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03-20

Statement Regarding
Agreement between the Government of the United States of America and the Government of the Republic of Uzbekistan Regarding the Surrender of Persons to the International Criminal Court. Signed at Washington September 18, 2002. Entered into Force January 7, 2003.

RELEASE IN FULL

Explanation of Agreement

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

Background Information on Negotiations

Uzbekistan was the ninth out of 24 countries to sign a bilateral agreement with the United States providing protections against surrender to the ICC. The Agreement was brought into force following an exchange of diplomatic notes confirming that both parties had completed the necessary domestic legal requirements for entry into force.

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 Uzbekistan

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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

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). The agreement is also consistent with and promotes the objectives of the American Servicemembers' Protection Act of 2002, P.L.107-206, which, inter alia, prohibits military assistance to certain countries that are party to the ICC, unless the President waives the prohibition because doing so is in the national interest of the United States or the country enters into an Article 98 agreement with the United States.