

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

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT
OF MALAWI, 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 GOVERNMENT OF THE UNITED STATES OF AMERICA HAS
EXPRESSED ITS INTENTION TO INVESTIGATE AND TO PROSECUTE WHERE
APPROPRIATE 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 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 THE UNITED STATES OF AMERICA.

2. PERSONS OF THE UNITED STATES OF AMERICA PRESENT IN THE TERRITORY OF
MALAWI SHALL NOT, ABSENT THE EXPRESSED CONSENT OF THE GOVERNMENT OF
THE UNITED STATES OF AMERICA,

(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.

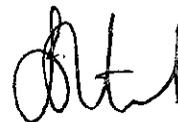
3. WHEN THE GOVERNMENT OF MALAWI EXTRADITES, SURRENDERS, OR OTHERWISE TRANSFERS A PERSON OF THE UNITED STATES OF AMERICA TO A THIRD COUNTRY, THE GOVERNMENT OF MALAWI WILL NOT AGREE TO THE SURRENDER OR TRANSFER OF THAT PERSON TO THE INTERNATIONAL CRIMINAL COURT BY A THIRD COUNTRY, ABSENT THE EXPRESSED CONSENT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

4. 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 IN DUPLICATE IN THE ENGLISH LANGUAGE AT LILONGWE, MALAWI THIS TWENTY-THIRD DAY OF SEPTEMBER, 2003.


Ambassador Steven A. Browning
U.S. Embassy
Lilongwe, Malawi




Honorable Lilian E. Patel
Minister of Foreign Affairs
and International Co-operation
Republic of Malawi

