C06542651 IED U.S. Department of State Case No. F-2017-06190 Doc No. C06542651 Date: 07/16/2018

03-110

Statement Regarding Agreement Between the Government of the United States of America and the Government of the Republic of Burundi Regarding the Surrender of Persons to International Tribunals.
Signed at Bujumbura July 5, 2003.
Entered into force July 24, 2003.

RELEASE IN FULL

Explanation of Agreement

The agreement provides that neither party will surrender the other's "persons", as defined in the agreement, to the International Criminal Court (ICC) without the other party's express consent.

Effect of Agreement

This agreement is the result of the U.S. global campaign to protect U.S. persons from being surrendered to the ICC without the consent of the United States. This type of agreement is commonly referred to as an "Article 98 agreement," as it is specifically contemplated in Article 98(2) of the Rome Statute establishing the ICC. That provision reads, "The Court may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the sending State for the giving of consent for the surrender." This Article 98 agreement prohibits the Republic of Burundi from transferring U.S. persons either directly or indirectly to the ICC, or from consenting to the transfer of U.S. persons to the ICC by a third country.

Legal Authority

Legal authority to negotiate and conclude this agreement derives from the President's Constitutional authority to conduct the foreign relations of the United States (Article II, Section 1), as exercised by the Secretary of State on a day-to-day basis (22 U.S.C. § 2656).

UNCLASSIFIED U.S. Department of State Case No. F-2017-06190 Doc No. C06542651 Date: 07/16/2018