

UNITED NATIONS ASSOCIATION OF AUSTRALIA INCORPORATED

SUBMISSION TO INQUIRY BY JOINT STANDING COMMITTEE ON TREATIES INTO THE 1998 STATUTE OF AN INTERNATIONAL CRIMINAL COURT

1. Introduction.

1.1 The United Nations Association of Australia (UNAA) aims to promote to Australians the ideals of the United Nations – by education, developing informed policies, and monitoring Government practices and UN involvement. It has links with similar associations in other countries through the World Federation of UN Associations (WFUNA) which has consultative status with the Economic and Social Council (ECOSOC). UNAA receives some financial support from an annual grant from the Department of Foreign Affairs and Trade (DFAT). There are about 2000 members of UNAA throughout Australia, and active Divisions of the Association in each State and Territory.

1.2 This submission is presented by the Executive Committee of UNAA. It is based on the Association's policies as adopted by the Federal Council from time to time. It reflects the views presented by the UNAA to the 1999 Parliamentary Inquiry (by JSCFADT) into the United Nations and Australia's role within it. The UNAA has an ongoing human rights program and is a member of the Australian Forum of Human Rights Organisations (AFHRO).

2. International Criminal Court (ICC)

2.1 UNAA believes that the International Criminal Court (ICC) will add an important structure to the world's capacity to intervene effectively in support of human rights and freedoms. Its powers to prosecute and to impose sentences, and its strong emphasis on reparation and compensation of victims, give an appropriate balance to the various factors that arise in such serious crimes. UNAA would like to see greater international support for the jurisdiction of the court as soon as possible. It is encouraging that the Australian Government played a significant role in the negotiations over the establishment of the ICC.

2.2 Nevertheless the creation of the Court will prove a challenge to sovereignty in a way that has not previously been experienced. The ad hoc tribunals for former Yugoslavia and Rwanda have shown how difficult it is to seek out and detain suspected war criminals, especially when in many cases the political leaders themselves are implicated. It

is therefore important that there is widespread support for the ICC when the Statute comes into force.

2.3 The ICC, by being independent of UN Security Council control, will have a capacity to operate without the political exigencies that affect the Council. This should give the ICC more independence and enable it to tackle the very serious range of crimes entrusted to it. At the same time, the detailed way in which the ICC statute defines genocide and other crimes should reassure states parties that frivolous "fishing expeditions" are unlikely to occur.

2.4 UNAA is pleased to note that the USA has recently agreed to sign the Statute and is thereby willing to contribute to the evolution of the ICC process. Nevertheless the USA has fears that its national sovereignty may be threatened. Australia, along with America's other allies, will need to help persuade the USA that its interests will be served by having the rule of international law extended through the ICC. This would be assisted if Australia ratified the ICC statute early.

2.5 Like most countries, Australia will have its own issues to resolve in relation to the ICC, by agreeing to give the ICC jurisdiction over a wide range of crimes. Experience in recent years indicates that governments of different political colours do not always find international conventions and structures easy to support.

2.6 It would be appropriate for the National Action Plan on Human Rights developed by the Federal Government in consultation with the States/Territories and NGOs to include reference to the ICC's role and to Australia's support for it. The ICC should also be included in human rights education programs. UNAA notes that the Plan is part of Australia's responsibilities under international human rights instruments.

3. Recommendations.

UNAA recommends that:

1. That Australia ratify the ICC statute and actively work to persuade other countries, especially the USA, to become a party to the ICC.
2. That Australia's National Action Plan on Human Rights, and human rights education programs, include reference to the ICC.

Canberra,
January 2001