

No. 51170*

**United States of America
and
Brunei Darussalam**

Exchange of notes constituting an agreement between the United States of America and Brunei Darussalam regarding the surrender of persons to international tribunals. Bandar Seri Begawan, 3 February 2004 and 3 March 2004

Entry into force: *3 March 2004 by the exchange of the said notes, in accordance with their provisions*

Authentic text: *English*

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**États-Unis d'Amérique
et
Brunéi Darussalam**

Échange de notes constituant un accord entre les États-Unis d'Amérique et le Brunéi Darussalam relatif à la remise de personnes aux tribunaux internationaux. Bandar Seri Begawan, 3 février 2004 et 3 mars 2004

Entrée en vigueur : *3 mars 2004 par l'échange desdites notes, conformément à leurs dispositions*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *États-Unis d'Amérique, 20 août 2013*

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[ENGLISH TEXT – TEXTE ANGLAIS]

Exchange of notes constituting an agreement between the United States of America and Brunei Darussalam regarding the surrender of persons to international tribunals

I

Note No. 04-09

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Brunei and refers to discussions between representatives of the Government of the United States of America and the Government of Brunei 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 Brunei 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,

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The Embassy 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 current and former non-U.S. national U.S. military personnel with respect to acts or omissions allegedly committed or occurring while they are or were U.S. military personnel.

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 of America and Brunei 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 of America and Brunei are parties.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of Brunei 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 otherwise obligated to do so by an international agreement to which both the United States of America and Brunei are parties, absent the express consent of the Government of Brunei.

4. When the Government of Brunei extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Brunei 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 of America and Brunei are parties, absent the express consent of the Government of the United States of America.

5. Each Party agrees, subject to its international legal obligations, 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 of America and Brunei are parties.

6. This Agreement may be amended upon written agreement of the Parties.

7. 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.