United States Senate
WASHINGTON, DC 20510

March 11, 2021

The Honorable Antony J. Blinken
Secretary of State
U.S. Department of State
2201 C Street NW
Washington D.C. 20230

Dear Mr. Secretary:

We urge you to continue your strong support of Israel, and we commend your recent statements denouncing the International Criminal Court's (ICC) Pre-Trial Chamber and the ICC Office of the Prosecutor for decisions to authorize and officially proceed with an investigation for alleged crimes in the West Bank, Gaza, and East Jerusalem. While we support the ICC's stated goal of ensuring accountability for the gravest crimes of concern to the international community, we are concerned that the Court's recent actions regarding the "Situation in Palestine" have inappropriately infused politics into the judicial process.

The ICC does not have legitimate territorial jurisdiction in this case. As articulated by State Department Spokesman Ned Price in response to this ICC decision, "the United States has always taken the position that the court's jurisdiction should be reserved for countries that consent to it, or that are referred by the U.N. Security Council." Israel is not a signatory to the Rome Statute, and therefore has not consented to the ICC's jurisdiction. Furthermore, ICC rules prohibit it from prosecuting cases against the citizens of a country with a robust judicial system willing and able to prosecute atrocity crimes committed by its personnel and officials. The ICC's mandate should not supersede Israel's robust judicial system, including its military justice system.

To avoid these limitations, the ICC has asserted jurisdiction in this investigation by deciding that the West Bank, Gaza, and East Jerusalem belong to the state of "Palestine," which acceded to the Rome Statute in 2015. We strongly oppose this decision. "Palestine" does not meet the criteria for designation as a state, and the delineation of the boundaries of any future Palestinian state is a political decision that must be determined through negotiations between Israel and the Palestinians. It is not within the authority of the ICC to accept or deny any party's claims to these disputed territories, nor has the Court ever before formally investigated allegations taking place in disputed territories. This unprecedented action by the ICC's Pre-Trial Chamber unfairly targets Israel, biases any subsequent investigation or trial, and hinders the path towards regional peace.

The ICC's Pre-Trial Chamber's decision constitutes a dangerous politicization of the Court and distorts the purposes for which the Court was established. As the world's only permanent international criminal tribunal, the ICC is intended as a court of last resort for the prosecution of the most serious atrocities, including war crimes, crimes against humanity, and genocide. The Pre-Trial Chamber's ruling creates an exception for the Court to investigate Israel,

even while it is unable or unwilling to address some of the most urgent human rights cases in the world today, including those in Iran, Syria, and China.

Accordingly, we believe that the United States should stand in full force against the ICC's Pre-Trial Chamber's decision to authorize an investigation into alleged crimes in the West Bank, Gaza, and East Jerusalem and the ICC Prosecutor's decision to proceed with such an investigation. We also urge you to work with like-minded international partners to steer the ICC away from further actions that could damage the Court's credibility by giving the appearance of political bias. We ask that you give this matter your full attention and that you continue to defend Israel against discriminatory attacks in all international fora.

Sincerely

Benjamin L. Cardin
United States Senator

Rob Portman
United States Senator

Jacky Rosen
Susan M. Collins
Christopher A. Coons
Mike Braun
Shelley Moore Capito
Margaret Wood Hassan
Ben Sasse
Sheldon Whitehouse
Marsha Blackburn
Cindy Hyde-Smith
Marco Rubio
Ron Wyden
Jerry Moran
James Lankford
Robert Menendez
James E. Risch
Joe Manchin III
Mike Crapo
Kyrsten Sinema
Roger Marshall, M.D.
Dianne Feinstein
John Thune
Robert P. Casey, Jr
Michael S. Lee
Amy Klobuchar

Tim Scott
Tina Smith
Roger F. Wicker
Mark R. Warner
Pat Toomey
Michael F. Bennet
Josh Hawley
Richard Blumenthal
John Boozman
Gary C. Peters
Dan Sullivan
Cory A. Booker
John Hoeven
Alex Padilla
Todd Young
Tammy Duckworth
Bill Cassidy, M.D
Debbie Stabenow
Deb Fischer
John Tester
John Kennedy
Jack Reed
Mike Rounds
John Hickenlooper
John Cornyn
Mitt Romney
Tom Cotton
Lisa Murkowski
Charles E. Grassley