



No. 03/2009

The Embassy of Australia presents its compliments to the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court and has the honour to refer to the Secretariat's Note ICC-ASP/8/S//PA/19 of 24 April 2009 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.

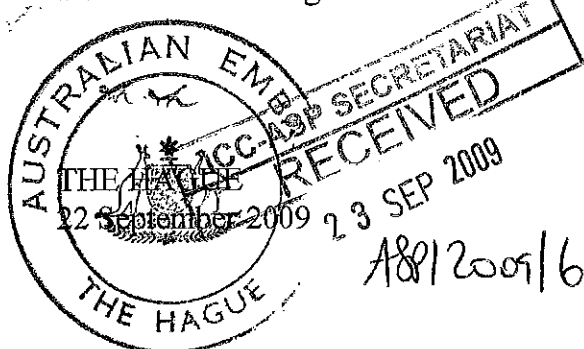
Australia has actively supported efforts through the Pacific Islands Law Officers' Network (PILON) to encourage Pacific Island countries to accede to the Rome Statute, and has sought to promote awareness of the Statute among key officials from those countries.

At a workshop facilitated under the auspices of the International Committee of the Red Cross in December 2008, Australia presented the framework of the Pacific Model International Criminal Court Law and its potential practical application in the Pacific.

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. Australia is currently expanding its work in this field to a number of African States.

The Embassy of Australia has the further honour to advise the Secretariat of Australia's responses to the questionnaire posed by the Secretariat, as outlined in the attached document.

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.



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

Question 1: has your Government adopted any national legislation implementing the Rome Statute ("the Statute")?

Yes, Australia implements its obligations under the Rome Statute under the *International Criminal Court Act 2002*. Consequential amendments were also made to several existing pieces of legislation to ensure their alignment with the International Criminal Court Act.

Question 2 – 4: not applicable.

Question 5: in implementing the Rome 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 was a new and separate piece of legislation developed and tailored specifically to implement Australia's obligations under the Rome Statute into Australian domestic law. In particular, this legislation establishes the mechanisms for Australia's cooperation with the International Criminal Court.

Other key provisions of the Rome Statute were added to the Australian *Criminal Code Act 1995*. For example, Australia amended this Act to include the substantive crimes over which the Court has jurisdiction.

Question 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 International Criminal Court are outlined in the Criminal Code Act as substantive crimes under Australian law. This reflects Australia's dualist approach to international law implementation.

Question 7: does the implementing legislation fully incorporate all modes of cooperation under Part 9 of the Statute?

Yes, all modes of cooperation are enabled under the International Criminal Court Act.

Question 8: does the implementing legislation designate a channel of communication with the Court?

Yes, under section 8 of the International Criminal Court Act the International Criminal Court may request cooperation either through the Australian Attorney-General via the diplomatic channel, or through the International Criminal Police Organisation or other appropriate regional organisation.