



# Security Council

Seventy-eighth year

**9320**<sup>th</sup> meeting

Thursday, 11 May 2023, 10 a.m.

New York

*Provisional*

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*President:* Mrs. Baeriswyl/Mrs. Chanda. . . . . (Switzerland)

*Members:*

Albania . . . . .	Ms. Dautllari
Brazil . . . . .	Mr. De Almeida Filho
China . . . . .	Mr. Sun Zhiqiang
Ecuador . . . . .	Mr. Pérez Loose
France . . . . .	Mrs. Dime Labille
Gabon . . . . .	Mr. Biang
Ghana . . . . .	Mr. Korbieh
Japan . . . . .	Mr. Ishikane
Malta . . . . .	Ms. Gatt
Mozambique . . . . .	Mr. Afonso
Russian Federation. . . . .	Ms. Zabolotskaya
United Arab Emirates . . . . .	Mr. Almazrouei
United Kingdom of Great Britain and Northern Ireland . .	Mr. Kariuki
United States of America. . . . .	Mr. Simonoff

## Agenda

The situation in Libya

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*The meeting was called to order at 10.05 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

### **The situation in Libya**

**The President** (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Libya to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Mr. Karim Khan, Prosecutor of the International Criminal Court, to participate in this meeting.

The representative of the Russian Federation has asked for the floor.

**Ms. Zabolotskaya** (Russian Federation) (*spoke in Russian*): We would like to make a statement regarding our reservation about the presence in the Security Council Chamber of the so-called Prosecutor of the so-called International Criminal Court. We do not understand why he is being invited to the Security Council. The International Criminal Court has become a very obedient puppet of Western countries and is acting on the orders and in the political interests of Western countries, while not implementing either resolution 1970 (2011) or the Council's requests. His presence in our building is not only pointless, but it is also an insult to the Organization.

**The President** (*spoke in French*): I take note of the point of order made by the representative of the Russian Federation.

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

I give the floor to Prosecutor Khan.

**Mr. Khan**: I thank you, Madam President, for the opportunity today to once again brief the Security Council.

With the Council's leave, I would like to start by expressing my personal thanks to the Permanent Representative of Libya for his presence in the Chamber.

In my report one year ago (see S/PV.9024), I had the privilege of addressing the Council and laying out what I opined was the need of the hour, that is, to have the International Criminal Court (ICC) be seen as having

more impact and being nimbler and results-oriented. I set out a new plan for action that would hopefully fulfil the need of the people of Libya, and thereby also vindicate the demands of the Council when it referred the matter to the Court in the first place. It is important to recall that the motivation that led the Council to refer the matter was not politics, divides or power politics. It was the need for justice for children and women and men.

Over the past six months, significant progress was made as a result of more dynamic and field-focused investigations — a targeted approach to investigations. I think there is cause for optimism that we are finally on track. Twenty missions were conducted by the men and women of my Office during the reporting period. More than 500 items of evidence of a vast array of types — audio, video and satellite — were collected, including testimonial evidence, which has been scrutinized and preserved.

We have also realized that the International Criminal Court is a hub; it is not an apex court. We are working under the principle of complementarity, both with the Libyan national authorities, as an exercise of their sovereignty and primary responsibility as a matter of public international law, as well as by giving evidence to six national authorities to pursue justice in their own courts. I think that is a matter of significant pride for the international community, that is, the fact that justice is not the preserve of the International Criminal Court of any one national authority; it is the obligation of every State Member of the United Nations to finally, in 2023, realize the obligations that have been with us since Nuremberg.

We are bringing our Office and the work of its men and women closer to the people of Libya. In my last report I mentioned that, in November 2022, I conducted the first official visit of an ICC Prosecutor to Libya in over 10 years. I briefed the Council for the first time from Tripoli. That engagement was accelerated during the reporting period. We are regularly reaching out to the Libyan authorities, but also to civil society, victims and survivors in Libya.

Partnerships are key to justice. If the Council's instructions and responsibilities and its referral of situations to the Court are to be vindicated, it requires that everybody step up and for every single State to realize that there is a shared responsibility, much bigger than the politics of the moment, but to children, women and men who look to this body for justice and for the

rights of the Charter of the United Nations to be properly vindicated. That must trump politics and short-term expediency. The partnership has embraced very close collaboration with the United Nations Independent Fact-Finding Mission on Libya, with which have a very good partnership and have received information, which we have also independently reviewed and scrutinized. I think it is only right and proper to express gratitude to the Special Representative of the Secretary-General for the United Nations Support Mission in Libya (UNSMIL), whose support was critical to my mission last year. It remains critical in terms of engagement and ability to be in the field in Libya.

Over the reporting period, we accelerated a transformation of the Office, including the Libya file, in that we moved to the cloud and started using Relativity as a powerful new e-discovery tool that is enhancing our ability to ingest more information, analyse it effectively and give it to national authorities, as well as to properly target investigations and investigate incriminating and exonerating evidence equally. That has allowed us to get concrete results.

I announced that we had applied for more warrants in the Libya situation. I can announce today that four warrants were issued by the independent Judges of the International Criminal Court. I have applied for them to be unsealed, and the Judges will decide on that application in due course. In addition to those four warrants in Libya, which are demonstrable evidence of renewed activity and greater focus, in the past two to three weeks I also applied for two additional warrants as well. That is also important.

Warrants are not an end in themselves, but they are an important step in the rights of victims and survivors — that their lives matter to the members of the Council and to us. What many of them have suffered and the allegations they have raised that we believe to be supported by evidence need to be assessed by independent and impartial judges, if we are not to give the lie to the promise of Nuremberg — the promise in which all permanent members of the Council joined with one voice: that there should never again be a time in which human rights are trampled so egregiously in different parts of the world. Of course, as the Council and as the international community, we have a great deal of room for improvement.

The warrants are of course the first step. How do we deliver ever more? Partnerships are absolutely key,

as well as the realization that it does not matter at all which flag is behind a judge or a prosecutor. We need to work more closely with the independent judicial authorities of the States Members of the United Nations, States parties and non-States parties alike. Everybody has a stake in justice. And when we can share evidence with national authorities in the way that we have over the six-month period, it is a sign of hope that, at last, we are maturing as a people.

Impact is important, however. When I was in Tarhuna and in the Kalma camp in the Sudan, there was a concern that victims did not trust the Security Council or the ICC. The United Nations and its Member States are viewed as all talk because the victims are not seeing enough change in their lives. They are not seeing that their lives matter. There is a gap between the promise of justice, the prayer of “never again” and the spectre of international institutions working for them. They see that they still are in refugee camps. They are displaced and living in fear around the world. That is something that every individual, Council member, Member State and international institution and the men and women must acknowledge. We need to galvanize our efforts to do better and come of age as a species. But there are significant milestones.

During the reporting period, we further supported the national prosecutions in Italy and the Netherlands, working with the European Union Agency for Law Enforcement Cooperation and the joint investigative team, of which we are members in the Libya case file, in relation to human trafficking, that egregious crime that includes sexual abuse, sexual slavery and many other allegations that we are receiving. And non-States parties also have a very important role to play.

I recently went to the United Arab Emirates. I applauded the Emirati authorities because, on 1 January, a 39-year-old Eritrean man, a key suspect in relation to the egregious crime of trafficking, was arrested in the Sudan in an operation courageously led by the United Arab Emirates. And that was in furtherance of an arrest warrant issued by the Kingdom of the Netherlands. That is an example of humankind coming together and the law not being the preserve of States parties to the ICC, but being an obligation and the glue that can bind us together in a way that is not contentious but much more cooperative than we have seen in the past.

I have continued to engage with the Office of the Attorney General, the military prosecutor and the

Ministry of Justice in Libya. We are trying to work on other areas of partnership, while helping the Libyans to increase their own capacity and providing the technical assistance of the men and women of my Office in the areas of forensics and the identification of remains, in which there is a great deal of scope for collaboration and improvement.

In the coming weeks, my team will again be in Libya, liaising with the Libyan authorities. We also hope to establish a field office in Tripoli. That is very important. It is not some cosmetic exercise when are working with the people affected and with national authorities. Wherever we are in the world, justice becomes more tangible. It becomes less distant and less theoretical, and that is also what is needed at the moment. Of course, the medium-term aspiration and hope must be that the Libyan authority, the flag of Libya, is increasingly behind the principle of justice at home. We are willing and eager to work ever more closely with the Libyan authorities to vindicate the needs of Libyans who have suffered so much for so long.

Of course, partnership is key, and the secondees all Member States have provided to my Office have been used across situations — not only in one situation, but across situations. And Libya is a good example of having benefited from the allocation of resources that I provided to the country to ensure that we can obtain the results that I mentioned in relation to warrants.

I believe that the need for acceleration is not without significance. We should not have the sense that we can take our good old time to obtain results. Rather, we must feel that sense of urgency, as if our children and family members are suffering and craving justice, wanting to know where their loved ones are buried. And if we can pause, for a moment, the political divisions that are, unfortunately, so abundant around us and coalesce around people whom we do not know, whose faces many of us will not see, and unite on the principles of humanity and justice, it would be to the betterment of international law, and international relations more generally.

Technology is not a flash in the pan. The ability to use technology more effectively is important. I mentioned Relativity and e-Discovery. But in the process of transforming the architecture of the Office, we now have the ability to automatically transcribe from video and audio and use machine learning and automated translation to increase the pace of delivery

and get the impacts that so many are looking for. We have used that technology in Libya.

I believe that Libya is absolutely key to all of it — the collaboration, partnership and trust, which we hope will become stronger as we go on with Libya — will, ultimately, be the litmus test to the referral that has been given to us by the Council. In the meantime, we cannot dawdle. But we need to show how things should be.

It may be useful to recall one of the episodes with the most impact during my less than two years as Prosecutor. In November, I went to a town called Tarhuna, approximately two hours from Tripoli. I was there with the local community around a very simple table, and the accounts we heard was a snapshot of why the Council referred the matter to the Court. There was a man who spoke in very simple words, and the words were all the more powerful for their simplicity, devoid of any artifice. He described how 15 members of his family had been taken away and murdered.

There was a lady who, with great dignity, looked me in the eye and described what it felt like to be in the room when two of her children were taken away, never to be seen again. For those of us who have children, just imagine that suddenly our children are taken away and we do not know where they are. We do not know how their lives ended, or where they are buried.

There was a man who really touched me greatly. He said,

“I cannot live in my own house because that house — those walls and that roof — is where my children were born, and my children are not with me. I cannot bear any moment in my house. It is no longer a home. It is a vivid flashback of love lost and justice that has not been felt”.

And we see in so many parts of the world, including Libya, that, as those victims told us, quite candidly, we hear that the Security Council, the ICC, the United Nations and international institutions talk a good talk, but they are not feeling it. They are not feeling that their lives matter to those institutions. I believe that that is something that should weigh very heavily on us.

I think that during this reporting period, the clear and demonstrable accelerated focus, the application and issuance of the four warrants I have mentioned and the application of two further warrants, the greater focus on a field presence, the greater sense of urgency and that sense of acute responsibility — to be servants of humankind,

to recall the great Dag Hammarskjöld — have led me to realize that self-oblivion, having brickbats thrown at one and being castigated are absolutely worth it if one can finally become worthy of being properly called a servant of justice and of the international community. That sense of service is one that should galvanize all the members of the Council to do better than we have in Libya and in so many parts of the world. If we feel that we can make things better, be more imaginative and build partnerships together, I think that this referral, which has seen such progress over the past six months, can go deeper. And to achieve that would be to receive a debt of thanks that we might finally deserve. Perhaps most importantly, we can look at the victims — like those whom I have seen in Tarhuna and other places in Libya — and feel not ashamed but that we are finally doing our best to deliver on their right to justice and accountability.

**The President** (*spoke in French*): I thank Mr. Khan for his briefing.

I shall now give the floor to those members of the Council who wish to make statements.

**Mr. Ishikane** (Japan): I thank Prosecutor Khan for his excellent and convincing briefing.

Let me be clear. As a matter of justice under the rule of law and reconciliation for sustainable peace, the perpetrators of serious crimes must be held accountable for their wrongdoing. The International Criminal Court (ICC), as the central institution of the international criminal justice system, stands on the front lines of the global fight against impunity. Japan proudly supports the Court by providing both human and financial resources, and we hereby reaffirm our unwavering commitment to that.

We take note of the progress made in key lines of inquiry by the Court, led by the Office of the Prosecutor. In particular, the issuance of new arrest warrants will lead to the realization of justice if it is followed by an appropriate process without delay. Furthermore, the Court's positive collaboration with the relevant national authorities has begun to bear tangible fruit in combating crimes against migrants, which have become a major source of insecurity and upheaval in the region and beyond. We continue to pay close attention to that ongoing abhorrent situation and support efforts to hold the perpetrators of such atrocities accountable. We also recognize that the Office has made progress on the key principles for renewed action announced in

April last year. It is encouraging to hear of the ongoing cooperation by the Libyan authorities and the Court's increased engagement with victims and civil society. We are convinced that strengthening cooperation with those actors will not only help the investigations but will contribute to gaining public support and achieving long-lasting reconciliation in the region. We take note of the ICC's efforts towards establishing a liaison office in Tripoli in that regard.

However, it is unfortunate that we have not yet seen major progress in the investigation into the 2011 violence, including advances in the prosecution of Saif Al-Islam Al-Qadhafi. We look forward to seeing the Court expedite that process. The success of the Court also depends on cooperation from States. Without their help, the Court cannot function effectively.

We must recall that it was the Council itself that unanimously decided to refer the situation in Libya to the Court. Adopting resolution 1970 (2011) was not a goal but rather a starting point. Our job should not be just hearing from the Prosecutor every six months and reporting back to our capitals. The Council is responsible for ensuring the full implementation of its own resolutions. We must let the Court fulfil its mandate. Japan stands ready to further engage with the relevant Member States and will continue its firm support for the important activities of the Court.

**Mr. Kariuki** (United Kingdom): Let me first thank Prosecutor Karim Khan for his powerful briefing today and for his twenty-fifth report on the situation in Libya. The United Kingdom gives its full support to the Prosecutor's ongoing investigations in line with resolution 1970 (2011). We welcome both the briefing and the report as a demonstration of his transparency. We also welcome the participation of the representative of Libya in this meeting.

We are pleased to hear of the acceleration in the investigation of the International Criminal Court (ICC) and the progress in the delivery of the new strategy outlined in the Prosecutor's twenty-third report to the Council. We note the concrete outcomes of the investigation, including the issuance of new arrest warrants by the ICC Pre-Trial Chamber during the reporting period. Those are important steps for delivering justice for the Libyan people. We are grateful to the Office of the Prosecutor and those who supported it for the renewed efforts during this period. We thank the Government of National Unity

in Libya for facilitating the first official visit of an ICC Prosecutor to Libya in more than 10 years. It will be critical to the continued successful delivery of the investigation that further support be given to the investigation by the Government of National Unity and all other relevant Libyan authorities, including by providing documentation.

We welcome the increased engagement with witnesses and survivors and the collection of testimonial evidence. I thank the Independent Fact-Finding Mission on Libya for sharing its expertise and enhancing the Prosecutor's work to record the experiences of Libyan people. Following the ending of the Fact-Finding Mission, I encourage the United Nations Support Mission in Libya and the Office of the High Commissioner for Human Rights to continue that cooperation to help document and safeguard evidence of serious crimes.

This is a moment of opportunity in Libya. Transitional justice is vital to long-term security and stability and should be embedded in the political process. The ICC is a vital tool to help deliver justice for Libya through transparent and fair investigation. I urge all parties to work together to safeguard human rights and ensure that justice can be delivered when crimes occur, including through cooperation with the ICC and the surrender of individuals subject to arrest warrants.

In conclusion, the United Kingdom remains committed to working with the Prosecutor's Office and the Libyan authorities to build on that momentum and accelerate progress towards justice. Let me underline our full support for the work of the ICC in its pursuit of justice for the victims of the most egregious crimes, wherever they may occur.

**Mr. Simonoff** (United States of America): I thank Prosecutor Khan for his briefing to the Security Council on the International Criminal Court's (ICC) work on the situation in Libya.

The International Criminal Court has an important role to play in the international system of justice, and its work in Libya plays a critical part in support of our collective pursuit of accountability and peace and security. The United States commends the extraordinary dedication of the Court's staff and the sustained efforts of the Court to investigate and prosecute those most responsible for the heinous atrocities committed against the Libyan people since February 2011.

The Prosecutor's latest report to the Council reflects considerable progress in the past six months. The investigative and cooperative activities undertaken by the Office of the Prosecutor — including conducting numerous investigative missions to Libya and building a proactive policy of cooperation with Libyan authorities, third States, regional organizations and international partners — have laid the foundations for accountability in the face of ongoing challenges in Libya and in a difficult operating environment. In particular, we note the issuance of multiple arrest warrants, including some that remain under seal.

We also commend the Prosecutor's Office for its commitment to increasing cooperation and engagement with witnesses, victims and civil society, and for the substantial progress in its investigations. We welcome strategic approach by the Prosecutor for renewed action in the Libya situation. The United States also congratulates the Office of the Prosecutor for its role in the arrest in January of a suspect wanted by the Dutch authorities for brutal crimes against migrants and commends the United Arab Emirates for its role in his apprehension. We remain deeply concerned about the fate of migrants, including women and children who have experienced sexual violence and continue to be subjected to abuse. We urge the Libyan authorities to take credible measures to dismantle the trafficking and smuggling routes.

We are encouraged by the progress on the ICC discussions with the Libyan authorities to enhance the long-term presence of ICC staff, including by opening a liaison office in Libya as a key means for enhancing cooperation with the national authorities and victims. However, more needs to be done. We call on the Libyan authorities to do more to support and advance accountability efforts and to enhance cooperation with the ICC, including in ensuring that those subject to arrest warrants face justice as soon as possible.

The United States recognizes with gratitude the close and productive cooperation between the Prosecutor's Office and the United Nations Support Mission in Libya. We also welcome the ICC's collaboration with the Human Rights Council's Independent Fact-Finding Mission on Libya and commend its work in documenting reports of arbitrary detentions, extrajudicial killings, torture, rape, enslavement, sexual slavery and enforced disappearances. We note that the Fact-Finding Mission found reasonable grounds to believe that crimes against humanity

were committed against Libyans. The United States welcomes the increased contact with victims and civil society organizations in Libya as crucial to the delivery of justice for victims who have waited far too long to be heard. Victims and survivors deserve justice, which can be a powerful stabilizing force for Libya's future.

We continue to believe that resolving political uncertainty and promoting accountability in Libya will go a long way towards addressing the chronic instability the country continues to face, including from the mobilization of armed groups. Human rights violations and abuses will continue unless meaningful steps are taken to address the chronic instability in Libya. A critical step towards peace and stability is the withdrawal of all armed groups and mercenaries from Libya without further delay, in line with resolution 2656 (2022) and the October 2020 Libyan ceasefire agreement. The people of Libya deserve stability and justice, and we support the International Criminal Court's effort to help to bring justice to the people of Libya.

**Mr. Korbieh** (Ghana): I would like to join previous speakers in thanking Mr. Karim Khan, Prosecutor of the International Criminal Court (ICC), for the report he just submitted to the Security Council, and express my thanks to Ambassador Taher Elsonni of Libya for participating in this meeting.

At the outset, let me underscore that Ghana has a lot of confidence in the Prosecutor and his Office, as the Prosecutor has, any time he has addressed the Council, demonstrated his professionalism, dedication and commitment to the duty of ending impunity. In that regard, we convey our support for his efforts.

On the substantive issues in the report, Ghana wishes to highlight the following four points.

First, we note the continued efforts and steps being taken by the Office of the Prosecutor to establish an enhanced dialogue with the Libyan authorities in the implementation of the principle of complementarity by actively contributing to the investigations conducted by the domestic law enforcement agencies of six States parties into international crimes committed in Libya, including within the joint team on crimes affecting migrants. That approach will build the capacities of Libyan institutions towards conducting national trials of indictees.

Ghana welcomes the positive results from the renewed approach to complementarity that the Office

has taken in this situation, including the arrest and prosecution by the relevant national authorities of key suspects connected to crimes committed against migrants in Libya. We are also happy to note that such cooperation has led to 17 interviews, conducted jointly by the Office and investigators from a domestic law enforcement agency. That will not only build capacities but also — as rightly captured in the report — save resources and enable a direct exchange of knowledge and experience.

Secondly, on cooperation with the competent Libyan authorities, we note with appreciation that cooperation and a greater partnership between the Office and Libya remains a fundamental tenet of the Office's work on the Libyan situation. Further strengthening of excellent cooperation with the Independent Fact-Finding Mission on Libya, enhancing the Office's investigations and supporting the identification of additional witnesses relevant to the investigations, are worthy of note and encouragement. We commend the Office for transitioning to the use of Relativity, a new evidence-management system using artificial intelligence and machine learning, which will modernize and enhance the team's investigative and analytical capabilities.

While underscoring the positive relations between the Office of the Prosecutor and the competent Libyan authorities, we call on the Government of Libya to ensure the full cooperation of all relevant national authorities with the Office of the Prosecutor, in accordance with resolution 1970 (2011), including by providing documentation relevant to the ICC investigations. We welcome the support provided by the Government with respect to the Prosecutor's visit to Libya in November 2022.

Thirdly, during the most recent briefing to the Council (see S/PV.9187), Ghana highlighted the importance of witness protection before, during and after the trial process. We are happy to note that the Office of the Prosecutor has taken measures to empower victims, witnesses and affected communities through an enhanced presence in the region and increased contact with victims, victims' associations and representatives and other civil society organizations on the situation in Libya.

Ghana believes that the renewed strategic approach, which has increased engagement, will enrich the investigations, provide access to potential evidence and witnesses and ensure that the team is abreast of

current developments on the ground. The Office's continued efforts to further strengthen engagement with Libyan and non-Libyan victims, witnesses and affected communities, both inside and outside Libya, are commendable. We take this opportunity to call on the international community to provide effective psychological and rehabilitative assistance to victims across Libya.

Finally, Ghana notes with appreciation the ongoing close cooperation with other countries and agencies that led to the recent arrest and extradition from Ethiopia to the Netherlands and Italy of two key suspects of crimes against migrants and refugees. We take this opportunity to thank the Government of the United Arab Emirates and the European Union Agency for Law Enforcement Cooperation (EUROPOL) for their support. We call on the competent Libyan authorities to respect the human rights of migrants and protect them in accordance with international law. We therefore encourage the Office to continue with the proactive cooperation measures with the national authorities and regional organizations, such as EUROPOL, to support domestic efforts to investigate and prosecute crimes allegedly committed against migrants, as highlighted in the report.

In conclusion, Ghana expresses its appreciation to the United Nations entities, including the United Nations Support Mission in Libya and the Independent Fact-Finding Mission on Libya, that have provided support to the Office of the Prosecutor during the reporting period. We encourage the Office of the Prosecutor to continue to carry out its mandate by bringing perpetrators of atrocity crimes in Libya to face justice to bring succour to the families of victims.

**Ms. Dautllari** (Albania): Allow me to begin by thanking Prosecutor Khan for his excellent work and for briefing us today, as per resolution 1970 (2011). We fully support Prosecutor Khan in advancing the mission of the International Criminal Court (ICC) and fighting impunity wherever it arises. Also, we welcome the representative of Libya to this meeting.

We commend the tangible progress made in revitalizing investigations; the issuance of arrest warrants; the collection of case evidence and the establishment of the commission of serious crimes, such as unlawful detention, murder, torture, rape and gender-based crimes. However, the protection of witnesses and victims of horrific crimes remains a challenge. We encourage the Office of the Prosecutor

to continue collecting evidence for alleged crimes committed during the conflict, especially with regard to crimes against women and children.

We are shocked by the crimes committed against migrants in Libya, who continue to suffer from serious abuses committed with total impunity. Serious violations include torture and detention in degrading conditions and abuses of women and children. We call on the ICC and Libyan authorities to fully investigate those horrific crimes and bring the perpetrators to justice. And also support also the opening of an ICC office in Tripoli, which we think will help to increase cooperation.

Accountability is crucial to end the violations and prevent future violations. We must listen to the demands for justice of the Libyan people and support cooperation between the ICC and the Libyan authorities to deliver justice. We regret the persistent insecurity and the denial of access to documentation and crime scenes, which undermine investigations.

We support the road map for accountability in Libya and welcome engagement with the United Nations Support Mission in Libya and the Special Adviser of the Secretary-General. We encourage the Office of the Prosecutor to continue strengthening the victim and witness support programmes and engage closely with affected communities and civil society organizations.

In conclusion, let me emphasize the importance of ending impunity as a precondition for lasting peace and security in Libya. And in that regard, the Council should continue supporting the work of the ICC as mandated.

**Mr. Afonso** (Mozambique): I wish to thank Mr. Karim Khan, Chief Prosecutor of the International Criminal Court (ICC), for his briefing. I acknowledge the presence of His Excellency Mr. Taher Elsonni, the Permanent Representative of Libya, in this meeting.

Mozambique welcomes the work being undertaken by the ICC under the mandate of the Security Council. We highlight the critical role of the ICC in combating the impunity of perpetrators of genocide, war crimes and crimes against humanity. In holding perpetrators accountable, the ICC renders its major contribution to the promotion of peace and security. We trust that the ICC will continue to assist the Libyan people in their collective efforts to promote peace, reconciliation and stability in Libya.

We note, in that connection, that the Security Council referred the situation in Libya to the ICC in



2011, through resolution 1970 (2011). Serious violations of human rights and international humanitarian law committed in Libya constituted the main reason for that decision. Against that backdrop, it is timely and important that the Security Council take stock of what has been done so far in the implementation of the aforementioned decision. Our reflection must be oriented to results vis-à-vis the promotion of durable peace in the country.

We are of the view that investigations undertaken by the ICC are aimed at holding accountable those responsible for crimes against humanity, war crimes and other violations of human rights for the benefit of the Libyan people and the Libyan peace process. That process must be led and owned by the Libyans themselves.

In that context, it is our understanding that there is a need to give relevance to the role of the national judiciary system and reconciliation mechanisms. The ICC acts on the golden principle of complementarity. That calls for an enhanced role of the Libyan judiciary, so that the perpetrators of crimes against humanity are held accountable and justice is done as part of the healing process of the victims and those affected. Therefore, we commend the significant landmarks outlined in the report of the Prosecutor of the ICC, particularly with regard to the contribution of his Office to investigations conducted by the Libyan judiciary.

We wish to join our voice to the calls for more and effective action to be taken to address the crimes committed against migrants.

The report of the Prosecutor presents an excellent opportunity for constructive engagement with the Libyan authorities.

For our part, it is our role to encourage the Office of the Prosecutor of the ICC to maintain an engaged dialogue with the Libyan authorities and stakeholders so as to create conditions for a constructive way forward, taking into consideration that this is all done for the sake of peace and justice in Libya.

**Mrs. Dime Labille** (France) (*spoke in French*): On behalf of my delegation, I would like to thank Prosecutor Karim Khan for the presentation of his twenty-fifth report, pursuant to resolution 1970 (2011). We also welcome the presence of the representatives of Libya at this meeting.

As we have noted time and again, the International Criminal Court (ICC), the only permanent international criminal court with a universal vocation, plays an essential role in combating impunity for perpetrators of abuses and in responding to the need for justice expressed by victims, thus contributing to the integrity of a law-based international order. In line with its consistent position, France will continue to support the work of the Court through political, financial, operational and human support. The progress made in the implementation of the new strategy of the Office of the Prosecutor for the situation in Libya is a positive sign.

An effective fight against impunity for crimes committed in Libya can be achieved only through active cooperation, including on the ground, between the Court and national authorities. The Prosecutor's visit to Libya in November was an opportunity to strengthen that cooperation. The reinforcement of the missions of the joint team for Libya and the wish to create a liaison office of the Prosecutor in Tripoli are to be commended. France welcomes the fact that this bolstered presence in Libya has enabled greater engagement of the Office with victims, witnesses and affected communities. We continue to encourage the Libyan authorities to cooperate fully with the Office, in particular with regard to access to documentation needed for investigations or Office requests for assistance.

It is obvious, but it bears repeating — the most serious crimes committed in Libya since 2011 must all be investigated and prosecuted. That includes the crimes committed by Da'esh and crimes against migrants and refugees. In that regard, the assistance provided to the Office of the Prosecutor by international and regional organizations and by civil society representatives in Libya is valuable.

The arrest and prosecution by the relevant national authorities of key suspects in relation to crimes against migrants in Libya, including on the basis of information, evidence and guidelines provided by the Office of the Prosecutor, is encouraging. In that regard, we commend the various United Nations entities, including the United Nations Support Mission in Libya (UNSMIL) and the Independent Fact-Finding Mission on Libya, which have provided significant support to the Office.

I would like to take this opportunity to thank the United Arab Emirates for its commitment to support the International Criminal Court.

UNSMIL continues to report enforced disappearances, arbitrary detentions and ill-treatment in the key detention centres. The Office has also gathered hard evidence confirming that crimes such as illegal detention, murder, torture, inhumane treatment, rape and other forms of sexual and gender-based crimes have been committed in the detention centres. We are deeply concerned about arbitrary detentions and cases of inhumane detention conditions. We therefore encourage the authorities in charge of these detention centres to allow access to international observers and investigators, without delay. The enforced disappearances and sexual violence reported by the Office are equally unacceptable.

Allow me to make broader remarks and observations on the political situation in Libya. We urge all stakeholders to commit to a sovereign, united, stable and democratic Libya. That is essential for the country and for regional stability. In furtherance of that goal, the legitimacy of political institutions must be restored through national, inclusive, credible and transparent presidential and parliamentary elections held throughout the country. France reiterates its support for Special Representative Abdoulaye Bathily to achieve that objective in 2023.

On the security front, France welcomes the recent progress in the implementation of the 2020 ceasefire agreement, achieved under the auspices of the 5+5 Joint Military Commission, the two Chiefs of Staff, all security actors and under the impetus of the Special Representative. The Libyan security actors have made commitments to reunify the Libyan army and secure the elections. That is a source of hope.

I would like to conclude by reaffirming France's unwavering support for the Office of the Prosecutor and to the International Criminal Court, as a whole, and its staff.

**Ms. Zabolotskaya** (Russian Federation) (*spoke in Russian*): The Security Council is meeting today to hear yet another briefing by the so-called Prosecutor of the so-called International Criminal Court (ICC). This body has, once again, shown its disrespect for the Council by submitting empty pro forma documents under the guise of investigation reports. These documents invariably boil down to a list of yet new excuses for continued inaction and for why Security Council requests are not being implemented. The most recent document is no exception.

As a deeply politicized institution that has nothing to do with rendering justice, the Court is not engaged in the implementation of resolution 1970 (2011). Its main task on the Libyan track was already carried out in 2011. Yesterday a question was voiced about the tangible contribution of the ICC to Libya, so let me recall when the contribution was made.

Serving the interests of the collective West, the ICC was fully complicit in NATO's military aggression against Libya. The United States-led coalition's crusade against the once-prosperous country led to the total destruction of its statehood and a protracted civil war — which alternately subsides and flares up — that has claimed hundreds of thousands of ordinary Libyans. Libya suffered enormous economic losses and saw its development set back decades. The countries of the region are still suffering from the terrorist threat that is a direct result of those events. It is a real catastrophe to which the ICC is directly linked.

The West tasked the Court with developing a cover, a fig leaf for the unprovoked and unjustified NATO military aggression. This was to be done by dehumanizing the Libyan leadership, in general and Mr. Al-Qadhafi, in particular. Former Prosecutor Moreno Ocampo approached that task creatively. In just three days, he put together a so-called indictment of the Libyan leader, based on very crude fakes. The first one had to do with the supply of Viagra to the units advancing on Tripoli in order to stimulate their capacity to conduct mass rapes. The second was the use of mysterious dark-skinned mercenaries to commit atrocities that the regular army was incapable of.

It is truly incredible to look back and recall these events. The Internet still has the statement by the ICC Prosecutor, who effusively and with no shame talked about these horrors, with the United Nations building in the background. As we know, these accusations turned out to be basic lies. They were even refuted by Western non-governmental organizations. A scandal was brewing, and it was necessary to put out the flames.

For that purpose, the ICC very quickly put together an internal investigation commission. But we know nothing of the outcome of the commission's activities or the people who were held responsible for those false accusations. As a result, the country was destroyed, its leader was executed without a trial, and no one has been found guilty. Apparently the fake facts at the ICC are self-made in the best traditions of "highly likely".

We have become familiar with what happened after the shameful performance surrounding the business with Al-Qadhafi during the 12 years in which the Security Council has regularly heard reports about why the ICC has done nothing. Having executed the task set by the West, the ICC has moved on to a sluggish imitation of investigative and judicial activity concerning the country in question. The stories about some sort of so-called secret arrest warrants are a good illustration of that tactic. The ICC showed no interest in NATO's war crimes during that so-called strictly defensive alliance's invasion of the Arab Jamahiriya — it was hardly about to go against its masters, was it? Neither did it pay any attention whatever to the massacre of Al-Qadhafi. The ICC clearly believes that the extrajudicial elimination of undesirable leaders is normal.

Overall, the situation in Libya has been a vivid demonstration that the ICC's so-called justice has an on-off switch. At the West's signal, in a matter of days it begins to replicate fakes and fabricate cases and just as quickly halts any activity that is an inconvenience for its masters at the first shout from Washington. No sooner had the United States imposed sanctions on the ICC Prosecutor and judges than the preliminary inquiries into the war crimes perpetrated by Americans, British and other NATO members in Afghanistan and Iraq were promptly shut down. The result was hundreds of thousands of civilian deaths and no perpetrators. The ICC is a true champion at sweeping the evil deeds of its patrons under the rug.

Our briefer today, Mr. Khan, a British citizen, has even invented a special term for it — deprioritization. The fine art of verbal gymnastics is a very Anglo-Saxon pastime. Why talk about shielding someone when we can talk about deprioritization and forget the whole thing? Very handy, no? And that is perhaps the best illustration for understanding who really determines the priorities of this puppet Court and its tame Prosecutor.

That is why we are not surprised by the decades-long imitation of activity on the situations in Libya and Darfur referred to the ICC by the Security Council. The political goals have been accomplished but it was never interested in justice. And now it has even less interest, because it has received a new assignment from the collective West and is hard at work on it in the way it does so well, with crude fake facts and accusations that are not merely unfounded but simply insolent, amoral and inhumane. According to Khan's cannibalistic logic,

children in areas of armed conflict should simply be left in the line of fire.

The financial side of the activities of the institution, which is so fond of trumpeting its alleged independence, is another issue altogether. The collective West is not the least embarrassed about openly paying for the ICC processes in which it is interested. That is done in the guise of so-called voluntary donations, whose amount long ago exceeded the acceptable limits for funding of that kind and risks equalling the ICC's regular budget. Those same Western countries send whole teams of national investigators and prosecutors who gather information in its stead. The ICC has therefore become a mere international facade behind which the United States and its satellites resolve their political issues. The ICC has not lived up to the idealistic aspirations of its founders. Its sole function is to oppose undesirable countries. No one here has been deceived by the ICC's recent attempt to portray itself as a charitable organization trying to increase States' potential. But that is merely the cheese in the mousetrap. We should not forget who is at the controls of the ICC.

That is why developing countries are beginning to seriously consider withdrawing from the Rome Statute. Russia took that decision as early as in 2016. We withdrew our signature from the Statute and announced that we would not be party to it. We urge other countries that are unwilling to finance this piece of theatre to do the same. We know for a fact that many States have long had no illusions about this illegitimate and politicized body. Where the ICC is concerned, the United States has taken a road of deceit that is nonetheless as clear as day. It was the first to issue a formal depositary notification that it had no intention of ever becoming a party to the Rome Statute and has concluded many agreements on the non-extradition of its nationals to the ICC.

We also well remember American statements in the Security Council on the ICC issue before Mr. Khan's notorious deprioritization. They were invariably accompanied by the statement that the ICC's jurisdiction cannot extend to nationals of States that are not party to the Statute. It is hard to disagree with the United States on that point. However, the United States has rapidly changed its position and now supports the ICC's prosecution of nationals of third countries that are not party to the Statute. Obviously, however, that is as long as they are not citizens of the United States or its allies. As the Council knows, the

United States enacted a law on the ICC that is still in force and has not been repealed, despite all of the current Administration's political rhetoric. It is known in legal circles as The Hague Invasion Act because it not only prohibits cooperation with the ICC but allows the use of any means, including the force, to liberate Americans detained by the Court. The result is that the United States itself is not subject to the ICC but will not allow others to leave the Rome Statute. But those tactics cannot work forever. Developing countries will free themselves from the clutches of the ICC, which will find its rightful place in the dustbin of history, as a shining example of what the highest aspirations of the international community can become if they are crushed under the wheels of political expediency.

We would like to emphasize that as a matter of principle the ICC, as a politicized puppet structure, and moreover one created based on a treaty signed by a limited number of countries, should not be able to interfere in the normal functioning of the United Nations and its bodies. Not a single penny from the regular budget of our Organization should go to this puppet tribunal. We demand that the Secretary-General monitor it strictly.

**Mr. De Almeida Filho** (Brazil): I thank the Prosecutor of the International Criminal Court for his briefing on the Court's 25th report on the situation in Libya. I also welcome the Permanent Representative of Libya to today's meeting.

At the outset, allow me to reiterate Brazil's long-standing participation in the Rome Statute system. We also want to reaffirm our strong commitment to Libya's peace and stability. Brazil reiterates the importance of a permanent international tribunal in fighting impunity for the most serious crimes under international law.

Complementarity is one of the cornerstones of the Rome Statute system, as it is the primary duty of States to exercise their criminal jurisdiction over those responsible for serious crimes. Brazil therefore thanks the Office of the Prosecutor for strengthening cooperation with the Libyan national authorities. We believe that the establishment of a liaison office in Tripoli could enhance the cooperation and complementary activities of the Office.

For a treaty-based tribunal such as the International Criminal Court, cooperation among States parties is crucial to enabling the Court to exercise its functions in Libya, considering that it does not have

its own enforcement body. Furthermore, resolution 1970 (2011), while recognizing that States not party to the Rome Statute have no obligations under it, urges all States and regional and other international organizations to cooperate fully with the Court and the Prosecutor regarding the situation in Libya. We note with appreciation the progress made in the policy of cooperation with third States, as reflected in the report, on the basis of that resolution, adopted under Chapter VII of the Charter of the United Nations.

In our efforts to promote accountability for the most serious crimes under international law, we should not be guided by political polarization, but by the purpose of providing justice to victims. In that context, Brazil welcomes the efforts to empower victims, witnesses and affected communities both inside and outside Libya. We encourage the Prosecutor to further engage with victims and their representatives. Brazil believes that international criminal accountability may be a means to provide reparations, including collective reparations. We also believe that all victims of serious crimes deserve equal treatment, regardless of the situation under investigation.

Although there has not been any judgment in the Libyan situation thus far, we welcome the efforts made by the Office of the Prosecutor to collect evidence and its prioritization of situations referred by the Security Council. Brazil appreciates the progress made in the investigations and urges the Prosecutor to unseal existing arrest warrants in the interest of transparency.

In conclusion, Brazil would like to renew its support to the efforts of the Office of the Prosecutor in ensuring justice and accountability in accordance with the principle of complementarity. We hope that a fruitful relationship between the Office and the Libyan authorities will foster a culture of justice and accountability.

**Mr. Pérez Loose** (Ecuador) (*spoke in Spanish*): We thank the Prosecutor of the International Criminal Court and his team for presenting the twenty-fifth report on the situation in Libya. We also welcome the presence of the representative of Libya at this meeting.

Let me begin by reaffirming Ecuador's full support for the International Criminal Court, which is an essential component in the fight against impunity — a critical element in the enforcement of international law. The actions that the Office of the Prosecutor has taken to continue the implementation of the four elements of

the renewed strategy of action for the situation in Libya have contributed to achieving several of the objectives set out in resolution 1970 (2011). More than 12 years have passed since the Council referred the case to the International Criminal Court. It is therefore imperative to address the issue, given that the fight against impunity is, as I said, a central element in achieving peace and reconciliation in Libya.

I shall now refer to certain points in the report.

First, we agree with the Office of the Prosecutor on the importance of maintaining a continuous presence in Libya that allows for diligent evidence-gathering and the optimization of investigation timelines. It contributes to the judicial process and deepens engagement with victims and civil society organizations, especially those with a focus on women and girls. We also welcome the possibility of establishing a Prosecutor's office in Tripoli.

The use of technology, such as the Relativity tool, allows us to improve and accelerate evidence-collection processes. Similarly, it is essential to have specific subject matter experts in the investigation of cases. We therefore call on all organizations, the United Nations system and Member States to continue to provide such cooperation.

Secondly, we welcome the increased collaboration between the Prosecutor's Office and the Libyan national authorities in accordance with the principle of complementarity. In that regard, we welcome the readiness of the Office of the Prosecutor to assist in national capacity-building in forensic matters and hope that it will continue to do so in the judicial field as well. The Prosecutor's Office must have full and secure access to all relevant documentation throughout the territory, as well as timely responses to requests for information submitted to national authorities, whom we urge to fulfil their obligation to cooperate, including in the execution of arrest warrants.

Thirdly, we are concerned about the fate of migrants in Libya, including women and children, who suffer all kinds of violence. Urgent action is needed to curb the situation — all the more so after the findings of the recent report of the Independent Fact-Finding Mission on Libya, which established reasonable grounds to believe that crimes against humanity were committed against Libyans and migrants. We also stress the need to deepen international cooperation in order to dismantle transnational organized criminal networks engaged in human trafficking. We urge the Prosecutor's Office and

the Libyan authorities to redouble their efforts to bring the perpetrators of those crimes to justice.

Fourthly, cooperation with civil society organizations is crucial. That is why my delegation welcomes the initiative to promote guidelines for civil society in documenting human rights violations. We hope that the collaboration resulting from such work will not lead to any retaliation against those who work in that field.

Finally, we note with concern that one of the main challenges the Prosecutor identifies in his report in the fulfilment of his mandate is the budgetary constraints his Office faces. We therefore call for the Court to be provided with the necessary resources for the implementation of its mandates, including the one we are addressing today. I call on the Council to reflect on the mechanisms that could be used to strengthen the cooperative relationship between the Security Council and the International Criminal Court, especially in the referral of cases.

**Ms. Gatt (Malta):** Let me start by thanking Prosecutor Khan for the report and his insightful briefing this morning. I reiterate Malta's strong support for the work of the International Criminal Court (ICC) and for the Prosecutor's tireless efforts in pursuing justice for victims of the most horrific crimes in different conflict situations. I also welcome the Permanent Representative of Libya to today's meeting.

Impunity undermines efforts to resolve conflict, perpetuating cycles of violence. The Security Council's referral of the Libyan situation to the ICC is critical not only for accountability for international crimes, but also for long-term peace and stability in the country. We are pleased with the progress reported and the meaningful steps forward made in the implementation of the renewed strategy for the situation in Libya. In particular, we want to mention the acceleration of evidence collection, as well as the issuance of multiple arrest warrants.

We commend the Office's increased engagement with victims, victims' associations and representatives, other civil society organizations and human rights activists inside and outside Libya, as well as the attention given to crimes committed against and affecting women and children. We concur with the Prosecutor's call for effective psychological and rehabilitative assistance to victims and reiterate the importance of ensuring that the assistance is age-appropriate, survivor-

centred and gender-responsive. As the final report of the Independent Fact-Finding Mission on Libya (A/HRC/52/83) illustrates, the human rights situation in Libya is cause for deep concern. The addition of a number of experts to the Office of the Prosecutor with experience in investigating human trafficking and sexual and gender-based crimes is a step in the right direction. However, a greater focus on that is required to ensure that impunity for such hideous crimes, including those perpetrated against migrants, does not prevail.

We acknowledge the continuing assistance provided by the United Nations Support Mission in Libya to the Office of the Prosecutor, as well as the exchanges between the Office and the Independent Fact-Finding Mission on Libya. Their commitment to strengthening one another's work in the interest of justice and accountability, while fully respecting the security, privacy and confidentiality of information providers, is commendable. The Office's efforts to coordinate investigative activity with third parties and international agencies has resulted in investigations and prosecutions in Libya, as well as by other domestic authorities that can exercise jurisdiction and by the ICC. We encourage those proactive and creative efforts, as well as action in support of domestic investigations.

The significance of the Prosecutor's first official visit to Libya in November 2022 and the progress that has been made since cannot be underestimated. We applaud the Libyan authorities for their facilitation of the visit and their efforts to assist the Office in its work. Further cooperation will be required in the upcoming operational and logistical mission, including for the establishment of a liaison office in Tripoli. That will enhance accountability and complementarity and bring justice closer to the victims. Moreover, access to documentation relevant to the investigations of the Office and engagement with the relevant technical authorities, including those involved in forensics and crime-scene analysis, remains a priority.

The situation in Libya continues to warrant the international community's focus and support. Despite the current calm, we remain concerned about its fragility. Our collective aim is to ensure a durable and sustainable peace, which can be achieved only if there is justice for the victims and survivors of atrocity crimes. The Office of the Prosecutor and the Court can count on Malta's unwavering support in all efforts towards accountability.

**Mr. Biang** (Gabon) (*spoke in French*): I would like to thank Mr. Karim Khan, Prosecutor of the International Criminal Court, for his informative briefing on his twenty-fifth report on the situation in Libya, pursuant to resolution 1970 (2011). I welcome the presence of Mr. Taher Elsonni, the Permanent Representative of Libya, at this meeting.

When it comes to the fair and impartial trials we want to see held in Libya, the material search for evidence is of particular importance. It is the outcome of a long process of collective consultations involving a wide range of stakeholders working to ensure that justice is fully rendered. That inclusive approach is crucial to ensuring a thorough examination of the key issues and the identification of the alleged perpetrators. In that regard, Prosecutor Khan's briefing to the Council from Tripoli last year (see S/PV.9187) was very important to strengthening and improving the investigation strategy and process. It also had a positive impact on the conduct of the investigations and the strengthening of cooperation.

We note with interest the considerable progress made in the reassessment of the investigation strategy and the analysis of evidence regarding the alleged serious crimes committed in Libya in 2011, as well as crimes related to the military operations in the country between 2014 and 2020 and crimes committed against migrants. We are pleased that the Office of the Prosecutor has stayed the course in implementing its new strategy aimed at accelerating its investigative activities and action plan regarding the situation in Libya. That progress includes, in particular, the strengthening of cooperation within the framework of the principle of complementarity between the joint team for Libya and the Office of the Prosecutor, as well as close collaboration between third States and the relevant stakeholders, including the provision by some States parties of national experts whose assistance has facilitated the establishment of evidence, including in the context of crimes committed against migrants. In that regard, the capacity-building of investigators and the inclusion of Arabic-speaking experts are assets. That should enshrine the principle of the rule of law by way of regular judicial proceedings against persons presumed to have committed serious crimes.

Furthermore, we welcome the implementation of an evidence-management platform using artificial intelligence and machine learning, which will significantly contribute to improving the quantitative

and qualitative aspects of the databases. We encourage Mr. Khan to continue to work closely with the Libyan authorities, while also furthering the involvement of international and regional actors and civil society, which could contribute substantially to the success of that vast and complicated undertaking. In that connection, the emphasis on dialogue with victims, victims' associations, local communities and civil society is essential and should be strengthened. It is vital to prioritize an approach that promotes truth-telling, justice and reparations, as well as guarantees of non-repetition.

Combating impunity should remain an imperative for all, and that requires the continued support of the international community in order to fully equip the Prosecutor and his Office in their delicate mission with the parties concerned. My delegation is aware of the volatile security context in which the Prosecutor's new investigative strategy is being employed and appreciates his efforts. The fact is that the military-political crisis that has gone on in Libya for more than a decade remains deeply entrenched today. The armed violence is far from being contained. It goes without saying that in such a climate of terror and fear, victims and witnesses can feel threatened, which makes the exercise of justice even more complex and perilous.

I would therefore like to take this opportunity to once again express my appreciation for the important work done by the United Nations Support Mission in Libya, whose presence on the ground is helping to facilitate the work of the Prosecutor, in addition to its main objective of creating the conditions for a political settlement of the Libyan crisis. In that regard, we encourage the Special Representative of the Secretary-General, Mr. Abdoulaye Bathily, to continue his efforts and assure him of our full support. We welcome the cooperative efforts in the context of the crucial partnership between the United Nations Support Mission in Libya and the Office of the Prosecutor.

In conclusion, I would like to emphasize the urgent need to create the conditions conducive to ensuring restorative justice for the Libyan people. That includes the successful completion of the political process, in accordance with the relevant resolutions of the Council, in particular resolution 2570 (2021), with a view to a peaceful and lasting resolution of the continuing crisis in Libya.

**Mr. Sun Zhiqiang** (China) (*spoke in Chinese*): I listened carefully to the briefing by Prosecutor Karim Khan and welcome the presence of Ambassador Elsonni, Permanent Representative of Libya, at this meeting.

China has taken positive note of the fact that in past few months all the Libyan parties have continued to advance the political process. The House of Representatives and the High Council of State have formed a joint 6+6 committee, which recently held meetings. Special Representative of the Secretary-General Bathily has conducted extensive and in-depth communication with all the parties in Libya. We support all the Libyan parties in pursuing dialogue that builds on previous efforts to create conditions conducive to the holding of general elections as soon as possible.

External interference is a major cause of the protracted crisis in Libya. Commitment to the principle of Libyan ownership and leadership is the only way to achieve peace and stability in the country. The international community should provide constructive support for Libya's political stability, national reconciliation and economic development and avoid the complex effects of externally imposed solutions on the situation in Libya.

Finally, we reiterate that China's position on activities related to the International Criminal Court (ICC) remains unchanged. We hope that the ICC will continue to strictly follow the principle of complementarity, as stipulated in the Rome Statute; fully respect the judicial sovereignty and reasonable opinions of the countries concerned; and avoid politicization and double standards in its work.

**Mr. Almazrouei** (United Arab Emirates) (*spoke in Arabic*): We welcome the Prosecutor of the International Criminal Court, Mr. Karim Khan, and we take note of his briefing. We also welcome Ambassador Taher Elsonni to our meeting.

In the context of today's discussion, I would like to focus on the following three issues.

First, with regard to crimes committed against migrants, we consider the steps taken by the International Criminal Court, especially towards continuing close cooperation with the local authorities in Libya, including within the framework of the joint team investigating crimes against migrants, encouraging. We also commend the continuous efforts to strengthen the renewed strategy of the Office of the Prosecutor of the

International Criminal Court regarding the situation in Libya, including through building partnerships with national actors.

We reiterate our position on the need for continued proactive cooperation with the national Libyan authorities, while supporting their local efforts in that regard. We also stress the importance of continuing international cooperation in dismantling the networks of transnational organized crime, including in countries of origin, destination and transit. According to the Prosecutor's report, that cooperation led to the arrest of an Eritrean, who is a main suspect in crimes committed against migrants, within the framework of an operation conducted by INTERPOL under the leadership of the United Arab Emirates.

Secondly, achieving accountability and transitional justice is a sovereign prerogative of States. In that regard, we consider the visit that took place last November and the meetings with the Libyan parties and authorities important developments.

Cooperation with the relevant national authorities in Libya must be strengthened and their concerns and needs must be taken into consideration through continued meetings and contact. That will support and enable the relevant actors to take concrete steps at the national level and will contribute to the existing efforts made in accordance with the memorandum of understanding signed between the Office of the Libyan Public Prosecutor and the Office of the Prosecutor of the International Criminal Court, in line with the Court's jurisdiction.

Thirdly, according to international law, States have the primary responsibility to address and ensure accountability for crimes committed on their territories, according to their jurisdiction, including atrocity and serious crimes. States are also responsible for fighting impunity and seeking justice for victims. We would also like to emphasize that compliance with the principle of complementarity under the Rome Statute of the International Criminal Court requires respect for the views and positions of the State concerned. We emphasize once again that achieving accountability and transitional justice is a sovereign prerogative of States.

In conclusion, we affirm the support of the United Arab Emirates for the efforts made by the United Nations in support of Libya. We hope that concerted efforts are made to realize the aspirations of the people of Libya.

**The President** (*spoke in French*): I shall now make a statement as the representative of Switzerland.

Switzerland thanks the Prosecutor and his team for his important briefing and for submitting the twenty-fifth report on the situation in Libya. We also welcome the presence of the Permanent Representative of Libya.

"Impunity will not be tolerated." Those were the words of Kofi Annan, then Secretary-General, when he welcomed the International Criminal Court (ICC). In Libya, accountability is not an abstract concept, it is a constant and legitimate demand expressed by the victims and an essential element for the success of the reconciliation process. As co-Chair of the Working Group on International Humanitarian Law and Human Rights of the Berlin Process, Switzerland often interacts with victims who tell us again and again that Libya cannot have a lasting peace without justice.

I would like to address three points.

First, we commend the Office of the Prosecutor for the progress made in the implementation of the renewed action strategy for Libya, in particular the efficient allocation of resources coupled with the use of advanced technology in evidence management, as well as efforts to make justice accessible to victims. It is essential that the security of victims be ensured so that they can access the Court without hindrance, including within the country.

Civil society also has a crucial role to play, and we are deeply concerned about the increasing repressive measures imposed on civil society in Libya. We therefore note with interest the organization of a round table by the Office of the Prosecutor on the topic of gender-based persecution.

We also welcome the fact that, despite the challenges posed by the complex political landscape and security situation in Libya, numerous field missions have been conducted. Those efforts, coupled with enhanced cooperation, have led to concrete results: the issuance of new sealed arrest warrants in the context of investigations in Libya is proof of that.

Secondly, cooperation is key to the proper functioning of the Court. We therefore strongly encourage the Libyan authorities to continue to cooperate fully with the Office of the Prosecutor, in particular with regard to access to necessary documentation or the prompt follow-up on requests for legal assistance. We support efforts to open a liaison



office in Libya, in particular to deepen the partnership with the authorities, survivors and families of victims. We further commend the Office of the Prosecutor's proactive policy of cooperation with third States, which has contributed to the arrest of a suspect in crimes against migrants. We highlight the important role of the United Arab Emirates and the Netherlands in that arrest and encourage all States to make use of the principle of universal jurisdiction which allows for the prosecution of the most serious international crimes. That is also in the context of the latest report of the Independent Fact-Finding Mission for Libya, which cites reasonable grounds to believe that crimes against humanity have been committed against migrants and persons in detention centres.

Thirdly, the mission of the ICC, the only permanent international criminal court, remains the priority for delivering justice, in Libya and elsewhere. However, in order for the Court to carry out its mandate of effectively, its independence and impartiality must be preserved, and it must be given the necessary human and financial resources. Switzerland calls on all States to support the Court.

By referring the matter to the Court in its resolution 1970 (2011), the Security Council has shown its commitment to fight against impunity for the most serious crimes and to bring justice to the victims. Supporting the Court is therefore our common responsibility. Together we can ensure that justice is done and thereby contribute to a lasting peace in Libya.

I now resume my functions as President of the Council.

I give the floor to the representative of Libya.

**Mr. Elsonni** (Libya) (*spoke in Arabic*): At the outset, I would like to congratulate Switzerland on assuming the presidency of the Security Council for this month. I wish you, Madam President, and your team success in your presidency. I would like also to thank Mr. Karim Khan for his briefing today and for his twenty-fifth report, of which we have taken note.

In our statement delivered at the previous meeting on this topic (see S/PV.9187), we welcomed the visit by Mr. Khan to Libya last November, which we viewed as strengthening cooperation between the Libyan authorities and the International Criminal Court (ICC), especially as fact-finding and listening to the testimonies of the victims and their families would

contribute to uncovering the long-awaited truth. In that regard, we reiterate that Libya is committed to holding accountable and punishing the perpetrators of crimes and violations under national law, sooner or later, notwithstanding the challenges.

Nevertheless, the administration of justice on Libyan territory is a sovereign prerogative for a national court and judicial jurisdiction, and the Libyan judiciary is committed to ensure the conduct of fair and impartial trials. We reiterate that our cooperation with the ICC, according to its jurisdiction and mandate, is on the basis of the principle of complementarity. That does not mean in any way that the ICC is an alternative to the Libyan judiciary. In that regard, it behoves me to stress that judicial jurisdiction was not invented recently. The Libyan judiciary has a long history, and should be treated accordingly, notwithstanding the current circumstances.

Years after the discovery of the mass graves in Tarhuna, the tragedy continues to unfold, as it led to the discovery of more tombs and graves and more unknown and unidentified bodies. The search process is in full swing, and I think Mr. Khan and his team have seen and heard the testimonies. In that regard, the Libyan General Prosecutor's Office has made efforts and carried out very scrupulous investigations to identify those bodies. We have already identified a number of the perpetrators and have issued arrest warrants against them, but many of them are still at large, whether in Libya or abroad.

We therefore call upon Mr. Khan and his team to cooperate with the General Prosecutor's Office and to issue warrants against all those who have perpetrated those crimes and their sponsors, as well as those who are sheltering them or are refusing to extradite them. That applies to all crimes committed since 2011. On many occasions, Mr. Khan's report has listed crimes committed that are tantamount to war crimes or crimes against humanity.

Despite all the challenges and difficult circumstances, we stress that the Libyan State is keen on protecting illegal migrants from any violations. The Libyan authorities are sparing no effort to protect them and are working to voluntarily return and repatriate them whenever possible. We are collaborating with all States concerned in that regard.

We condemn all crimes perpetrated against migrants or anyone else. We consider such crimes as

individual incidents because they are not systematic. Their perpetrators should be held accountable. In that regard, we once again emphasize that Libya should not be exclusively blamed for this crime and phenomenon because we all know the situation my country, Libya, is witnessing. We therefore call upon the Council to scrupulously consider the facts without politicization and to remember that the current situation of migrants in Libya is not new or disconnected from the direct or indirect interference of many States in Libya.

This is the Council's responsibility and there is a moral responsibility that the Council must uphold regarding migrants in Libya. We therefore need a synergy of efforts to help us combat transnational crime networks of human trafficking. In order to eliminate those networks and hold accountable the perpetrators — whether from the countries of origin or of transit, in Africa, or of destination, in Europe — without any exception. In that regard, we stress that the General Prosecutor's Office in Libya has managed to identify a number of names of persons involved in international transnational crime networks of human trafficking. We need the cooperation of the ICC if we are to prosecute those perpetrators and criminals, as these are international networks and therefore fall within the jurisdiction of the International Criminal Court.

The operationalization of comprehensive national reconciliation, which starts with transitional justice, facts unveiled, reparation and reconciliation and the discovery of the whereabouts of all missing persons since 2011 is the only path to regaining and restoring trust in State institutions in order to put an end to the suffering. We therefore renew our trust and confidence in our judicial institutions, as they are capable of administering justice and upholding the rule of law, notwithstanding the challenges.

War crimes and crimes against humanity are imprescriptible. We therefore call upon the ICC to coordinate with the National Prosecutor in Libya and to accelerate measures to unveil the perpetrators of all crimes committed in Libyan territories — whether they are individuals, entities or States. We are all following, and we are all wondering when the series of investigations and visits that have lasted for years will end. Until when will continue to watch what is going on without concrete results? Mr. Khan mentioned that there were 20 missions and more than 500 pieces of evidence. Now we are looking at the twenty-fifth report

of the ICC. However, we are wondering — where are the concrete results and why have we reached this situation? We therefore need practical and concrete results.

In conclusion, we recall that supporting stability in Libya and finding a comprehensive political solution to escape from this bottleneck is the only — and ideal — way to ensure justice, accountability and rule of law. The political situation and the current division in the international community and within the Security Council is connected with what is currently going on, including the crimes and atrocities that we hear about. This is a common responsibility. Libyans are tired of being blamed exclusively, as if there were no moral or international responsibility resulting from the numerous international direct and indirect interventions in my country since 2011.

**The President** (*spoke in French*): I now give the floor to Prosecutor Khan to respond briefly to comments.

**Mr. Khan:** I thank you, Madam President, for the opportunity to say a few words to the representatives of the Council.

The first remark, of course, must be to echo the comments made by the Permanent Representative of Libya — that the Office that I lead in the International Criminal Court (ICC) is based upon complementarity. We heard a lot of remarks today that the foundation of the Rome Statute is not an effort to seize jurisdiction or to conjure up clever legal arguments. It is to work together so that there is less space for impunity and more space for justice. I do not want anybody to be abused of the notion that the relationship is competitive. It is essential that there be ever-more collaboration and cooperation, and I think that is to be well understood.

The second observation is that in Libya and in other situation, my approach is that arrest warrants should be public. They will be sealed if there is an immediate arrest opportunity. In terms of the Libya case file, we already applied for warrants to be unsealed. Hopefully, the names will be known by the time of the next briefing, but that is a legal determination for the Judges. I cannot act precipitously in that connection.

The third remark is an elaboration with regard to the Trust Fund for Victims and secondments. One of the things that I believe is very important is to make it clear that the cause of international justice is the cause of humankind. The new Trust Fund that we are seeking

to establish on equitable geographical distribution is an important one because we have countries in economic transition. And we want to benefit from the diversity that is represented here in the Council and the United Nations, and by the various legal systems and people from various parts of the world who can bring their own perspectives to international justice so that we can do better and narrow the gap. That is also a remark I wanted to make.

My fourth remark is that I do not believe that anybody in the Council is naive enough to think that the ICC or my Office alone is a panacea for all ills. But it is the case that we have an important role to play. We are trying to do better and to have more of an impact. When I was in Libya, I had a very good meeting with the Foreign Minister and one of the remarks I made, in terms of appraising the situation in Libya honestly, is — in addition to working to serve international criminal justice and trying to support and provide technical assistance so that the Libyan system can become as strong as possible and stand alone — that I believe there is space for a South-South dialogue to look at transitional justice systems so that the architecture that is in place, as a whole, can be ever more conducive to peace and reconciliation. But in so many situations, we see that having peace and reconciliation without accountability is impossible. Having reconciliation and peace with some form of wider transitional justice lends itself to greater success.

The final thing I have to say is that I am the first to accept that international justice is far from perfect. After all, the Security Council itself — and the United Nations — was created as a result of the failure of the League of Nations and of the international system to prevent the Second World War. It was hope, a beacon of light and a promise that the things we saw in the gas chambers and in various parts of the world during the Second World War would never occur again. It is only right to say that the face of humankind has been scarred, deeply wounded, by the imperfect application of international law. But that should not be any defence or justification for Member States, the international community or non-State actors to self-mutilate or further disfigure other parts of the body. Does the fact that there are scars on our face, the face of humankind,

mean we have licence to look away as we are scarring our torso and legs?

We must do what we can together by building partnerships because, ultimately — and many members of the Council have said it very cogently, with much more eloquence than I could ever summon — what is at stake here is not the ICC. We have very important, powerful, impactful States with great histories, for which I have great respect, in the role of the Council, but that are not State parties to the Court. But the Charter of the United Nations gives a responsibility to the Council to ensure that it does not act in vain. What we are doing in Libya is not an act based on a frolic of a Prosecutor. It is the Prosecutor acting on a referral by the Council. And what the question really should be is asking what every Council member is doing to be a supporter of humankind. Leaving aside the politics — that is a reality out there — what are we doing for the people of Tarhuna? What are we doing for the people of the world who are looking for some semblance of justice and some shelter? I believe that would lead to a much more constructive discussion about how we can all do better. I need to do better, but so does the Council.

The primary legal instrument in the international legal firmament is the Charter. On some issues, the obligation is principally on the Council to put politics aside and realize that while I will not be here forever, neither will the individuals around this table. And when we take on other responsibilities, do we feel a sense of pride and honour that we have done our best or do we feel that we have been self-indulgent and engaged in polarized discussions as humankind is crying out for help?

I thank you, Madam President, for the opportunity to say those few words. This is a time for partnership. It is a time for putting the interests of the most vulnerable on this top table of the international community and trying to do better than we have done.

**The President** (*spoke in French*): I thank Mr. Khan for the additional details he provided.

There are no more names inscribed on the list of speakers.

*The meeting rose at 11.55 a.m.*