

DECLARATION OF INTERVENTION
OF THE
GOVERNMENT OF AUSTRALIA
(Adjusted)



INTERVENTION PURSUANT TO ARTICLE 63 OF THE STATUTE OF THE
INTERNATIONAL COURT OF JUSTICE

In the case of

*Allegations of Genocide under the Convention on the Prevention and Punishment of the
Crime of Genocide*

(Ukraine v. Russian Federation)

(Merits)

1 AUGUST 2024

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To the Registrar of the International Court of Justice, the undersigned being duly authorised by the Government of Australia:

1. On behalf of the Government of Australia, I have the honour to submit to the Court this Declaration of Intervention pursuant to Article 63(2) of the *Statute of the International Court of Justice* (the **Statute**) in the case of *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*. By this Declaration, Australia seeks to avail itself of its right to intervene in the merits phase of the proceedings on questions of construction of the relevant provisions of the *Convention on the Prevention and Punishment of the Crime of Genocide* (the **Genocide Convention**, or the **Convention**).¹

2. A State wishing to avail itself of its right to intervene under Article 63(2) must do so in accordance with Article 82 of the *Rules of Court* (the **Rules**). Article 82(1) relevantly states that:

A State which desires to avail itself of the right of intervention conferred upon it by Article 63 of the Statute shall file a declaration to that effect, signed in the manner provided for in Article 38, paragraph 3, of these Rules. Such a declaration shall be filed as soon as possible, and no later than the date fixed for the filing of the Counter Memorial.

3. Article 82(5) further provides that:

The declaration shall state the name of an agent. It shall specify the case and the convention to which it relates and shall contain:

- (a) particulars of the basis on which the declarant State considers itself a party to the convention;
- (b) identification of the particular provisions of the convention the construction of which it considers to be in question;
- (c) a statement of the construction of those provisions for which it contends;

¹ Genocide Convention, opened for signature 9 December 1948, 78 U.N.T.S. 277 (entered into force 12 January 1951).

(d) a list of the documents in support, which documents shall be attached.

4. This Declaration will address each of these requirements in turn, after offering some preliminary observations on the proceedings.

I. PRELIMINARY OBSERVATIONS

5. Australia is profoundly concerned by the unilateral use of force by the Russian Federation in Ukraine and shares the sentiment and observations made by the Court in its Provisional Measures Order:

On 24 February 2022, the President of the Russian Federation, Mr. Vladimir Putin, declared that he had decided to conduct a “special military operation” against Ukraine. Since then, there has been intense fighting on Ukrainian territory, which has claimed many lives, has caused extensive displacement and has resulted in widespread damage.

The Court is acutely aware of the extent of the human tragedy that is taking place in Ukraine and is deeply concerned about the continuing loss of life and human suffering. The Court is profoundly concerned about the use of force by the Russian Federation in Ukraine, which raises very serious issues of international law. [...] It deems it necessary to emphasize that all States must act in conformity with their obligations under the United Nations Charter and other rules of international law, including international humanitarian law.²

Australia also shares the deep concerns expressed by the United Nations General Assembly in its resolutions titled the ‘Aggression against Ukraine’ (A/RES/ES-11/1)³ and the ‘Humanitarian consequences of the aggression against Ukraine’ (A/RES/ES-11/2).⁴

6. Australia stresses its continued commitment to the rules-based international order that is critical for maintaining international peace and security. It recognises the vital role the

² *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022, p. 211, para. 18.*

³ GA Resolution A/RES/ES-11/1, 2 March 2022.

⁴ GA Resolution A/RES/ES-11/2, 24 March 2022.

Court plays in this regard, as the principal judicial organ of the United Nations, particularly in relation to the peaceful settlement of disputes.

7. Australia has a long history of supporting efforts to promote the Genocide Convention. It played an active role in negotiating the text of the Convention and supporting its adoption. In particular, Dr Herbert Vere Evatt, the President of the General Assembly at the time, and Australia's Minister for Foreign Affairs, played a key role with respect to Resolution 260(A)(III), by which the Convention was approved for signature and ratification.⁵
8. Australia was one of the first countries to ratify the Genocide Convention in 1949. Since then, Australia has been a steadfast supporter of the establishment and mandate of international courts and tribunals with jurisdiction over genocide and other serious international crimes.
9. The proper construction of the Genocide Convention is of paramount concern to all States Parties, who, as the Court has observed "do not have any interest of their own; they merely have, one and all, a common interest, namely, the accomplishment of those high purposes which are the *raison d'être* of the Convention".⁶
10. Consistent with this concern and with Australia's ongoing support for the Genocide Convention, Australia intervened in the preliminary objections phase of the present proceedings in the exercise of its right under Article 63(2) of the Statute.⁷ In that

⁵ See, e.g., 3 UN GAOR, 179th plenary meeting, at p. 852 (1948) (Mr Evatt).

⁶ *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 15, p. 23.

⁷ Australia's Declaration of Intervention (30 September 2022); *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Admissibility of the Declarations of Intervention, Order of 5 June 2023*.

Declaration of Intervention,⁸ Australia also availed itself of its right to intervene in the merits phase of these proceedings.

11. Reflecting the terms of the right conferred by Article 63(2), Australia's intervention was and will remain limited to matters regarding the construction of the provisions of the Convention at issue in this case. Australia recognises that, having availed itself of the right to intervene, the construction of the Convention given by the judgment of the Court will be binding upon it. Nevertheless, as the Court has recognised in this case,⁹ Australia does not thereby become a party to the dispute, and as such its intervention cannot affect the equality of the parties.
12. Australia reserves its right to respond to additional questions of construction of the Convention, by amending or supplementing its observations in the course of the proceedings, as those questions arise and Australia becomes aware of them.

II. PROCEDURAL BACKGROUND

13. On 26 February 2022, Ukraine instituted proceedings against the Russian Federation by submitting an application concerning a dispute relating to the interpretation, application and fulfilment of the Genocide Convention. Ukraine's Application was submitted in accordance with Articles 36(1) and 40 of the Statute.¹⁰ Together with the Application, Ukraine submitted a request for the indication of provisional measures in accordance with Article 41 of the Statute.

⁸ Australia's Declaration of Intervention (30 September 2022), para. 11.

⁹ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Admissibility of the Declarations of Intervention, Order of 5 June 2023*, para. 49.

¹⁰ Application instituting proceedings, filed in the Registry of the Court on 27 February 2022.

14. On 7 March 2022, the Court held an oral hearing on Ukraine’s request for provisional measures. Although the Russian Federation had informed the Court that it would not participate in the hearing, it delivered a document to the Registry of the Court on the same day. In its document, the Russian Federation set out its position regarding the “lack of jurisdiction” of the Court in this case and “request[ed] the Court to refrain from indicating provisional measures and to remove the case from its list”.¹¹
15. On 16 March 2022, the Court issued its order on provisional measures. The Court indicated that:
1. The Russian Federation shall immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine;
 2. The Russian Federation shall ensure that any military or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control or direction, take no steps in furtherance of the military operations referred to in point 1 above;
 3. Both Parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.¹²
16. On 23 March 2022, the Court issued an order fixing the time-limits for the first round of written pleadings by the Parties.¹³
17. On 30 March 2022, pursuant to Article 63(1) of the Statute, the Registrar of the Court duly notified Australia of the proceedings as a party to the Genocide Convention.¹⁴
18. On 1 July 2022, Ukraine filed its Memorial with the Court.

¹¹ Document (with annexes) from the Russian Federation setting out its position regarding the alleged “lack of jurisdiction” of the Court in the case, filed in the Registry of the Court on 7 March 2022, para. 24.

¹² *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022*, p. 211, para. 86.

¹³ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Order of 23 March 2022*.

¹⁴ Letter from the Registrar of the Court to the States parties to the Genocide Convention (except Russia and Ukraine), Reference 156413, 30 March 2022, **Annex A**.

19. On 30 September 2022, Australia, invoking its right under Article 63(2) of the Statute, submitted a Declaration of Intervention in the present case to the Court, which addressed issues of construction of the Genocide Convention relevant both to jurisdiction and the merits.
20. On 3 October 2022, the Russian Federation filed preliminary objections to the admissibility of Ukraine's application and the jurisdiction of the Court. In accordance with Article 79bis(3) of the Rules, the Court subsequently issued an order suspending proceedings on the merits to address the preliminary objections.¹⁵
21. On 5 June 2023, the Court dismissed objections filed by the Russian Federation to the admissibility of Australia's Declaration (alongside declarations of intervention of 31 other States), and decided that it was admissible at the preliminary objections stage of the proceedings insofar as it concerned the construction of Article IX of the Genocide Convention and any other provision relevant to the determination of the Court's jurisdiction.¹⁶
22. Exercising its right under Article 86(1) of the Rules, on 5 July 2023, Australia furnished the Court with written observations on the subject matter of its intervention.¹⁷
23. At the Court's invitation, on 20 September 2023, Australia made oral observations to the Court at the public hearings on the preliminary objections raised by the Russian Federation.

¹⁵ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of 7 October 2022, *I.C.J. Reports 2022*, p. 575.

¹⁶ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of 5 June 2023.

¹⁷ Written Observations of the Government of Australia concerning Preliminary Objections in the case of *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, 5 July 2023.

24. On 2 February 2024, the Court found (*inter alia*) that it has jurisdiction, on the basis of Article IX of the Convention, in respect of submission (b) in paragraph 178 of Ukraine’s Memorial. It further decided that submission (b) was admissible.¹⁸ In that submission, Ukraine requested the Court to “[a]judge and declare that there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine”.¹⁹
25. On the same day, the Court fixed 2 August 2024 as the deadline for the filing of the Russian Federation’s Counter-Memorial.²⁰ In accordance with Article 82(1) of the Rules, this date is the deadline for States Parties wishing to intervene in the merits phase of the proceedings under Article 63 of the Statute.
26. On 18 June 2024, the Registrar of the Court invited those States (including Australia) that sought to intervene in both the preliminary objections and merits stages of the proceedings to indicate, by 2 August 2024, whether they maintain their declarations of intervention. The Registrar also confirmed that such States were permitted to adjust their declarations in the light of the Court’s Judgment of 2 February 2024 by the same deadline.
27. In accordance with the Registrar’s letter and Article 82(1) of the Rules, Australia hereby files this further Declaration, which is adjusted to take the Court’s Judgment into account and focuses only on questions of construction relevant to the merits phase of the proceedings. For the avoidance of any doubt, Australia’s previous Declaration dated

¹⁸ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Preliminary Objections, Judgment of 2 February 2024*, para. 151.

¹⁹ Ukraine’s Memorial, 1 July 2022, para. 178(b).

²⁰ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Order of 2 February 2024*.

30 September 2022 can be treated as superseded by the present Declaration for the purposes of the merits phase of the proceedings.

III. CASE AND CONVENTION TO WHICH THIS DECLARATION RELATES

28. Australia files this Declaration to intervene in the merits phase of the case concerning *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, commenced by the filing of Ukraine’s Application dated 26 February 2022.²¹ The merits phase of the proceedings raises questions regarding the construction of the Genocide Convention, as elaborated in Section V below.

IV. BASIS UPON WHICH AUSTRALIA IS A PARTY TO THE CONVENTION

29. Australia signed the Genocide Convention on 11 December 1948. On 8 July 1949, Australia deposited its instrument of ratification with the Secretary-General of the United Nations in accordance with the requirements set out at Article XI of the Convention.²²

30. Australia has not filed any declarations or reservations to the Convention, and remains a Contracting Party.

V. PARTICULAR PROVISIONS OF THE CONVENTION IN QUESTION

31. As matters presently stand, the construction of both Articles I and II of the Genocide Convention are at issue in the merits phase of this case.

32. As noted above,²³ the Court has upheld jurisdiction over Ukraine’s request that the Court “[a]judge and declare that there is no credible evidence that Ukraine is responsible for

²¹ See para. [13] above.

²² United Nations Depository Notification confirming Australia’s Ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, Reference C.N.84.1949, 22 July 1949, **Annex B**.

²³ See para. [24] above.

committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine”.²⁴

33. As the Court indicated,²⁵ a judgment of the Court on this submission “will clarify the rights and obligations of the Parties under the Genocide Convention, in particular whether Ukraine acted in accordance with its obligations under Article I of the Convention”.

34. It is thus clear that the Court will be required to consider the proper interpretation of Article I of the Convention, which provides as follows:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

35. This will also require the Court to have regard to the construction of Article II, which defines the term “genocide” used in Article I. It provides the following definition:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

VI. STATEMENT OF CONSTRUCTION OF THESE PROVISIONS

36. When considering the proper construction of the Convention, Australia has applied the rules of treaty interpretation contained in the *Vienna Convention on the Law of Treaties*

²⁴ Ukraine’s Memorial, 1 July 2022, para. 178(b).

²⁵ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Preliminary Objections, Judgment of 2 February 2024*, para. 108.

(the *Vienna Convention*),²⁶ which constitute rules of customary international law, and have been confirmed as such by the Court.²⁷ Article 31(1) provides that:

A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

37. The interpretation of the Convention must also take account of any subsequent practice of the parties to the treaty establishing their agreement regarding its interpretation.²⁸ Further, in certain circumstances recourse may be had to supplementary means of interpretation, including the *travaux préparatoires*.²⁹

A. Construction of Article I

38. As the Court has confirmed,³⁰ the express language of Article I of the Convention contains two propositions: first, that genocide is a “crime under international law”; and second, that Contracting States “undertake to prevent and to punish” that crime. It is not a provision with mere preambular character; instead, it imposes “distinct obligations over and above those imposed by other Articles of the Convention”.³¹
39. Article I of the Convention also contains an implied obligation. Specifically, Contracting States to the Convention “are bound not to commit genocide, through the actions of their organs or persons or groups whose acts are attributable to them”.³² This prohibition

²⁶ Vienna Convention, opened for signature 23 May 1969, 1155 U.N.T.S. 331 (entered into force 27 January 1980).

²⁷ See, e.g., *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal), Merits, Judgment, I.C.J. Reports 1991*, p. 53, para. 48.

²⁸ Vienna Convention, Article 31(3)(b).

²⁹ Vienna Convention, Article 32.

³⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43, paras 160-162.

³¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43, paras 164-165.

³² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43, para. 167.

follows from the two propositions set out in Article I and is consistent with the object and purpose³³ of the Convention.³⁴ The existence of this implied obligation is also confirmed by the language in Article IX of the Convention, which gives this Court jurisdiction over a dispute “relating to the responsibility of a State for genocide”.³⁵

B. Construction of Article II

40. “Genocide” is defined in Article II of the Convention, in a way that incorporates detailed elements of both *action* and *intention*.
41. So far as concerns the element of *action*, subparagraphs (a)-(e) contain an exhaustive list of the acts that may constitute genocide. They must be committed against one or more persons by virtue of their membership of a “national, ethnical, racial or religious” group.³⁶ One of these qualifying acts is “killing members of the group” (see subparagraph (a)).
42. So far as concerns the element of *intention*, genocide requires **two** distinct mental elements. The first is that the perpetrator must act with the general intent to commit the act in question. The second is that the perpetrator must act with the specific intent (*dolus specialis*) unique to the crime of genocide under international law.
43. As to general intent, it is “well-established” that each of the qualifying acts in subparagraphs (a) to (e) include mental elements.³⁷ All of them are “by their very nature

³³ As to the Convention’s “humanitarian and civilizing purpose”, see *Reservations to the Convention on Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 23.

³⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43, para. 166.

³⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43, paras 168-169.

³⁶ Genocide Convention, Article II.

³⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43, para. 186.

conscious, intentional or volitional acts”.³⁸ In particular, “killing” under subparagraph (a) presupposes an intention to cause death. It follows that attacks exclusively directed at military targets resulting in civilian casualties do not fall within the scope of Article II(a) of the Convention, as they will not satisfy the general intent requirement.³⁹

44. As to specific intent, this element is “the essential characteristic of genocide, which distinguishes it from other serious crimes”.⁴⁰ It is “defined very precisely”.⁴¹ A perpetrator must commit the act “with the intent to destroy, in whole or in part” a protected group “as such”.⁴² This requires something more than a “discriminatory intent”, by which members of a protected group are targeted because they belong to that group. Instead, the perpetrator must intend to destroy the group, in whole or in part. This is clear from the use of the words “as such” in Article II.⁴³
45. The Court has emphasised that “[g]reat care must be taken in finding in the facts a sufficiently clear manifestation” of the requisite specific intent.⁴⁴ In order to infer the

³⁸ *Application of the Convention of the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, para. 186, citing International Law Commission (ILC), Commentary on Article 17 of the 1996 Draft Code of Crimes against the Peace and Security of Mankind, ILC Report 1996, *Yearbook of the International Law Commission*, 1996, Vol. II, Part Two, p. 44, para. 5.

³⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, para. 474.

⁴⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, para. 132.

⁴¹ *Application of the Convention of the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, para. 187.

⁴² Genocide Convention, Article II.

⁴³ *Application of the Convention of the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, para. 187.

⁴⁴ *Application of the Convention of the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, para. 189.

existence of that intent from a pattern of conduct, it must be “the only inference that could reasonably be drawn from the acts in question”.⁴⁵

VII. DOCUMENTS ATTACHED IN SUPPORT OF THIS DECLARATION

46. Australia submits the following documents in support of this Declaration of Intervention:

Annex A: Letter from the Registrar of the Court to the States parties to the Genocide Convention (except Russia and Ukraine), Reference 156413, 30 March 2022.

Annex B: United Nations Depository Notification confirming Australia’s Ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, Reference C.N.84.1949, 22 July 1949.

VIII. CONCLUSION

47. On the basis of the information set out above, Australia avails itself of the right conferred upon it by Article 63(2) of the Statute to intervene as a non-party in the merits phase of the proceedings brought by Ukraine against the Russian Federation (*Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide*).



Jesse Clarke

General Counsel (International Law), Office of International Law
Attorney-General’s Department
Agent of the Government of Australia

⁴⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, para. 148.

Annex A:
Letter from the Registrar of the Court to the States parties to the Genocide Convention



156413

30 March 2022

Excellency,

I have the honour to refer to my letter (No. 156253) dated 2 March 2022 informing your Government that, on 26 February 2022, Ukraine filed in the Registry of the Court an Application instituting proceedings against the Republic of the Russian Federation in the case concerning Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation). A copy of the Application was appended to that letter. The text of the Application is also available on the website of the Court (www.icj-cij.org).

Article 63, paragraph 1, of the Statute of the Court provides that:

[w]henever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar shall notify all such States forthwith”.

Further, under Article 43, paragraph 1, of the Rules of Court:

“Whenever the construction of a convention to which States other than those concerned in the case are parties may be in question within the meaning of Article 63, paragraph 1, of the Statute, the Court shall consider what directions shall be given to the Registrar in the matter.”

On the instructions of the Court, given in accordance with the said provision of the Rules of Court, I have the honour to notify your Government of the following.

In the above-mentioned Application, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the “Genocide Convention”) is invoked both as a basis of the Court’s jurisdiction and as a substantive basis of the Applicant’s claims on the merits. In particular, the Applicant seeks to found the Court’s jurisdiction on the compromissory clause contained in Article IX of the Genocide Convention, asks the Court to declare that it has not committed a genocide as defined in Articles II and III of the Convention, and raises questions concerning the scope of the duty to prevent and punish genocide under Article I of the Convention. It therefore appears that the construction of this instrument will be in question in the case.

J.

[Letter to the States parties to the Genocide Convention
(except Ukraine and the Russian Federation)]

Your country is included in the list of parties to the Genocide Convention. The present letter should accordingly be regarded as the notification contemplated by Article 63, paragraph 1, of the Statute. I would add that this notification in no way prejudices any question of the possible application of Article 63, paragraph 2, of the Statute, which the Court may later be called upon to determine in this case.

Accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Philippe Gautier', with a large, stylized initial 'P'.

Philippe Gautier
Registrar

Annex B:

United Nations Depository Notification confirming Australia's Ratification of the
Convention on the Prevention and Punishment of the Crime of Genocide

UNITED NATIONS  **NATIONS UNIES**
LAKE SUCCESS, NEW YORK

TELEPHONE: FIELDSTONE 7-1100

CABLE ADDRESS: UNATIONS NEWYORK · ADRESSE TELEGRAPHIQUE

REFERENCE:

C.N.84.1949.TREATIES

22 July 1949

CONVENTION OF 9 DECEMBER 1948 ON THE PREVENTION
AND PUNISHMENT OF THE CRIME OF GENOCIDE

RATIFICATION BY AUSTRALIA

Sir,

I have the honour to inform you that on
8 July 1949 the instrument of ratification by the
Government of Australia of the Convention of
9 December 1948 on the Prevention and Punishment
of the Crime of Genocide was deposited with the
Secretary-General of the United Nations, in
accordance with the provisions of Article XI.

On the same date the Government of Australia,
in accordance with Article XII of the Convention,

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notified the Secretary-General that it extends the application of the said Convention to all the territories for the conduct of whose foreign relations Australia is responsible.

The present notification is made in accordance with Article XVII (a) and (b) of the Convention.

I have the honour to be,

Sir,

Your obedient Servant,

For the Assistant Secretary-General
in charge of the Legal Department,

Director