

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
BUDGET ESTIMATES 2017

Attorney General's Department

Program: 1.1 AGD Operating Expenses - Civil Justice and Legal Services

Question No. BE17-025

Senator Ludlam asked the following question on 24 May 2017:

Senator LUDLAM: I am not sure what the process for this is; I gave you no warning at all that I was going to raise this. Are you able to tip off your colleagues in DFAT that I will bring it to them next week, so that maybe they can have some information at the table with them or the relevant officers?

Mr Reid: Certainly.

Senator LUDLAM: Thank you. Could you confirm for us at least that Australia is not planning on opting out of the amendments?

Mr Reid: I cannot; I just do not know where the decision is going to land.

Senator LUDLAM: Can I ask you to take that on notice and, if you think it is more in the domain of your DFAT colleagues, to pass that on to them as well?

Mr Reid: Certainly.

The response to the honourable Senator's question is as follows:

In 2010, the Kampala Review Conference on the Rome Statute of the International Criminal Court (ICC) adopted amendments to the Rome Statute on the crime of aggression. The amendments stated that the ICC would only be able to exercise jurisdiction over the crime of aggression after (i) 30 States Parties to the Rome Statute had ratified or accepted the amendments on the crime of aggression and (ii) the Assembly of States Parties made a decision after 1 January 2017 activating the ICC's jurisdiction.

At its sixteenth session (4-14 December 2017), the ICC's Assembly of States Parties decided by consensus to activate the ICC's jurisdiction over the crime of aggression with effect from 17 July 2018. The Resolution activating the ICC's jurisdiction confirmed that, in accordance with the Rome Statute, the crime of aggression amendments will enter into force for those States Parties which have accepted the amendments one year after the deposit of their instruments of ratification or acceptance. The Resolution also confirmed that, in the case of State referral or an own motion investigation by the Prosecutor, the Court shall not exercise its jurisdiction regarding a crime of aggression when committed by a national or on the territory of a State Party that has not ratified or accepted the crime of aggression amendments.

Australia has not ratified the crime of aggression amendments. Ratification of the amendments is a matter for the Government to consider in due course. Australia has no current plans to make an 'opt out' declaration under article 15*bis* (4) of the amendments.