

INTERNATIONAL CRIMINAL COURT

Article 98

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

Effected by Exchange of Notes at Bangkok
June 3, 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.”

THAILAND

International Criminal Court: Article 98

*Agreement effected by exchange of notes at Bangkok
June 3, 2003;
Entered into force June 3, 2003.*

Bangkok, June 3, 2003

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 Kingdom of Thailand regarding the Surrender of Persons to the International Criminal Court and to propose the following Agreement:

The Government of the United States of America and the Government of the Kingdom of Thailand, 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 its officials, employees, military personnel or other nationals,

Considering that the Government of the Kingdom of Thailand has signed the Rome Statute of the International Criminal Court on October 2, 2000,

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

1. For purposes of this Agreement, "persons" of either Party include all nationals of that Party and all current and former military personnel of that 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 other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

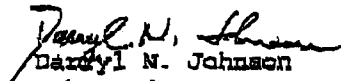
3. When the United States extradites, surrenders, or otherwise transfers a person of the Kingdom of Thailand to a third country, the United States will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the Kingdom of Thailand.

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

5. This Agreement 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.

If the proposal set forth herein is acceptable to the Government of the Kingdom of Thailand, this note and Your Excellency's affirmative note in reply shall constitute an Agreement between our two Governments which would enter into force on the date of Your Excellency's note.

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


Darryl N. Johnson
Ambassador

His Excellency

Surakiart Sathirathai,

Minister of Foreign Affairs,



No. 0802/ 395

Ministry of Foreign Affairs,
Sri Ayudhya Road,
Bangkok 10400.

3 June B.E. 2546 (2003)

Excellency,

I have the honor to acknowledge the receipt of Your Excellency's Note dated 3 June 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 Kingdom of Thailand regarding the Surrender of Persons to the International Criminal Court and to propose the following Agreement:

The Government of the United States of America and the Government of the Kingdom of Thailand, 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 its officials, employees, military personnel or other nationals,

Considering that the Government of the Kingdom of Thailand has signed the Rome Statute of the International Criminal Court on October 2, 2000,

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

His Excellency
Darryl N. Johnson,
Ambassador Extraordinary and Plenipotentiary,
Embassy of the United States of America,
BANGKOK.

1. For purposes of this Agreement, "persons" of either Party include all nationals of that Party and all current and former military personnel of that 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 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 United States extradites, surrenders, or otherwise transfers a person of the Kingdom of Thailand to a third country, the United States 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 Kingdom of Thailand.

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

5. This Agreement 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.

If the proposal set forth herein is acceptable to the Government of the Kingdom of Thailand, this note and Your Excellency's affirmative note in reply shall constitute an Agreement between our two Governments which would 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.



(Surakiart Sathirathai)
Minister of Foreign Affairs of Thailand