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**United States of America
and
Colombia**

Agreement between the Government of the United States of America and the Government of the Republic of Colombia regarding the surrender of persons of the United States of America to the International Criminal Court. Bogotá, 17 September 2003

Entry into force: *17 September 2003 by signature, in accordance with paragraph 4*

Authentic texts: *English and Spanish*

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**États-Unis d'Amérique
et
Colombie**

Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République de Colombie relatif à la remise de personnes des États-Unis d'Amérique à la Cour pénale internationale. Bogotá, 17 septembre 2003

Entrée en vigueur : *17 septembre 2003 par signature, conformément au paragraphe 4*

Textes authentiques : *anglais et espagnol*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA REGARDING THE
SURRENDER OF PERSONS OF THE UNITED STATES OF AMERICA TO THE
INTERNATIONAL CRIMINAL COURT**

The Government of the United States of America and the Government of the Republic of Colombia, 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 (the "Rome Statute") is intended to complement and not supplant national criminal jurisdiction;

Considering that the Parties have each expressed their intention to evaluate or investigate available information regarding the facts and where appropriate prosecute acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals;

Bearing in mind the provisions regarding immunities from jurisdiction in the General Agreement for Economic, Technical and Related Assistance Between the Government of the United States of America and the Government of Colombia (the "1962 Agreement"), as well as other agreements currently in force between the Parties that establish privileges, and the norms of international law applicable in this matter;

Bearing in mind as well Article 98 of the Rome Statute;

Noting that in conformity with the 1962 Agreement the persons covered thereunder, including current or former government officials, employees (including contractors) and military personnel, are not subject to Colombian jurisdiction, as a result of which their surrender, by any means, to the International

Criminal Court, requires the express consent of the Government of the United States of America;

Noting that under international law, persons of the United States of America who enjoy immunity from Colombian criminal jurisdiction, including functional immunity, are not subject, within the terms of that immunity, to Colombian jurisdiction, as a result of which their surrender, by any means, to the International Criminal Court, requires the express consent of the Government of the United States of America;

Noting that the term "Sending State" has been used in treaties such as the Vienna Convention on Consular Relations of 1963 and in international law to distinguish among states referenced;

Noting the provisions of Section 2007(c) of the American Servicemembers Protection Act, which states, "The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country";

Have herein agreed as follows, with the purpose both to restate existing obligations in this matter and to reach agreement contemplated in Article 98(2) of the Rome Statute:

1. For purposes of this Agreement, the term "person of the United States of America" means any current or former United States government official, employee (including any contractor), or member of the military, or any United States person who enjoys immunity from criminal jurisdiction under international law or who is subject in any manner to the jurisdiction of the Sending State (the United States of America).

2. A person of the United States of America, the Sending State, shall not, absent the express consent of the United States of America:

a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or