



STATUS OF US BILATERAL IMMUNITY AGREEMENTS (BIAS)

As of December 1, 2004, the US State Department reports over 90 agreements; 83 are listed here.

OVERVIEW

TOTAL # of BIAs signed: 83+

Of these agreements, only 18 have been ratified by Parliament, and only 11 are considered executive agreements (which purportedly do not require ratification).

ICC States Parties that have signed a BIA: 38

Of these agreements, 11 BIAs have been ratified by States Parties and 8 have reportedly entered into executive agreements.

It is important to note that:

45 countries have publicly refused signing

56 of 97 ICC States Parties have **not** signed

22 ICC States Parties have **not** signed despite loss of US aid

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

Many government, 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 US 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 over 90 governments have reportedly signed BIAs, only about 25% 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, about two-thirds of States Parties have resisted signing BIAs – despite large economic penalties imposed by the US – and 45 countries continue to publicly refuse to sign.

AFRICA – 28 BIAs signed (4 ratified, 5 executive agreements)

States Parties (19)

Botswana +

Burkina Faso

Burundi

Congo-Brazzaville

Dem. Republic of

the Congo +

Djibouti

Gabon

Gambia *

Ghana *

Guinea

Liberia

Madagascar

Malawi +

Mauritius

Nigeria +

Senegal

Sierra Leone *

Uganda +

Zambia

Non-States Parties (9)

Central African Republic

Chad

Eritrea

Ivory Coast/Cote D'Ivoire

Mauritania *

Mozambique

Rwanda

Seychelles

Togo

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New York, NY 10017
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www.iccnw.org

* indicates ratification of BIA

+ indicates signature of executive agreement

About the NGO Coalition for the International Criminal Court (CICC)

The CICC is a global network of over 2,000 civil society organizations supporting a fair, effective and independent International Criminal Court. For more information, visit us online at www.iccnw.org.

AMERICAS – 12 BIAs signed (5 ratified, 2 executive agreements)**States Parties (8)**

Antigua and Barbuda +
Belize
Bolivia
Colombia +

Dominica
Guyana *
Honduras *
Panama *

Non-States Parties (4)

Dominican Republic
El Salvador *
Haiti
Nicaragua *

ASIA – 18 BIAs signed (3 ratified, 3 executive agreements)**States Parties (5)**

Afghanistan +
Cambodia
East Timor *
Fiji
Mongolia

Non-States Parties (13)

Bangladesh
Bhutan *
Brunei (unconfirmed)
India +
Kazakhstan *
Laos

Maldives
Nepal
Pakistan
Papua New Guinea
Philippines +
Sri Lanka
Thailand

PACIFIC ISLANDS – 8 BIAs signed (0 ratified, 0 executive agreements)**States Parties (2)**

Marshall Islands
Nauru

Non-States Parties (6)

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

N. AFRICA/MIDDLE EAST – 6 BIAs signed**States Parties (0)****Non-States Parties (6)**

Bahrain
Egypt (unconfirmed)
Israel +
Kuwait (unconfirmed)
Morocco (unconfirmed)
Tunisia (unconfirmed)

** indicates ratification of BIA*

+ indicates signature of executive agreement