

Inter-American Convention on Mutual Assistance in Criminal Matters, adopted at the twenty-second regular session of the Organization of American States (OAS) General Assembly meeting in Nassau, The Bahamas, on May 23, 1992, and

the Optional Protocol Related to the Inter-American Convention on Mutual Assistance in Criminal Matters, adopted at the twenty-third regular session of the OAS General Assembly meeting in Managua, Nicaragua, on June 11, 1993.

Both instruments signed on behalf of the United States at OAS headquarters in Washington on January 10, 1995.

Treaty Number: 105-25

Transmitted: September 03, 1997

As approved by the Committee on Foreign Relations:

Resolved, (two thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Inter-American Convention on Mutual Assistance in Criminal Matters ("the Convention"), adopted at the Twenty-Second Regular Session of the Organization of American States ("OAS") General Assembly meeting in Nassau, The Bahamas, on May 23, 1992, and the Optional Protocol Related to the Inter-American Convention on Mutual Assistance in Criminal Matters ("the Optional Protocol"), adopted at the Twenty-Third Regular Session of the OAS General Assembly meeting in Managua, Nicaragua, on June 11, 1993, both instruments signed on behalf of the United States at OAS Headquarters in Washington on January 10, 1995 (Treaty Doc. 105-25), subject to the understandings of subsection (a), the declaration of subsection (b) and the proviso of subsection (c).

(a) Understandings. The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification:

(1) In General.-The United States understands that the Convention and Optional Protocol are not intended to replace, supersede, obviate or otherwise interfere with any other existing bilateral or multilateral treaties or conventions, including those that relate to mutual assistance in criminal matters.

(2) Article 25.--The United States understands that Article 25 of the Convention, which limits disclosure or use of information or evidence obtained under the Convention, shall no longer apply if such information or evidence is made public, in a manner consistent with Article 25, in the course of proceedings in the Requesting State.

(3) Prohibition on assistance to the International Criminal Court .-The United States shall exercise its rights to limit the use of assistance it may provide under the Convention and/or Optional Protocol so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court contemplated in the Statute adopted in Rome, Italy, on July 17, 1998,

unless the Statute establishing that Court has entered into force for the United States by and with the advice and consent of the Senate, as required by Article II, section 2 of the United States Constitution.

(b) Declaration. The Senate's advice and consent is subject to the following declaration, which shall be binding upon the President:

Treaty Interpretation. The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) Proviso. The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

Supremacy of the Constitution. Nothing in this Convention or the Optional Protocol requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.