

Agreement between the Government of the Transitional Islamic State of
Afghanistan and the Government of the United States of America
regarding the surrender of persons to the International Criminal Court

The Government of the Transitional Islamic State of Afghanistan and the
Government of the United States of America, 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 is intended to complement and not supplant
national criminal jurisdiction,

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

Bearing in mind Article 98 of the Rome Statute,

Hereby agree as follows:

1. For purposes of this agreement, "persons" are
current or former Government officials, employees
(including contractors), or military personnel or nationals
of one Party.

2. Persons of one Party present in the territory of
the other shall not, absent the expressed consent of the
first Party,

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

3. When the United States extradites, surrenders, or
otherwise transfers a person of the other Party to a third
country, the United States will not agree to the surrender
or transfer of that person to the International Criminal
Court by the third country, absent the expressed consent
of the Government of Afghanistan.

4. When the Government of Afghanistan extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of Afghanistan will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the expressed consent of the Government of the United States.

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 the International Criminal Court.

6. This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this 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.

Done at Washington, DC in duplicate, this 20th day of September 2002, in the English and Dari languages. In case of differences in interpretation, the English language text shall prevail.

FOR THE GOVERNMENT OF THE
TRANSITIONAL ISLAMIC STATE
OF AFGHANISTAN:

Dr. A. Abdullah
[Signature]

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

[Signature]