



# Security Council

Seventy-second year

**8091**<sup>st</sup> meeting

Wednesday, 8 November 2017, 10 a.m.

New York

*Provisional*

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*President:* Mr. Cardi . . . . . (Italy)

*Members:*

Bolivia (Plurinational State of) . . . . .	Mr. Llorentty Solíz
China . . . . .	Mr. Cheng Lie
Egypt . . . . .	Mr. Aboulatta
Ethiopia . . . . .	Mr. Abebe
France . . . . .	Mrs. Gueguen
Japan . . . . .	Mr. Hasebe
Kazakhstan . . . . .	Mr. Tumysh
Russian Federation . . . . .	Mr. Zagaynov
Senegal . . . . .	Mr. Seck
Sweden . . . . .	Ms. Schoulgin-Nyoni
Ukraine . . . . .	Mr. Vitrenko
United Kingdom of Great Britain and Northern Ireland . .	Ms. Dickson
United States of America . . . . .	Ms. Sison
Uruguay . . . . .	Mr. Bermúdez

## 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:** 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 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 give the floor to Prosecutor Bensouda.

**Ms. Bensouda:** Allow me at the outset to congratulate you, Mr. President, on presiding over the Council for the month of November, and to take this opportunity to also thank you, Sir, for your continued support of the work of my Office and the International Criminal Court (ICC) more broadly, both as Permanent Representative of Italy to the United Nations here in New York, as well as Vice-President of the Assembly of States Parties.

I welcome this opportunity to update the Council on my Office's activities in Libya since I last reported in May (see S/PV.7934).

I observe with regret that the security situation in Libya remains a matter of great concern. Indeed, as the Council has stated repeatedly, the volatile situation in Libya remains a threat to international peace and security. Libya continues to confront many challenges: the proliferation of armed groups; the continued, albeit lessened, activity of the Islamic State in Iraq and the Levant (ISIL); the humanitarian crisis created by Libya being the key transit point for hundreds of thousands of migrants; and the ongoing struggle for political power in many parts of the country.

At the same time, and notwithstanding those challenges, it is important to recognize the efforts of numerous actors — first and foremost, the Libyans themselves, as well as Libya's neighbours, international partners and regional organizations, who are all working to achieve peace and stability in Libya through an inclusive dialogue.

As underlined recently by the Special Representative of the Secretary-General, Mr. Ghassan Salamé, and the United Nations High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, the re-establishment of the rule of law, the protection of human rights and the need to combat impunity must form part of the process that will lead to a sustainable political settlement in Libya.

Justice is an important component of sustainable peace. Courts with competent jurisdiction over crimes committed in Libya, including the International Criminal Court, have a crucial role to play. Accountability for serious crimes and full respect for the rule of law are key factors that must be encouraged and supported if Libya is to achieve peace, security and stability. We are striving to do our part. Since my last report before the Council six months ago, my Office has made substantial progress in the investigations of alleged crimes committed in Libya. In that regard, let me now turn to the most recent warrant of arrest issued by the Court in the Libya situation.

Members will recall that in my May statement and report to the Council, I highlighted reports of serious crimes allegedly being committed in the context of the conflict between forces of the Libyan National Army (LNA) and the Benghazi Revolutionaries Shura Council in and around Benghazi. Specifically, I noted reports of serious crimes, including summary executions allegedly committed following the LNA's takeover of the Ganfouda neighbourhood of Benghazi on or around 18 March. I called on all parties to the conflict to refrain from carrying out serious violations of human rights and international humanitarian law. I reminded all parties to the conflict of the provisions of the Rome Statute relating to the responsibility of commanders and superiors to prevent or repress the commission of crimes by their forces and to submit any such crimes for investigation and prosecution. I also noted that my Office was closely monitoring that situation. In the following months, my Office continued to receive credible information of grave crimes allegedly perpetrated in Libya, including in Benghazi.

Based on the evidence of these alleged crimes committed in and around Benghazi, on 1 August, I applied for a warrant of arrest for Major Mahmoud Mustafa Busayf Al-Werfalli. On 15 August, Pre-Trial Chamber I of the Court granted the application and issued a warrant for his arrest. The suspect, Mr. Al-Werfalli, is a commander in the Al-Saiqa Brigade, a Benghazi-based Special Forces unit that has been active in the

LNA's Operation Dignity since May 2014. Based on the evidence collected, we allege that Mr. Al-Werfalli is responsible for the war crime of murder in relation to six unlawful executions that allegedly took place in or around Benghazi between March and July 2017, as well as another execution that allegedly took place on or before June 2016. These executions were filmed and posted to social media sites. Mr. Al-Werfalli is alleged to have ordered or personally committed the seven executions that resulted in the murder of 33 people in cold blood.

My Office follows the evidence and applies the law, independently and impartially, as set by the Rome Statute, irrespective of the affiliation of the perpetrators or the victims. Since the issuance of the warrant, there have been public reports of a possible arrest and an internal investigation by the LNA into Mr. Al-Werfalli's actions. The LNA has officially stated that it is investigating. However, my Office has also received reports indicating that Mr. Al-Werfalli is at large, remains a commander with the Al-Saiqa Brigade, and may have been involved in further killings. I am investigating these reports.

Let me stress that irrespective of any reported domestic investigation that may be under way, Libya remains under a legal obligation arising from resolution 1970 (2011) to immediately arrest and surrender Mr. Al-Werfalli to the ICC. He must be transferred to the Court to stand trial. I therefore urge General Khalifa Haftar, commander of the LNA, which has publicly expressed gratitude for the work of the Court in relation to Mr. Al-Werfalli's case, to demonstrate, by concrete actions, respect for international justice by ensuring Mr. Al-Werfalli's immediate transfer to the Libyan authorities so that he may be surrendered to the Court without delay.

The Council will also recall that on 24 April, the ICC made public a warrant of arrest against Mr. Al-Tuhamy Mohamed Khaled, former head of the Libyan Internal Security Agency. Mr. Al-Tuhamy is alleged to have committed crimes against humanity and war crimes in relation to the events of 2011. My Office continues to investigate Mr. Al-Tuhamy and others associated with the 2011 events. The Office is also engaged in identifying and, where appropriate, sharing information relating to both Mr. Al-Tuhamy and Mr. Saif Al-Islam Al-Qadhafi's current whereabouts. We continue to devise and implement strategies to

facilitate the execution of the outstanding warrants of arrest.

In relation to Mr. Al-Qadhafi, I appreciate the support expressed by members of the Council, encouraging the Libyan authorities to comply with their outstanding obligation to surrender him to the Court. Those who allegedly bear responsibility for crimes under the Rome Statute must be brought to justice.

My Office continues to request States Parties, non-States Parties and organizations to assist in securing the arrest of persons subject to an ICC warrant. In that context, we have engaged in a spirit of good faith and demonstrated utmost sensitivity while providing specific information to enable cooperation. We count on the support of States we have engaged in that process to assist the Office with the arrest and surrender of ICC suspects. In that regard, I wish to recall the wording of resolution 1970 (2011), and again encourage all States and regional and international organizations to take concrete action to support my Office's efforts so that Mr. Al-Tuhamy and Mr. Al-Qadhafi can be surrendered to the Court and face justice in relation to alleged crimes committed during the 2011 events.

In relation to Mr. Abdullah Al-Senussi, my Office continues to monitor the Libyan proceedings in relation to his pending appeal before the Libyan Supreme Court.

My Office's assessment since our previous report to the Council (S/PV.7934) indicates that the situation remains dire in Libya. The security situation remains unstable with violent clashes occurring between various factions across Libya. Reports indicate widespread violations of human rights and international humanitarian law being perpetrated by different parties to the conflict. Often, the victims are civilians. One major cause for concern is the continued internal displacement of persons in Libya, such as the Tawerghan. Despite the approval by the Presidency Council of the Government of National Accord in June of this year of an agreement between the Tawerghan and Misratan communities, there has reportedly been no progress towards fulfilling their return home.

I also note with grave concern reports of unlawful killings, including the execution of detained persons; kidnappings and forced disappearances; torture; prolonged detentions without trial or other legal process; and arbitrary detention, torture, rape, and other ill-treatment of migrants in official and unofficial detention centres. As detailed in my latest report,

events of particular concern during the reporting period include the attack on the LNA-held Brak Al-Shati air base on 18 May, and recent clashes in the Sabratah region between the 48th Infantry Brigade — also known as the Martyr Anas al-Dabashi armed group — and the Operations Room to Combat the Islamic State. My Office also notes the continued activity of ISIL, including its claimed suicide attack on the Misrata courthouse on 4 October.

My Office has also received information that the LNA has allegedly intensified restrictions on access to the city of Derna over recent months, in connection with fighting during the reporting period between the LNA and the Derna Mujahideen Shura Council. Restrictions reportedly include blocking medicine, medical treatment and petrol from entering the city. The Office has received reports indicating that hundreds of Derna's inhabitants have been arrested attempting to leave the city. I join Mr. Salamé, the Special Representative of the Secretary-General for Libya and Head of the United Nations Support Mission in Libya, in condemning recent air strikes in a residential neighbourhood in Derna that appear to have resulted in the tragic deaths of civilians, including at least 12 children and women.

Finally, reports have also emerged that 36 male corpses were found in the town of Al-Abyar, 50 kilometres east of Benghazi. This is also of grave concern. The bodies were reportedly handcuffed, showed signs of torture, and displayed bullet wounds to the head. I remind each and every combatant engaged in fighting in Libya that my Office remains seized of the situation in Libya, and if their actions amount to war crimes or crimes against humanity, they can be prosecuted.

These recent attacks and the reports of the finding of 36 corpses bearing signs of torture and execution, compel me once again to bring the provisions of the Rome Statute relating to the responsibility of commanders and other superiors to the attention of senior commanders and officials across Libya. Persons acting as military commanders or as superiors can be criminally responsible for crimes under the Rome Statute committed by forces or subordinates under their effective command or control, or effective authority and control. In addition to their responsibility to protect civilians, commanders have an obligation to prevent or repress the commission of crimes by their forces, and to submit any such crimes for investigation and prosecution. Let me be clear: if serious crimes under

the Rome Statute continue to be committed in Libya, I will not hesitate to bring new applications for warrants of arrest. Such crimes must stop. Those taking part in hostilities must do so within the framework of the law and with full respect for international humanitarian law.

I wish now to return to the issue of crimes against migrants, as they represent a serious matter that continues to preoccupy me and my Office. I have instructed my Office to continue its inquiries into the alleged crimes against migrants transiting through Libya. Depending on the precise facts and circumstances that might be established in the course of a full investigation, such crimes may fall within the jurisdiction of the Court. However, that issue must be decided through a case-by-case analysis based on the relevant facts and an assessment of my Office's jurisdiction. Such work will be strictly within our mandate as set by the Rome Statute.

In conformity with goal 9 of my Office's latest strategic plan, we will also work with Libya and other States and organizations on that issue, where appropriate, and where we think we can be of assistance to address crimes perpetrated against migrants. Where possible, our collaborative efforts enhance coordination of investigative and prosecutorial strategies that are aimed at closing the impunity gap not only for Rome Statute crimes, but also for other transnational and organized criminal activity falling outside of my mandate. Those other crimes significantly contribute to the continuing insecurity and violence in Libya today.

I now turn to some of the unfortunately recurring challenges facing my Office. My Office's investigations into alleged crimes under the Rome Statute that have been committed in Libya are hampered by the ongoing insecurity in the country, which continues to prevent my teams from operating within Libya. Insufficient resources also continue to be a major problem. The Office receives various forms of support for its work from members of the Council and States parties. However, our modest financial resources, which must be spread across all situations currently under investigation by my Office, must be increased so as to ensure that we have adequate means to achieve our mandated mission.

The failure to execute arrest warrants issued by the Court also remains a major challenge. Members of the Security Council, as well as other States and non-State parties, have the responsibility to ensure

the timely arrest and surrender of all Libyan suspects. Despite those challenges, the announcement of two arrest warrants in the past eight months — one for crimes committed during 2011 and the other for crimes perpetrated more recently — should clearly demonstrate that my Office continues to be fully engaged in Libya and is determined to contribute to achieving real progress towards a culture of accountability for crimes under the Rome Statute committed in Libya.

The progress that we have made and our achievements to date are a result of the commitment and expertise of my staff, as well as the strong and collaborative relationships that we have developed with key partners. My Office continues to receive vital support from a number of States, including the Netherlands, Tunisia, Italy and the United Kingdom, as well as international organizations and other actors, such as the United Nations Support Mission in Libya and INTERPOL. The exemplary efforts of those States and organizations deserve recognition. More of the same is required from others joining to contribute. In addition, the Libyan Prosecutor-General's Office remains a strong and valued partner in our investigation activities, and, as always, I remain grateful to the citizens of Libya and all individuals and organizations that are committed to the goals of the ICC.

I am acutely aware that peace and stability in Libya will require action, support and commitment from various actors. Ensuring justice for victims of serious crimes perpetrated in Libya and bringing to account those who have committed or ordered atrocities remain critical factors for sustainable peace in a country that has been plagued by conflict for so long. Libya will remain a priority for my Office in 2018. Along with my team, I am determined to fulfil the responsibility entrusted to my Office by the Rome Statute vis-à-vis Libya, following the Council's referral pursuant to resolution 1970 (2011). My Office will continue to do its part. As we do, we count on the critical support of the Security Council, States Members of the United Nations, and States parties to the Rome Statute.

Suspects against whom ICC warrants of arrest have been issued must be arrested and transferred to the Court to stand trial. We have a collective responsibility to cultivate a culture of accountability for Rome Statute crimes in Libya and to deter the commission of future crimes. Continued failure to do so is to deny the victims of the grave crimes committed in Libya the justice that they so rightly deserve. Inaction will also embolden

those who have already committed crimes and would-be perpetrators by signalling that impunity will prevail and that they are beyond the reach of the law. That we cannot allow.

**The President:** I thank Prosecutor Bensouda for her important briefing.

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

**Ms. Dickson** (United Kingdom): I would like to start by expressing the gratitude of the United Kingdom to Ms. Fatou Bensouda, the Prosecutor of the International Criminal Court (ICC), for being here today with members of her team and for presenting to the Security Council her fourteenth report and update on the activities of her Office with regard to the situation in Libya. The United Kingdom fully supports the work of the Office of the Prosecutor, and the ICC as a whole, to bring to account those responsible for serious crimes of international concern in Libya and elsewhere.

The situation in Libya remains extremely serious and a cause for grave concern. It is deeply troubling that violations and abuses of human rights and violations of international humanitarian law continue to happen with impunity on a daily basis across Libya, including against migrants and refugees. We condemn the October air strikes in Derna. The United Kingdom, along with France, Italy and the United States, is closely monitoring ongoing acts of conflict in Libya. Those suspected of committing, ordering or failing to prevent summary executions and torture on all sides must be fully investigated and, if found guilty, held accountable for their actions. Reports of incidents of extrajudicial killings of detained combatants, including at the Brak Al-Shati air base, and clashes in areas such as Benghazi and Misrata, resulting in civilian casualties, are also very disturbing.

While we fully support Libya in its fight against terrorism, such operations have a detrimental humanitarian impact on the civilian population, and the relevant rules of domestic and international law must be complied with. It is also imperative that, as progress is made towards a political solution, security structures are reformed so as to ensure accountable chains of command and that the judicial system is strengthened to ensure that it is robust, impartial and independent.

The United Kingdom is grateful for the ICC's ongoing efforts to investigate the alleged crimes despite

the challenges presented by the ongoing security situation and political instability in Libya. We note that the Office of the Prosecutor is determined to resume investigative activities on the ground in Libya as soon as possible, and we welcome the steps that it is taking to achieve that goal. We note the Prosecutor's update on the cases against Saif Al-Islam Gaddafi and Al-Tuhamy Mohamed Khaled. We fully support the Court's call for cooperation from members of the Council, Libya and other States to provide information that could facilitate the arrest and surrender of those men to the ICC so that they can be tried for the alleged war crimes and crimes against humanity committed in Libya in 2011.

Those responsible for war crimes and other serious crimes in Libya must not escape justice. In that connection we recall that the United Kingdom, along with two other members of the Council, publicly expressed our welcome in August for the fact that the Libyan National Army was apparently willing to investigate reports of the unlawful killings in Benghazi and to recognize the arrest warrant issued by the ICC for Mahmoud Al-Werfalli, a member of the Libyan National Army. We hope to see progress in that case in the very near future.

We note that the Office of the Prosecutor has continued to collect and analyse information and evidence related to alleged criminal acts against migrants in Libya. We encourage all States, including neighbouring States to Libya, to cooperate with the Court, and where relevant, to provide it with reliable information on human trafficking and smuggling networks. It is important that the alleged perpetrators of those crimes, like other serious crimes of concern in Libya, be held accountable for their actions.

The lack of improvement in the situation reinforces the need for all sides to reach a political solution. The United Kingdom fully supports the efforts of the Special Representative of the Secretary-General, Mr. Ghassan Salamé, in that regard and urges all parties in Libya to engage with him constructively. The United Kingdom would also like to reaffirm its support for the Government of National Accord.

The United Kingdom commends the continued engagement of the Libyan Prosecutor-General and the Libyan representatives to the ICC and encourages States and relevant international and regional organizations to assist the Libyan authorities in their efforts to build the rule of law in Libya.

Finally, the United Kingdom believes that the Court must have the resources necessary to do its work, but it is important that those resources be used as efficiently as possible. We welcome the steps that the Court has taken in that area and encourage the Court to continue to strive for efficiency. Once again, the United Kingdom would like to thank the Prosecutor of the ICC for presenting her report to the Council today.

**Mr. Aboulatta** (Egypt) (*spoke in Arabic*): I would first like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing today on the latest report of the Prosecutor of the ICC to the Security Council in accordance with resolution 1970 (2011).

At the outset, Egypt would like to commend the efforts of the Court to put an end to impunity and restore justice in Libya in line with international law. For that reason, in the case against Mahmoud Mustafa Busayf Al-Werfalli, we are of the view that it is important to ensure adherence to article 1 of the Rome Statute of the ICC. Indeed that article stipulates that the Court is a complement to national criminal jurisdiction.

It is furthermore essential for the Court to adhere to the conditions regarding admissibility, pursuant to the stipulations of article 17 of the Rome Statute. In that regard, the Court cannot declare that the case against Mahmoud Mustafa Busayf Al-Werfalli is admissible or that other individuals are subject to an investigation in their countries if Libyan judicial authorities are effectively seized of the matter and if proceedings are underway, unless it is established that the Libyan State does not have the will or is unable to genuinely conduct and carry through investigative proceedings. With respect to handing Saif Al-Islam Al-Qaddafi over to the Court, we reiterate that it is necessary to deliver all requisite assistance to the Libyan Government so that it can fulfil all of its obligations vis-à-vis the Court.

On the other hand, although Egypt is aware of the tremendous challenges linked to the security situation in Libya, which make it difficult to dispatch experts from the Court to conduct research on the ground and collect proof from Libyan territory, we favour and welcome any forms of collaboration with the assistance delivered by the Libyan Prosecutor-General so as to enable the Prosecutor of the ICC to fully carry through that Court's mission.

In addition to the assistance provided by the Libyan Prosecutor or other competent authorities

from the country, Egypt requests that the Office of the Prosecutor of the ICC prioritize a verification of all other information received with respect to the crimes perpetrated in Libya. That information must stem from credible sources. The Court cannot focus exclusively on allegations from one group to the detriment of another. The Court must remain seized of all cases within its jurisdiction, including crimes perpetrated by terrorist organizations. Those organizations receive financial assistance and weapons from some States, and it is thanks to the availability of such weapons and financial flows that the terrorists perpetrate crimes that indeed fall under the jurisdiction of the Court.

The international community must deliver all necessary support to the Libyan Government so as to set up a comprehensive strategy to enable the fight against the heinous crimes perpetrated in Libya. All required assistance to Libyan authorities must be delivered so that those authorities can restore justice and prosecute terrorists. That requires that the Libyan Government be provided with the necessary weapons, as well as that all relevant Security Council resolutions be implemented.

Lastly, we thank Ms. Fatou Bensouda for all of her efforts, and we thank her Office for the tremendous efforts it has undertaken to restore justice and end impunity. My country will continue to cooperate and collaborate with the Court in that regard.

**Ms. Sison** (United States of America): We thank Ms. Fatou Bensouda for the update on the work of the Office of the Prosecutor, pursuant to Security Council resolution 1970 (2011). Six years ago, the Council referred the situation in Libya to the International Criminal Court (ICC), given the context of the appalling violations of human rights that were perpetrated during the 2011 revolution.

The ICC has charged Saif Al-Islam Al-Qaddafi with murder and persecution committed during the 2011 revolution, and we have called on all relevant Libyan actors to facilitate his transfer to the Court. We also note the arrest warrant issued by the ICC for Al-Tuhamy Mohamed Khaled and emphasize the need to bring to justice those involved in the horrific acts committed by the Libyan Internal Security Agency against perceived opponents of the regime of Muammar Al-Qaddafi. All those responsible for the crimes committed during the 2011 revolution must be held to account.

Today much has changed in Libya. However, the country is not free from horrific acts of violence. We

continue to call for respect of human rights in Libya. We note with deep concern the recent air strike in Derna — a city that remains in need of immediate and unfettered humanitarian access. We also strongly condemn the deplorable acts in Al Abyar, where on 26 October the bodies of 36 men who had been shot to death were discovered.

The insecurity in the country highlights the urgent need to find a solution to the political crisis in Libya. National political reconciliation is key to ending the violent unrest that continues to plague the country. To that end, we welcome the steps that have been taken in line with the United Nations action plan that was announced in September, and we reiterate our full support for the leadership of Special Representative of the Secretary-General Ghassan Salamé in the ongoing mediation efforts.

As delegations from the House of Representatives in the State Council negotiate amendments to the Libyan Political Agreement, we encourage all Libyan parties to support the United Nations political process and work together in the spirit of compromise towards the common goal of a more peaceful and prosperous Libya. We also call for those responsible for human rights violations and abuses or violations of international humanitarian law to be held accountable; they cannot act with impunity. To that end, we stressed that the summary killings in Al-Abyar, as well as other reports of unlawful killings in Benghazi, must be fully investigated by the authorities on the ground.

We have also noted the ICC accusations against Major Al-Werfalli of war crimes in relation to the killing of 33 people in Benghazi. We are deeply concerned by allegations that Al-Werfalli has carried out additional killings in Ajdabiya despite the ongoing investigation into his activities, as well as by reports that Al-Werfalli has returned to active duty despite the charges against him. The United States urges the relevant Libyan authorities to ensure that Al-Werfalli is brought to justice in accordance with international law.

Before closing, I would be remiss not to convey the United States' position with respect to recent developments relating to the situation in Afghanistan. The United States believes that any ICC investigation or other activity concerning United States personnel is wholly unwarranted and unjustified. The United States is deeply committed to complying with international law and has a robust national system of investigation,

accountability and transparency that is among the best in the world. The United States has a long-standing and continuing objection in principle to any ICC assertion of jurisdiction over United States personnel. More generally, we do not believe that an ICC investigation would serve the interests of either peace or justice in Afghanistan.

**Mrs. Gueguen** (France) (*spoke in French*): I thank Prosecutor Bensouda for her fourteenth report and for her briefing this morning. I would also like to reaffirm France's support for the Prosecutor, as well as for the International Criminal Court (ICC) as a whole, in the implementation of resolution 1970 (2011), which referred the situation in Libya to the ICC. Through that resolution, the Council sought to demonstrate its trust in the jurisdiction of the ICC by assigning it a mission of the highest importance, namely, to ensure that those responsible for the most serious crimes affecting the international community do not go unpunished, as stated in the Preamble of the Rome Statute.

We are pleased to note the ongoing efforts of the Office of the Prosecutor (OTP) to conduct its investigations in the context of the generally difficult and insecure situation in Libya. Given the scale of the challenges facing the Court there, the support of the Security Council for the Court's action, as well as the efforts of the United Nations and of the United Nations Support Mission in Libya, are essential. We welcome the personal mobilization of the Secretary-General to that effect and the invaluable contribution of his Special Representative, Mr. Ghassan Salamé, to the fight against impunity in Libya. We assure them of our full support in their difficult task.

As we seek to build on the various initiatives and the meeting at La Celle Saint-Cloud under the auspices of President Macron last summer, all efforts must now be geared towards supporting United Nations mediation with a view to reaching a consensus on the revision of the Skhirat Agreement. The French presidency of the Security Council also endorsed the road map of the Special Representative in a statement on 10 October (S/PRST/2017/19), and welcomed the first discussions between the House of Representatives and the Council of State in late September, under the auspices of the Special Representative. Held in Tunis, those negotiations were constructive, and the next steps of the mediation should enable us to finalize work on the revision of the agreement.

In the context of the mediation efforts led by Mr. Ghassan Salamé, it is important to provide concrete support to the Libyan authorities, particularly in the areas of justice and in restoring the rule of law. Beyond those general observations on the situation in Libya, I would like to make three more specific remarks.

First of all, I wish to recall that the ongoing investigations by the OTP require the full cooperation of all stakeholders. France is of the view that the cooperation of Libyan authorities, States parties to the Rome Statute and non-party States — especially members of the Council — with the Court is crucial in order for it to carry out its work in total security and pursuant to the mandate entrusted to it by the Rome Statute and by the Council, as seen in paragraph 16 of the report.

It is essential to strengthen collaboration between all States involved — whether they are parties to the Rome Statute or not — in order to rapidly provide the necessary support to the OTP so that it is able to discharge its mission. In that regard, the cooperation of the Tunisian, Dutch, Italian and British authorities deserves special mention.

With regard to the sections of the report that address ongoing investigations, France takes note of the arrest warrant ordered by the Court against Mahmoud Mustafa Busayf al-Werfalli on 15 August. We urge the Libyan National Army, as the Prosecutor has done, to surrender Mr. Al-Werfalli to the Libyan authorities as soon as possible so that he can be handed over to the ICC, pursuant to their obligations to cooperate with the Court under resolution 1970 (2011). That is an important step in the fight against impunity and towards impartial justice in Libya. France also wishes to reiterate its call for cooperation with the ICC in order to ensure that Saif al-Islam Gaddafi and Al-Tuhamy Mohamed Khaled are handed over to the Court without further delay.

Finally, with regard to the projections outlined in the report of the Office of the Prosecutor, we take note of the OTP's commitment to continue to make Libya a priority during 2018 and, if required, to order new arrest warrants. We also welcome the OTP's desire to conduct investigations into the disturbing situation of crimes linked to smuggling and the trafficking of persons in Libya, which constitutes a direct threat to stability in the country, as Mr. Ghassan Salamé highlighted in the Council in August (see S/PV.2032). France shares that concern and is committed to act together with our



partners to counter smuggling networks and disrupt their economic model in Libya and throughout the region within the framework of the joint statement of 28 August entitled “Addressing the Challenge of Migration and Asylum”.

The current situation in Libya once again points to the fact that impunity feeds insecurity and instability. That reality obliges us therefore to respond to the challenges facing us in Libya; they can only be addressed through effective cooperation with the ICC and the support of the Security Council. France remains ready to mobilize its efforts to that end.

**Mr. Bermúde** (Uruguay) (*spoke in Spanish*): We once again express our appreciation for the presence of the Prosecutor of the International Criminal Court, Ms. Fatouh Bensouda. We welcome the presentation of the fourteenth report of the International Criminal Court (ICC) on the situation in Libya pursuant to resolution 1970 (2011). Uruguay reiterates its full support for the work of the International Criminal Court, as well as for the role played by Ms. Bensouda in prosecuting those responsible for the most serious crimes, as defined in article 5 of the Rome Statute.

Uruguay considers the fight against crimes against humanity, war crimes, genocide and crimes of aggression perpetrated against the rights of men, women and children to be of the utmost importance. The ICC serves as a landmark in the international community’s fight against impunity and the commission of the most serious crimes against human beings, which violate their integrity as well as their rights.

The development of international awareness of the need to put an end to atrocities against human beings, whether individual or mass atrocities, and to maintain peace and security were the reason for the creation of the International Criminal Court. The importance of its establishment and the mission entrusted to it require us to support every action aimed at improving the management of the ICC. In that regard, we remind States Parties to the Rome Statute of the need to cooperate with the Court so that it can perform its duties.

Moreover, we believe that it is essential to raise awareness of the importance of the ICC, and States must therefore accede to and ratify the Rome Statute, as well as its amendments. The ICC is a Court that was only recently created and which requires all of the support that States are able to provide in discharging its mission. That should be done through cooperation and

by providing information, complying with its requests, understanding its processes and ensuring that they are adequately carried out and completed.

In that context, it is important to strengthen the role of the International Criminal Court as an international adjudicating body for the prosecution of the crimes listed in article 5 of the Rome Statute. Accountability for the perpetration of such serious crimes, regardless of by whom or where they are committed, must continue to be a priority objective for States and the Council alike.

We encourage States Members of the United Nations that are not yet parties to the Rome Statute to accede to it, with a view to making progress in the fight against impunity and to defending all inhabitants of the planet against these heinous crimes, which represent a serious threat to peace and security.

It is important, in this context, to strengthen the role of the International Criminal Court as a mechanism for rendering justice when national courts are incapable of doing so.

With regard to Libya, regrettably, since the previous report of the Prosecutor, there have been no promising signs, except for the fresh momentum given by the United Nations to the political process and national reconciliation in the country. The Government of National Accord continues to see its authority challenged at the national level, and the blockade imposed by the House of Representatives in Tobruk has prevented the provisions of the Libyan Political Agreement from being fully implemented.

The many challenges facing Libya six years after its civil war require quick and effective responses from its new authorities. They are dealing with the threat of Islamic terrorism, a migratory crisis that affects hundreds of thousands of people, a humanitarian emergency and a very difficult economic situation, among other serious problems. In this context, it is necessary to work towards the reunification and reconciliation of the country in order to prevent further bloodshed among its population and to put an end to the institutional crisis and military conflict that have plagued the country since 2011.

We must also make progress towards the objective of a genuine democratic transition and lasting peace and stability as a sustainable foundation in order to more effectively investigate the atrocities committed in the country, while avoiding further widespread violence

and impunity. We trust that the new Libyan authorities, to the extent that they can consolidate their power and gradually extend their authority throughout the entire territory, will fulfil their commitment to render justice for the victims of these crimes and cooperate with the Office of the Prosecutor in future to identify the perpetrators and facilitate their surrender to the Court for prosecution.

We urge the Government of National Accord to surrender Saif Al-Islam Al-Qadhafi to the Court and ensure a trial with all guarantees for Abdullah Al-Senussi and other individuals who allegedly committed war crimes and crimes against humanity before, during and after the civil war that broke out in 2011, including Al-Tuhami Khaled and Mustafa Al-Werfalli, for whom arrest warrants were issued this year.

It bears noting that, in the most recent reports, there has been a focus on abuses committed against refugees and migrants in Libya, including acts of sexual violence and crimes against minors during their detention in inhuman conditions. We are concerned by the fact that, after having identified during her previous appearance investigations in Libya as one of the priorities for 2017, the Office of the Prosecutor continues to face budget difficulties in carrying out this objective. We therefore support her request for the resources necessary for her to properly fulfil her mandate in a timely manner, and we also call on those States parties that are able to do so to provide the required funding.

In conclusion, Uruguay reiterates its recognition of the work of the Prosecutor as reflected in her statements on the crimes committed in Libya. They will definitely help to strengthen the rule of law and bring about a more just and inclusive Libyan society in which the rights and guarantees of all of its inhabitants are fully respected.

**Mr. Seck** (Senegal) (*spoke in French*): The Senegalese delegation welcomes the opportunity afforded us by the Council's consideration of the fourteenth report on the activities of the Office of the Prosecutor of the International Criminal Court (ICC) on the situation in Libya. We thank Prosecutor Fatou Bensouda for the clarity of her presentation.

Mr. President, you are Vice-President of the Assembly of States Parties to the Rome Statute, and you are Italian and therefore from Rome.

I would like to take this opportunity to commend the ongoing efforts of the Office of the Prosecutor aimed at prosecuting the perpetrators of international crimes and at delivering justice to the victims. The Prosecutor may rest assured of Senegal's unwavering support, as a State party to the Rome Statute, for the Court's mandate of fighting impunity and delivering justice to the victims. There are, unfortunately, many innocent victims, and they are clamouring for justice.

In this regard, we welcome the cooperation of the Libyan Prosecutor-General's Office thus far within the framework of this investigation and the determination of the Libyan Prime Minister to uphold the rule of law and to cooperate with the Court. We call upon the Security Council to also resolutely support the Prosecutor and help her to carry out her investigations effectively and efficiently, in accordance with the mandate she has been assigned pursuant to resolution 1970 (2011). Indeed, it is incumbent upon us all — collectively and individually — to fulfil our obligation under that resolution to cooperate with the ICC and to assist in the arrest and trial of all individuals indicted of crimes under the jurisdiction of the Court.

The delegation of Senegal echoes the concern expressed by the Prosecutor about the cases of alleged crimes committed against migrants and ongoing hostilities among the parties to the conflict, as indicated in the Prosecutor's report. Although the security situation is unstable, which has made it necessary to limit of the scope of the investigation to certain parts of the Libyan territory, the Office of the Prosecutor is continuing its work and achieving important results, such as the execution of the arrest warrant issued during the proceedings against Mustafa Busayf Al-Werfalli. On 1 August, the Prosecutor filed a sealed arrest warrant with the Pre-Trial Chamber. On 15 August, the Chamber made public the warrant for the arrest of Mr. Al-Werfalli for his alleged involvement in the execution of detainees. Similarly, an arrest warrant was issued earlier this year for Al-Tuhami Khaled, while Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi remain at large and are still being actively sought by the Court.

All this testifies to the important progress achieved by the Office of the Prosecutor in its investigation, as well as to the determination of the Prosecutor to make progress as quickly as possible on the task that the Council has referred to her in the name of justice and the fight against impunity.

The political and security situation in Libya remains unstable and fragile and requires genuine political will from both national and international actors to reach a peaceful and lasting solution, on the basis of resolutions 1970 (2011) and 1973 (2011). In this regard, we commend the efforts of the Special Representative of the Secretary-General and Head of the United Nations Support Mission in Libya, Mr. Ghassan Salamé, whom we encourage to maintain and strengthen the assistance he is providing to the Office of the Prosecutor in the framework of the investigation. We extend the same encouragement to INTERPOL for its valuable contribution to the conduct of the investigations, in particular in the search for suspects. These cooperation efforts must be redoubled if we want to promote dialogue between the parties and to establish a culture of justice, which is the foundation for lasting peace in Libya.

In conclusion, my delegation wishes to recall that our common goal of peace and security in Libya goes hand in hand with the imperative of accountability and delivering justice to the victims. To achieve this, the international community, the Security Council and all stakeholders must work together to create a stable and secure environment underpinned by the rule of law. Combating impunity in Libya, and elsewhere, is not up to the International Criminal Court alone; we must all fight it. I would like to conclude by quoting Prosecutor Bensouda herself in her briefing today:

*(spoke in English)*

“Justice is an important component of sustainable peace.”

I should add that justice is a sine qua non condition for sustainable peace.

**Mr. Tumysh** (Kazakhstan): We would like to thank Prosecutor Bensouda for her comprehensive briefing. We have taken note of the fourteenth report of the Prosecutor of the International Criminal Court, which provides an update on activities regarding the situation in Libya and which is not very encouraging, unfortunately. According to the report, the situation in Libya continues to be volatile, with clashes occurring between various factions across the country, as well as ongoing political instability, a fragile security situation and a breakdown in the rule of law — all of which have resulted in widespread abuses of human rights and violations of international humanitarian law.

We are deeply alarmed by the reports of unlawful killings of civilians, as well as executions, abductions, torture and prolonged detentions without trial or other legal processes. We have learned from information provided by the United Nations Support Mission in Libya that in October alone there were 38 civilian casualties, including 23 killed and 15 injured, as a result of hostilities across Libya. We are also concerned about the fact that hundreds of thousands of migrants and refugees in Libya have suffered abuses and detentions under inhumane conditions.

Kazakhstan believes that an effective and credible Government is crucial to reinforcing Libya's commitment and capability for restoring order and promoting the rule of law, in addition to addressing impunity, protecting basic human rights and ensuring justice for past violations. Every effort should be made to overcome the protracted crisis and find a political solution that sets Libya on the path to peace and reconciliation. At the same time, to have effective results, we realize that the Libyans themselves must take a leading role in those efforts. To that end, the support of the international community for Libya remains vital in restoring stability and security throughout the country. The United Nations has a key role to play in that process.

**Mr. Zagaynov** (Russian Federation) *(spoke in Russian)*: The situation in Libya remains difficult and we deplore the fact that people are being killed, including civilians. We hope that the Special Representative of the Secretary-General for Libya, Mr. Ghassan Salamé, will do everything possible within the framework of the plan he has presented to further develop a broadly representative intra-Libyan dialogue under the auspices of the United Nations. The United Nations will require assistance and consolidated international support, including from regional stakeholders. That assistance must be based on respect for Libyan sovereignty, with no hidden agendas. There is no alternative to achieving reunification of the country and its State institutions as quickly as possible, on conditions determined by Libyans themselves, and the efforts to implement international justice and prevent impunity must also promote the achievement of those aims.

We have taken note of the fourteenth report of the Prosecutor of the International Criminal Court (ICC) on the investigation of the situation in Libya. Going on the report's information, there have been no breakthroughs on the main topics over the past six months. The ICC

continues to act selectively. In the past six years, not a single case has been initiated dealing with the alleged crimes committed by insurgents. The Prosecutor has recused herself from the investigation of the civilian casualties resulting from NATO strikes.

As before, there is still no information in the report on the Court's intentions with regard to the atrocities perpetrated by the Islamic State in Iraq and the Levant (ISIL). For example, the reports of terrorist attacks on 4 October on the court building in Misrata have merely been noted, despite the fact that the Court should be well aware of how important the United Nations considers the work of bringing the ISIL terrorists to justice. While the Court has expressed its concern about the army's actions in recent months in the Derna area, it has made no attempt to bring charges against the mujahidin, who for all practical purposes are holding the local population hostage.

We have noted that the ICC has taken an interest in the alleged crimes against refugees and migrants in Libya, claiming that under certain circumstances some of those crimes may fall within its jurisdiction. It is clear that Libyan groups operating in the shadows and the criminal networks in the Mediterranean region are all involved in the black market of illegal migration. We await information on the Court's work in that regard.

With regard to the report's attempts to once again portray the Libyan dossier as a burden imposed by the Security Council on the Court, our position is unchanged. My delegation's general conclusions with respect to the Council's referral of cases to the ICC, which we have expressed in previous briefings by the Prosecutor, remain the same.

**Mr. Hasebe** (Japan): I would like to begin by expressing my appreciation to Prosecutor Bensouda for her briefing and report. Japan is committed to the fight against impunity and to supporting the International Criminal Court (ICC), including the Office of the Prosecutor, and we commend the accomplishments the ICC has made so far. As the ICC's largest financial contributor, Japan has consistently supported it with a view to ensuring that it can function effectively and sustainably in promoting the rule of law, with the support of the international community.

Japan believes that the ICC has contributed to steady progress on international justice. However, since the Court lacks its own enforcement authorities, the cooperation of States is vital to its success, for it cannot

function effectively or deliver justice without that cooperation. Against that background, we welcome the continued collaborative relationship between the Office of the Prosecutor and the Libyan Prosecutor-General's Office. Prime Minister Serraj's reaffirmation of Libya's commitment during meetings with Prosecutor Bensouda to cooperating with the ICC was especially encouraging. We hope that positive trend will yield results in the near future.

Japan is closely following the situation in the wake of the issuance of the arrest warrant for Mahmoud Mustafa Busayf Al-Werfalli for alleged criminal responsibility for war crimes under the Rome Statute. Japan stands ready to fulfil its obligations under the Statute. With regard to Saif Al-Islam Al-Qadhafi, it is regrettable that he is not yet in the custody of the ICC, despite various efforts by the Office of the Prosecutor. We encourage the Libyan authorities and the international community to cooperate fully with the ICC, pursuant to resolutions 1970 (2011) and 2259 (2015).

Japan is committed to supporting the implementation of the action plan provided by Mr. Ghassan Salamé, Special Representative of the Secretary-General for Libya. At the same time, we remain deeply concerned about the ongoing violence and insecurity in Libya, including the human rights violations committed by all sides. That makes it more difficult for the Prosecutor's investigation to progress. In that context, we note the Office of the Prosecutor's analysis of possible investigations of alleged crimes against migrants and look forward to further updates.

I would like to conclude by reiterating Japan's continued support for the activities of the ICC. Japan strongly believes that if we are to ensure that the ICC can effectively promote the rule of law around the world, more countries, including members of the Council, should join it. At the same time, the ICC and its States parties should continue to listen to the various concerns expressed and make efforts to enhance the Court's universality, so that it can gain stronger support for its work.

My delegation stands ready to work alongside the ICC to that end, and we look forward to further tangible progress on today's agenda.

**Ms. Schoulgin-Nyoni** (Sweden): I would like to begin by joining others in welcoming the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, back to the Chamber today, and by thanking

her for her comprehensive briefing. We sincerely appreciate the valuable work and tireless efforts of the Court and its officials in all bodies. The work of the Prosecutor continues to make a significant contribution to holding the perpetrators of serious crimes of international concern to account and to providing justice for their victims. My Government would particularly like to acknowledge her efforts in applying an integrated gender perspective throughout her Office and investigations, as well as in her report.

We continue to be deeply concerned about the security and humanitarian situation in Libya. Sadly, since we last met with the Prosecutor in May (S/PV.7934), the situation of civilians, who are paying the highest price for the ongoing conflict, has remained fragile and precarious. A breakdown in the rule of law has led to widespread human rights violations and abuses and violations of international humanitarian law by all parties to the conflict. In those circumstances, the Office of the Prosecutor plays an important and essential role. Sweden welcomes the efforts of the Office to investigate the ongoing cases and to closely monitor the situation throughout Libya. We also welcome its efforts to bring new applications for arrest warrants against those alleged to be responsible for violations or abuses, should the evidence and relevant information support such action. That is vital and crucial work in the light of the continuing volatility and insecurity in the country. Reports of violations and abuses must be investigated, and those responsible must be brought to justice. There should be no impunity.

In order to assist the Office of the Prosecutor in fulfilling its mandate, the support and cooperation of the Libyan Prosecutor-General's office, the Libyan authorities, States parties, Member States and all other relevant entities is crucial. In addition, if it is to successfully carry out its functions, including those asked of it by the Council, the Office needs our full political and financial support. It is essential that we follow through on our decision to refer Libya to the International Criminal Court, since the situation in the country continues to constitute a threat to international peace and security.

Sweden recalls the decision by the Security Council to refer the Libya situation to the Court in 2011, and reiterates its full support to the Office of the Prosecutor to investigate the actions of all parties to the conflict in Libya. That includes more recent crimes, such as the case against Mahmoud Al-Werfalli. We support

the Court's call to the Libyan authorities to cooperate with it and to arrest and surrender Mr. Al-Werfalli immediately. Regarding the case of Mr. Al-Tuhamy, we note with concern the continued lack of information on his whereabouts and reiterate our hope for his speedy arrest and transfer to the Court. Libya and all Member States are under an obligation to cooperate with the ICC in that regard.

We heard from the High Commissioner for Refugees last week about the grave exploitation and abuse faced by refugees and migrants along the Central Mediterranean route to Europe, including in Libya (see S/PV.8083). We are alarmed by reports of arbitrary detentions, torture and sexual and gender-based violence in migrant detention centres, as well as in regular detention centres. Greater international access is urgently needed and should be granted. Re-establishing a permanent United Nations presence in Libya will be important for responding to those issues, and we welcome Special Representative Salamé's efforts in that regard. We share the view of the Office of the Prosecutor that certain crimes against refugees and migrants fall within the jurisdiction of the Court, and we support the initiative to explore the possibility of investigating crimes related to human trafficking and smuggling networks.

Ensuring the rule of law, ending impunity and providing accountability are essential to post-conflict reconciliation and sustaining peace. The work of the Prosecutor and the ICC plays an important role in Libya in that regard. They have the full support of my Government as they undertake this important but difficult task.

**Mr. Cheng Lie** (China) (*spoke in Chinese*): I thank Ms. Bensouda for her briefing. China has been closely following the situation in Libya and its development. It also supports all efforts conducive to stabilizing the situation in the country and promoting the political process. The international community should respect Libya's sovereignty, independence and territorial integrity, remain committed to advancing a Libyan-led and Libyan-owned political process through the good offices of the United Nations, and support the Special Representative of the Secretary-General for Libya, Mr. Ghassan Salamé, in his efforts to promote the United Nations action plan for the resumption of an inclusive Libyan-owned political process under the facilitation and leadership of the United Nations.

We hope that all parties in Libya will be able to settle their differences through inclusive political dialogue, on the basis of the Libyan Political Agreement, arrive at a solution that can accommodate the concerns of all parties, promote national reconciliation, restore State governance and strive to achieve peace, stability and development as soon as possible. That is a major prerequisite and basis for justice in Libya. The international community should join forces to provide concrete and effective assistance to the Libyan peace process.

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

**Mr. Abebe** (Ethiopia): We thank the Prosecutor of the International Criminal Court for her report and briefing to the Security Council, pursuant to resolution 1970 (2011).

The continued violations of human rights committed by all parties to the conflict in Libya remain a source of concern. The killing and wounding of civilians, as well as their abduction, torture, displacement and arbitrary detention, continue unabated. Due to general lawlessness and the weakness of judicial institutions, ordinary crime is widespread, creating a sense of fear and insecurity in Libya. We condemn all the attacks on civilians and civilian facilities that continue to cause civilian casualties and suffering.

The suffering of all Libyans, including the most vulnerable groups, such as women, children, migrants and refugees, must stop. Those responsible must also be held accountable. It is important to fight the widespread sense of impunity in Libya. In that regard, Ethiopia continues to strongly support the position of the African Union that it is vital to combat impunity while respecting the sovereignty and territorial integrity of Member States. We also believe that protecting civilians and civilian infrastructures is critical. In that regard, the capacity of Libyan State institutions, particularly its judiciary and law-enforcement bodies, should be strengthened, with the ultimate objective of ensuring the rule of law.

The lasting solution to the problem of ending Libyans' suffering and the violations of their human rights will be through a comprehensive political settlement that meets the legitimate demands of all Libyans. In that regard, we support the continued diplomatic efforts of the Special Representative of the Secretary-General for Libya, Mr. Ghassan Salamé,

to bring all Libyans together so that they can agree on a sustainable path to peace, stability and national reconciliation, according to the United Nations action plan for the resumption of an inclusive Libyan-owned political process under the facilitation and leadership of the United Nations, which has been endorsed by the Security Council. We encourage all Libyans to continue to work together in a spirit of compromise and to engage constructively and meaningfully in the inclusive political process set out in the action plan, so as to bring about concrete results that could facilitate its full implementation. While Libyans themselves have the primary responsibility to ensure peace and security, the international community, particularly the Council, should continue to support their efforts in a coordinated manner.

**Mr. Vitrenko** (Ukraine): Let me also start by thanking International Criminal Court (ICC) Prosecutor Bensouda for her valuable update on her Office's work regarding the situation in Libya.

At the outset, I want to express once again my country's full support of the activities of the International Criminal Court, which promotes the rule of law and fights against impunity for perpetrators of the most serious crimes.

During the reporting period, the security and humanitarian situation in Libya continued to deteriorate. We all saw numerous reports from various sources on human rights abuses and violations, such as unlawful killings, kidnappings and forced disappearance, torture and others. Like in many other conflict situations, people in Libya have grown accustomed to constant clashes among armed groups and to the existence of parallel institutions. In the past few months, Tripoli has seen fighting between rival militias, including shelling of the city's main airport and surrounding areas. The increasing use of heavy artillery and rockets has resulted in high numbers of casualties, including among civilians. We are especially concerned about the situation in Derna, where protracted fighting has reportedly gravely affected civilians.

We also condemn in the strongest terms the killing of 36 people, whose bodies have been recently found in Al-Abyar, some 70 kilometres east of Benghazi. A full, proper and immediate investigation is needed to uncover the truth. In this context, we echo the Prosecutor's call on all parties to the conflict to ensure respect for human rights and international humanitarian law in accordance

with the provisions of the Rome Statute relating to the responsibility of commanders and superiors to prevent or repress the commission of crimes by their forces.

The next issue I would like to focus on is abuses against migrants and refugees in official and unofficial detention centres in Libya. I am referring to arbitrary detention, torture and rape and other forms of mistreatment. In our view, the activities of the Office in the collection of information and evidence relating to alleged crimes against those vulnerable groups may help prevent such crimes and the illegal activities of human trafficking and smuggling networks in Libya.

We strongly believe that difficult security or political conditions cannot be permanently invoked by any State to justify its non-cooperation with the ICC, especially in situations referred to the Court by the Security Council. It is completely evident to Ukraine, as a country whose situation is under preliminary examination in the ICC, that full cooperation with the Court by all States parties and non-States parties, including members of the Council, as well as concerned regional and international organizations, is of the utmost importance for the successful fulfilment of the Court's mandate.

We are also grateful to the Prosecutor for providing additional information about ongoing cases against Mr. Al-Werfalli, Mr. Al-Tuhamy, Mr. Al-Qadhafi and Mr. Al-Senussi. Without going into details, all of these cases are being undermined by one similar and crucial problem. On the one hand, the Court continues to demonstrate its dedication to investigating crimes under the Rome Statute, but on the other hand, those in Libya with authority and control over the suspects did not provide assistance to transfer them to the Court. In that respect, we attach considerable importance to Libya's recent reaffirmation of its commitments to uphold the rule of law and ensure accountability, as well as to cooperate with the ICC. We look forward to concrete steps from Libya, in accordance to its legal obligations, to facilitate the surrender of suspects to the ICC.

In the light of some recent positive developments in the political dialogue, we would like to conclude by emphasizing the necessity of the international community further supporting the Libyan Government of National Accord in its efforts to restore law and order in the country, combat impunity and ensure the right to justice for all victims. The active role of the Office

in further discharging its mandate independently and impartially will definitely accelerate that process.

**Mr. Llorentty Solíz** (Bolivia) (*spoke in Spanish*): Bolivia wishes to thank your delegation, Mr. President, for having convened this meeting. We also thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her briefing. We extend our support to Ms. Bensouda in the carrying out of her tasks. We value the efforts the ICC has made since 2011 in the implementation of the review carried out through resolution 1970 (2011) and we reiterate that its effective implementation depends on the full collaboration of all stakeholders within and outside of Libya.

In that regard, we call on the Libyan Government of National Accord, the stakeholders and the countries of the region to redouble their collaborative efforts so that the Office of the Prosecutor of the ICC can conduct its investigative tasks. We also reiterate that all States, regardless of whether they are States parties to the Rome Statute, bear the primary responsibility of taking action to contribute to facilitating of the Court's investigative tasks and thus preventing impunity.

We take due notice of the briefing and the activities carried out by the Office of the Prosecutor during the reporting period. We express our deep concern over the news of extrajudicial killings, murder and arbitrary detention in the current year that beset the affected parties to the Libyan conflict. We urgently call on the parties and armed groups to definitively cease all violent acts. Any action that is contrary to international criminal law can be investigated in order to identify and penalize the responsible parties. With regard to the Al-Werfalli case, we again call on the Government of National Accord and all stakeholders to collaborate and contribute to the work of the Office of the Prosecutor during the investigations of the alleged activities.

We note with concern the repeated reports of the use of sexual violence and harassment committed against innocent civilians by the parties as tactics of war. Moreover, there are reports of violations of the rights of migrants, who are vulnerable to human trafficking networks and are subject to slavery and sexual exploitation. The investigations of the Office of the Prosecutor can not only determine who is responsible but, in the case of crimes against humanity, they can exercise their competence to prosecute the perpetrators. We hope that for the following report, we

will see significant progress on cases that are currently being investigated.

The public circulation of reports linking the former ICC Prosecutor, Luis Moreno Ocampo, and other people associated with the Office of the Prosecutor with activities of potential interference with the ongoing investigation in Libya must be promptly and thoroughly investigated in Court to determine the scope of such actions. The integrity of the Court is key to ensuring its credibility and effectiveness in the eyes of the international community. We stress that the ICC is a global endeavour in the interest of all States, and its mission is critical to the strengthening of international criminal law, peace and security, respect for human rights and the assurance of due process. In that regard, we call on all States that have not yet done so, to ratify the Rome Statute with a view to achieving its universalization.

We conclude by saying that absolutely nothing can justify the commission of crimes against humanity, war crimes or genocide, but we must recall once again that what occupies the attention of the Council does so as a direct consequence of regime change policies, the result of which affect millions of people, not only in Libya but worldwide.

**The President:** I shall now make a statement in my national capacity.

I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her important briefing to the Security Council and for the clear and detailed information provided in the report, particularly the details on the new cases and the relevant arrest warrants. As Vice-President of the Assembly of States Parties to the Rome Statute of the ICC, I am particularly conscious of the delicate task that she has to discharge. Under Ms. Bensouda's determined guidance, the Office of the Prosecutor of the ICC has made progress in many different areas, and I would like to extend to her our strong appreciation and full support.

The situation in Libya was unanimously referred to the International Criminal Court by the Council through resolution 1970 (2011). We are pleased to see that the Prosecutor has made it one of the priorities of her Office, with continuous attention to the crimes that are committed in the country. We believe that the activity of the Court can bring positive developments, particularly if the Council remains united and

committed to supporting Libya and helps to ensure that justice is done in a fair and impartial manner. There must be no impunity for war crimes and crimes against humanity committed in Libya. Perpetrators must be brought to justice. All pending arrest warrants issued by the Court must be executed. It is also in the interest of those accused of crimes to surrender to the jurisdiction of the Court and to receive a fair trial.

The principle of complementarity entails that the Court is a court of last resort. The ICC is ready to leave cases to domestic authorities, but it is incumbent on domestic authorities to comply with the provisions of the Statute of the Court. There must be investigations and persecutions. There must be a constant flow of information with the Court. When the Court determines that a case cannot be tried at the national level, domestic authorities are under an obligation to comply with the request of the Court.

In that respect, we welcome the positive and constructive cooperation of the Libyan authorities with the Office of the Prosecutor. At the same time, we encourage all Libyans to cooperate with the Court in all ongoing investigations. Italy will continue to support the Office of the Prosecutor in its sensitive work in all possible ways. There must be no place for impunity, as accountability is crucial to reconciliation and stabilization efforts.

We are pleased to learn that the report refers to the good cooperation that the Office of the Prosecutor has had with the United Nations Support Mission in Libya and with the new Special Representative of the Secretary-General, Ghassan Salamé. We also wish to thank Ms. Bensouda for the information about the investigation into the allegation of crimes against migrants. Italy remains concerned about respect for human rights in Libyan prisons and recalls existing international obligations, including the relevant Security Council resolutions.

We deplore the fact that insecurity in Libya has been hampering the Court in carrying out some investigations in the field. However, we are hopeful that improvements can change the state of affairs and create conditions conducive to allowing the Prosecutor to visit Libyan territory. In that respect, let me reiterate the need for a political solution to the crisis in Libya under the framework of the Libyan Political Agreement. Italy supports the efforts of the United Nations and the action plan set out by Ghassan Salamé to that end, and



continues to engage with the Presidency Council of the Government of National Accord, led by Prime Minister Serraj, to help it to address persistent challenges in the country.

We note with extreme concern the increasing level of violence registered on the ground in the past few weeks. We condemn in the strongest terms recent episodes such as the bombing in Derna and the killing of 36 men in Al-Abyar, near Benghazi. They are particularly worrisome in a phase in which the efforts of the Special Representative of the Secretary-General to give new impetus to the political process are gaining traction. We therefore call on all Libyans to unite and to work together in support of the political reconciliation process, as laid out by Special Representative of the Secretary-General Salamé in his action plan.

In conclusion, let me reiterate that we believe that the Council should adopt the most structured approach in dealing with international criminal justice issues. In that regard, as the Council knows, we shall continue to consult with Member States to find solutions in favour of broader discussions on the role of international criminal justice and accountability for international crimes in the activities of the Council. Any solution that would enable such a discussion would be a step forward. Justice and accountability need to become an integral part of the strategy and of the preventive action of the Council.

I resume my functions as President of the Council.

I now give the floor to the representative of Libya.

**Mr. Elmajerbi (Libya)** (*spoke in Arabic*): At the outset, it gives me great pleasure to congratulate you, Sir, on your assumption of the presidency of the Council for this month. I would also like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her important briefing.

The Libyan authorities are aware of their primary responsibility to fight impunity and to render justice throughout Libya. Our resolve to exercise our sovereignty and national jurisdiction in prosecuting suspects does not imply disrespect for the decisions of the ICC judges or any lack of cooperation. Libya considers the Court to be an important and supportive partner in the context of complementarity between national and international jurisdictions, as been demonstrated by a number of meetings between the Office of the Prosecutor of the ICC and the political and judicial authorities of Libya.

Some tangible and important measures have also been adopted to promote cooperation and integration between national justice and the ICC judges, as highlighted by the ICC Prosecutor in several of her reports.

We recognize the delay in prosecuting and bringing the suspects to trial. However, that delay should not be equated with the national judiciary's unwillingness to prosecute the perpetrators of crimes. Rather, it is due to the security situation in Libya. That same situation has prevented the Office of the Prosecutor of the ICC from carrying out its investigations within the Libyan territory. We therefore underscore the fact that in order for the national judiciary to meet its obligations to deliver justice and promote the rule of law, the international community should urgently assist the Libyan authorities in overcoming the security crisis in Libya, while at the same time promoting efforts to ensure the success of the political dialogue. That can be achieved by supporting efforts to consolidate and operationalize security institutions and build State institutions, which will enable Libya to promote security and stability, control all factors and circumstances that give rise to such violations, and confiscate the tools used to commit crimes, in particular weapons. That would clearly help the Libyan judiciary to hold perpetrators accountable for the crimes committed and to prevent the reoccurrence of such crimes and violations in the light of the proliferation of weapons and terrorist and outlaw groups. The rise in crime is reflected in the various reports of the ICC Prosecutor.

We recognize and understand the concern of the ICC Prosecutor over the alleged crimes committed against migrants. We recognize their rights and are well aware of the degree of their humanitarian suffering owing to insecurity and the ongoing proliferation of weapons and militia. However, we note from the reports of the Prosecutor and those of the United Nations Support Mission in Libya and other relevant international organizations that the violations and crimes committed against migrants in Libya continue to be a focus although no attention is paid to combating human trafficking. That in itself is one of the most appalling organized crimes perpetrated by transnational criminal networks, and must be addressed by the international community in accordance with international humanitarian law; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and the relevant

Security Council resolutions. In that regard, we stress that any attempt or request to return those migrants to Libya represents a great violation of their rights, as they might be exposed to dangerous practices owing to the chaotic security situation in Libya.

Accordingly, we hope that future reports will include genuine procedural efforts to identify progress in combatting these criminal networks in the countries of origin and destination. It is well known that Libya is a transit country that is suffering from security chaos. Accordingly, if there were no criminal networks in the countries of origin and destination, no crimes or violations would be committed in transit countries.

Finally, we know that the international community seeks to see justice done and fight impunity, but we cannot fully achieve that end in Libya if the international community fails to support and reactivate the professional security apparatus and to promote its capabilities, since it is the sole guarantor of establishing

a security and administrative environment that would enable the judicial authorities to prosecute suspects and guarantee the non-recurrence of violations. Failure to ensure such support will only engender greater violations and more crimes.

Council members all surely know that the investigation and prosecution of crimes allegedly committed in Libya would promote justice, since Libya is the scene of these crimes, some of which are linked to other criminal activities. Its fragmentation could therefore lead to the damage of evidence and the obstruction of investigations, particularly given that justice must be for all and not limited to a particular case or suspect.

To conclude, one member of the Council referred to the fact that Libya is suffering from Islamic terrorism. We categorically object to that, and stress that terrorism cannot be linked to any religion.

*The meeting rose at 11.40 a.m.*