

STATUS OF US BILATERAL IMMUNITY AGREEMENTS (BIAs)

As of August 2, 2006, the U.S. State Department reports 101 agreements; 99 are listed here.

OVERVIEW

TOTAL # of BIAs signed: 99+

Of these agreements, only 21 have been ratified by Parliament (noted by * below), and only 18 are considered executive agreements, which purportedly do not require ratification (noted by + below).

ICC States Parties that have signed a BIA: 45

Of these agreements, 13 BIAs have been ratified by States Parties and 9 have reportedly entered into executive agreements.

It is important to note that:

53 countries have publicly refused signing (please see separate document)

56 of 100 ICC States Parties have not signed (of which, 24 States Parties lost US aid in Fiscal Year 2005)

In capitals around the world, the U.S. government representatives have been seeking bilateral non-surrender agreements, or so-called "Article 98" agreements, in an effort to shield U.S. citizens from the jurisdiction of the International Criminal Court (ICC). Dubbed bilateral immunity agreements (BIAs) by leading experts, these U.S. agreements provide that current or former U.S. government officials, military and other personnel (regardless of whether or not they are nationals of the state concerned, i.e., foreign sub-contractors working for the U.S.) and U.S. nationals would not be transferred to the jurisdiction of the ICC.

Many governments, NGO, and other international law experts argue that the US is misinterpreting Article 98 of the Rome Statute, the provision of the ICC's governing treaty that the US is using to justify seeking these agreements. Legal experts furthermore contend that such agreements constitute a breach of international law if signed by ICC States Parties. ICC advocates condemn the U.S. BIAs as an inexcusable attempt to gain impunity from the crimes defined in the Rome Statute of the ICC, namely: genocide, crimes against humanity and war crimes.

While 101 governments have reportedly signed BIAs, less than 40% of these agreements have been ratified by Parliament or signed as an executive agreement. In fact, many legal experts argue that the executive agreements are unconstitutional and require the approval of Parliament, and are thus not valid agreements. Furthermore, more than half of States Parties have resisted signing BIAs – despite large economic penalties imposed by the U.S. – and 53 countries continue to publicly refuse to sign (including Brazil, Croatia, Costa Rica, Ecuador, Kenya, Namibia, Peru, Samoa, South Africa, and Trinidad and Tobago).

AFRICA – 38 BIAs signed (7 ratified, 9 executive agreements)**States Parties (22)**

Benin
Botswana +
Burkina Faso
Burundi
Central African Rep.
Comoros +
Congo – Brazzaville
Democratic Republic of the Congo +
Djibouti
Gabon
Gambia *
Ghana *
Guinea
Lesotho (likely executive agreement)
Liberia
Malawi +
Mauritius
Nigeria +

Senegal
Sierra Leone *
Uganda +
Zambia

Non-States Parties (16)

Angola *
Cameroon +
Cape Verde *
Chad
Côte d'Ivoire (Ivory Coast)
Equatorial Guinea +
Eritrea
Ethiopia
Madagascar
Mauritania *
Mozambique *
Rwanda
Sao Tome and Principe +
Seychelles
Swaziland
Togo

The Coalition for the International Criminal Court is a global network of over 2,000 civil society organizations supporting a fair, effective and independent International Criminal Court.

International Co-Secretariats

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Regional Representatives

Buenos Aires, Argentina • Brussels, Belgium • Cotonou, Benin
Mexico City, Mexico • Abuja, Nigeria • Quezon City, Philippines • Sana'a, Yemen

AMERICAS – 13 BIAs signed (4 ratified, 2 executive agreements)<http://www.iccnw.org> • cicc@iccnw.org**States Parties (9)**

Antigua and Barbuda +
Belize
Bolivia
Colombia +
Dominica

Dominican Republic

Guyana *
Honduras *
Panama *

Non-States Parties (4)

El Salvador *
Grenada (unconfirmed)
Haiti
Nicaragua

ASIA – 16 BIAs signed (3 ratified, 4 executive agreements)**States Parties (4)**

Afghanistan +
Cambodia *
East Timor *
Mongolia (unconfirmed)

Non-States Parties (12)

Bangladesh
Bhutan *
Brunei (unconfirmed)
India +
Laos
Maldives

Nepal

Pakistan
Philippines +
Singapore
Sri Lanka
Thailand

PACIFIC ISLANDS – 10 BIAs signed (0 ratified, 0 executive agreements)**States Parties (3)**

Fiji
Marshall Islands
Nauru

Non-States Parties (7)

Kiribati
Micronesia
Palau
Papua New Guinea
Solomon Islands
Tuvalu
Tonga

EUROPE/CIS – 11 BIAs signed (6 ratified, 0 executive agreements)**States Parties (6)**

Albania *
Bosnia-Herzegovina *
Georgia *
Macedonia, FYR *
Romania
Tajikistan *

Non-States Parties (5)

Azerbaijan
Kazakhstan *
Kyrgyzstan
Turkmenistan +
Uzbekistan

MIDDLE EAST / NORTH AFRICA – 11 BIAs signed (1 ratified, 3 executive agreements)**States Parties (1)**

Jordan*

Non-States Parties (10)

Algeria +
Bahrain
Egypt (unconfirmed)
Israel +
Kuwait (unconfirmed)
Morocco (unconfirmed)
Oman (unconfirmed)
Tunisia (unconfirmed)
United Arab Emirates +
Yemen (unconfirmed)

*indicates ratification of BIA, + indicates signature of executive agreement

Source: <http://www.state.gov/s/l/c3428.htm>

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