



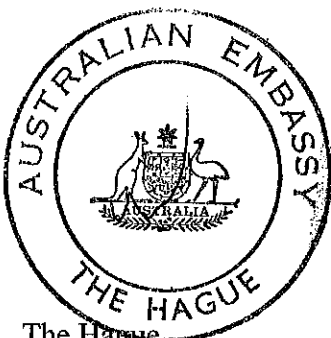
Note No. 07/2010

The Embassy of Australia presents its compliments to the Secretariat of the Assembly of the States Parties to the Rome Statute of the International Criminal Court and has the honour to refer to the Secretariat's Note ICC-ASP/9/SP/PA/21 of 9 August 2010 regarding the Plan of Action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court, in which the Secretariat requested States Parties to convey information under paragraph 6(h) of the Plan of Action.

The Embassy of Australia has the honour to advise that Australia has continued to promote accession to the Rome Statute within the Asia-Pacific region. Australia has actively supported efforts through the Pacific Islands Law Officers' Network (PILON) to encourage Pacific Island countries to accede to the Rome Statute, and has sought to promote awareness of the Statute among key officials from those countries.

Australia has engaged closely with several countries in the Asia-Pacific region to strengthen criminal justice systems and increase capacity for effective international crime cooperation within the region. Australia has provided technical assistance to several States to improve mechanisms for the surrender of fugitives and the provision of mutual assistance in criminal matters. This work has focused on strengthening broader criminal justice processes, systems and institutions. Australia anticipates that such strengthening will enhance the ability of these States to assume obligations under the Rome Statute in the future.

The Embassy of Australia avails itself of this opportunity to renew to the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court the assurances of its highest consideration.



The Hague

2 November 2010

RESPONSE BY AUSTRALIA TO THE SECRETARIAT'S QUESTIONNAIRE ON IMPLEMENTING LEGISLATION

1. *Has your Government adopted any national legislation implementing the Rome Statute ("the Statute")?*

Yes. The Australian Government implemented its obligations under the Statute through the *International Criminal Court Act 2002*. A number of amendments were also made to other pieces of pre-existing legislation.

[Questions 2-4 not applicable]

5. *In implementing the Statute, did your Government draft special implementing legislation or did it incorporate the articles or substantive provisions of the Statute into pre-existing law?*

The *International Criminal Court Act 2002* was a new piece of legislation especially developed to implement the Statute into Australian law. In particular, this legislation establishes the mechanisms for Australia's cooperation with the Court. Other key provisions of the Statute, such as the substantive crimes, were added to the Australian *Criminal Code Act 1995* alongside other federal crimes.

6. *Does the implementing legislation incorporate the substantive crimes through reference to the Statute or by incorporating the crimes in the legislation itself?*

The crimes within the jurisdiction of the Court have been added to the *Criminal Code Act 1995* as crimes in their own right. This is because under the Australian system, provisions of international treaties must be specifically implemented into national legislation in order to have domestic effect. These crimes reflect the Rome Statute definitions of the crimes and have also been drafted in a manner consistent with the usual requirements for Australian criminal offences.

7. *Does the implementing legislation fully incorporate all modes of cooperation under Part 9 of the Statute?*

Yes. All modes of cooperation are provided for in the *International Criminal Court Act 2002*.

8. *Does the implementing legislation designate a channel of communication with the Court?*

Yes. Section 8 of the *International Criminal Court Act 2002* states that a request for cooperation from the Court is to be made to the Australian Attorney-General through the diplomatic channel, or through the International Criminal Police Organisation or other appropriate regional organisation.