Remarks to the Press on the International Criminal Court by Secretary of State Michael R. Pompeo, Secretary of Defense Mark Esper, Attorney General William Barr, and National Security Advisor Robert O’Brien

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**SECRETARY POMPEO:**  Good morning, everyone. Thank you for joining me today – two days in a row – and thanks to Secretary Esper, Attorney General Barr, and Ambassador – National Security Advisor O’Brien for being with me on this important occasion.

As many of you know, I have an important affection for our servicemen and women – I’m a veteran myself – and here’s a scenario that I think about a lot:

Imagine an American soldier, sailor, airman, Marine, or an intelligence officer is on leave with his or her family, maybe on a beach in Europe.  And over the course of two decades or more, this soldier honorably defended America in Anbar Province, in Kandahar, taking down terrorists.

Then suddenly, that vacation turns into a nightmare.

The European country’s national police takes that soldier into custody, detaining him or her on politically motivated charges.  A prison sentence abroad is a distinct possibility.

A spouse behind bars for defending freedom.  A son or daughter robbed of their mom or dad, all on the initiative of some prosecutor in the Netherlands.

Making sure this doesn’t happen is the essence of America First foreign policy.

Sadly, this isn’t a hypothetical.  This nightmare could become reality if the International Criminal Court follows through with its ideological crusade against American service members.

Many of you might recall back in November of 2017, the Court’s Office of the Prosecutor announced its intention to investigate our brave warriors for alleged crimes arising from counterterrorism missions in Afghanistan.

It wasn’t a prosecution of justice.  It was a persecution of Americans.

The ICC cannot subject Americans to arrest, prosecution, and jail.  The U.S. is not a party to the Rome Statute that created the ICC.

And even if a prosecution were to proceed, it would make a mockery of due process:

There’s no requirement for unanimity for a conviction.

The prosecution can rely on hearsay to obtain a conviction.

There’s no real guarantee of a speedy trial.

And instead of facing a jury of one’s peers, it’s a panel of judges who aren’t subject to any American accountability.

We have responded any way – the way a responsible nation must: by condemning the investigation, by suspending cooperation with the court, and denying visas to those most directly responsible for going after our personnel.

We welcomed growing criticism and calls to reform the court from countries like the UK, Germany, and Japan.

For a time, it looked like the ICC might do the right thing and kill the investigation.  But last spring, the Pre-Trial Chamber unanimously rejected the prosecutor’s request to open the investigation.

But unfortunately, then in the spring, in March, the Appeals Chamber overturned that sound judgment and gave a green light to the current investigation, effectively eliminating constraints on the prosecutor’s office ability to launch new investigations of Americans in the future.

We cannot, we will not stand by as our people are threatened by a kangaroo court.

And indeed, I have a message to many close allies around the world:  Your people could be next, especially those from NATO countries who fought terrorism in Afghanistan right alongside of us.

We’re also gravely concerned about the threat the court poses to Israel.

The ICC is already threatening Israel with an investigation of so-called war crimes committed by its forces and personnel in the West Bank and in the Gaza Strip.

Given Israel’s robust civilian and military legal system and strong track record of investigating and prosecuting wrongdoing by military personnel, it’s clear the ICC is only putting Israel in its crosshairs for nakedly political purposes.  It’s a mockery of justice.

More than 300 members of Congress – Republicans and Democrats alike – recently sent me letters asking that the United States support Israel in the face of the ICC’s lawless, politicized attacks.

That’s what the U.S. is dead set on doing, and with good reason.  They’re a trusted and wonderful partner and a buttress of American security.  If a rogue court can intimidate our friend or any other ally into abrogating its right to self-defense, that puts Americans at risk as well.

Absent corrective action, we can expect the ICC will continue its present, reckless course.

I’ve laid out the court’s fatal process flaws, and the danger it poses to Americans and our allies. But we also oppose the court because it’s grossly ineffective and corrupt.  In 18 years of operation, the court – staffed by nearly 1,000 people – has secured only four convictions for major crimes, despite spending well over a billion dollars.

Nonetheless, the judges of the ICC recently brought suit against their own court, seeking a 26 percent pay raise from their 180,000 euro tax-free annual salary. That’s about a quarter million dollars U.S., give or take.

This record of botched prosecutions and poor judgment casts grave doubt on the court’s ability to function at the most basic level and demonstrates the highly politicized nature of this institution.

Which brings me to the reason we’re all here today.  The Trump Administration is taking the following actions:

First, we’re authorizing the imposition of economic sanctions against ICC officials directly engaged in the ICC efforts to investigate U.S. personnel or allied personnel against that allied state’s consent, and against others who materially support such officials’ activities.  Designations will be made on a case-by-case basis against specific individuals or entities.

And second, the United States is expanding visa restrictions for officials directly engaged in those same investigations.  We’re extending and expanding these restrictions to include their family members.

It gives us no joy to punish them.  But we cannot allow ICC officials and their families to come to the United States to shop and travel and otherwise enjoy American freedoms as these same officials seek to prosecute the defender of those very freedoms.

I’ll close by saying this:  Never forget the American commitment to real justice and accountability.

From the Nuremberg and Tokyo trials after World War II to the more recent Yugoslavia and Rwanda tribunals, the United States has always sought to uphold good and punish evil under international law.  We will continue to do so.

When our own people do wrong, we lawfully punish those individuals – as rare as they are – who tarnish the reputation of our great U.S. military and our intelligence services.

We hold our own accountable better than the ICC has done for the worst perpetrators of mass criminal atrocities.

Today we stand for moral clarity.

We stand for sovereignty.

We stand for our citizenry.

And I want to thank each of you for being up here with me today, and I’ll turn the podium over to Secretary Esper.

**SECRETARY ESPER:**  Well, thank you, Secretary Pompeo, and thank you really for your genuine concern for our service members.  Thank you for that.

Good morning, everyone, and thank you for being here for this important announcement.  Today the President took necessary and decisive action with an executive order that will protect American citizens and our nation’s sovereignty and defend our national security interests and those of our allies.

The International Criminal Court’s efforts to investigate and prosecute Americans are inconsistent with fundamental principles of international law and the practice of international courts.  As the executive order notes, the United States is not a party to the Rome Statute that created the ICC, nor have we ever accepted its jurisdiction over our personnel.

That is why our nation and this administration will not allow American citizens who have served our country to be subjected to illegitimate investigations.  Instead, we expect information about alleged misconduct by our people to be turned over to U.S. authorities so that we can take the appropriate action, as we have consistently done so in the past.

The United States maintains the sovereign right and obligation to properly investigate and address any of our personnel’s alleged violations of the laws of war.  We have a proven record of doing just that through an American justice system that is eminently capable of handling each cases.  This includes investigating and prosecuting the alleged abuse of detainees or any other misconduct.  Ultimately, our justice system ensures that our people are held to account under the United States Constitution, not the International Criminal Court or other overreaching intergovernmental bodies.

Moreover, there is no other force more disciplined and committed to compliance with the laws of war than the United States military, which has made lasting contributions to the cause of justice and accountability in armed conflict.  For example, our military led prosecutions in historic international military tribunals, including at Nuremberg, as Secretary Pompeo mentioned, in addition to providing critical support to the International Criminal Tribunal for the Former Yugoslavia.

We have consistently provided training on the rule of law and given related assistance to scores of partners and allies around the globe.  Additionally, since our founding, the United States military has fought to liberate the oppressed and defeat the enemies of justice, from Tripoli to Normandy and from Korea to Kandahar.

In fact, nearly 800,000 United States troops have served in Afghanistan over the past 19 years.  More than 20,000 of them were wounded in combat, and regrettably, nearly 2,000 Americans – brave Americans – laid down their lives to stop terrorism, to protect U.S. and allied citizens – including those in the Hague – and to give the Afghan people a chance at a better life.  We will not allow the unjust treatment of these or any other American personnel who have dedicated themselves to the cause of justice, security, and opportunity for all.

Today our service members remain on the front lines of the fight against terrorists, war criminals, and perpetrators of genocide such as ISIS.  I am proud of the work the United States military conducts every day to protect human rights, safeguard liberty, and uphold the international rules-based order.  That is why the Department of Defense fully supports the President’s executive order and will take every action to defend our service members.

Rest assured that the men and women of the United States Armed Forces will never appear before the ICC, and – nor will they ever be subjected to the judgments of unaccountable international bodies.

In short, I’d like to thank the President for sending a clear message to the international community that we will always protect Americans, no matter where they serve, from harassment, abuse, and overreach by organizations outside of our own justice system.

I’d also like to thank my colleagues here today who play an instrumental role in that effort.  Together we once again call on the ICC to respect international law and American sovereignty.  We also ask states parties to the Rome Statute to ensure the ICC respects our decision and we reaffirm that the United States will continue to uphold the rule of law, to honor our commitments, and to defend our core values.

Thank you.  I’ll be followed by Attorney General Barr.

**AMBASSADOR O’BRIEN:**  Well, thank you, Mark, and – Secretary Esper, Secretary Pompeo.  And as many of you know, not only are they great cabinet secretaries, they were soldiers and great Americans, and I’m privileged to be there to join them and Attorney General Barr.

As my colleagues made clear and as General Barr will make clear, we are here today to defend American sovereignty and the American people who serve our great nation.  The ICC’s effort to target American servicemen and women and other public servants are unfounded, illegitimate, and make a mockery of justice.  The reasons why are clear.

First and foremost, the United States did not ratify the Statute of Rome that founded the ICC, and successive administrations have stood by that decision.  As a result, the United States and its citizens are not and never have been subject to ICC jurisdiction.

Second, as Secretary Pompeo laid out in detail, the ICC is a failed institution.  Despite repeated calls for reform from our allies in the United Kingdom, Japan, Germany, and other countries, the court is ineffective, unaccountable, and is a politically motivated bureaucracy.

To make matters worse, this specific investigation of American servicemen and women in Afghanistan – we have every reason to believe our adversaries are manipulating the ICC by encouraging these allegations.  These tactics represent a blatant attempt to subvert justice and the mission of the ICC.  Further, we know that there is corruption and misconduct at the highest levels of the ICC and in the office of the prosecutor.

Third, the United States holds the men and women of our armed forces to the highest legal and ethical standards, and in the rare cases where they violate those laws and norms, they’re held to account by military and civilian courts in this country.  I was a JAG officer in the Army, and I can tell you the United States Government and military justice systems are far more effective at holding Americans accountable than the ICC ever has been or ever will be.  And we will never allow our American soldiers, sailors, airmen, and Marines to fall under the jurisdiction of that court – of that purported court.

We do not need a corrupt and politicized international body to second guess our system of military justice or our system of civilian justice for soldiers, sailors, airmen, and Marines who’ve left the service and may be brought before a court.  The men and women who serve this nation are accountable to the Constitution, to which they swore an oath, to their commander-in-chief, and to the institutions established by the American people and to no one else.  We will not put them – our soldiers, sailors, airmen, Marines, Coast Guard men and others – at the mercy of any corrupt international organization, nor will we stand by as they’re persecuted by those who are, in reality, seeking to damage our country.

I witnessed the signing of the executive order by President Trump yesterday.  The President has no higher priority than protecting the American people.  And as this executive order makes clear, he will do what it takes to defend our sovereignty and the men and women who serve and sacrifice for this nation.

Thank you very much.   Attorney General Barr.

**ATTORNEY GENERAL BARR:**  Thank you.  I’m pleased to join my colleagues today in support of the President’s action against the International Criminal Court.  The ICC’s recent decision to authorize an investigation into the conduct of U.S. personnel who were fighting to defeat terrorists in Afghanistan and bring peace and prosperity to the Afghan people validates our longstanding concerns about the ICC.

This institution has become, in practice, little more than a political tool employed by unaccountable international elites.  These people wield this tool to manipulate and undercut the foreign policies of a democratically accountable sovereign nation and other nations, including the United States.

The United States, as has been mentioned, has never consented to ICC jurisdiction.  Worse yet, we are concerned that foreign powers, like Russia, are also manipulating the ICC in pursuit of their own agenda.  The measures announced today are an important first step in holding the ICC accountable for exceeding its mandate and violating the sovereignty of the United States.

The U.S. Government has reason to doubt the honesty of the ICC.  The Department of Justice has received substantial, credible information that raises serious concerns about a long history of financial corruption and malfeasance at the highest levels of the office of the prosecutor.  This information calls into question the integrity of the ICC’s investigations.  This includes information going back many years about multiple matters, including recent matters, and that has, in our view, may well have a bearing on the current investigation announced by the ICC.

The Department of Justice, together with partners across the United States Government, is investigating, and we are committed to uncovering and if possible holding people accountable for their wrongdoing – any wrongdoing – that we may find.

The executive actions announced here will ensure that those who assist the ICC’s politically motivated investigation of American service members and intelligence officers without the United States’ consent will suffer serious consequences.  The Department of Justice fully supports these measures and will vigorously enforce the sanctions imposed today under the executive order to the fullest extent of the law.

Thank you.