

**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

Public

**Application for leave to file observations pursuant to the Order of 28 January 2020
setting the procedure and schedule for the submission of observations**

Source: AUSTRALIA

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart

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**

Paolina Massidda

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

States' Representatives

The competent authorities of the State of
Palestine
The competent authorities of the State of
Israel

Amicus Curiae

Australia (Applicant)

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

I. APPLICATION FOR LEAVE TO SUBMIT OBSERVATIONS

1. On 22 January 2020, the Prosecutor filed a request pursuant to article 19(3) of the Rome Statute of the International Criminal Court (the 'ICC' or the 'Court') for 'a ruling on the Court's territorial jurisdiction in Palestine' (the 'Prosecutor's Request').
2. On 28 January 2020, Pre-Trial Chamber I (the 'PTC') of the ICC issued its Order setting the procedure and the schedule for the submission of observations (the 'Order') in relation to the Prosecutor's Request.
3. Paragraph (e) of the Order invites States, organisations and /or persons wishing to file written observations to submit applications for leave to do so by no later than 14 February 2020 in accordance with paragraphs 15 and 17 of the Order. Accordingly, Australia seeks leave to submit observations and provides the following summary of the observations that would be submitted if leave were to be granted.

II. AUSTRALIA'S INTERESTS IN THESE PROCEEDINGS

4. Australia is a State Party to the Rome Statute of the International Criminal Court, which entered into force for Australia on 1 September 2002.

III. SUMMARY OF OBSERVATIONS

5. Australia's observations would contain the following arguments relevant to the question of jurisdiction set forth in paragraph 220 of the Prosecutor's Request and would not address any other issues arising from the situation.
 - a. Australia does not recognise the 'State of Palestine' and does not have any relationship with the 'State of Palestine' under the Rome Statute. Australia would provide observations to the Court in this regard.
 - b. The observations would address the consequences of the purported accession to the Rome Statute by the 'State of Palestine' pursuant to article 125, and respond to arguments made in the Prosecutor's Request on the relevance of this for interpreting and applying the Rome Statute.

- c. Australia's observations may also address other matters relevant to the PTC's exercise of jurisdiction in this matter.
6. For these reasons, Australia respectfully requests the PTC to grant it leave to submit written observations on the matters stated above.



Mr Luke Davies
Chargé d'Affaires a.i., Embassy of Australia to the Netherlands
on behalf of
The Government of Australia

Dated this 14 February 2020

At The Hague, Netherlands