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Open letter to members of Parliament of the Gambia

28 February 2003

Dear Parliamentarians,

Bi-lateral agreement with the USA concerning the International Criminal Court

Amnesty International is very concerned that the government of the Gambia has recently signed a bilateral agreement with the USA providing impunity for US nationals' accused of genocide, crimes against humanity and war crimes. Amnesty International is writing to urge you and other parliamentarians to refuse to ratify this agreement which violates the Gambia's obligation as a state party to the Rome Statute of the International Criminal Court.

In recent months, the USA, as part of a worldwide campaign against the new International Criminal Court, has been asking states to enter into agreements not to surrender US nationals to the Court. As of 13 February 2003, despite strong lobbying by the US, including threatening to withdraw military and other assistance from states that refuse to sign agreements, less than 20 states have signed and no agreement has been ratified.

Amnesty International has been working for the establishment of the International Criminal Court for nearly ten years, believing that the Court is an essential mechanism to end impunity for the worst crimes known to humanity. No-one should have impunity for these crimes.

In August 2002, Amnesty International's issued the attached document *International Criminal Court: US efforts to obtain impunity for genocide, crimes against humanity and war crimes* (AI Index: IOR 40/025/2002), which analyses the agreement the US has been asking states to enter into. The organization concludes that any state which enters into such an agreement would violate its obligations under the Rome Statute and international law.

The European Union's (EU) legal experts have also analysed the agreements and have reached the same conclusion "[e]ntering into US agreements - as presently drafted - would be inconsistent with ICC States Parties' obligations with regard to the ICC Statute and may be inconsistent with other international agreements to which ICC States Parties are Parties." The

EU further issued guiding principles which Amnesty International analyses in *International Criminal Court: The need for the European Union to take more effective steps to prevent members from signing US impunity agreements* (AI Index: IOR 40/030/2002) (also attached).

The agreements the Gambia has signed is in violation of its' obligations as a state party to the Rome Statute and furthermore goes against the will of the vast majority of the international community to ensure that no-one, regardless of their nationality or status, can plan and commit these heinous crimes with impunity.

We hope that you and other parliamentarians, will refuse to ratify this agreement or any agreement which seeks to provide impunity to anyone accused of genocide, crimes against humanity and war crimes.

Yours sincerely,

Martin MacPherson
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