

Agreement on Surrender of Persons between the Government of the United States and the Tribunal

The Government of the United States of America and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia (hereinafter referred to as the "Tribunal"),

Recalling the obligation of the United States, pursuant to the Statute of the Tribunal adopted by United Nations Security Council Resolution 827 of May 25, 1993 (hereinafter referred to as the "Statute"), to surrender accused or convicted persons to the Tribunal, and

Desiring to facilitate the surrender of such persons,

Have agreed as follows:

Article 1
Obligation to Surrender

(Amended on 5 July 2011)

1. The United States agrees to surrender to the Tribunal, pursuant to the provisions of this Agreement and the Statute, persons, including United States citizens, found in its territory whom the Tribunal has charged with or found guilty of a violation or violations within the competence of the Tribunal as defined in the Statute.

2. The United States may surrender to the Tribunal, pursuant to the provisions of this Agreement, the Statute, and the ICTY's Rules of Procedure and Evidence, persons, including United States citizens, found in its territory whom the Tribunal has charged with or found guilty of:

- a) contempt of the Tribunal under the Tribunal's Rules of Procedure and Evidence;
- b) false testimony under solemn declaration under the Tribunal's Rules of Procedure and Evidence; or
- c) any other offense provided for under the Tribunal's Rules of Procedure and Evidence that relates to obstruction of, or interference with, the Tribunal's administration of justice;

when such conduct is subject to punishment by a deprivation of liberty of more than one year if committed in the United States.

3. The requirements for a finding that a person is subject to surrender to the Tribunal are solely those specifically articulated in this Agreement. No additional conditions regarding or defenses to surrender may be asserted by the person sought as barring such person's surrender to the Tribunal under this Agreement.

Article 2 *Procedures*

1. The Tribunal shall submit requests for surrender to the Embassy of the United States in The Netherlands or to the Embassy of the United States in another State in which the Tribunal may be temporarily situated.

2. Requests for surrender shall be supported by:

- (a) documents, statements, or other types of information which describe the identity and probable location of the person sought;
- (b) information describing the essential facts and procedural history of the case;
- (c) a description of the specific violation or violations referred to in the Statute for which surrender of the person is sought; and
- (d) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for surrender of a person who is sought for prosecution shall also be supported by copies of the warrant of arrest and of the indictment and by information sufficient to establish there is a reasonable basis to believe that the person sought has committed the violation or violations for which surrender is requested.

4. A request for surrender relating to a person who has been found guilty of the violation for which surrender is sought shall also be supported by:

- (a) a copy of the judgment of conviction or, if such copy is not available, a statement by the Tribunal that the person has been found guilty;
- (b) information establishing that the person sought is the person to whom the finding of guilt refers; and
- (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out.

5. If it appears that supplemental information is needed to meet the requirements of this Article, the United States shall request such supplemental information from the Tribunal. In such a case, any proceedings regarding the surrender may be continued, and the person sought may be detained, for such period as may be necessary to afford the Tribunal a

reasonable opportunity to provide the supplemental information requested.

Article 3
Provisional Arrest

1. In case of urgency, the Tribunal may request the provisional arrest of the person sought pending presentation of the request for surrender. A request for provisional arrest may be presented to the Embassy of the United States in The Netherlands or may be transmitted directly by the Prosecutor of the Tribunal to the United States Department of Justice.

2. The application for provisional arrest shall contain:

(a) a description of the person sought and information regarding the probable location of such person;

(b) a brief statement of the essential facts of the case, including, if possible, the time and location of the offense;

(c) a statement of the existence of the warrant of arrest or a judgment of conviction against the person sought, and a description of the specific violation or violations set forth in the Statute of which the person has been accused or convicted; and

(d) a statement that a request for surrender for the person sought will follow.

3. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest if the United States has not received the formal request for surrender and the supporting documents specified under Article 2 of this Agreement.

4. The fact that the person sought has been discharged from custody pursuant to paragraph 3 of this Article shall not prejudice the subsequent rearrest and surrender of that person if the surrender request and supporting documents are delivered at a later date.

Article 4
Transit

1. The United States may authorize transportation through its territory of a person, including a United States citizen, surrendered to the Tribunal by another State. A request by the Tribunal for transit shall be transmitted to the Embassy of the United States in the Netherlands or in another State in which the Tribunal may be temporarily situated, or directly to the United States Department of Justice by the Prosecutor of the Tribunal. The request for transit shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit shall be detained in custody during

the period of transit.

2. No authorization is required where air transportation is used and no landing is scheduled on the territory of the United States. If an unscheduled landing occurs on the territory of the United States, the United States may require a request for transit as provided in paragraph 1. The United States shall detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

Article 5
Representation and Expenses

1. Where the Tribunal makes a request for surrender of a person, the United States shall as necessary provide assistance and appear in court in connection with such a request.

2. The Tribunal shall bear the expenses related to the translation of documents and the transportation of the person surrendered, unless the Parties agree otherwise. The United States shall pay all other expenses incurred by reason of the surrender proceedings.