



# Security Council

Sixty-ninth year

*Provisional*

## 7306<sup>th</sup> meeting

Tuesday, 11 November 2014, 11 a.m.  
New York

*President:* Mr. Quinlan ..... (Australia)

*Members:*

Argentina .....	Mrs. Perceval
Chad .....	Mr. Gombo
Chile .....	Mr. Olguin Cigarroa
China .....	Mr. Cai Weiming
France .....	Mr. Bertoux
Jordan .....	Mrs. Kawar
Lithuania .....	Ms. Murmokaitė
Luxembourg .....	Mr. Maes
Nigeria .....	Mr. Laro
Republic of Korea .....	Ms. Paik Ji-ah
Russian Federation .....	Mr. Churkin
Rwanda .....	Mr. Nduhungirehe
United Kingdom of Great Britain and Northern Ireland .....	Ms. Mulvein
United States of America .....	Ms. Jones

## Agenda

The situation in Libya

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*The meeting was called to order at 11 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

### **The situation in Libya**

**The President:** Under rule 37 of the Council's provisional rules of procedure, I invite the representative of Libya to participate in this meeting.

Under rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I now welcome and give the floor to Prosecutor Bensouda.

**Ms. Bensouda:** I welcome this opportunity to once again engage with the Council as I present my Office's eighth report on Libya.

At the outset, I note with regret that, as we are gathered here today, the security situation in Libya is worsening. Political instability is growing and, unfortunately, an environment is developing that clearly cannot be conducive to closing the impunity gap in Libya. This of course is an issue of concern for me and my Office.

Since my most recent report to the Council on Libya, in May of this year (see S/PV.7173), the situation in the country has deteriorated. Despite the June 2014 elections, Libya is currently split, with two Governments vying for legitimacy. A more worrisome aspect of the deteriorating situation is the ongoing spate of assassinations in Benghazi and the threats to media workers, human rights defenders and women in particular, and to prosecutors, judges and lawyers. There are indeed indications that crimes that fall within the jurisdiction of the International Criminal Court are being committed.

Those troubling developments are clear signs that Libya is moving down the wrong path in its transition to what was hoped would be a peaceful country that respects and pays homage to justice, accountability and the rule of law.

Over the years, the Council has expressed its grave concern at the worsening security situation

and the political divisions that threaten to undermine the aspirations of the Libyan people. The Council has reiterated its support to the people of Libya and encouraged their continued and firm commitment to the establishment of a stable and prosperous State based on national reconciliation, justice, respect for human rights and the rule of law. Unfortunately, the Council's calls for political dialogue and refraining from violence and actions that challenge the stability of the State have gone unheeded.

The international community could be more proactive in exploring solutions in order to tangibly help restore stability and strengthen accountability for Rome Statute crimes in Libya. For its part, the Libyan Government is encouraged to be more specific in seeking such assistance. I can only reiterate my previous calls to key partners of the Government of Libya to provide it with the necessary support and to restore security and cultivate accountability for international crimes in the country.

To be more responsive in providing such critical assistance, the possibility of forming an international contact group on justice issues through which material, legal and other support could be provided to Libya ought to be explored. Such a forum should help to focus attention on specific problems facing Libyan authorities and assist supportive States in coordinating their own efforts with those of the International Criminal Court and Libya.

For our part, let me assure you, Mr. President, that my Office will do all it can to support that kind of coordination as a form of cooperation that will lead to our own investigative and prosecutorial work becoming more efficient and having more of an impact, and which will reinforce the signal to the Libyan authorities that they are not alone in facing the current challenges.

I cannot stress enough the deleterious impact that the unstable political and security situation in Libya has had and continues to have on my investigations. While my Office remains steadfast in its commitment to continue to pursue its mandate in Libya, the security situation has significantly hampered our ability to effectively investigate in the country. I urge the Libyan authorities to expend all efforts, including by coordinating closely with the United Nations and my Office, to ensure that the necessary conditions are in place as soon as possible so as to facilitate our investigations in Libya.

Moreover, contact with the Libyan Government has been largely confined to our liaison with the focal point. Given the prevailing circumstances in Libya, it has been difficult for the focal point to facilitate effective contacts and secure much-needed assistance from the relevant national authorities to facilitate my Office's investigative efforts. As a result, progress with regard to the implementation of the memorandum of understanding between my Office and the Government of Libya has been slow.

Notwithstanding those challenges, we are attempting to forge ahead. Recently, the focal point of the Government of Libya arranged a key meeting outside of the country between members of my investigation team and Libyan national investigators. That constructive meeting provided an avenue for valuable exchanges of information and ensured plans for follow-up meetings. The meeting laid the groundwork for coordination in the investigation and prosecution of individuals of concern to both my Office and the Libyan authorities. My investigation team, I must acknowledge, was impressed with the commitment and professionalism displayed by the Libyan national investigators, who are undertaking their work in difficult circumstances. I look forward to building on that fruitful meeting and to working with the Libyan authorities to address the most urgent cases and to take further steps toward closing the impunity gap in Libya.

An unfortunate reality, however, remains: the combined effect of instability and lack of resources has severely undermined my Office's investigative efforts in Libya. This means that we have been obliged to scale down resources for investigations in the country, in effect limiting our ability to investigate, among others, new instances of mass crimes allegedly committed by the rebel forces. My Office will have to prioritize its work and divert the limited resources at its disposal as it strives to complete its investigations to be trial-ready in other cases where the judicial process has already been triggered.

As I have stated in another context, including at the recent open debate in the Council on 23 October (see S/PV.7285), the continuing disparity between resources and expectations risks systematic underperformance that will harm not only the Court and its mandate, but also the credibility of the Council. This is particularly pertinent for situations that have been referred to the International Criminal Court by the Council. I encourage the Council to take this fact into consideration

in the light of the urgent need to revitalize the Libya investigation.

My Office is committed to ensuring that justice and accountability are respected and advanced in Libya. To that end, I would be remiss if I did not benefit from the audience before the Council today to stress that the continued failure of the Government of Libya to surrender Saif Al-Islam Al-Qadhafi to the custody of the International Criminal Court is a matter of great concern to my Office and the Court. In the past, the Council has expressed its displeasure at that failure to discharge a clear legal obligation. Libya must demonstrate its commitment to justice and accountability for mass crimes by fulfilling its obligations towards the Court and the Council. I take this opportunity before the Council to once again call on Libya to immediately surrender Saif Al-Islam Al-Qadhafi to the custody of the International Criminal Court.

As concerns the trial of Abdullah Al-Senussi in Libya, my Office is closely monitoring developments in the case, following on recent contacts with the Libyan authorities and independent trial monitors. The ongoing violence and alleged threats to judges, prosecutors and lawyers do not augur well for a fair trial that respects all of the rights of an accused person. On the basis of the information collected and the status of any progress made, I will assess my options in due course, including whether to apply for a review of the judges' decision upholding Libya's request that the case against Al-Senussi be tried in Libya.

Similarly, my Office remains very concerned about the number of individuals in detention, some of whom reportedly lack access to due process and may be subject to torture and death in custody. As the Secretary-General has noted, "The handover of all detainees to the effective control of the State is a prerequisite for the establishment of the rule of law in Libya" (S/2014/653, para. 97). It is incumbent upon the Government of Libya to ensure that detainees are either tried within a reasonable time and with full respect for their due-process rights, or released.

The time is also past due for the resolution of the Tawergha issue. My Office has encouraged the Libyan authorities to facilitate a visit by representatives from the local councils of Misrata and Tawergha to New York to meet and engage with Council members. It is envisaged that the visit could materialize next week. The main purpose of the visit is for those representatives to

make their efforts better understood. I must emphasize that from the perspective of the jurisdiction of the International Criminal Court, the mass displacement of the Tawerghans remains an issue of concern to my Office and, undoubtedly, to the international community as a whole. I am confident that I share this concern with members of the Council, and I hope that within the next six months, the representatives of Tawergha and Misrata will be able to update the Council on the progress they have made in redressing the displacement of the inhabitants of Tawergha.

In conclusion, it is worth recalling that it was for reasons of peace and security, and, indeed, the suffering and plight of the Libyan people that the Council galvanized to unanimously adopt resolution 1970 (2011), and, more recently, resolution 2174 (2014). The Libyan people's hopes and aspirations for a peaceful and stable State that thrives and sits firmly on the pillars of justice and accountable Government are yet to be realized. We therefore owe it to them to coordinate our efforts more effectively to promote a peaceful and just solution to the current situation in Libya. In accordance with its mandate, my Office is certainly attempting to do its part in strengthening justice and accountability for international crimes in Libya and is coordinating, as appropriate, with the Libyan authorities. There is certainly room for all of us to do more. To be sure, we must not fail Libya, but Libya must also not fail itself.

**The President:** I thank Ms. Bensouda for her briefing.

I shall now give the floor to members of the Security Council.

**Mrs. Perceval** (Argentina) (*spoke in Spanish*): Argentina wishes once again to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her briefing on her eighth report pursuant to resolution 1970 (2011).

Argentina wishes to recall that the referral of cases to the ICC reflects the explicit recognition by the Council of the role of justice and the fight against impunity for crimes of international concern, and the contribution of the Rome Statute and the ICC to that goal. I wish to reiterate that for my country, Argentina, it is unacceptable that the culture of memory be transformed into a history of oblivion. For my country, truth, remembrance, justice and reparations are the right not only of the victims, but also of society as a

whole and the international community, so as not to compromise on the issue of impunity.

Libya is facing numerous challenges in the area of strengthening rule-of-law institutions; however, a constructive dialogue among the Libyan authorities and the Office of the Prosecutor continues to unfold. Since 2013 that dialogue has been more fluid, in particular regarding the implementation of the memorandum of understanding on the distribution of the workload in future investigations and trials signed by the Attorney General of Libya and the Prosecutor.

I should like to focus on three key issues relating to the situation in Libya.

The first is the obligation of Libya to cooperate with the Court. While Libya had challenged the admissibility of the case against Saif Al-Islam Al-Qadhafi before the Court, the decision of Pre-Trial Chamber I handed down on 31 May 2013 and upheld by the Appeals Chamber on 21 May 2014 makes it clear that Libya should hand over the accused. We are aware that there is a trial in Libya against Saif Al-Islam Al-Qadhafi; however, Libya should ensure that that trial does not undermine its responsibility and obligation to cooperate with the ICC.

The second issue concerns the allegations of crimes committed in Libya since 2011 and more recently, particularly since May 2014, when two major armed coalitions emerged there — the forces of Operation Dignity and of Operation Libyan Dawn — leading to the establishment of two parliaments and Governments, one in Tripoli and one in Tobruk, with the house of representatives of the latter being the legitimate Libyan authority as recognized by the United Nations.

The Office of the Prosecutor continues to address cases of arbitrary detention, torture, the cruel treatment of detainees, the forced displacement of approximately 30,000 Tawergha civilians, assassinations in the context of the conflict, threats against journalists and human rights defenders, in particular against women human rights defenders, and against prosecutors, judges and lawyers. Some of those cases were reported on by the Ministry of Justice, with the assistance of the United Nations Support Mission in Libya. However, the Court was unable to investigate those allegations of crimes under the Rome Statute owing to a lack of access for security reasons. We believe that the Libyan authorities should ensure that they are investigated and the perpetrators brought to justice.

Thirdly, and in conclusion, the Prosecutor is clear about the situation resulting from the proposed cuts in the budget of the Court, which affects the Office and its capacity to undertake new investigations, in particular regarding the crimes committed by the rebels, and with respect to the implementation of the memorandum of understanding in a more ambitious manner.

This leads my delegation to make a comment that we reiterate every time the Council considers the question of referrals to the ICC. Argentina find it inexplicable that the Council has determined that the costs of referrals are not covered by the United Nations but, rather, by the States parties to the Rome Statute. Beyond the fact that this contravenes the Rome Statute and the Relationship Agreement between the United Nations and the International Criminal Court, the situation and the facts show that, with the growing number of cases, there has been an intensification of the pressure on the resources available to the Court.

Thus today we see in the report of the Prosecutor what the effects are of the United Nations not covering the costs of referrals to the Court. This threatens not only the current activities of the Prosecutor but could also jeopardize the long-term viability of the Court.

We reiterate that the fight against impunity is not an obligation exclusive to the States parties to the Rome Statute; it is, rather, that of the international community. It is also a priority for the United Nations. That goal, however, should also come with a commitment to providing the Court with the resources it needs to function. If the Organization can provide such resources for the two ad hoc Tribunals, we fail to understand what is preventing it from doing the same for the International Criminal Court.

We should emphasize Libya's willingness to deal with its situation and to enable the current violence to yield to political dialogue, so that justice can be the essential element in the country's social, political and ethical reconstruction. Argentina, like the Prosecutor, fully understands the many challenges the Libyan authorities are facing, and commends the Office of the Prosecutor for its willingness to continue to support the Libyan Government in its efforts to address as many cases as possible through its jurisdiction. But we also believe that Libya's need for institutions such as the legitimacy of the rule of law is clearly greater than any cooperation the International Criminal Court can supply, and for that it is essential to have a comprehensive strategy of which national justice

is a key component. It is vital that the Libyan people see justice done for serious crimes, regardless of the perpetrators, and that they see it done not only in The Hague but also in Libya.

The Prosecutor suggested the possibility of creating a contact group. Argentina believes such an undertaking could provide Libya with the support of a group of countries that would work in close consultation with Libya, particularly on how to fight impunity at the domestic level. The international community's cooperation is essential to achieving a genuinely peaceful Libya, with security, reliable and effective institutions and respect for its citizens' human rights, but we also believe that the Security Council should assist such efforts with the support they need. One aspect of following up on referrals is that the Council should be considering alternative ways of backing up the efforts of Libya and the international community to support the country.

As we do every time we discuss the International Criminal Court, the Argentinian delegation would like to emphasize its belief that the Court represents one of the most significant contributions we can make to achieving accountability for crimes of international concern, and that it is as essential today as it was when it was established in 1998. I commend the Prosecutor for her values and dedication to eradicating impunity. I would also like to acknowledge the efforts of the Libyan authorities and people in embarking on a path that we should all support — that of memory, truth, justice and reparation.

**Mr. Maes (Luxembourg) (*spoke in French*):** I too would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her presentation of her eighth report pursuant to resolution 1970 (2011), and to reiterate our support and appreciation for the work she and her Office are doing.

After 40 years of dictatorship, building a democratic nation in Libya is a lengthy and difficult process. Libya is facing significant challenges, particularly in the area of security, as the recent events that Ms. Bensouda referred to have shown. However, it continues to maintain a constructive dialogue with the Court. We welcome the steps taken to implement the memorandum of understanding between the Office of the Prosecutor and the Government of Libya, designed to encourage collaboration and sharing of tasks related to investigations and prosecutions, as well as a strategy for arrests. We especially welcome the recent

fruitful meeting in Rome between the Prosecutor and the Attorney General of Libya's team on practical arrangements for implementing the memorandum.

Concerning the Prosecutor's other investigations, we note that Ms. Bensouda's report points out that the lack of sufficient resources is still significantly delaying the collection of evidence against other potential suspects. In that regard, we reiterate our consistent position that the Court should be provided with the means necessary to enable it to fully discharge its duties.

Concerning Libya's obligations, the Prosecutor rightly recalled both in her report and her presentation that Libya is obliged to hand over Saif Al-Islam Al-Qadhafi to the ICC. We know that a suit has been filed in Libya, but it should ensure that the trial does not contravene Libya's obligations to the Court. We also note with concern the slow progress that has been made on the issue of detainees in Libya. We call on the Libyan Government to work to put an end to that situation, release the detainees there is no evidence against and refer cases where there is evidence to the national courts, in accordance with the law on transitional justice. Many of those prisoners have been subjected to torture and other ill-treatment. We again urge Libya to enforce the law criminalizing torture, forced disappearances and discrimination. We are concerned that the Prosecutor's report indicates that so far no State official or member of an armed group or militia has been brought to justice to answer such charges. We also urge the Libyan Government to resolve the situation of the inhabitants of Tawergha. It is essential that a strategy be devised to ensure that the 30,000 displaced persons can return home.

As in the past, we also encourage the Libyan Government to develop and implement a comprehensive strategy for putting an end to crime and impunity in Libya, with the help of its key partners where appropriate. The Court and the Council should be kept informed of progress in that area. It is up to the Libyan authorities to ensure respect for the rule of law in their country. We call on them to redouble their efforts to create a stable security environment that guarantees freedom, justice and respect for the rights of every individual. For its part, the international community should continue to help Libya in this crucial phase of its transition. The issue goes beyond the scope of the cooperation between Libya and the International Criminal Court. In that regard, we believe that the

idea of forming an international contact group on justice-related issues that would facilitate legal and material support for Libya is worth considering.

In referring the situation in Libya to the Prosecutor of the ICC under resolution 1970 (2011), the Security Council demonstrated its ability to act quickly and as one in order to fight impunity. We should now ensure that that approach is vigilantly followed up. More generally, the Security Council's continued and active support to the International Criminal Court is essential to enabling States to cooperate with the Court and to ensure that referrals to the Court achieve their goal of seeing justice done and maintaining international peace and security. As the Prosecutor said, we can all do more to help the Court in its vital work. I would therefore like to conclude by reaffirming our support for an idea that was mentioned on 23 October during the open debate on our methods of work (S/PV.7285), in which Ms. Bensouda also took part — that of establishing a mechanism that reflects the Council's commitment to effectively monitoring the situations it refers to the International Criminal Court.

**Mr. Churkin** (Russian Federation) (*spoke in Russian*): We have taken note of the eighth report of the Prosecutor of the International Criminal Court (ICC) on its investigation of the situation in Libya, and we thank Ms. Bensouda for her presentation of the report.

We cannot help but be concerned about the information in the report on the continuing violence in Libya and the complex displaced-persons situation. The report details unlawful arrests and detentions, the torture of prisoners and abductions and murders of civilians. Lawyers and judges working on internal Libyan trials concerning former associates of Muammar Al-Qadhafi continue to be persecuted, and flagrantly unjust decisions have been handed down, including cases where the death penalty has been imposed.

We support efforts aimed at bringing to justice those who committed serious crimes during the events in Libya since 2011. We hope to see progress in the work of the ICC in this matter, however we see little sign for optimism in that regard.

On 24 July, the ICC Appeals Chamber took a decision confirming the conclusion of the lower court that Libya was able independently to carry out an investigation into the *Abdullah Al-Semussi* case. Although we do not question its competence on these issues, we still find no material justification for such

an approach in the light of the entirely contradictory decision in the *Saif Al-Islam Al-Qadhafi* case and the aforementioned assessment of the ICC Prosecutor with regard to the situation in the country.

Crucial to strengthening the authority of the Court is its ability to impartially carry out investigations into the acts committed by all parties to the conflict, including in Libya. There has still been no significant progress in that regard. As we have already noted, there is sufficient information on the crimes allegedly committed by representatives of the Al-Qadhafi regime as well by insurgents. However, judging by the report, no real steps have been taken against the insurgents. There is no information on specific actions by the ICC with regard to the ongoing practices of torture and ill-treatment in Libyan detention centres.

There is unfortunately no news on the fate of the 30,000 internally displaced persons. As for the many civilian casualties as a result of NATO airstrikes, which breached the terms of resolution 1973 (2011) and was not in line with its goals, the ICC Prosecutor continues to distance herself from consideration of this issue, for unknown reasons. We would like to hear clarification in that regard, if there is in fact an explanation for this. We call for all instances of the use of disproportionate or indiscriminate force during the conflict that resulted in civilian victims to be investigated, without any exception.

In conclusion, we are forced to note that the experience of referrals to the ICC related to Libya cannot be considered a success to date, neither in terms of providing justice nor in terms of assisting the process of national reconciliation. This is, of course, a major factor when considering proposed referrals of cases to the Court in the future.

**Mr. Bertoux** (France) (*spoke in French*): I thank Prosecutor Bensouda for her report and her briefing. I wish to take this opportunity to reaffirm our full support to her and to the International Criminal Court (ICC).

There have been moments in history when the Council has united to prevent or stop atrocities that, in the terms of the Rome Statute, “shock the conscience of humanity”. The announcement in February 2011 by the Libyan regime itself that it was preparing a bloodbath triggered such unity. The adoption of resolution 1970 (2011) was one of those historic moments here in the Security Council. There have been others since, with

the adoption of texts on the Central African Republic and with the fight against the Islamic State in Iraq and the Sham.

When we review the implementation of resolution 1970 (2011), there is a question that remains, by its very nature, unanswered: how many lives were able to be saved? Thousands, without a doubt, and history must give credit for that to a unanimous Security Council, to the United Nations and to the International Criminal Court.

However, did we solve everything? No. Libya is going through a transition, with its difficulties and uncertainties. Violent acts continue. Instability persists. But despite the catastrophic legacy of the Al-Qadhafi regime, Libyans must show determination and must continue to come together around a shared political project to bring the democratic transition to fruition. The Council has mobilized to help them to do so. Bernardino León has been appointed by the Secretary-General to assist the political process.

In that regard, we are concerned about the consequences of the decision taken on 6 November by the Supreme Court invalidating the election results of 25 June. We believe it is essential that an inclusive political dialogue be initiated without delay, as the Libyan crisis can be solved only by political means. There is an urgent need to establish a Government of national unity that can quickly return to Tripoli. We stand ready to use individual sanctions as provided for by resolution 2174 (2014) to target those who obstruct the political transition. The designation of Ansar Al-Sharia as a terrorist organization is also part of this political context, aimed at separating terrorists away from the moderate Islamists, who do have a role to play on the political stage.

Libya’s cooperation with the International Criminal Court is crucial to end the era of impunity in the country, which emerged from 42 years of dictatorship in 2011. How can we prevent armed groups continuing their abuses if they feel free to act without consequences? Libya, despite its difficulties, requested to try the *Saif Al-Islam Al-Qadhafi* and the *Abdullah Al-Semusi* cases in its own courts, in accordance with the Rome Statute and resolution 1970 (2011). The Court, as the sole competent authority in this matter, declared itself competent to try Mr. Saif Al-Islam Al-Qadhafi and called for his delivery to the Court. It found the case *The Prosecutor against Mr. Abdullah Semusi* inadmissible and thereby granted Libya’s request to try the accused.

Libya, pursuant to resolution 1970 (2011), must comply with the judges' decision. Compliance by Libya with its international obligations is a key indicator of its commitment to the rule of law. There is no competition between national justice systems and the International Criminal Court, be it in Libya or elsewhere, but a principle of complementarity. Libya has obligations under resolution 1970 (2011), the Council has requested it to comply therewith, it is as simple as that.

Regarding the other abuses, as Ms. Bensouda recalled, the signing of a memorandum of understanding on burden-sharing between the Court and the Libyan authorities represents an innovative and positive approach. We must continue on this path despite the current crisis, which has slowed efforts significantly.

The challenges are immense. We must make shed light on alleged crimes, such as those committed in Misrata and Taourga during the armed conflict of 2011 and in Bani Walid in 2012. We regret, in that regard, that the return of communities of Taouerga to their villages remains to be achieved.

Finally, we express our deep concern at the use of torture and at the deaths in detention centres under the control of armed brigades in Libya. There remain some 7,000 illegal detainees, including children. These practices must stop. Like the Prosecutor, we encourage the Libyan authorities to implement the law passed in April 2013 that criminalized torture, forced disappearances and discrimination. Armed groups must recall that the fight against impunity also applies to them.

As I said at the outset, resolution 1970 (2011) continues to serve as an example of how the Security Council can take swift and united action. Faced with the abuses committed by the Libyan leadership at the time, the United Nations and regional organizations were united in their condemnation of the atrocities. For its part, the International Criminal Court was central to the process of isolating the criminals, regardless of their rank and regardless of their side.

Today, we must ensure the follow-up to these steps. The fight against impunity requires both the full cooperation of Libya with the Court, the improvement of the security situation, full consideration by the Secretariat and the Mission to Support the United Nations in Libya, and the activities of the Prosecutor.

**Mr. Laro** (Nigeria): I thank Prosecutor Bensouda for her briefing and for her eighth report to the Council.

We have carefully studied the report and taken due note of the main issues contained therein. On the issue of cooperation, it is an obligation on the part of States parties to the Rome Statute to cooperate with the International Criminal Court (ICC). In addition, resolution 1970 (2011) calls on States to cooperate with the Court, and resolution 2174 (2014) reiterates this point. In that regard, we urge Libya to continue to cooperate fully with the Court.

We take special note of the meeting between the Prosecutor and the Libyan Minister of Justice held on 18 July. This should send a clear message that the Court and the Government of Libya will work together to investigate and prosecute those committing grave violations of human rights and international humanitarian law in Libya.

We look forward to the technical meeting both parties are planning to organize on the issue of burden-sharing. It is our expectation that the meeting will help to strengthen cooperation between the Court and the Government of Libya.

Concerning the case of Saif Al-Islam Al-Qadhafi, the decision of the Pretrial Chamber and the Appeals Chamber is that the case is admissible. Therefore, Libya has an obligation to surrender Saif Al-Islam Al-Qadhafi to the Court. Libya should also return the materials seized from the former defence counsel of Mr. Al-Qadhafi and cooperate in facilitating a visit by the defence counsel of Mr. Abdullah Al-Senussi.

The report of the Prosecutor indicates that resource constraints and security considerations have hampered the ability of her Office to fully prosecute crimes that may have been committed by different parties since February 2011. We are concerned that if the situation persists, it may negatively affect the credibility of the Court and encourage impunity. Therefore in order to send a strong message that impunity will not be tolerated, it is essential for the Government of Libya, with the support of the international community, to investigate the alleged crimes. We acknowledge that this would be difficult in the current security situation in Libya. We therefore call for an immediate and unconditional ceasefire across the country. Libyan militias should refrain from targeting civilians. They should lay down their arms and participate in the ongoing national dialogue to restore peace, law and order in the country.

Finally, we urge the Office of the Prosecutor, the Government of Libya and the United Nations Support

Mission in Libya to continue to work together with a view to ending impunity in Libya.

**Mr. Gombo** (Chad) (*spoke in French*): I thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her briefing. Since the briefing before the Council on the seventh report of the ICC on 13 May (see S/PV.7173), the political and security situation in Libya has undergone numerous changes. We note that since then the militias have continued to clash with increased violence, making the security and political situation ever more confused and volatile.

On the human and humanitarian rights front, civilians are living in totally precarious conditions. They continue to be the targets of many attacks and tribulations, both at the hands of the militias and the State authorities, who engaged in torture, inhumane treatment and discrimination despite the publication of Law 10/2013. The eighth report of the Prosecutor refers to the displacement of the Tawergha without hope for an improvement in their situation.

On the judicial front, despite the decision of the Pretrial Chamber of May 2013, confirmed a year later by the Appeals Chamber, recognizing the admissibility of the case of Saif Al-Islam Al-Qadhafi, no judgment concerning him has been rendered up to now. That absence of accountability continues to bolster the impunity that reigns throughout the country. That encourages the commission of numerous crimes against civilians that neither the Libyan Government nor the international community are able to end.

The Libyan Government has expressed its willingness to cooperate with the ICC in the case of Saif Al-Islam Al-Qadhafi, but it continues to use the prevailing insecurity as an excuse for why it has not done so. Everyone recognizes the seriousness of the security situation in Libya today and the limited means of the Government to address it. We therefore encourage the Libyan Government to persevere in its desire to promote justice and to cooperate with the ICC. We also encourage it to make the effort necessary to organize the visit of the defence counsel of Abdallah Al-Senussi, and to provide the information requested by the ICC regarding the case's prosecution in Libya.

Moreover, it is regrettable that the budgetary constraints are limiting the work of the ICC in opening new prosecutions and in collecting evidence on other suspects outside of Libya. We therefore reiterate our call on the Security Council to seek a solution to the

problem of financing in the cases it refers to the Court. The issue of detainees has not been addressed, and we therefore urge the Government of Libya to do all it can to either release them or to prosecute them.

We welcome the ongoing dialogue between the Libyan Government, through the Office of the Prosecutor, with the ICC, and urge them to strengthen it. We also support the proposal of the ICC Prosecutor regarding the creation of a contact group of key countries in judicial matters in order to support the efforts of the Libyan Government to bring justice to the victims. That would surely help to strengthen justice in that country, which needs it so very much.

**Ms. Murmokaité** (Lithuania): I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for presenting her eighth report on Libya to the Security Council. We welcome the ongoing investigation by the Office of the Prosecutor, and its efforts aimed at implementing the memorandum of understanding concluded last year. We stress the importance of the Office of the Prosecutor continuing to exercise its jurisdiction over all alleged war crimes, crimes against humanity, or any acts of genocide committed within the territory of Libya since 15 February 2011. We take good note of the Prosecutor's message that the overall environment is clearly not conducive to closing the impunity gap. It is a worrying development indeed.

The International Criminal Court is an important partner for the Libyan authorities in ensuring accountability. We recall that, in accordance with the decision of the Appeals Chamber taken on 21 May, Libya has an obligation to surrender Saif Al-Islam Al-Qadhafi to the ICC. The obligation to surrender to the Court individuals against whom arrest warrants have been issued must be respected.

In relation to the case of Abdallah Al-Senussi, against whom the proceedings before the ICC have been concluded, we hope that, in spite of the deteriorating security situation in the country, domestic proceedings in Libya can be assured, and we will be listening carefully to what the Court has to say on that matter.

We would welcome further regular contacts between the Court and the Libyan authorities on cooperation and burden-sharing. It is essential to assist the Libyan authorities in strengthening the country's judicial system and capacity-building and in ensuring the impartiality of the judiciary. Strengthening the

rule of law and improving the criminal justice are core elements of rebuilding State authority in the midst of the current turmoil.

Lithuania remains concerned about the pervasive human rights abuses and criminality, including assassinations, abductions of civilians, torture and murder, as well as attacks on civilian infrastructure. The report presented by the Prosecutor notes that while fewer than 7,000 detainees have been held by the judicial police, only 10 per cent of them have been tried. Furthermore, a significant number of detainees, including civilians, remain in the hands of various armed groups, outside the control or influence of the State. As stressed by the Secretary-General this past September, the handover of all detainees to the effective control of the State is a prerequisite for the establishment of the rule of law in the country.

Let me also briefly refer to the situation of the Tawerghans. We take note of the fact that the parliament in Tobruk discussed the return of internally displaced persons, including Tawerghan refugees, and that a relevant draft decree is in the making, as indicated in the report. We underline that investigations into related abuses must continue, and express our support for the work of the Office of Prosecutor in that respect. We encourage the Government of Libya to take further measures to address the situation. Ensuring the safe return and protection of the Tawerghans should be seen as an important element of national reconciliation.

Lithuania believes that the Security Council should continue to monitor the events and situations referred to the Court, as well as the potential obstacles that the Court may encounter in conducting its work. We reaffirm our call for an investigation of all crimes against humanity and serious violations of human rights that may have been committed in Libya.

Finding democratic means to resolve past tensions and injustices is essential for the country's transition and recovery. The international community should also extend all necessary assistance to Libyan authorities for strengthening rule of law and justice institutions which are essential for the country to return to a path of reconciliation and for restoring trust and cohesion of the complex social fabric in the country.

I would like to conclude by expressing our strong support and commitment to the International Criminal Court and the work of the Office of the Prosecutor and to reiterate that the United Nations has to ensure

proper resources for the investigations in the situations referred to the Court by the Security Council. Making referrals without considering how they are financed could jeopardize the effectiveness of the activities of the Office of the Prosecutor and the Court's long-term viability.

**Ms. Paik Ji-ah** (Republic of Korea): First of all, my delegation would like to thank the Chief Prosecutor, Ms. Bensouda, for her briefing. We commend her efforts in the Libyan situation, including her effort to reach out to the Libyan authorities for improved cooperation in her tireless pursuit of other serious criminal allegations.

Over the past two years, the Court has achieved a new milestone in admissibility cases. Such achievements should be translated into reality on the ground without further delay. We hope that Libya's international obligations stemming from the cases should be discharged in a timely manner through close cooperation with the Court. We also hope that the International Criminal Court (ICC) continues to take the steps necessary to ensure fair trials for the accused.

The implementation of the memorandum of understanding on burden-sharing is another case in point to produce fruitful outcomes through close cooperation. Mutual efforts to that effect should be further strengthened.

Although we have been briefed about many attempts to make progress in the Libyan situation, our shared goal of ending impunity in Libya remains elusive due to, *inter alia*, the unstable security environment. The worsening security situation provides fertile ground for additional crimes to be committed by different parties. It also prevents the ICC from conducting effective investigations on allegations of crime and hinders the Libyan authorities from cooperating with the Court to the fullest possible extent. That vicious circle should be broken.

To that end, we need to redouble our efforts to improve the security situation in the country. Improvement of the overall security situation and our goal of ending impunity are closely related in Libya. In that regard, the Security Council's engagement with the situation should be strengthened. In addition, we believe that an effective follow-up of referrals by the Council to the ICC can play a role in improving the cooperation between the two organs in a more mutually reinforcing way. Through such a follow-up, Libya, the ICC and the Security Council can engage one another

more constructively and effectively to deliver justice in the country. We will continue to work with other Council members and the international community to make progress to that end.

**Ms. Mulvein** (United Kingdom): I thank the Prosecutor for her briefing on Libya and for introducing the report submitted to the Security Council pursuant to resolution 1970 (2011).

The United Kingdom is concerned about the continued violence and political instability in Libya. The recent Supreme Court ruling that the internationally recognized Government is unconstitutional highlights the significant challenges the country is facing. The United Kingdom is examining that judgment and the circumstances surrounding it. We are particularly concerned about reports that a car bomb went off in front of the security headquarters in the eastern city of Shahat on Sunday.

It is imperative that all actors in Libya work towards political solutions to the challenges the country is facing. We call on all Libyans to set aside their individual differences and support the United Nations-led efforts to mediate between key Libyan leaders, agree to a ceasefire and reach a lasting political settlement. That is the only route to stability and prosperity.

However, it is not just for the Libyans themselves to work towards a solution. A stable, democratic and prosperous Libya that contributes to stability and security in the region is in all our interests. The international community must support the efforts of the United Nations. Jonathan Powell, the United Kingdom Special Envoy to Libya, is working to support the efforts of United Nations Special Representative Bernardino León, and we call on all States to give their full support to his work. The United Kingdom supports the call of the Prosecutor for all parties involved in the ongoing fighting to refrain from targeting civilians or civilian objects. We urge all parties to refrain from Rome Statute crimes or human rights violations.

In order for there to be a sustainable peace in Libya, individuals who have committed atrocities must be held accountable for their actions. There must be no impunity for perpetrators of war crimes and crimes against humanity. It is also important that those who have committed human rights abuses in the ongoing fighting should face justice. It is vital that Libya's future is built upon the firm foundation that protects and promotes human rights for all. The United Kingdom recalls the

statement in July of the Prosecutor in which she stated that her Office is monitoring the situation in Libya and may exercise its jurisdiction over any crime against humanity or war crime committed there since February 2011.

The United Kingdom welcomes the continuing dialogue between Government of Libya and the Office of the Prosecutor and appreciates the spirit of collaboration. We encourage the Government of Libya to continue to work with the Prosecutor to confront the challenges that Libya faces, including through implementation of the memorandum of understanding on burden-sharing regarding the investigations and prosecutions of former Al-Qadhafi officials.

The United Kingdom thanks the Prosecutor for the update on the cases against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. The United Kingdom continues to urge Libya's full cooperation with the Court. We recall Libya's obligation to cooperate fully with and provide any necessary assistance to the Court and the Prosecutor, pursuant to resolution 1970 (2011). We also note the 21 May Appeals Chamber decision confirming that the Saif Al-Islam Al-Qadhafi case is admissible before the International Criminal Court. Libya remains under an obligation to surrender him to the Court.

The United Kingdom will continue to support efforts to bring about a sustainable peace in Libya. An important part of those efforts must be holding perpetrators of war crimes and crimes against humanity to account. There must be justice for the Libyan people who have been the victims of atrocities.

**Mr. Cai Weiming** (China) (*spoke in Chinese*): I wish to thank Ms. Bensouda for her briefing.

China is deeply worried at the worsening situation in Libya. The priority for the time being is for the parties in Libya to place the interests of their country and people first, comply with relevant Council resolutions and the commitments made at the Ghadames dialogue, and immediately reach a ceasefire and resolve their differences through inclusive political dialogue so as to restore the security and stability of their country as soon as possible. That is the precondition for and the foundation upon which to achieve justice in Libya.

China's position on matters involving the International Criminal Court remains unchanged.

**Mrs. Kawar** (Jordan) (*spoke in Arabic*): First of all, I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing and for the introduction of the eighth report submitted to the Security Council pursuant to resolution 1970 (2011). Jordan stresses its continued support for the International Criminal Court (ICC) based on our commitment to the Court's founding principles. The Court is a cornerstone in promoting criminal justice, ending impunity on behalf of the perpetrators of the most egregious crimes and in the maintenance of international peace and security and upholding the rule of law.

As indicated in the Prosecutor's eighth report to the Council, Jordan appreciates the continuing consultations between the Libyan Government and the Office of the Prosecutor of the ICC. Jordan stresses that the Court's success will depend on constructive cooperation on its behalf. In that respect we call on the Libyan Government to fully cooperate with the Court by facilitating the logistical support necessary in collecting evidence, coordinating investigations, information exchange and the detention and extradition of individuals.

Similarly, Jordan recognizes the enormous challenges facing Libya. We highlight the importance of its continuing efforts in establishing the rule of law, ensuring that all perpetrators of crimes face the international criminal justice system with a view to upholding justice and paving the way in facilitating the Court's exercise of its jurisdiction. The establishment of criminal justice is a basic prerequisite in stabilizing Libya and guaranteeing the non-recurrence of war crimes and crimes against humanity.

In conclusion, Jordan stresses its commitment to respecting the unity, territorial integrity, sovereignty and political independence of Libya. We are committed to comprehensive dialogue, the rejection of violence and supporting the political process. We call for providing full support to Libya's legitimate constitutional institutions as well as the immediate cessation of hostilities and all acts of violence on Libyan territory. We call for the cooperation of all Libyans to enable the Libyan State to restore stability and extend its authority throughout the entire territory. Cooperation is necessary to continue the democratic transition and strengthen the political process based on open dialogue among all political parties and their rejection of violence and

terrorism with a view to achieving agreement on a new constitution for the country.

**Mr. Nduhugirehe** (Rwanda): I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing on the activities of her Office, her presentation of the eighth report on the implementation of resolution 1970 (2011) and for her team's work in a challenging environment in Libya.

The continuing deterioration of the political and security situation in Libya is very concerning. We took note of the 6 November ruling of the Supreme Court, which declared the House of Representatives unconstitutional. We hope that the decision will not be mishandled and risk causing greater divide in Libya but, rather, that it will become an opportunity to forge a way towards a sustainable political solution to the crisis in the country. There are important tasks ahead and we urge all the parties involved to put aside their political interests and engage constructively in building an inclusive Government.

As reminded by the Prosecutor of the International Criminal Court (ICC), Rwanda also notes with concern that all sides in Libya continue to commit the most serious crimes since February 2011, including indiscriminate shelling, assassinations, torture and ill treatment of conflict-related detainees, abduction of civilians and mass displacements of Tawerghans. We are also alarmed by the continuing intimidation of judges and prosecutors and assassinations of security forces, which all affect the efficiency of the justice system, not to mention threats to members of the media and human rights defenders. Despite the current situation on the ground, it is critical that the Government of Libya play its part in ensuring that all perpetrators of mass atrocities in the country are brought to justice and receive a fair trial.

We understand that security challenges in Libya hamper the work of the justice system and that of the ICC investigation team. But we emphasize that no level of insecurity can deprive the victims of their basic right to justice and reparation. Accountability for war crimes and crimes against humanity is in fact the best guarantee for ending the cycle of violence in Libya. Failure to quash the blooming culture of impunity will negatively affect efforts to restore peace and security in the country.

In that regard, the Government of Libya should reiterate its commitment to the full implementation of law 29/2013, on transitional justice, which requires authorities to charge or release all detainees affiliated with the former regime, and law 10/2013, criminalizing torture, ill treatment and discrimination. We note that no militia member or State official has been brought to justice to face such charges, and we call for additional efforts by the Libyan Government in that regard.

Our long-standing position on international criminal justice is well known. We believe in the importance of accountability for the most serious crimes, under national or international jurisdiction, based on the principle of complementarity. We stress that national jurisdictions are ultimately better placed to provide justice and promote reconciliation. But at the same time, we are of the view that national sovereignty should never serve as a pretext in the denial of justice. In the case of Libya we note the Government's continuing commitment to cooperate with the International Criminal Court and we again highlight the importance of the complementarity clause contained in the Rome Statute.

Nonetheless, we recognize that Libya continues to face serious challenges in rebuilding its judicial sector. In that context, we support the recommendation of the Prosecutor to establish a contact group of Libya's partners on justice issues, through which material and legal support could be provided regularly to enhance Libya's efforts to provide justice to the victims. That technical support could come in handy, especially in relation to the *Abdullah Al-Senussi* case, where the Court upheld Libya's request to hear the case domestically.

Lastly, Rwanda would like to emphasize that accountability for mass atrocities is one of the building blocks of post-conflict peacebuilding. Therefore, the international community, which in 2011 rightly exercised its responsibility to protect in the case of Libya, must redouble its efforts and support the Libyan people in restoring peace and security, as well as in strengthening the national judicial system. Indeed, an efficient judiciary in Libya will significantly contribute to ending the cycle of violence in the country and to promoting justice, reconciliation and long-term stability.

**Ms. Jones** (United States of America): I thank Prosecutor Bensouda for her informative briefing and for the ongoing work of her Office to help end impunity for atrocity crimes committed in Libya.

When the Council decided, in 2011, to refer the situation in Libya to the International Criminal Court (ICC) (see S/PV.6491), it stressed the importance of accountability. Even with Libya's increasingly complex and unstable security situation, the call for accountability remains necessary. Like Prosecutor Bensouda, we are alarmed by the growing number of atrocity crimes in Libya. Those abuses and violations are laid out not only in the Prosecutor's report, but also in the Secretary-General's September report to the Council (S/2014/653) and in a range of reports from civil society organizations and other observers on the ground.

The United States condemns the recent surge in politically motivated killings, kidnappings and other abuses, many of which appear calculated to silence and intimidate a wide range of actors — from politicians and journalists to human rights defenders and civil society organizations. Assassinations, violence and the intimidation of judges, lawyers and the judicial police resulted in the closure of courts in Benghazi, Sirte and Derna and in the spread of coercion throughout the justice system.

Nevertheless, cooperation with the ICC remains critical. We welcome Libya's continuing coordination with the ICC's Prosecutor and Registry, including with their memorandum of understanding and approach to burden-sharing.

We encourage Libya to continue to prioritize prosecutions that focus on those bearing the greatest responsibility for their crimes and to explore other accountability measures such as those envisioned in Libya's transitional justice law.

Libya and the Council have an interest in ensuring that the alleged perpetrators of atrocity crimes in Libya, including the former regime officials who are already subjects of ICC proceedings, are held to account and that it is carried out in a way consistent with the rights of the defendants and Libya's international obligations.

The United States continues to call on all parties to accept an immediate and comprehensive ceasefire that would allow for the political process to proceed and to engage constructively in the United Nations-led political dialogue to resolve the ongoing crisis. We are deeply concerned about the explosions near the meeting between Prime Minister Al-Thinni and Special Representative of the Secretary-General Bernardino León this past Sunday, 9 November. While the

circumstances of that event are unclear, we emphasize that the political process must continue despite the challenging circumstances in Libya, since only a political solution can pave the way for the country's democratic transition.

We support Special Representative of the Secretary-General Leon's continued commitment to achieving this goal through political consensus. We urge neighbouring countries to support the Libyan Government through sustained and constructive engagement. We also support the implementation of resolution 2174 (2014), particularly its measures to address threats to Libya's peace and stability or security. But Libya's ability to navigate its many challenges and to secure justice for the worst crimes against Libyan civilians ultimately depends on the willingness of all parties to the conflict to put Libya's future above their own narrow political and economic interests.

In conclusion, let me reiterate our thanks to Prosecutor Bensouda and her Office for the work they have done to advance the cause of justice for the people of Libya.

**Mr. Olguín Cigarroa** (Chile) (*spoke in Spanish*): We welcome the convening of this meeting and we welcome the presence of the International Criminal Court (ICC) Prosecutor, Ms. Fatou Bensouda. We also appreciate her eighth report to the Council.

We begin our remarks recognizing the complex political and security situations in Libya. On 6 November, the constitutional tribunal in Tripoli declared invalid the Parliament that emerged following the 25 June elections — and with that also the current Government of Abdullah Al-Thinni, which we recognize. It is essential to preserve the work and efforts deployed for an inclusive political dialogue that favours the strengthening of institutions, respect for the rule of law and human rights as well as cooperation with the Court and the Prosecutor pursuant to resolution 1970 (2011).

Those who cooperate with the international community are strengthening their legitimacy. Therefore, we call upon the legitimately elected Libyan authorities to do what they can to comply with the request to turn over Saif Al-Islam Al-Qadhafi to the International Criminal Court. Let us recall that, following the decision of 7 August regarding Abdullah Al-Senussi, the *Saif Al-Islam Al-Qadhafi* case is the only

case of the original three before the Court that needs to be dealt with.

We believe that we also need to strengthen the legitimacy of the Council. Since 15 February 2011, there have been a series of acts that are worthy of our attention: the situation of the thousands of detainees who are being held without any charges, the killing of countless people in the context of the conflict in the country, as well as the matter of the forced displacement of some 30,000 Tawerghans. We appreciate the follow-up work of the Prosecutor on the issue.

We reiterate our concern about the more than 7,000 detainees who have not been charged. Each passing day that they remain in detention — in extremely difficult conditions — serves to undermine their most basic human rights. The situation cannot remain as it is.

We also condemn the politically motivated assassinations, including the cowardice murder of Salwa Bugaighis, who was stabbed to death in her own home in Benghazi on the day of the parliamentary elections last June.

We recognize the work of the Prosecutor in the investigation of the crimes committed since February 2011. We urge her to persevere that work in order to ensure accountability and to ensure that those guilty of crimes, regardless of their origin, are brought before justice, including those who carry out acts against minority groups in Libya.

Lastly, we emphasized the importance of the Libyan Government moving forward and sharing with the Council and with the international community its national strategy for facing those crimes. That would not only allow for a reaffirmation of Libya's commitment to the modern judicial system, in step with international standards, but it would also help to identify the areas or needs to which cooperation should be allocated in the security sector reform efforts under way in Libya.

**The President:** I shall now make a statement in my capacity as the representative of Australia.

First and foremost, Australia wishes to thank the Prosecutor, Ms. Fatou Bensouda, for her briefing on the work of her Office in relation to its ongoing efforts to ensure accountability for serious international crimes in Libya. I would also like to thank her for her determined efforts on behalf of justice and the rule of law.

The Prosecutor's biannual briefings on both Libya and Darfur are integral to ensuring that the Council is

fully appraised of the efforts undertaken by the Court at the request of the Council, to ensure that the Council is in the best possible position to provide the support it must to the Court's ongoing efforts. As the Council's meeting on 4 November underscored, there is reason to be deeply concerned by the deteriorating security situation in Libya. There is no military solution to the current crisis. All parties must commit to an unconditional ceasefire and to political dialogue.

The Prosecutor's report highlights her Office's concerns that Rome Statute crimes continue to be committed. Of particular concern are the reports of attacks on civilians and civilian infrastructure in Tripoli and Benghazi, ongoing unlawful imprisonment and mistreatment of detainees and the unresolved situation of forcibly displaced Tawerghan civilians. It is imperative that all parties adhere to their obligations under international humanitarian and human rights law. And the Council must do what it can to prevent the commission of future Rome Statute crimes.

The International Criminal Court (ICC) also has a role to play. We support the Office of the Prosecutor's ongoing efforts to monitor the situation in the challenging security situation. As the Prosecutor has said this morning, the present turmoil in Libya makes the pursuit of justice very difficult. But such challenges make the rule of law more important. Justice is integral to public confidence in national institutions and leaders. Justice provides a pathway to breaking cycles of violence. And, delivered efficiently and fairly, it has the potential to have a critical deterrent effect.

In that context, Australia urges Libya to do all that it can to meet its obligations to cooperate with the ICC and to ensure that it continues to investigate and prosecute other serious international crimes committed in Libya that fall outside the Court's jurisdiction. We welcome advice from the ongoing discussions between the Office of the Prosecutor and the Libyan Government on burden sharing. We hope the discussions will bear fruit, and we thank the Office for its demonstrated willingness to work with the Government of Libya in an effort to ensure that as many cases as possible are addressed.

In relation to the ICC's share of the burden, we note the Prosecutor's advice regarding its ongoing investigations in relation to a second case and its collection of evidence against other possible suspects outside of Libya. For our part, Australia will work with

other ICC States parties to ensure that the Office has the necessary resources under the Court's budget to progress in those efforts. In turn, we call on relevant States, including Libya's neighbours, to deny safe haven to those accused of committing serious international crimes during the violence in 2011 and to cooperate with the Court.

The ICC cannot deliver justice alone. We support the Prosecutor's call for Libya to share its strategy for investigating and prosecuting serious international crimes. That will demonstrate that justice remains a key priority underpinning efforts to ensure peace and stability in Libya. A key step in the plan must be the surrender of Saif Al-Islam Al-Qadhafi to the Court, consistent with the Appeals Chamber's decision of 21 May and resolutions 1970 (2011) and 2174 (2014). Libya has followed the Rome Statute in challenging the admissibility of the case. We trust it will now follow the Court's decision made pursuant to the Statute.

The international community also has a role to play. Australia notes the call made by the Prosecutor for Libya to be provided with the necessary support to deliver justice, including through the possible formation of a contact group on justice issues. We are interested in discussing what assistance can be provided to help Libya create the conditions that will facilitate the delivery of justice in a manner that is consistent with international standards.

It is essential that the Council also play its part. The Council's role is not over once it adopts a resolution to refer a situation to the ICC; a referral resolution is just one step on the path to justice. As it continues to consider the situation in Libya, the Council must not lose sight of the importance of ending impunity and of the role it is obliged to play in that regard.

I now resume my functions as President of the Council.

I welcome and give the floor to the representative of Libya.

**Mr. Dabbashi** (Libya) (*spoke in Arabic*): I would like to begin by congratulating you, Sir, on your assumption of the presidency of the Security Council for this month. I wish you and your delegation every success in that endeavour. I also want to thank Ms. Bensouda, Prosecutor of the International Criminal Court, for her report and her statement, which was very comprehensive. I also thank Council members for

their steadfast support to achieving justice in Libya by integrating Libya's international legal efforts with the efforts of the International Criminal Court (ICC).

At the outset, I would like to recall that every successive Libyan Government since the end of the dictatorship in 2011 has stated repeatedly that it was determined to ensure justice and combat impunity. That is what the current legitimate authorities, as represented by the elected Parliament and its Government, have stated. There is no doubt that the current cooperation between the office of the Libyan prosecutor and the Office of the ICC Prosecutor is just one example of that determination.

However, as members know, justice anywhere depends on security. True security also depends on the effectiveness of the authority of the State. The authority of the State must extend to the entirety of the country's territory and be recognized and respected by all citizens as an integral part of respect for the rights of all and the rule of law.

Unfortunately, those conditions have thus far not been met in Libya. Libya is the victim of armed terrorist groups that are decimating the State, dismembering it and dividing up its resources. They spread rancour, despair and hatred among Libyans. The heads of those groups and their henchmen, whether they are scheming politicians or people dressed in the trappings of religion, are driving young people to die in fratricidal wars and to destroy their property and the property of the State. Meanwhile, those new leaders amass funds that they smuggle out of the country and use to purchase property in Turkey, Morocco, Tunisia and Egypt. Most the time, their families live outside Libya, and their children study in foreign schools, all at Libya's expense. Sadly, they are just a band of criminals who lure our young people with money to then use them for cannon fodder and mutually accuse each other of being responsible for their deaths. In reality, their only reason for perpetuating the conflict is to derail constitutional reform and bring down the institutions of the State so as to maintain the state of anarchy that aids them in their efforts to pillage the resources of the State.

Despite all of that, and despite the destruction, bloodshed and the deterioration of the situation, Libyans continue to hope that those criminal instigators will show proof of conscience. They continue to hope that young people will become aware of the truth of the situation. They continue to wait for assistance from the United Nations and from our brothers and friends

to settle disputes and reach an agreement on a political solution that respects the law and the rules of the democratic process. At the same time, we hope that the Libyan authorities will receive the necessary assistance to confront terrorism.

In conclusion, I can say that we have been committed to the path of bloodshed and civil war in Libya, when the armed groups took Tripoli, when each murderer became a hero and every victim a martyr. We in Libya — and in the Council — need to work to put an end to that path as soon as possible in order to restore the rule of the State, save lives and preserve property. We hope that Mr. Bernardino León, Special Representative of the Secretary-General, will be successful in his mission with the support of everyone, including the Council.

The circumstances I have just described have paralysed the work of the police, the prosecutors and the courts. Today ordinary Libyan citizens no longer have a voice or recourse to uphold their rights or to present any case against anyone over anything, despite all the injustices they have been subjected to. In saying this, I am not trying to say that the Libyan Government is abdicating its responsibilities. I just want to recall the difficulties that face the Government in upholding its obligations, in particular in those parts of the country that are outside its control.

The Libyan authorities want Saif Al-Islam Al-Qadhafi and the other accused to be subject to a just and equitable trial. However, the security situation in Libya has forced the competent Libyan tribunal to defer its hearings on the case until the circumstances are more favourable. To that end, the Parliament and provisional Government are seeking to regain control of the State institutions in the capital, Tripoli, and are determined to do everything necessary to restore the rule of law and ensure a favourable climate for a resumption of the hearings in order to uphold the rights of the accused and to hold trials in line with international standards.

The Libyan Government wants the ICC to recognize the competence of the Libyan tribunals in the case of *Saif Al-Islam Al-Qadhafi*, as they did for the case of *Abdullah Al-Senussi*. We support the ICC, but we hope that it will show prudence when it comes to cases concerning public officials. Simply applying the law does not cause justice to prevail. The law must be applied in a measured manner, with full knowledge of the political situation and security status of the country concerned. We also need to keep in mind the impact

of the judgements handed down by the Court on the credibility of the Court and of its judges, in particular when such judgements undermine the sovereignty of a State or represent a provocation against the people of a country. There is therefore a need to avoid insisting that representatives of a State appear before the Court, except in cases where there is a lack of an effective or reformable national legal framework.

The parliament and the provisional Government of Libya are determined to meet their legal and judiciary commitments in order to restore security and stability in the country, combat impunity, render justice for the crimes committed and try all of those who are believed to have committed crimes, destroyed private property or violated human rights in Libya since 15 February 2011, this regardless of the identity of either the perpetrators or the victims. The parliament and the provisional Government are determined to provide reparations to the victims, achieve national reconciliation, guarantee

the return of internally displaced persons to their homes, and guarantee the participation of all in political life, without any discrimination or marginalization.

To conclude, I wish to state that the Libyan authorities hope for greater cooperation among Member States so as to help them to find the perpetrators of the crimes committed in Libya in order to hand them over to the Libyan judicial authorities and to locate individuals whose assets were frozen by the relevant Security Council resolutions. The Libyan authorities also hope that measures will be taken at the international level, in line with resolution 2174 (2014), against all those who are undermining State institutions and impeding the democratic process in Libya.

**The President:** The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

*The meeting rose at 12.30 p.m.*