

The Secretary
Joint Standing Committee on Treaties
House of Representatives
Parliament House
Canberra, ACT 2000

November 28, 2000

Re: Submission in Support of Australia's Ratification of the ICC Treaty

By email and fax, (02-6277-4827)

Dear Sir or Madam:

I am writing on behalf of the more than 1000 members of the NGO Coalition for an Intentional Criminal Court, which has support from all regions of the world and all sectors of civil society, including academics, women's groups, child rights advocates, human rights organizations, the peace movement, faith-based groups, and many others.

As you are well aware, horrific atrocities are still occurring throughout the world and cause enormous suffering for tens of millions of people and their communities every year. During the last ten years alone, as many as 2 million people have been killed in violation of intentional humanitarian law, arid millions more wounded, displaced and victimized. As Australia is aware, the financial cost of intervening in such 'situations and in assisting in the reconstruction which follows is also staggering. If only a fraction of the 250 conflicts that occurred in the last ten years can be prevented or diminished, the savings in financial terms will be enormous; the impact for human beings will be immeasurable.

The adoption of the Rome Statute of the International Criminal Court (ICC) represents one of the greatest potential advances in the rule of law in all history. The ICC itself will be one of the most significant opportunities the international community has ever had to respond to the suffering caused by violations of international law, by creating a mechanism that would act as a deterrent to these crimes or, if necessary, bring to justice their perpetrators. It must no longer be acceptable to allow the likes of Milosevic, Suharto, Pinochet, Pol Pot, Idi Amin and Hitler to go unpunished for their heinous acts.

Australia has played a pivotal role in the establishment of the ICC, joining many other important nations. At the end of the Rome Conference in July 1998 at which the ICC treaty was negotiated, Australia was one of the 120 nations that voted in favor of the adoption of the Statute. Only seven voted against its adoption, including China, Iraq, and the United States.

As of today, 117 nations have signed the Rome Statute for the ICC. which indicates an expression of support for the Court *and* an, intention to proceed towards the full acceptance of the treaty's rights and obligations. Twenty-three nations have now ratified, and reportedly, thirty other nations are well advanced in the ratification process. Two countries, New Zealand *and*

Canada, have also adopted comprehensive implementing legislation and are therefore already prepared to cooperate fully *with* the functioning Court.

In Western Europe, the following countries have ratified the treaty: Spain, France, Belgium, Norway, Italy, Luxembourg, Iceland and San Marino. Germany has completed the internal process and has announced that its instrument of ratification will be deposited on December 11, 2000. In the United Kingdom, the draft ratification bill is expected to be included in the next parliamentary session. All other members of the European Union have indicated an intention to ratify this year or in 2001 and several have submitted the bill of ratification to Parliament. In a statement to the United Nations on October 18, 2000, France, on behalf of the European Union said, "The essential step which still needs to be taken before the ICC can become a reality is to attain the sixty ratifications needed for the Statute to come into force. Several European Union member States are among these States: the rest will soon follow ... The European Union appeals once again to all States to sign and ratify the Rome Statute." All other Western European powers have signed the Statute and have made similar commitments to proceed quickly with ratification, with the exception of Turkey. Similarly, all NATO powers have indicated their support for the ICC, with the exception of Turkey and the United States.

With regard to Africa, a significant announcement was made at the opening plenary of the United Nations Preparatory Commission on the ICC on November 27: South Africa had deposited its ratification bill that morning. South Africa thereby joined Botswana, Lesotho, Senegal, Ghana, Mali, Sierra Leone and Gabon as parties to the treaty. The Southern African Development Community (SADC), similar to the European Union, has spoken with one voice in its support for the Court. A statement made to the United Nations on October 18, 2000 on behalf of the fourteen SADC countries indicated that "SADC... reiterates the ... call to all States to intensify their effort to sign and ratify the Statute as soon as possible." Thirty-five other sub-Saharan African nations have signed the treaty.

In the Americas, Canada, Venezuela, Belize and Trinidad & Tobago have ratified; the ratification process is also well advanced in Argentina (expected to be completed by the end of 2000), Bolivia, Brazil, Chile, Costa Rica, Ecuador and Paraguay. Significantly, Mexico has signed the Statute after abstaining from voting at the Rome conference and is currently considering the Statute's compatibility with the Mexican constitution. Canada has not only completed the ratification process, but has also completed its implementing legislation and has recently launched a multi-faceted campaign to help bring the ICC into existence as soon as possible. In October of this year, the Rio Group made a statement to the United Nations, indicating its full support for the establishment of the ICC as "an instrument of dissuasion to discourage the commission of [genocide, crimes against humanity and war crimes]". Also in October, Trinidad & Tobago, on behalf of the fourteen member states of CARICOM, said, "We... welcome the remarkable rate of increase in the number of signatories and States Parties of the Rome Statute of the International Criminal Court. It is noteworthy, too, that these states represent a wide cross-section of the international community..." Other regional groups and organizations have adopted resolutions and other documents of support for the ICC, including the Commonwealth, Francophonie, Council of Europe, Organisation of American States, Organization of African Unity and the Non-Aligned Movement, among others.

Asia and North Africa/the Middle East have been the two regions which have been slowest to indicate support for the Court. Yet four signatures from the Arab region have been announced in the past two months, and more are expected. Similarly, in Asia, Thailand and Cambodia have been among the most recent nations to sign the treaty, emphasizing again that support for the ICC is truly universal.

To supplement the information contained in this submissions about the worldwide support for the ICC, a country-by-country report of worldwide progress towards ratification of the Rome Statute is attached.

A number of countries were awaiting the completion of the draft Rules of Procedure and Evidence and Elements of Crimes by the United Nations Preparatory Commission on the ICC before becoming a State party. These two central documents were adopted unanimously on June 30, 2000, an outcome in which Australia played a very important role, and this has contributed to the increased pace of signatures and ratifications over the past several months.

The establishment of the ICC is an historic initiative and may be the most important institution established since the creation of the United Nations itself, particularly in terms of its potential impact on international peace. Australia played a lead role in the negotiations during the initial meetings of the United Nations Preparatory Committee, at the Rome Conference on the ICC and at the Preparatory Commission meetings since Rome, both in terms of its substantive contributions and as chair of the Like-Minded Group of Countries. It is unthinkable that Australia would not continue in this leadership capacity and would not be at the first meeting of the Assembly of States Parties. A decision not to proceed with prompt ratification would isolate Australia as one of

the few countries of the world unwilling to support the creation of a permanent mechanism to bring to justice the perpetrators of genocide, crimes against humanity, and war crimes.

We trust that the Joint Standing Committee on Treaties will see that it is in the interests of Australians, as well as those of the millions of people who still suffer at the hands of genocidal leaders and other individuals to join the overwhelming majority of the world's nations in their support of the Rome Statute for the ICC.

Sincerely,

William R. Pace
Convenor