

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/18
Date: 14 February 2020

PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Reine Adélaïde Sophie Alapini-Gansou

SITUATION IN THE STATE OF PALESTINE

**Request for Leave to Submit *Amicus Curiae* Observations on Issues Raised by the
"Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial
jurisdiction in Palestine"**

Source: Ambassador Dennis Ross

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

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Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Request for Leave to Submit *Amicus Curiae* Observations on Issues Raised by the Prosecution Request for a Ruling on the Court's Territorial Jurisdiction in Palestine

1. This is a request by Ambassador Dennis Ross ("the Applicant"), pursuant to the order of Pre-Trial Chamber I ("the Chamber") entitled "Order setting the procedure and the schedule for the submission of observations",¹ for leave to submit *amicus curiae* observations on issues raised by the "Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine" ("the Prosecutor's request").²

The Applicant

2. The Applicant is a U.S. diplomat who was the chief American negotiator for the Middle East Peace Process from 1988 to 2000, in both George H.W. Bush and Bill Clinton administrations. As the President's main envoy and head of his peace team, he was deeply involved in efforts to bring peace between Israelis and Palestinians, in what came to be known generally as "the Oslo Process". He was, *inter alia*, instrumental in brokering a series of bilateral agreements reached between the parties during the 1990s, and continued to play a key role in negotiations throughout the last year of the Clinton Administration (2000). The Applicant later went on to serve as a senior advisor on Middle East issues in the Barack Obama administration, and in that capacity, helped shape U.S. policy towards the peace process. Currently, the Applicant is counselor and the William Davidson Distinguished Fellow at The Washington Institute for Near East Policy. He is also a Distinguished Professor of the Practice of Diplomacy at Edmund A. Walsh School of Foreign Service at Georgetown University.

Issues to be Addressed

¹ ICC-01/18-14

² ICC-01/18-12

3. If leave is granted by the Chamber to submit observations pursuant to Rule 103 of the Rules of Procedure and Evidence, the Applicant will submit observations that can assist in the proper determination of the jurisdictional question as set forth in paragraph 220 of the Prosecutor's request. In particular, the Applicant will address distinct issues that arise from the Prosecutor's request, of which the Applicant has first-hand knowledge, from his own direct experience and expertise on this matter.
4. In this regard, the Applicant notes that the Prosecutor's request makes numerous specific assertions and arguments regarding the Oslo process, the agreements reached between the parties, and the negotiations between them, which are considered material to her position regarding jurisdiction.
5. Specifically, the Prosecutor argues that the Oslo Accords only limited the enforcement powers of the Palestinian Authority (PA), without affecting powers that are considered vital to Palestine's capacity to vest the Court with jurisdiction.³ The Prosecutor further argues that any limitation that was put in place on the PA should be disregarded for the sake of ICC jurisdiction, to the extent that the agreements represent an infringement on the Palestinians' right to self-determination, and on the premise that they entered into the agreements without free consent.⁴
6. To the applicant's best knowledge and belief, some of these assertions and arguments fail to accurately capture the understandings between the parties and the dynamics and context of the negotiations, as they stood at the time they happened. If leave is granted, the Applicant strives to set the factual and legal record straight.
7. The Applicant thinks it is critical, in order to ensure the correctness and credibility of any decision that the Chamber may ultimately take - that it has before it all the relevant facts and information. The Applicant is in an ideal and

³ ICC-01/18-12, paras. 184-185, also referring to paras. 70-71.

⁴ ICC-01/18-12, paras. 187-188.

unique position to assist the Chamber in that regard, being an independent and objective expert, that is able to shed important light on issues that the Chamber may regard as significant to its consideration.

Conclusion and Relief Sought

8. For the reasons mentioned above, the Applicant respectfully requests the Chamber leave to submit *amicus curiae* observations.



Ambassador Dennis Ross

Dated 13 February 2020

At San-Francisco, the United States