the signature is a circular official seal. The seal features an eagle with wings spread, perched on a shield. The text around the eagle reads "EMBASSY OF THE UNITED STATES OF AMERICA" at the top and "MANILA" at the bottom.

Note No. BFO-028-03

13 May 2003

Excellency:

I have the honor to acknowledge receipt of Your Excellency's Note No. 0470 of 9 May 2003, reading as follows:

"I have 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 the Philippines regarding the surrender of persons to international tribunals.

"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 to, where appropriate, investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

"I have the honor to propose 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 any international tribunal for any purpose, unless such tribunal has been established by the UN Security Council, 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 such tribunal has been established by the UN Security Council.

His Excellency

FRANCIS J. RICCIARDONE, JR.

Ambassador Extraordinary and Plenipotentiary
Embassy of the United States of America
Manila

"3. When the United States extradites, surrenders, or otherwise transfers a person of the Philippines 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 such tribunal has been established by the UN Security Council, absent the express consent of the Government of the Republic of the Philippines.

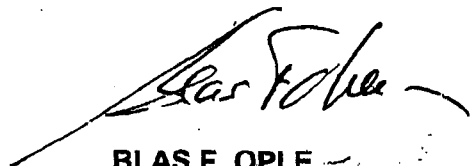
"4. When the Government of the Republic of the Philippines extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Republic of the Philippines will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, 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 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 the Philippines, this note and Your Excellency's affirmative note in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your Excellency's note."

I am pleased to inform Your Excellency that the undertakings contained in the above-quoted note are acceptable to my Government, and that Your Excellency's note and this reply thereto constitute an Agreement between our two Governments effective immediately.

Accept, Excellency, the renewed assurances of my highest consideration.



BLAS F. OPLE
Secretary of Foreign Affairs