The United States Opposes the ICC Investigation into the Palestinian Situation

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<https://www.state.gov/the-united-states-opposes-the-icc-investigation-into-the-palestinian-situation/>

Today, the Prosecutor of the International Criminal Court (ICC), whose term ends in June, confirmed the opening of an investigation into the Palestinian situation. The United States firmly opposes and is deeply disappointed by this decision. The ICC has no jurisdiction over this matter. Israel is not a party to the ICC and has not consented to the Court’s jurisdiction, and we have serious concerns about the ICC’s attempts to exercise its jurisdiction over Israeli personnel. The Palestinians do not qualify as a sovereign state and therefore, are not qualified to obtain membership as a state in, participate as a state in, or delegate jurisdiction to the ICC.

The Prosecutor’s statement acknowledges some of the many reasons why the ICC will first take its time to determine its priorities, given its limited resources and other challenges, and not proceed to conduct any investigative activity related to this situation. She has previously recognized that “it would be contrary to judicial economy to carry out an investigation in the judicially untested jurisdictional context of this situation only to find out subsequently that relevant legal bases were lacking.” As she acknowledges, that very possibility remains as likely today as ever. The ICC Pre-Trial Chamber I’s decision of February 5 did not resolve the serious legal questions arising from any exercise of territorial jurisdiction in this matter, suggesting potential temporal, territorial, and nationality gaps in the finding of jurisdiction in future cases, leaving it to the Prosecutor to navigate such complicated circumstances.

The United States remains deeply committed to ensuring justice and accountability for international atrocity crimes. We recognize the role that international tribunals such as the ICC can play—within their respective mandates—in the pursuit of those important objectives. The ICC was established by its States Parties as a Court of limited jurisdiction. Those limits on the Court’s mandate are rooted in fundamental principles of international law and must be respected.

Moreover, the United States believes a peaceful, secure and more prosperous future for the people of the Middle East depends on building bridges and creating new avenues for dialogue and exchange, not unilateral judicial actions that exacerbate tensions and undercut efforts to advance a negotiated two-state solution.

We will continue to uphold our strong commitment to Israel and its security, including by opposing actions that seek to target Israel unfairly.