

Introduction

What is the International Criminal Court?

Overview

- 1.1 In July 1998, 120 nations attending a diplomatic conference in Rome agreed to establish an International Criminal Court (ICC). The Court is intended to be a permanent international criminal tribunal to prosecute those individuals who commit the most serious crimes of concern to the international community of nations. These crimes are described in the Statute of the ICC (the ICC Statute, also known as the Rome Statute) as being genocide, crimes against humanity, war crimes and, should a definition be agreed in the future, the crime of aggression.
- 1.2 Australia was one of the early signatories to the ICC Statute, having played a leading role in developing the text of the Statute.¹
- 1.3 As of 11 April 2002 139 nations had signed the ICC Statute and 66 nations had taken the additional step of ratifying the Statute,² thus formally agreeing to be bound to the terms of the Statute. The ICC will enter into force internationally on 1 July 2002. The first meeting of States Parties is likely to be held in September 2002.

1 The Australian Government signed the ICC Statute on 9 December 1998.

2 In a ceremony at UN Headquarters on 11 April 2002, the threshold of 60 ratifications required for the ICC to come into force was surpassed, with the total number of 66 ratifications. Cable, Department of Foreign Affairs and Trade, 11 April 2002, p. 1. See Appendix D for a list of signatories.

- 1.4 The ICC is proposed to stand as a third pillar beside the United Nations (UN) and the International Court of Justice (ICJ) in global efforts to promote peace and security. The ICC will complement the UN and the ICJ, which focus on the accountability of States, by calling to account those individuals who commit the most serious crimes of international concern.
- 1.5 Unlike the ICJ, which is one of the primary organs of the UN, the ICC will be established as an independent institution. While it will have a relationship with the UN, it will have its own statutory basis.

Key elements of the Statute

- 1.6 The ICC Statute is a comprehensive instrument which, according to a National Interest Analysis prepared by the Government, seeks to establish a new international criminal justice system, complementary to the national criminal justice systems of each State Party.³
- 1.7 The Statute, which is intended to operate as the constitution of the ICC, establishes the Court as a permanent institution (Article 1), to be in relationship with the UN (Article 2), and to be based at The Hague in the Netherlands (Article 3).

Officials of the Court

Judges

- 1.8 The ICC will consist of 18 judges to be elected by the Assembly of States Parties.⁴ The judges are to hold office for a period of 9 years and shall not be eligible for re-election (Article 36).⁵

3 The National Interest Analysis for the ICC Statute (NIA for the Statute) is available from the JSCOT Secretariat, or at: <http://www.austlii.edu.au/au/other/dfat/nia/2000/2000024n.html>. The text of the ICC Statute is available from the JSCOT Secretariat, or at: <http://www.un.org/law/icc/statute/romefra.htm>.

The description in this chapter of the key elements of the ICC is drawn from both the NIA for the Statute and the ICC Statute itself.

4 It is anticipated that the election of judges to the ICC will occur during the second meeting of the assembly of states parties which is likely to be in January 2003. Joanne Blackburn (Attorney-General's Department), *Transcript of Evidence*, 10 April 2002, p. TR 289.

5 Article 36 details the election process for judges.

36 (6)(a) states that: 'The judges shall be elected by secret ballot at a meeting of the Assembly of States Parties convened for that purpose under article 112. Subject to paragraph 7, the persons elected to the Court shall be the 18 candidates who obtain the highest number of votes and a two-thirds majority of the States Parties present and voting'. Article 36(6)(b) states that: 'In the event that a sufficient number of judges is not elected on the first ballot, successive ballots shall be held in accordance with the procedures laid down in subparagraph (a) until the remaining places have been filled'.

1.9 Article 36(3) describes the qualities to be possessed by judicial candidates in the following terms:

36(3) (a) The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices.

(b) Every candidate for election to the Court shall:

(i) have established credentials in criminal law and procedure, and the necessary relevant experience, whether as a judge, prosecutor, advocate or in other similar capacity, in criminal proceedings; or

(ii) have established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court.⁶

1.10 The ICC Statute also provides that the judges shall elect a President, who shall assign judges to an Appeals Division, a Trial Division and a Pre-Trial Division of the Court. Judges assigned to the Appeals Division shall serve in that Division for the entire term of their office (Article 39).⁷

1.11 The independence of the judiciary is described in Articles 40 and 41, which provide, *inter alia*, that:

Judges shall be independent in the performance of their functions.

Judges shall not engage in any activity which is likely to interfere with their judicial functions or to affect confidence in their independence.

Judges required to serve on a full time basis ... shall not engage in any other occupation of a professional nature.

The first meeting of the States Parties in September 2002 is expected to discuss among other things, the procedures for the election of judges (Joanne Blackburn (Attorney-General's Department), *Transcript of Evidence*, 10 April 2002, p. TR 289).

6 Article 36(8) provides that in selecting judges for the ICC, the States Parties should take into account the need for representation of the principal legal systems of the world, equitable geographic representation, a fair representation of female and male judges and for expertise on specific issues, including, but not limited to, violence against women or children.

7 Judges assigned to the Trial or Pre-Trial Divisions may, at the discretion of the President, be temporarily transferred from one Division to the other should management of the Court's workload so require (Article 39(4)).

A judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground.

- 1.12 Judges may be removed from office either for serious misconduct, serious breach of duty, or for inability to exercise their functions (Article 46).

The Prosecutor

- 1.13 The Office of the Prosecutor is a separate organ of the ICC, independent of the judiciary.
- 1.14 The Office of the Prosecutor is responsible for receiving referrals and any substantiated information on crimes within the jurisdiction of the Court, for examining them and for conducting investigations and prosecutions before the Court (Article 42(1)).
- 1.15 The Prosecutor and one or more Deputy Prosecutors are also to be elected by the Assembly of State Parties, shall hold office for no longer than 9 years and shall not be eligible for re-election. (Article 42(4)).
- 1.16 The Statute does not specify the number of Deputy Prosecutors to be appointed. This may be dependent on the work demands on the Court at a particular time. Under Article 42 (4) 'The Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties. The Deputy Prosecutors shall be elected in the same way from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled'. Article 42 (2) specifies that the Prosecutor and the Deputy Prosecutors shall be of different nationalities.
- 1.17 Article 42(3) establishes that to be eligible for election the Prosecutor and the Deputy Prosecutors must be:
- ... persons of high moral character, be highly competent in and have extensive practical experience in the prosecution or trial of criminal cases.
- 1.18 The Statute contains similar provisions relating to the independence, disqualification and removal of the Prosecutor as are provided for judges. (see Articles 42(5) to 42(8)).

Jurisdiction of the Court

- 1.19 Article 5 of the ICC Statute limits the jurisdiction of the Court to 'the most serious crimes of concern to the international community as a whole':
- the crime of genocide;

- crimes against humanity;
 - war crimes; and
 - the crime of aggression.
- 1.20 Each of these crimes (with the exception of the crime of aggression) is defined in the Statute. The crime of aggression has not yet been defined and the Court will not be able to exercise jurisdiction over this crime unless and until the States Parties adopt a provision defining the crime and setting out the conditions under which the Court's jurisdiction may be exercised (see Article 5(2)).
- 1.21 Adoption of an amendment to the Statute, which involved incorporating a definition of aggression, would require a two-thirds majority of States Parties (Article 121(3)). The next step would consist of a ratification or acceptance process outlined in paragraph 4 of Article 121, entailing the approval of seven-eighths of the States Parties. These amendments enter into effect for all States Parties at that point. As amendments have the potential to effect a major change in a State Party's relationship to the Court, any State Party not in agreement with a given amendment of this type has a right to withdraw from the Statute with immediate effect (Article 121(6)).
- 1.22 The definitions of genocide, crimes against humanity and war crimes appear at Articles 6, 7 and 8 of the ICC Statute.⁸ These primary definitions (which in the case of crimes against humanity and war crimes are themselves lengthy) are expanded upon considerably in the *Elements of Crimes*, a document drafted by the Preparatory Commission for the ICC.⁹
- 1.23 The crimes described in the ICC Statute and the *Elements of Crimes* are not new crimes, rather they reflect and codify international law that has developed over the last century. For example, the ICC definition of genocide is identical to that contained in the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*. Likewise, the definitions

8 A copy of the Statute can be obtained from the Treaties Secretariat, or from a link on the Committee's web site at: <http://www.aph.gov.au/house/committee/jsct/ICC/links.htm>

9 A copy of the draft *Elements of Crimes* adopted by the Preparatory Commission for the International Criminal Court on 30 June 2000 can be found at www.un.org/law/icc/statute/elements/elemfra.htm The *Elements of Crimes* will come into effect after they are approved by the Assembly of States Parties at its first meeting following the establishment of the ICC. See also Joanne Blackburn (Attorney-General's Department), *Transcript of Evidence*, 10 April 2002, p. TR289, '... the first meeting of the assembly [of parties] is likely to be held in September 2002. This assembly is expected to consider, and is likely to adopt, the rules of procedure and evidence for the ICC, the document setting out the elements of crimes and the court's first year budget.'

of crimes against humanity and war crimes draw heavily on customary international law (especially that established by the post-World War II Nuremberg Tribunal) and on the 1949 *Geneva Conventions* (as amended) and the 1984 *Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment*.

- 1.24 The Statute is clear in applying the Court's jurisdiction only to natural persons (Article 25) over the age of eighteen (Article 26) and in respect of crimes committed after the Statute enters into force (Article 11).
- 1.25 There are three ways in which the ICC's jurisdiction can be invoked:
- a referral to the Prosecutor by a State Party;
 - a referral to the Prosecutor by the Security Council of the United Nations; or
 - the initiation of an investigation directly by the Prosecutor (Article 13).
- 1.26 The Statute also establishes a pre-condition to be satisfied before the ICC can exercise its jurisdiction in relation to referrals by a State Party or investigations initiated by the Prosecutor, namely that:
- (a) the conduct in question occurred on the territory of a State Party;
 - (b) the person accused of the crime is a national of a State Party; or
 - (c) a non-State Party agrees to accept the Court's jurisdiction (Article 12).

Conduct of investigations and the complementarity principle

- 1.27 If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation into a matter (irrespective of how the matter was initiated), he must seek agreement from the Pre-Trial Chamber to commence the investigation (Article 15).¹⁰

¹⁰ If a crime appears to have been committed a referral to the Prosecutor can be made by a State Party (under Article 14), by the Security Council, acting under Chapter VII of the Charter of the United Nations. Under Article 15 the Prosecutor can initiate proceedings *proprio motu*. Under Article 15 (4), if the Pre-Trial Chamber, upon examination of the request and the supporting material, considers there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.

- 1.28 A key factor to be considered in deciding whether an investigation should be commenced is whether the case is admissible under Article 17 of the Statute. This article gives force to the *principle of complementarity*, the foundation upon which the operation of the Court is predicated.
- 1.29 The principle of complementarity is first mentioned in the preamble to the Statute, which introduces the agreement by:
- Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,
... [and]
Emphasising that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions.
- 1.30 The principle is also mentioned explicitly in Article 1 of the Statute, which states that the ICC ‘shall be complementary to national criminal jurisdictions’.
- 1.31 It is in Article 17 that the practical application of the principle is described. It provides that the ICC shall determine a case is inadmissible where:
- 17(1) (a) The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is *unwilling or unable* genuinely to carry out the investigation or prosecution;
- (b) The case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the *unwillingness or inability* of the State genuinely to prosecute;
- (c) The person concerned has already been tried for conduct which is the subject of the complaint and trial of by the Court is not permitted under Article 20 [see the first dot point in paragraph 1.38 below];
- (d) The case is not of sufficient gravity to justify further action by the Court.¹¹
- 1.32 The Statute goes on describe the matters the Court must consider in determining whether a State is *unwilling* or *unable* in a particular circumstance to genuinely carry out an investigation or prosecution.

11 Emphasis added.

- 1.33 In determining *unwillingness* the Court shall consider whether one or more of the following circumstances exist:
- 17(2) (a) The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility ... ;
 - (b) There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice;
 - (c) The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.
- 1.34 In order to determine *inability* the Court shall consider whether due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings (Article 17(3)).
- 1.35 The ICC's *Rules of Procedure and Evidence* (which, like the *Elements of Crimes*, have been drafted by the Preparatory Commission) set out further information the Court may consider in determining these matters. For example, a State may submit to the Court information showing that its national courts meet internationally recognised norms and standards for the impartial prosecution of similar conduct.¹²
- 1.36 The Statute and the *Rules of Procedure and Evidence* also establish processes by which the Court and a State can engage in dialogue about the progress of national proceedings (Article 18 and Rules 51-56 and 58).

Principles of law

- 1.37 Part 3 of the Statute describes the general principles of criminal law to be applied by the Court. These principles represent an attempt to meld the criminal law doctrines of different legal systems.
- 1.38 Some of the key principles underpinning the operation of the ICC are:

12 A copy of the draft *Rules and Procedures of Evidence* adopted by the Preparatory Commission for the International Criminal Court on 30 June 2000 can be found at www.un.org/law/icc/statute/rules/rulefra.htm. These rules describe in practical, operational terms how the ICC Statute will be applied. The *Rules of Procedure and Evidence* will come into effect after they are approved by the Assembly of States Parties at its first meeting following the establishment of the ICC.

- a person shall not be tried for crimes if they have already been convicted or acquitted by the ICC or by a national court, unless the proceedings in the other court were conducted for the purpose of shielding the person from the jurisdiction of the Court or were inconsistent with an intent to bring the person to justice (Article 20);
- the definition of a crime shall be strictly construed, shall not be extended by analogy and, in the case of ambiguity, shall be interpreted in favour of the person being investigated, prosecuted or convicted (Article 22(2));
- the Statute shall apply equally to all persons without any distinction based on official capacity and without regard to any immunities or special procedural rules that might otherwise apply to the official capacity of a person (Article 27);
- the crimes within the jurisdiction of the Statute shall not be subject to any statute of limitations (Article 29);
- a person shall be criminally responsible only if the material elements of the crime are committed with intent and knowledge (Article 30);
- a person shall not be criminally responsible if they can demonstrate any of the following circumstances: insanity, intoxication, self-defence or the defence of others, or duress (Article 31);
- the defence of acting pursuant to superior orders is not available unless the accused was under a legal obligation to obey the orders, the accused did not know the order was unlawful and the order was not manifestly unlawful (for the purposes of the Statute orders to commit genocide or crimes against humanity are manifestly unlawful) (Article 33);
- all accused persons shall be presumed innocent until proved guilty (Article 66);
- the onus is on the Prosecutor to prove guilt and, in order to convict, the Court must be convinced beyond reasonable doubt of the guilt of the accused person (Article 66); and
- an accused person is entitled to a fair public hearing conducted impartially and to a range of guarantees intended to ensure natural justice, including the right to appeal a decision of the Court and to apply for revision of a judgement or sentence in the light of new evidence (Articles 67, 81 and 84).

1.39 The Court may impose a term of imprisonment not exceeding 30 years or a term of life imprisonment, when justified by the extreme gravity of the

crime. In addition to imprisonment, the Court may order a fine and forfeiture of the proceeds of a crime (Article 77). Moreover, the Court may order reparations to victims, including restitution, compensation and rehabilitation (Article 75).

General obligations

- 1.40 The ICC Statute imposes on States Parties a general obligation to cooperate fully with the Court in its investigation and prosecution of crimes (Article 86).
- 1.41 In particular, States Parties are obliged:
- upon receipt of a request from the Court for provisional arrest, or for arrest and surrender, to take immediate steps to arrest a person, in accordance with its national laws and the ICC Statute (Article 59); and
 - to assist in the gathering, preservation and production of testimonial, physical and documentary evidence, the protection of witnesses and victims, the execution of searches and seizures, and the service of documents (Article 93).
- 1.42 Articles 89, 90 and 91 contain detailed provisions relating to the surrender of persons to the Court – describing, in particular, the relationship between the surrender procedures in the Statute, in domestic law, and in existing bilateral and multilateral extradition arrangements.
- 1.43 Among other matters, the Statute provides that requests for the arrest and surrender of a person shall be accompanied by:
- 91(2) (c) Such documents, statements or information as may be necessary to meet the requirements for the surrender process in the requested State, except that those requirements should not be more burdensome than those applicable to requests for extradition pursuant to treaties or arrangements between the request State and other States and should, if possible, be less burdensome, taking into account the distinct nature of the Court.

Evolution of the Court

- 1.44 The creation of an international court to enforce the principles of international law has been canvassed for many, many years. Some academics trace the development of the Court back to 1874.¹³
- 1.45 The roots of the present proposal go back as far as the 1907 Hague Peace Conference and following the Versailles Peace Conference in 1919 where there had been discussion of establishing such a court.¹⁴ During the life of the League of Nations, further attempts were made to raise the issue but the Second World War overtook the process.
- 1.46 It was not until 1948 after the creation of the United Nations that any serious efforts were made to further the process. In resolution 260
- the General Assembly, 'Recognizing that at all periods of history genocide has inflicted great losses on humanity; and being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required', adopted the Convention on the Prevention and Punishment of the Crime of Genocide.
- Article I of that convention characterizes genocide as 'a crime under international law', and Article VI provides that persons charged with genocide 'shall be tried by a competent tribunal of the State in the territory of which the act was committed or by such international penal tribunal as may have jurisdiction . . .'
- In the same resolution, the General Assembly also invited the International Law Commission 'to study the desirability and possibility of establishing an international judicial organ for the trial of persons charged with genocide . . .'¹⁵
- 1.47 At the conclusion of WWII, the London Charter created the Nuremberg Tribunal under which 'crimes against humanity' were for the first time defined. Under this charter criminal responsibility attached not just to States, but to individuals, its provisions stated that
- '.... crimes against international law are committed by men not abstract entities' and in determining individual responsibility the

13 See Timothy McCormack and Sue Robertson, 'Jurisdictional Aspects of the *Rome Statute* for the New International Criminal Court' in *Melbourne University Law Review*, Vol 23, No.3, 1999, p. 1

14 Justice Perry, *Submission 8*, 'The International Criminal Court', 4-10 July 1999, p. 2

15 International Criminal Court Home Page, *Overview*, United Nations 1998-1999, at <http://www.un.org/law/icc/general/overview.htm>, 7/05/01

Charter specified that superior orders would be no defence but would go in mitigation of penalty only.¹⁶

Another related issue arising from the Nuremberg Tribunal was that individuals had a duty to comply with international law, and that the duty transcends obligations of a nationalistic character, persuasion or motive.¹⁷

- 1.48 With the conclusion of the Nuremberg Tribunal in 1951, a proposal was circulated among members of the UN to create a permanent standing court which would be responsible for prosecuting grave crimes of international concern committed in armed conflict. In addition, a committee of the General Assembly was appointed to prepare proposals relating to the establishment of a court. A draft statute was prepared and revised in 1953. For the ensuing 3 decades, no further progress on the ICC was achieved.¹⁸
- 1.49 By the 1980's, international customary law had developed to the degree that it imposed on States and individuals certain universal minimum standards of civilised behaviour in war. These standards were reflected in international agreements like the Protocols to the Geneva Conventions and Convention against Torture and other Cruel, Inhumane and Degrading Treatment or Punishment.¹⁹ Although the principle of individual accountability had become well established, there was no progress in creating a mechanism to enforce that principle.²⁰
- 1.50 In 1989, Trinidad and Tobago raised the proposal to establish an international judicial body capable of dealing with crimes related to international drug trafficking.²¹ While the International Law Commission (ILC) began work drafting an ICC statute the UN established the two ad hoc tribunals to adjudicate on war crimes, crimes against humanity and genocide committed during the conflicts in Rwanda and Yugoslavia.
- 1.51 By 1994, the ILC had submitted a draft proposal to the UN that recommended that an international conference be convened to finalise a treaty. A preparatory committee was set up to undertake the negotiations

16 Amnesty International, *Submission No. 16*, November 2000, p. 3

17 Nicole McDonald, *Submission No. 10*, 29 November 2000, p. 4

18 International Criminal Court Home Page, *Overview*, United Nations 1998-1999, at <http://www.un.org/law/icc/general/overview.htm>, 7/05/01

19 Amnesty International, *Submission No. 16*, November 2000, p. 4

20 Lawyers Committee for Human Rights, *The International Criminal Court - 'The case for US Support'*: Executive Summary, p. 4

21 Dempsey G T, *Exhibit 14*, 'Reasonable Doubt - The case against the Proposed International Criminal Court', p. 2

with UN member states and non-government organisations (NGOs) on the text of a Statute. By 3 April 1998, a draft Statute was presented.

- 1.52 At its fifty-second session, the General Assembly decided to convene the *United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court*. The conference was subsequently held in Rome in July 1998. Of the 160 states present, 120 voted in support of the Statute's final text, seven voted against and there were 21 abstentions. A list of signatories and parties to the ICC Statute is at Appendix D.²²

Australian involvement in developing the Court

- 1.53 Australian officials, non-government organisations, academics and legal practitioners have been closely involved in negotiating and drafting the text of the ICC Statute.
- 1.54 Australia chairs the 'Like-Minded Group' of over 60 nations (see Appendix C), dedicated to the establishment of the ICC. This Group was instrumental in the success of the Rome conference. Australian representatives continue to play a leading role in work of the ICC Preparatory Commission, which has been negotiating and drafting the related instruments necessary for the effective functioning of the Court (such as the Elements of Crimes and the Rules of Procedure and Evidence).

Purpose of this review

- 1.55 The Committee's review of the ICC Statute began on 10 October 2000, when the Government presented to Parliament the text of the ICC Statute, together with a national interest analysis describing the obligations, costs and benefits that would result should Australia ratify the Statute.
- 1.56 The Committee sought written submissions and took evidence at public hearings from members of the public, academics, community and non-

22 Justice Perry noted in his submission that, as the vote [to adopt the Statute] was taken by secret ballot, it is not possible to identify with confidence those who opposed the Statute's adoption (The Hon Justice Perry, *Submission No. 8*, p. 5). See also the homepage of the International Criminal Court for an up to date listing of signatures and ratifications at <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXVIII/treaty10.asp>.

government organisations, and representatives of the Government on whether ratification of the Statute would be in the national interest.²³

- 1.57 On 30 August 2001 the Attorney- General referred the implementing legislation for the Statute to the Committee as part of its review. Two Bills were proposed, the *International Criminal Court Bill 2001* and the *International Criminal Court (Consequential Amendments) Bill 2001*. This legislation is designed to fulfil Australia's obligations under the Statute and allow Australia to ratify the Statute.
- 1.58 The International Criminal Court Bill 2001 sets out the procedures that allow Australia to cooperate with the ICC and covers a range of areas including arrest and surrender of suspects, obtaining evidence in Australia, serving documents in Australia and the confiscation of proceeds in Australia. The Bill also provides safeguards to protect Australia's national security interests.
- 1.59 The second Bill, the International Criminal Court (Consequential Amendments) Bill 2001, creates new crimes in the Commonwealth Criminal Code that cover all of the crimes in the ICC statute to ensure that Australia always has the ability to prosecute persons charged with offences within the jurisdiction of the ICC in Australian courts under Australian law.
- 1.60 There is a wide range of opinion within the community about the likely value and impact of the ICC. Strong opinions have been expressed in evidence both for and against the Court. These are expanded on in Chapter 2.

23 Appendix B contains a description of the inquiry process and lists the written submissions and exhibits received, and the witnesses who gave evidence at public hearings.