

## **Media Release**

**From the Prime Minister, The Hon John Howard, MP**

**20 June 2002**

### **INTERNATIONAL CRIMINAL COURT**

I announce today the intention of the Government to propose ratification of the 1998 Rome Statute providing for the establishment of an International Criminal Court. This decision has been reached after considerable consultation and discussion among Coalition ranks.

The Government believes that the International Criminal Court can make a valuable contribution to the future punishment of persons who commit acts of genocide, crimes against humanity and war crimes.

I am satisfied that with the stipulations to be incorporated in a declaration to be made at the time of ratification that the decision to ratify does not compromise Australia's sovereignty.

It is proposed that the declaration reaffirms the primacy of Australian law and the Australian legal system and declares that no person can be arrested on a warrant issued by the Court or surrendered to the Court without the consent of the Commonwealth Attorney-General.

Additionally, the declaration will provide that it is Australia's understanding that the offences of genocide, crimes against humanity and war crimes under the International Criminal Court Statute will be interpreted and applied in a way that accords with the way they are implemented in Australian law.

The matters dealt with in the Declaration will be incorporated in the Australian legislation implementing our obligations under the International Criminal Court Statute.

Importantly, the legislation will provide that no prosecution is to be commenced, or proceedings conducted, without the consent of and in the name of, the Attorney-General.

The Attorney-General's powers to consent to arrest, surrender or prosecution will also be broadly drafted to allow as wide a discretion as possible, limiting the grounds for judicial review of the exercise of those powers.

The Australian legislation will also include a clause limiting judicial review of any decision of the Commonwealth Attorney-General to give or refuse consent to an arrest on a warrant issued by the Court, the surrender of a person to the Court; or conduct a prosecution under Australian law in relation to the offences contained in implementing legislation. This will limit judicial review of the exercise of the Attorney-General's powers to proceedings by way of prerogative writs in the High Court under the Constitution.

In accordance with the Treaty Australia will have the right to withdraw from the Treaty on 12 months notice. While it is not the intention for such action to be taken without proper

consideration it is important that the Australian people understand that the ability to withdraw is available.

It is proposed that the operation of the Treaty be monitored and the Government will report regularly to the Parliament.

A copy of the proposed declaration is attached.

## INTERNATIONAL CRIMINAL COURT STATUTE

### DECLARATION BY AUSTRALIA TO BE MADE UPON RATIFICATION:

#### DECLARATION

Australia notes that a case will be inadmissible before the International Criminal Court (the Court) where it is being investigated or prosecuted by a State. Australia reaffirms the primacy of its criminal jurisdiction in relation to crimes within the jurisdiction of the Court. To enable Australia to exercise its jurisdiction effectively, and fully adhering to its obligations under the Statute of the Court, no person will be surrendered to the Court by Australia until it has had the full opportunity to investigate or prosecute any alleged crimes. For this purpose, the procedure under Australian law implementing the Statute of the Court provides that no person can be surrendered to the Court unless the Australian Attorney-General issues a certificate allowing surrender. Australian law also provides that no person can be arrested pursuant to an arrest warrant issued by the Court without a certificate from the Attorney-General.

Australia further declares its understanding that the offences in Articles 6, 7 and 8 will be interpreted and applied in a way that accords with the way they are implemented in Australian domestic law.

20 June 2002

Please note:

The original document can be found at:

[http://www.pm.gov.au/news/media\\_releases/2002/media\\_release1708.htm](http://www.pm.gov.au/news/media_releases/2002/media_release1708.htm)