

**INTERNATIONAL CRIMINAL COURT**

**Article 98**

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

Effected by Exchange of Notes at Algiers  
April 6 and 13, 2004



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.”

**ALGERIA**

**International Criminal Court: Article 98**

*Agreement effected by exchange of notes at Algiers  
April 6 and 13, 2004;  
Entered into force April 13, 2004.*

No. 124

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Democratic Republic of Algeria and refers to recent discussions between representatives of the Government of the United States of America and the Government of the People's Democratic Republic of Algeria 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 Government of the United States of America and the Government of the People's Democratic Republic of Algeria have each expressed their intention to investigate and prosecute where appropriate war crimes, crimes against humanity, and genocide alleged to have been committed by their respective nationals,

The Embassy hereby proposes the following Agreement:

1. For the purposes of this Agreement, "persons" of either Party include all nationals of that Party and, for the Government of the United States of America, also include

persons currently or formerly subject to the jurisdiction of the United States of America pursuant to Section 802 of Title 10 of the United States Code with respect to acts or omissions allegedly committed or occurring while they are or were subject to such jurisdiction.

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 United Nations 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 United Nations Security Council.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the People's Democratic Republic of Algeria to a third country, the Government of the United States of America 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 United Nations Security Council, absent the express consent of the Government of the People's Democratic Republic of Algeria.

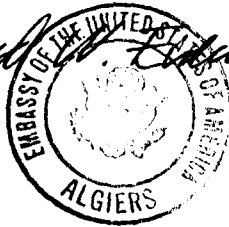
4. When the Government of the People's Democratic Republic of Algeria extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the People's Democratic Republic of Algeria will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the United Nations Security Council, absent the express consent of the Government of the United States of America.

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 People's Democratic Republic of Algeria, 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 People's Democratic Republic of Algeria the assurances of its highest consideration.

*Richard W. Egan*  


Embassy of the United States of America,

Algiers, April 6, 2004.

الجمهورية الجزائرية الديمقراطية الشعبية  
REPUBLIQUE ALGERIENNE DEMOCRATIQUE ET POPULAIRE

MINISTERE DES AFFAIRES ETRANGERES  
DIRECTION GENERALE AMERIQUES

وزارة الشؤون الخارجية  
المديرية العامة لأمريكا

N° 250 MAE/DGAM.

The Ministry of Foreign Affairs of the People's Democratic Republic of Algeria presents its compliments to the Embassy of the United States of America in Algiers and with reference to the Embassy's note n° 124 dated on April 6, 2004, by which it would like to inform of the following:

« The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Democratic Republic of Algeria and refers to recent discussions between representatives of the Government of the United States of America and the Government of the People's Democratic Republic of Algeria 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 Government of the United States of America and the Government of the People's Democratic Republic of Algeria have each expressed their intention to investigate and prosecute where appropriate war crimes, crimes against humanity, and genocide alleged to have been committed by their respective nationals,

The Embassy hereby proposes the following Agreement:

1. For the purposes of this Agreement, "persons" of either Party include all nationals of that Party and, for the Government of the United States of America, also include persons currently or formerly subject to the jurisdiction of the United States of America pursuant to Section 802 of Title 10 of the United States Code with respect to acts or omissions allegedly committed or occurring while they are or were subject to such jurisdiction.
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 United Nations 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 United Nations Security Council.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the People's Democratic Republic of Algeria to a third country, the Government of the United States of America 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 United Nations Security Council, absent the express consent of the Government of the People's Democratic Republic of Algeria.

4. When the Government of the People's Democratic Republic of Algeria extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the People's Democratic Republic of Algeria 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 United Nations Security Council, absent the express consent of the Government of the United States of America.

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.

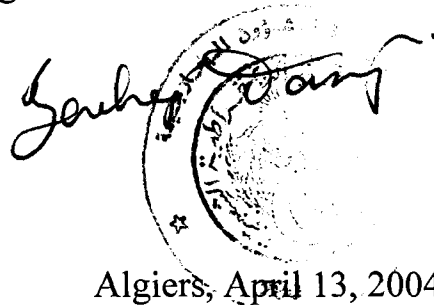
If the proposal set forth herein is acceptable to the Government of the People's Democratic Republic of Algeria, this note and the Ministry's affirmative note in reply shall constitute an agreement between the two Governments which shall enter into force on the date of the Ministry's note.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the People's Democratic Republic of Algeria the assurances of its highest consideration.

Embassy of the United States of America,  
Algiers, April 6, 2004. »

The Ministry of Foreign Affairs of the People's Democratic Republic of Algeria has the honour to confirm to the Embassy of the United States of America in Algiers that the Algerian Government accepts the above proposal. The Embassy's note and the Ministry's note shall constitute an agreement between the two Governments which shall enter into force on the date of the Ministry's note.

The Ministry of Foreign Affairs of the People's Democratic Republic of Algeria avails itself of this opportunity to renew to the Embassy of the United States of America in Algiers the assurances of its highest consideration.



Algiers, April 13, 2004

Embassy of the United States of America  
Algiers

الجمهورية الجزائرية الديمقراطية الشعبية  
REPUBLIQUE ALGERIENNE DEMOCRATIQUE ET POPULAIRE

MINISTERE DES AFFAIRES ETRANGERES  
DIRECTION GENERALE AMERIQUES

وزارة الشؤون الخارجية  
المديرية العامة لأمريكا

N° 250 MAE/DGAM.

Le Ministère des Affaires Etrangères de la République Algérienne Démocratique et Populaire présente ses compliments à l'Ambassade des Etats-Unis d'Amérique à Alger et se réfère à la note verbale de l'Ambassade n°124 du 6 avril 2004 par laquelle elle a bien voulu lui faire part de ce qui suit :

« L'Ambassade des Etats-Unis d'Amérique présente ses compliments au Ministère des Affaires Etrangères de la République Algérienne Démocratique et Populaire et se réfère aux récentes discussions entre les représentants du Gouvernement des Etats-Unis d'Amérique et ceux du Gouvernement de la République Algérienne Démocratique et Populaire, concernant la remise de personnes aux tribunaux internationaux.

Réaffirmant l'importance de traduire en justice les auteurs de génocide, crimes contre l'humanité et crimes de guerre,

Considérant que le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République Algérienne Démocratique et Populaire ont tous deux exprimé leur intention de procéder à des enquêtes et d'intenter, le cas échéant, des poursuites judiciaires en cas de commission présumée, par leurs nationaux respectifs, de crimes de guerre, crimes contre l'humanité et génocide,

L'Ambassade a l'honneur de proposer par les présentes l'Accord suivant :

1. Aux fins du présent Accord, le terme « personnes » de l'une ou l'autre des Parties signifie tous les nationaux de ladite Partie et, concernant le Gouvernement des Etats-Unis d'Amérique, comprend aussi les personnes relevant actuellement ou ayant autrefois relevé de la juridiction des Etats-Unis d'Amérique conformément aux dispositions de la Section 802 du Titre 10 du Code des Etats-Unis, concernant des actes ou des omissions prétendument commis ou survenus alors qu'elles relèvent ou relevaient de cette juridiction.

2. Les personnes relevant d'une Partie présentes sur le territoire de l'autre Partie ne peuvent, sans le consentement exprès de la première Partie :

a) être remises ou renvoyées à un tribunal international, à quelque fin et de quelque manière que ce soit, à moins que ce tribunal n'ait été créé par le Conseil de Sécurité des Nations Unies ; ni

b) être remises ou renvoyées, de quelque manière que ce soit, à toute autre entité ou à un pays tiers quelconque, ni expulsées à destination d'un pays tiers, aux fins de remise ou de renvoi à un tribunal international, à moins que ce tribunal n'ait été créé par le Conseil de Sécurité des Nations Unies.

3. Lorsque le Gouvernement des Etats-Unis d'Amérique extradé, remet ou autrement renvoie à un pays tiers une personne relevant de la République Algérienne Démocratique et Populaire, ledit Gouvernement refuse de consentir à la remise ou au renvoi de celle-ci à un tribunal international par le pays tiers sans avoir obtenu le consentement exprès du Gouvernement de la République Algérienne Démocratique et Populaire, à moins que ce tribunal n'ait été créé par le Conseil de Sécurité des Nations Unies.

4. Lorsque le Gouvernement de la République Algérienne Démocratique et Populaire extradé, remet ou autrement renvoie à un pays tiers une personne relevant des Etats-Unis d'Amérique, ledit Gouvernement refuse de consentir à la remise ou au renvoi de celle-ci à un tribunal international par le pays tiers sans avoir obtenu le consentement exprès du Gouvernement des Etats-Unis d'Amérique, à moins que ce tribunal n'ait été créé par le Conseil de Sécurité des Nations Unies.

5. Le présent Accord demeure en vigueur jusqu'à l'expiration d'un délai d'un an suivant la date de notification, par l'une des Parties à l'autre, de son intention de dénoncer cet Accord. Les dispositions du présent Accord demeurent applicables au regard de tout acte survenant ou de toute allégation présentée avant la date d'effet de cette dénonciation.

Si le Gouvernement de la République Algérienne Démocratique et Populaire accepte la proposition ci-dessus, la présente note et la note du Ministère donnant une réponse favorable constituent un Accord entre les deux Gouvernements, qui entre en vigueur à la date de la note du Ministère.

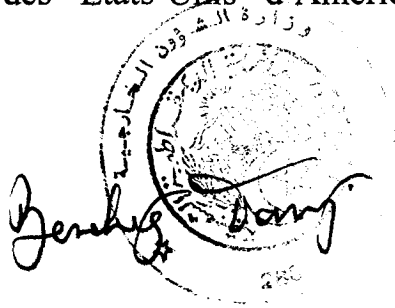
L'Ambassade des Etats-Unis d'Amérique saisit cette occasion pour renouveler au Ministère des Affaires Etrangères de la République Algérienne Démocratique et Populaire les assurances de sa plus haute considération.

Ambassade des Etats-Unis d'Amérique  
Alger, le 6 avril 2004.

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Le Ministère des Affaires Etrangères de la République Algérienne Démocratique et Populaire a l'honneur de confirmer à l'Ambassade des Etats-Unis d'Amérique l'accord du Gouvernement algérien à la proposition ci-dessus. La note de l'Ambassade et la note du Ministère constituent un Accord entre les deux Gouvernements, qui entre en vigueur à la date de la note du Ministère.

Le Ministère des Affaires Etrangères saisit cette occasion pour renouveler à l'Ambassade des Etats-Unis d'Amérique à Alger l'assurance de sa très haute considération.

The image shows a circular official stamp of the Algerian Ministry of Foreign Affairs. The text around the perimeter of the stamp is in Arabic: "وزارة الشؤون الخارجية" (Ministry of Foreign Affairs) at the top and "الجزائر" (Algeria) at the bottom. In the center of the stamp, there is a signature in cursive script, which appears to be "Geny".

Alger, le 13 avril 2004

Ambassade des Etats-Unis d'Amérique  
à Alger