



Security Council

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Letter dated 19 May 2021 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council

I have the honour to enclose herewith a copy of the briefing provided by Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, as well as the statements delivered by the representatives of China, Estonia, France, India, Ireland, Kenya, Mexico, the Niger, Norway, the Russian Federation, Saint Vincent and the Grenadines, Tunisia, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Viet Nam in connection with the video-teleconference on “The situation in Libya” convened on Monday, 17 May 2021. A statement was also delivered by the representative of Libya.

In accordance with the procedure set out in the letter dated 7 May 2020 from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council (S/2020/372), which was agreed in the light of the extraordinary circumstances caused by the coronavirus disease pandemic, this briefing and these statements will be issued as a document of the Security Council.

(Signed) **Zhang Jun**
President of the Security Council



Annex I**Briefing by the Prosecutor of the International Criminal Court,
Fatou Bensouda**

It is a pleasure to once again engage with the Security Council, albeit virtually due to the prevailing coronavirus disease pandemic. This briefing is my last before the Council on the Libya situation before the end of my mandate on 15 June. I would have preferred to be present in person but the pandemic has forced us all to adapt and to find new ways of continuing our work. In response to these challenging times, my Office has also had to adopt new strategies and to demonstrate resilience, allowing nothing to detract us from our full commitment to our mandate under the Rome Statute.

Let me congratulate the People's Republic of China on assuming the presidency of the Security Council for the month of May. I wish you, Mr. President, every success in steering the crucial work of the Council in the pursuit of international peace and security and the protection of human rights and accountability for atrocity crimes in that context.

I also take this opportunity to congratulate the new members of the Council who assumed their important function as of January of this year.

On 23 October 2020, we witnessed the signing of the historic ceasefire agreement by Libyan parties in Geneva under the auspices of the United Nations. On the occasion of my most recent briefing to the Council (see S/2021/1108), I welcomed that development and urged all parties to continue their efforts to bring about peace and stability for the benefit of the people of Libya, who have endured so much. The recent inauguration of a new interim Government of National Unity is another commendable milestone, which I welcome.

Lasting peace and stability remain crucial pillars of development and the protection of human rights in Libya. Much hope rests on the Government of National Unity to work in an efficient and inclusive manner to address the violence and political turmoil that has engulfed the country and to secure peace and stability in Libya. There can be no lasting peace without accountability and justice and, in that regard, I reiterate my Office's firm commitment to working in collaboration with the Government of National Unity to ensure accountability for the serious crimes alleged to have been committed in Libya that fall under the jurisdiction of the International Criminal Court (ICC).

Even in the midst of serious financial constraints, the situation in Libya remains one of my Office's active investigations, and it will continue to be a priority and receive the attention that it requires to advance it further. My Office will continue to make every effort to make substantial progress on that situation. I wish to emphasize the importance of ensuring that my Office receives adequate resources to continue to advance that crucial work. We will be making submissions in that regard as part of the Office's 2022 proposed budget.

During the reporting period, members of my Office travelled to Libya, interviewed witnesses and received essential documents and materials from various sources, including individuals, non-governmental organizations and representatives of victims' organizations within and outside Libya. In particular, my Libya team has continued to constructively engage with the relevant Libyan national authorities following the discovery of multiple mass graves in the city of Tarhouna.

That engagement has resulted in fruitful exchanges, in particular with the Prosecutor-General's Office, the Office of the Military Prosecutor, the Criminal Investigation Department, the Ministry of Defence and several forensic agencies regarding the status of national investigations, complementarity and cooperation.

The team also visited crime scenes in Tarhouna, including a site where more than 100 bodies had been recovered from graves that were discovered in June of this year. The team met with prosecutorial, investigative and forensic agencies involved in the investigation of such crimes, as well as with external partners who are undertaking related technical and judicial activities.

In addition, the team met survivors and family members of the young men who were injured or killed during the air strike on the Al-Hadba Military College in Tripoli on 4 January 2020, as well as displaced persons from Benghazi and numerous victims of the crimes committed in Tarhouna.

All those positive engagements have enhanced my Office's ongoing efforts to strengthen cooperation with the relevant national authorities and partners on the ground, thereby opening much-needed opportunities for the preservation and the collection of evidence for future prosecutions.

My Office has been impressed with the commendable hard work of all actors in their efforts to preserve relevant evidence of the alleged crimes, working together with the Government of National Accord. As the Office continues and intensifies its investigative activities in Libya, it looks forward to building on the existing rapport and relations towards strengthening a fruitful and collaborative spirit of engagement with the Government of National Unity.

In that regard, I would be remiss if I did not express my gratitude for the excellent cooperation and support that my Office has received, and continues to receive, from the United Nations Support Mission in Libya (UNSMIL). My Office welcomes the appointment of Mr. Ján Kubiš as Special Envoy of the Secretary-General and Head of UNSMIL and looks forward to the continued cooperative relationship that we enjoyed under the able stewardship of Ms. Stephanie Williams, to whom we express our sincere gratitude. Effective justice cannot be achieved without joint efforts and good cooperation with the national authorities and key partners, such as UNSMIL.

My Office remains active in its close monitoring of the situation in Libya. We continue to receive concerning information about ongoing crimes, ranging from disappearances and arbitrary detention to murder, torture and sexual and gender-based violence.

We have collected credible information and evidence regarding serious crimes allegedly committed in official and unofficial detention facilities in Libya. In particular, my Office received information on the Mitiga prison, controlled by the Special Deterrence Force, and the Gernada and Al-Kuweifiya detention facilities, controlled by the militia known as the Libyan Arab Armed Forces, previously called the Libyan National Army, and its associated forces. Those crimes, which include widespread torture, sexual violence, inhumane treatment and arbitrary detention, have been reported for years but, regrettably, to date the perpetrators have not been held accountable.

Further credible reports detail the summary conviction and sentencing of civilians to long prison sentences, including the handing down of the death penalty by military courts in eastern Libya following secret trials devoid of fair trial guarantees. My Office has received documents and other materials supporting those reports.

The scale of those alleged crimes is large. UNSMIL reports that more than 8,850 individuals are arbitrarily detained at 28 official prisons in Libya in judicial police custody, with an estimated 60 to 70 per cent in pretrial detention. An additional 10,000 individuals are detained in other detention facilities run by militias and armed groups, including about 480 women and 63 juveniles and children.

I urge all parties to the conflict in Libya to immediately put an end to the use of detention facilities to mistreat and commit crimes against civilians and persons hors de combat. International law and the Rome Statute prohibit the use of detention facilities in that manner. I reiterate the critical importance for international observers and investigators to be given full access to all detention facilities in Libya and to receive full cooperation in that regard.

I urge the Government of National Unity to take urgent steps to put an end to the crimes committed in detention centres and to fully investigate allegations of arbitrary detention, torture, confiscation of property, rape and other forms of sexual violence, including in prisons and detention facilities.

My Office has also been following reports of the targeting of civilians who dare to voice opposition to the actions of militias in the east and the west of Libya. The violent silencing of public critics as a method to terrorize the civilian population reached another low point with the despicable murder of the human rights lawyer Ms. Hanaan Al-Barassi in Benghazi in November of last year.

My Office condemns such crimes in the strongest possible terms and calls upon the civil and military authorities in Libya to duly investigate and prosecute the persons responsible for those crimes. My Office reiterates its call to the Libyan authorities to fully investigate the disappearance of Ms. Siham Sergewa, an elected member of the House of Representatives, who has been missing since her abduction in Benghazi on 17 July 2019.

In addition, my Office has received concerning information about the activities of mercenaries and foreign fighters in Libya. That information is consistent with the findings of reports of the UNSMIL Panel of Experts on Libya. My Office fully supports the call for those armed groups and individuals to leave Libya without delay. I must emphasize that crimes committed by mercenaries and foreign fighters on Libyan territory may fall under the jurisdiction of the Court, no matter the nationality of the persons involved.

I encourage the Council and all States Members of the United Nations to once again convey a clear and firm message to leaders and commanders, be they military or civilian, and all parties and armed groups involved in the Libya conflict that the rules of international humanitarian law must be respected and that those who defy such rules will be held individually responsible.

Regarding the ongoing victimization of migrants in Libya, my Office has concretely enhanced cooperation, coordination and the exchange of information and expertise with the national authorities and the European Union Agency for Law Enforcement Cooperation under the Office's strategic goal 6 to advance our respective work and investigations. I call on partners to intensify their efforts in that regard with the aim of strengthening our collective efforts in addressing impunity for serious crimes against migrants in Libya.

The recent reports about another shipwreck in the last week of April, leading to the death of more than 100 migrants, as well as reports about the ongoing abuse and exploitation of migrants, underline the urgent need for the national authorities, partners and agencies to intensify their efforts to prevent further tragedies and crimes.

Let me reiterate and emphasize that the failure to execute the ICC warrants remains a major stumbling block, preventing my Office from seeking effective justice for the victims of atrocity crimes committed in Libya. Recently, according to credible reports, two ICC suspects subject to warrants of arrest for crimes committed in Libya died and will never face justice at the Court.

Justice for victims and affected communities in Libya cannot be effectively achieved without our collective efforts towards the timely arrest and surrender of those against whom warrants of arrest have been issued by the Court. There has been no tangible progress in securing the execution of any of those warrants. That is an obligation that falls mainly to States.

Over the years of my reporting to the Council I have lamented the fact that individuals against whom warrants of arrest have been issued remain at large. One of those individuals was Mr. Mahmoud Mustafa Busayf Al-Werfalli, who, as a commander of the Al-Saiqa Brigade, was alleged to have executed 43 civilians, as specified in two arrest warrants. Credible reports indicate that he was killed in Benghazi on the 24 March earlier this year. In addition, Mr. Al-Tuhamy Mohamed Khaled, allegedly responsible for the perpetration of serious crimes, including torture, also reportedly died in Cairo, the Arab Republic of Egypt.

I regret that the victims of the crimes allegedly committed by Mr. Al-Werfalli and Mr. Al-Tuhamy and their families have been denied justice and closure through the Court's fair, independent and impartial judicial proceedings. Much work and resources have gone into the preparation of those cases, and now uncertainty remains. All that could have been prevented had the suspects been duly arrested and transferred to the custody of the Court.

The unwillingness of those in power in eastern Libya to transfer Mr. Al-Werfalli to the Court or to genuinely investigate and prosecute him has contributed to a climate of impunity. The same lack of cooperation is evident with regard to the surrender of Mr. Al-Tuhamy by the Egyptian authorities.

I call on the Libyan and the Egyptian authorities to promptly investigate those reported deaths and to provide the relevant information to the Court. While the deaths of those suspects, if confirmed, will not stop the ongoing investigation of the situation in Libya, they constitute a tragic example of suspected perpetrators escaping accountability for the most serious crimes of concern to the international community.

I must recall that the warrant of arrest for Mr. Saif Al-Islam Al-Qadhafi remains unexecuted. I reiterate that Mr. Al-Qadhafi remains a wilful fugitive from justice. I stress that Libya remains under the legal obligation to arrest and surrender him to the Court. My Office therefore calls upon the Government of National Unity to take all possible action to secure his arrest and surrender. I also repeat the calls addressed by my Office directly to Mr. Al-Qadhafi to immediately surrender himself to the competent Libyan authorities for his transfer to the Court to face trial. Defendants benefit from all due process guarantees at the ICC. Justice delayed is justice denied. ICC warrants of arrest must be executed in a timely fashion.

My Office equally notes the decrease in the number of reported crimes under the Court's jurisdiction since the ceasefire and the inauguration of the new Government. It is nevertheless a matter of concern that many serious crimes, in particular those targeting civilians, have gone unpunished.

My Office has continued to secure cooperation from several States and international and regional organizations, as well as to extend and enhance its existing network of cooperation to achieve meaningful progress in its ongoing investigations. In particular, relations with the European Union Agency for Law Enforcement Cooperation on matters of mutual interest have been enhanced. Fruitful engagements with the Panel of Experts on Libya, as well as the independent fact-finding mission on Libya, have also greatly facilitated the sharing of knowledge and expertise.

Let me conclude with a final reflection. During my mandate I have seen commendable support for the work of my Office and great cooperation from many States and other stakeholders. I would like to take this opportunity to express my

sincere appreciation for that support. At the same time, unfortunately, the Office has faced challenges when the machination of politics has attempted to interfere with the course of justice. Ultimately, wisdom and common values have merged to counter and reverse some of these trends, and for that my Office is equally grateful.

The Court's important work must be allowed to be done unimpeded. We must continue, all of us, to defend this institution, which was built for the sake of present and future generations, and work together towards greater accountability for atrocity crimes and the advancement of the international rule of law and the peaceful settlement of disputes — so central to the founding principles of the United Nations. My Office will continue to deliver its mandate independently and impartially in Libya, as it does in all situations where it has jurisdiction. We look to the support of this body as we undertake this necessary work.

Annex II**Statement by the Deputy Permanent Representative of China to the United Nations, Dai Bing**

[Original: Chinese]

I thank Ms. Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing. I welcome Ambassador Elsonni, Permanent Representative of Libya, to the meeting.

For some time, the parties in Libya have been steadily advancing the political process and actively maintaining the ceasefire. Libya's national reconstruction has entered a new phase. The Security Council adopted resolutions 2570 (2021) and 2571 (2021) not long ago, sending a unified message in support of Libya's political transition and the maintenance of its peace and stability. China appreciates the unity and cooperation of parties in Libya and commends the United Nations and relevant regional organizations for their enormous efforts.

Libya has a long way to go in order to realize lasting peace and security and achieve prosperity and development. The parties in Libya should act expeditiously to unify State institutions, proceed with disarmament and demobilization in an orderly way, actively advance national reconciliation and make good preparations for presidential and parliamentary elections scheduled for the end of the year so as to consolidate hard-won gains in peace.

Under the current circumstances, the United Nations Support Mission in Libya should work in accordance with the mandates of relevant Security Council resolutions and the principles of Libyan ownership and leadership to help parties to monitor the ceasefire and advance political transition.

China supports regional organizations, inter alia, the African Union and the League of Arab States, in playing a bigger, more positive and constructive role.

Foreign fighters and mercenaries in Libya should withdraw without delay, in accordance with the ceasefire agreement and relevant Security Council resolutions. Relevant withdrawals should be carried out in an organized and orderly fashion, so as not to pose a greater threat to regional security.

In conclusion, I wish to reiterate that China's position on Libya-related matters at the ICC remains unchanged.

Annex III**Statement by the Deputy Permanent Representative of Estonia to the United Nations, Gert Auväärt**

I thank Madam Prosecutor for the report and briefing.

At the outset, I would like to reiterate Estonia's unwavering support for the International Criminal Court (ICC) as an independent and impartial judicial institution and an important pillar of the rules-based international order. We continue to call on all States to uphold and defend the principles and values enshrined in the Rome Statute.

We welcome the update provided by the Prosecutor on the progress achieved in the investigations in Libya during the reporting period. We commend the advancements in the activities of the Office of the Prosecutor.

With regard to political developments on the ground, Estonia welcomes the inauguration of a new interim Government of National Unity. We call on all parties to continue the preparations for free, fair and inclusive elections in December this year.

Estonia further welcomes the apparent decrease in violence on the ground. At the same time, we remain worried that many cases of violations of international law, including international human rights law and international humanitarian law, reported in Libya have not been investigated nor prosecuted. We are concerned about reports of ongoing crimes, including disappearances, arbitrary detentions, murder, torture and inhumane treatment, as well as gender-based violence. The reports of violations in places of detention are especially worrisome.

Estonia also remains concerned about crimes against migrants and refugees and notes the ICC's role in assisting national authorities with the prosecution of such cases.

We call on the authorities in eastern Libya to investigate the murder of human rights lawyer Hanan Al-Barassi and bring the perpetrators to justice.

With regard to foreign fighters, we note that crimes committed by mercenaries and foreign fighters on Libyan territory may fall under the jurisdiction of the ICC. We remind the international community to respect the call of Libyan authorities and remove all foreign fighters and mercenaries from Libyan territory.

Estonia expresses gratitude to the former authorities of the Government of National Accord for their cooperation with the Court.

We welcome the Office of the Prosecutor's recent missions to Libya, which strengthen mutual cooperation with national authorities and stakeholders and enhance the collection and preservation of evidence. We would like to stress that full cooperation of the Government of National Unity and all other relevant stakeholders with the Office of the Prosecutor is crucial in achieving accountability for those responsible for Rome Statute crimes. The authorities must ensure that ongoing and future investigations be carried out in accordance with international standards.

Estonia further welcomes the exchange information and expertise between the Office of the Prosecutor and the Panel of Experts, the independent fact-finding mission, the European Union Agency for Law Enforcement Cooperation and the United Nations Support Mission in Libya. We encourage the maintenance of these formats of cooperation and exchange.

As a priority, Estonia remains highly concerned about the fact that so far there have been no tangible results in the implementation of ICC arrest warrants in the Libyan case for the three fugitives — Al-Werfalli, Al-Tuhamy and Al-Qadhafi — all

accused of serious crimes of murder, torture and inhuman and degrading treatment. The execution of these arrest warrants is essential to upholding justice for the victims. In case of death, reliable and credible information of this fact needs to be conveyed to the Court. In case the deaths are verified, this regrettably means that justice delayed has indeed been justice denied. We urge the relevant States to fully cooperate with the ICC in arresting the fugitives and surrendering them to the Court in an effective and timely manner.

Finally, Estonia emphasizes its full support for the work of the ICC and urges all States to promptly and meaningfully cooperate with the International Criminal Court to end impunity and establish justice for the victims in Libya.

Annex IV**Statement by the Minister Counsellor of France to the United Nations, Diarra Dime Labille**

[Original: French]

I thank Prosecutor Bensouda for her report and briefing.

France reaffirms its full support for the International Criminal Court, which must be able to act independently and impartially within the framework defined by the Rome Statute. The Office of the Prosecutor must be able to exercise its prerogatives without hindrance or obstruction. In that regard, we welcome the recent announcement by the United States authorities of the lifting of the sanctions against Ms. Bensouda and Mr. Mochochoko. That decision is excellent news for all those committed to the fight against impunity, multilateralism and an international order based on the rule of law. It should pave the way for a new chapter in the cooperation between the United States and the Court.

With regard to the implementation of resolution 1970 (2011), France recalls that the fight against impunity is one of the key elements in the resolution of the conflict and reconciliation among the Libyan parties. The transitional Government of National Unity has an essential role to play. We look forward to its full cooperation with the Court, as well as with United Nations Support Mission in Libya.

Access to all of Libya's territory must be guaranteed and secure in order to carry out independent, impartial and credible investigations. In that regard, we note with satisfaction the recent missions carried out by the Office of the Prosecutor, including to Tarhouna, where full light must be shed on the atrocities that were committed there.

However, France remains deeply concerned by the non-execution of the arrest warrants issued by the Court. The death of the alleged perpetrators of the most serious crimes cannot be considered justice for the victims. France urges all States, whether or not they are parties to the Rome Statute, to cooperate fully with the Court and the Prosecutor. Fugitives must be brought to justice without further delay. Where the death of fugitives is reported, the States concerned must provide proof of death.

The most serious crimes committed in Libya since 2011 must all be investigated and prosecuted, including crimes committed by Da'esh and crimes against migrants and refugees. We are also deeply concerned about cases of arbitrary detentions and inhumane detention conditions. The enforced disappearances and the sexual violence reported by the Office are equally unacceptable. There should be no doubt that anyone inciting or committing such crimes today is liable to be prosecuted.

The assistance provided to the Office of the Prosecutor by international and regional organizations, as well as by representatives of civil society, is valuable. The increased cooperation between the Court and the Libyan courts, in accordance with the principle of complementarity, must be supported. We also count on the full cooperation of the fact-finding mission established by the Human Rights Council with the Office of the Prosecutor. While prevention efforts cannot replace the work of the judiciary, we recall that several proposals for the imposition of sanctions are under consideration by the Security Council Committee established pursuant to resolution 1970 (2011).

The effectiveness of the fight against impunity will also depend on progress in the political process in Libya. To that end, respect for the ceasefire, the holding of elections on 24 December and the immediate deployment of the monitoring mechanism decided on by the Libyans and the Security Council are crucial. At the

same time, we call for the withdrawal of foreign forces and mercenaries and for strict compliance with the arms embargo.

France will continue to cooperate fully with the International Criminal Court and to mobilize the Security Council to that end. It will also remain mobilized in the search for a political solution in Libya, alongside its European partners and Libya's neighbours.

Annex V**Statement by the Deputy Permanent Representative of India to the United Nations, Ravindra Raguttahalli**

I would like to join others in thanking the Prosecutor, Ms. Fatou Bensouda, for her briefing today.

Let me state, at the outset, that India is not party to the Rome Statute.

I would like the Security Council to recall that when resolution 1970 (2011), concerning Libya, was adopted, India, as a member of the Security Council, India called for a calibrated and gradual approach (see S/PV.6491). However, noting that several members of the Council believed that such a referral to the International Criminal Court (ICC) would have the effect of an immediate cessation of violence and the restoration of calm and stability, we did not stand in the way of consensus in the Council. It has been 10 years since then.

The acquittals in recent years have cast a shadow on the credibility of the ICC. These developments appear to substantiate the view that the ICC mechanism may not serve the purpose of justice when cases or situations are referred to the Court primarily for political reasons.

We are encouraged to note that the ceasefire has largely been holding up, and the new Government of National Unity, charged with leading Libya to elections on 24 December, has been moving ahead with purpose. However, we also note that sources of instability still remain, and spoilers could still hinder the progress towards peace and stability in the country.

It is imperative that the ceasefire agreement of 23 October 2020 be implemented in full. In particular, we note with concern that its provisions on the withdrawal of foreign fighters and mercenaries continue to be violated, posing a serious threat not only to Libya but also to its neighbours and the region as a whole.

India is also concerned about the violations of the arms embargo. Such violations have the potential to cause hindrances in achieving progress in the political process by threatening the security environment.

India has traditionally enjoyed close and mutually beneficial bilateral ties with Libya. We genuinely wish to see enduring peace and stability return to the country, and we remain committed to supporting Libya and the Libyan people in this endeavour. We hope that all efforts by the international community, including the ICC, contribute towards achieving unity, peace, security and stability in the country.

Annex VI**Statement by the Permanent Representative of Ireland to the United Nations, Geraldine Byrne Nason**

I want to thank Prosecutor Bensouda for her briefing and to welcome our colleague Ambassador Elsonni of Libya.

Let me begin by joining the International Criminal Court in welcoming the inauguration of the new interim Government of National Unity, now charged with leading the country to national elections on 24 December, and the signing of the ceasefire agreement. The inauguration of the Government of National Unity provides an opportunity to renew the relationship between the Court and Libya and to pursue accountability and justice, which are critical to securing peace and stability in Libya.

It is clear, having listened to the Prosecutor today, that, for the Court to effectively investigate and prosecute, the cooperation of the Government of National Unity and the Libyan authorities is absolutely essential.

We are encouraged to hear that, in spite of obstacles posed by the coronavirus disease and the security situation, her Office undertook additional missions to Libya during the reporting period. We hope that this signals a strengthening of the Court's relationship with relevant national authorities and stakeholders.

I also want to thank Prosecutor Bensouda for her update on the investigation of the mass graves in Tarhouna. We welcome the Libyan authorities' continued efforts to investigate this issue. Clearly, not only do the families of the victims deserve to have their loved ones' remains identified and returned but they also deserve to see justice done. We strongly urge continued engagement between the Prosecutor's Office and external partners in this important work.

We also appreciate the continued support and assistance the United Nations Support Mission in Libya is providing in assisting the Court's work in the country and also appreciate, in that regard, the cooperation of the European Union Agency for Law Enforcement Cooperation.

In February, it was 10 years since the adoption of resolution 1970 (2011). That is a decade in which not a single International Criminal Court arrest warrant has been executed with respect to the situation in Libya.

We are deeply concerned at the continued lack of cooperation with the Court and we urge all Member States, whether or not party to the Rome Statute, to execute arrest warrants that are outstanding.

As the Prosecutor so aptly stated, the reported deaths of two fugitives lend truth to the maxim that justice delayed is justice denied. This is not accountability and it is certainly not justice for victims. We call on the Libyan and Egyptian authorities to investigate and verify these reports.

In relation to the third fugitive, Mr. Al-Qadhafi, we urge Libya to arrest and surrender him as a matter of urgency so that he can face justice.

Impunity clears the path for the commission of further crimes. Today we see clear evidence of this in the Prosecutor's reports of ongoing crimes, from arbitrary detention and enforced disappearances to murder and torture. Sexual and gender-based violence in Libya, including in detention settings, is also a matter of really deep concern.

Ireland continues to condemn ongoing violence in Libya, including human rights violations and violations of international humanitarian law. We urge all parties to comply with their obligations under international humanitarian law

and international human rights law as they continue to take steps towards the full implementation of the ceasefire agreement.

I want to reiterate Ireland's deep commitment to international criminal justice. We place a particular emphasis on the need to ensure that the victims of the most serious international crimes receive the justice they need and, I would say, the justice they deserve. It was for this reason that, last week, we increased our annual contribution to the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children, so as to ensure that it can fulfil its critically important mandate of making reparative justice a reality.

In conclusion, I want to again thank the Prosecutor for her tireless work to bring perpetrators of atrocity crimes to justice. Our support, my country's support, for the Court and for your her is unwavering. We remain convinced that accountability remains an important step on the road to peace in Libya. We encourage that work to continue.

Annex VII**Statement by the Political Coordinator of Kenya to the United Nations, Jayne Toroitich**

I thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her report and briefing.

We have witnessed the commendable determination of the Libyan people to restore their nation from the ruins of conflict. We look forward to their further progress building on the ceasefire agreement, elections and swearing in of the Government of National Unity, and the continued dialogue.

Kenya supports a Libyan-led and -owned process to entrench peace, security and law and order. A critical element of success is delivering accountability on the basis of the rule of law, which can be a basis for renewed trust in Government.

It is also important that fair treatment be given to the many Africans who have sought to migrate to Europe through Libya. All concerned national and United Nations institutions should immediately secure their safety and offer them humane treatment as a key deliverable of a Libya on the path to sustained success.

Kenya also calls for a surge in national reconciliation as a set of inclusive processes. This is the foundation of a Libyan-led and -owned peace process that leads to a secure Libya governed by a trusted and effective Government. This will call for the activation of social and political reconciliation dialogues, from the grass roots to the highest political levels. In this regard, we welcome the establishment of the High National Reconciliation Commission.

Reconciliation and legal accountability must be delivered in a fashion that is sensitive to the implications of peace and security. That is why the role of national judicial and prosecutorial institutions is so important, since they understand the deeper context and impact of their efforts. For this reason, there must be a strict observation of the principle of complementarity with regard to regional and international judicial instruments, including the International Criminal Court. When complementarity is breached in any way, or its sequence is upset, the result can easily run counter to the Libyan-led and -owned processes that this Council supports. We will continue to encourage Libya to investigate and prosecute suspected grave crimes committed within its territory.

Finally, Kenya calls for all foreign fighters and mercenaries to leave Libya. However, even as they do so, there must be a concerted, resourced and skilled initiative to disarm, demobilize and reintegrate fighters who may exit into other countries in Africa. The capabilities required should be delivered to Libya and concerned countries, and that should include the skills, frameworks and policy development to support for disarmament, demobilization and reintegration.

We also call for the ceasefire agreement to be fully implemented and the arms embargo respected.

Annex VIII**Statement by the Permanent Representative of Mexico to the United Nations, Juan Ramón de la Fuente Ramírez**

[Original: Spanish]

I thank International Criminal Court (ICC) Prosecutor Fatou Bensouda for presenting her twenty-first report on the situation in Libya. We welcome the progress in investigations achieved by her Office. This work will undoubtedly serve as the cornerstone for building successful cases and doing justice by the victims of atrocities committed in Libya.

We also welcome the progress of the Government of National Unity in Libya, the establishment of which was a decisive step towards institutional unification.

We likewise trust that the most recent mission of the ICC to Libya will help improve cooperation with national authorities, in particular in the collection and preservation of evidence. The visit to Tarhouna, despite the prevailing security challenges on the ground, and the meetings with forensics and law-enforcement teams are clear examples of such collaboration. Mexico believes that national investigations in conjunction with the ICC investigation, observing the principle of complementarity, are essential to ending impunity and to preventing future atrocities.

However, we note with concern that arrest warrants for the three persons under investigation remain unexecuted. We urge the authorities of all States involved to redouble their efforts to cooperate with the ICC to execute those warrants. At the same time, despite reports of the deaths of Mr. Al-Werfalli and Mr. Al-Tuhamy, these claims have not been corroborated by official sources, which we hope will be remedied promptly. There is also a need to strengthen cooperation with the ICC in the case of Mr. Saif Al-Islam Al-Qadhafi, to arrest and deliver him to the Court. Beyond contributing to justice, these actions would catalyse progress towards national reconciliation.

My country is also paying close attention to developments with respect to other aspects under ICC investigation, such as the situation in detention centres, cases of secret trials, mercenary activity, and crimes committed against migrants. In this regard, we acknowledge the good cooperation between the ICC and the United Nations Support Mission in Libya towards their shared objective of promoting accountability.

We reiterate that, when it comes to mercenaries and foreign fighters, coordination with countries of origin and a comprehensive disarmament, demobilization and reintegration programme are required, with the aim of preventing negative consequences for other countries of the region.

With regard to crimes committed against migrants and asylum seekers, we welcome the cooperation between the ICC and the European Union Agency for Law Enforcement Cooperation. We call on the various national authorities to investigate and punish such abuses, which also claim hundreds of lives.

In conclusion, we again welcome the decision of the United States to lift the sanctions imposed against the Prosecutor and other officials of the ICC, which will all them to continue their work unimpeded. In closing, I reaffirm Mexico's support for the work and the mission of the Court.

Annex IX**Statement by the Permanent Representative of the Niger to the United Nations, Abdou Abarry**

[Original: French]

I welcome the holding of this briefing on the twenty-first biannual report on the activities of the International Criminal Court (ICC) in Libya. Since this will be the last such report presented to us by Prosecutor Fatou Bensouda, I would like to take this opportunity to commend her leadership as ICC Prosecutor and her commitment to the fight against impunity. The fight against impunity must, in Libya as everywhere else, be an integral part of national reconciliation and sustainable peace processes.

I therefore reiterate my delegation's call on the Security Council, the Libyan authorities and States, whether party to the Rome Statute or not, as well as regional and international organizations to comply with resolution 1970 (2011) by supporting and cooperating with the ICC in the context of the execution of arrest warrants concerning the situation in Libya.

The Niger also commends the Office of the Prosecutor for the significant progress achieved in the investigations carried out since its last report to the Council, in November 2020 (see S/2020/1108), and encourages it to continue collaborating with the Government of National Unity with a view to mitigating the difficulties it has encountered.

Only by further strengthening cooperation and partnership among the Office of the Prosecutor, the Government of National Unity, stakeholders and the international community will it be possible to hold the perpetrators of crimes covered by the Rome Statute to account.

Moreover, my delegation welcomes the decrease, as recalled in the report before us, in the number of crimes relevant to the Rome Statute since the entry into force of the ceasefire and the establishment of the new Government in Libya.

We urge and encourage the Libyan authorities to launch investigations into the acts of torture, inhumane treatment and sexual and gender-based crimes whose victims are mentioned in the report, and into the crimes committed in Mitiga prison, in Gernada and in Al-Kuweifiya as well as in many other detention centres under their authority — not only to end such violations but also to punish these responsible and do justice by the victims. This applies, too, to the victims of air strikes and landmines, those who have been kidnapped or tortured, and missing persons.

My delegation cannot but echo the concerns of the Office when individuals suspected of having committed war crimes, crimes against humanity and other serious crimes evade justice as we are well aware of resultant risks and consequences, including in neighbouring countries.

We encourage the new Government to step up cooperation with the Office so that the aforementioned crimes committed in Libya are investigated and prosecuted by the competent Libyan courts.

I would like to commend the efforts of the Office in carrying out several missions to Libya, interviewing witnesses and collecting important documents and contributions from individuals, non-governmental organizations and representatives of victims' organizations — all actions that could build evidence that could facilitate the activities of the Office.

In addition, we commend the members of the Office who, during their last mission to Libya, held talks on the status of national investigations with relevant

Libyan authorities and several legal-medical bodies, visited several crime scenes in the Tarhouna area and met survivors and family members of those from Benghazi who were displaced or killed. This situation will undoubtedly make it possible to preserve and collect important evidence and constitutes a step forward with regard to questions of complementarity and cooperation with the Libyan authorities.

Given the credible reports mentioned in the report and allegations by the United Nations Support Mission in Libya (UNSMIL), we note the conviction — often arbitrary — of civilians, including women and children, to long prison sentences or even the use of the death penalty in official Libyan prisons and in other centres run by militias and armed groups. We recall, in this regard, that all sentences must be pronounced at public trials that uphold fair trial guarantees for defendants.

My delegation has taken note of the information received by the Office relating to the activities of mercenaries and foreign fighters in Libya — which we deplore and condemn — and recalls that, should these cases be verified, the persons involved must answer for their actions before the ICC. In this regard, we reiterate the call on armed individuals and groups by the new Libyan authorities, UNSMIL and the Security Council to withdraw from Libya immediately.

We note, as in previous reports, the continued perpetration of crimes against migrants through human trafficking driven by the conflict in Libya. To that end, we encourage the Office to continue to strengthen cooperation, coordination and the exchange of information and expertise with the Libyan authorities and the European Union Agency for Law Enforcement Cooperation on crimes committed against migrants, namely the mistreatment and exploitation of which they are victims.

In conclusion, it is undeniable that the departure of foreign mercenaries, who are a source of instability not only in Libya but also in neighbouring countries, in addition to the organization of free and transparent elections in December 2021, could ensure stability in order to establish a State governed by the rule of law that can guarantee justice for all.

In conclusion, my delegation would like to reiterate its congratulations to Prosecutor Bensouda and her Office for their dedication in the fight against impunity, the establishment of the rule of law and the deterrence of further crimes in Libya.

Annex X**Statement by the Permanent Representative of Norway to the United Nations, Mona Juul**

Norway would like to thank Prosecutor Bensouda for today's briefing. Norway has been a staunch supporter of the International Criminal Court (ICC) from the beginning. The mission of the ICC remains as crucial as ever.

Norway lends its full support to the political process in Libya, including the upcoming elections in December. It is a positive sign that the ceasefire is still holding, but it is fragile. We look forward to the deployment of the ceasefire monitoring mechanism. We reiterate our call for armed groups to leave the country, as the Libyans themselves decided in the ceasefire agreement from October 2020. Norway notes the decline in crimes since the ceasefire and the inauguration of the new interim Government of National Unity.

However, we remain deeply concerned by reports of ongoing crimes, including murder, enforced disappearances, arbitrary detention in official and unofficial centres, torture and sexual and gender-based violence. Summary sentencing and convictions in secret trials without access to a fair trial has to end. We urge the Government to investigate and prosecute those responsible without delay and fully cooperate with the ICC. Addressing impunity is critical to sustainable peace, stability and reconciliation. Norway welcomes the progress made by the ICC during the reporting period.

We call on the Libyan authorities to provide access to detention centres and other sites where there is suspicion of serious crimes having been committed. Norway is concerned by the use of sexual violence in Libya, as reported by the Prosecutor. Preventing and responding to conflict-related sexual and gender-based violence is a priority in all our peace and security efforts. We should utilize sanctions, where relevant and appropriate, to counter such heinous acts.

It is troubling and highly regrettable that the three arrest warrants issued by the Court have still not been executed. We note reports that one or two of the individuals named may be deceased, and support the Prosecutor's call for efforts to clarify the facts. We urge all States to ensure that those wanted by the Court are surrendered.

The Council cannot remain indifferent to the lack of cooperation reported by the Prosecutor. The Council must assume its responsibilities and consider every possible measure to support the Court. Finally, let me reiterate that Norway welcomes the decision by the United States to lift sanctions against ICC officials. We look forward to continued cooperation with the Court and all Council members in promoting accountability for mass atrocities.

Finally, as it is Ms. Bensouda's last briefing to the Council on Libya, we would like to express our deepest appreciation to her for her tireless efforts on this file. We look forward to seeing her again in the Council in June for the Darfur briefing.

Annex XI**Statement by the Deputy Permanent Representative of the Russian Federation to the United Nations, Gennady Kuzmin**

[Original: Russian]

We are glad to see significant progress on the Libyan political settlement track. We welcome the establishment of new authorities for the transitional period — the Presidential Council and the Government of National Unity. We hope that the new executive bodies will be able to unite State structures and institutions, as well as the armed forces. The successful completion of those tasks would create all the necessary conditions for the constitutional referendum and general elections, scheduled for 24 December.

We learn from the twenty-first report that the Office of the Prosecutor of the International Criminal Court (ICC) started to tackle the issue of the Libyan National Army, while still turning a blind eye to the crimes of those who once plunged the country into chaos. For some reason, the ICC is uninterested in the numerous human casualties resulting from NATO air strikes. Even when investigating high-priority cases, as designated by the Office, the prosecutors settle for information obtained from private individuals and non-governmental organizations.

The most important thing now is to commit to overcoming the deep internal political crisis in Libya, ensure national unity with due consideration for the interests of all segments of Libyan society. We do not think the activity of the ICC is helpful in that regard.

Annex XII

Statement by the Second Deputy Permanent Representative of Saint Vincent and the Grenadines to the United Nations, Halimah DeShong

This year marks the tenth anniversary since the august Security Council referred the situation in Libya to the Prosecutor of the International Criminal Court (ICC), and we acknowledge the significant progress achieved.

Saint Vincent and the Grenadines expresses its appreciation to Prosecutor Bensouda for the detailed presentation of her twenty-first report to the Security Council pursuant to resolution 1970 (2011).

As a critical component of our multilateral system, the ICC remains a bastion of hope and justice, and is integral to Libya's transformation. Cooperation is a central tenet of the Rome Statute, and State parties are required to fulfil their obligations under international law. More specifically, resolution 1970 (2011) obliges all members of the United Nations to cooperate with the ICC on Libya.

Accordingly, we recognize the groundwork laid between the Government of National Accord and the ICC, but stress that we cannot afford to lose any momentum under the new Government of National Unity. The circumstances in Libya are now propitious to strengthen cooperation between these two parties. We therefore look forward to their enhanced cooperation to ensure that the ICC can fully and effectively discharge its mandate.

Of equal importance is the principle of complementarity. It is important to emphasize that the ICC's jurisdiction is only invoked when States are unable or unwilling to prosecute those accused of committing the most serious crimes of concern to the international community.

We are therefore concerned that several of the ICC's arrest warrants remain outstanding. It is imperative that State and non-State parties assist in apprehending, or securing the surrender of, ICC fugitives so that they are brought to justice. Likewise, it is essential that the reported deaths of Mr. Mahmoud Mustafa Busayf Al-Werfalli and Mr. Al-Tuhamy Mohamed Khaled be verified. With cases unresolved, the atrocities they represent remain a gaping wound in the collective consciousness of Libyans, and must be healed.

Although Libyans have set their gaze on new horizons, commencing with general elections on 24 December, the Government of National Unity still has an arduous task ahead, including, inter alia, addressing security shortcomings, treating the coronavirus disease pandemic, fully implementing the ceasefire agreement, unifying institutions and confronting the dire humanitarian and human rights situation. In this connection, the specific concerns of displaced persons, refugees and migrants, especially those in detention centres, must be prioritized.

Libya can benefit tremendously from the experiences of the ICC to assist in building a robust national justice system, as the *raison d'être* of this Organization is justice for all victims. After witnessing the devastation Libya endured during the last decade, there ought to be no doubt of the critical role of the ICC in its objective of ending impunity, protecting human rights and bringing justice and reparations to the victims.

Perpetrators of heinous crimes must not continue to enjoy impunity, and we must all aspire to ensure that justice remains the cornerstone of all democracies. To this end, we repeat our call for non-State parties to subscribe to the Rome Statute and for State and non-State parties alike to fully respect their international obligations as enshrined in the Charter of the United Nations.

Saint Vincent and the Grenadines stands committed to the Libyan peace process and reaffirms its support for the United Nations multitrack process, including the efforts of the United Nations Support Mission in Libya and all other constructive initiatives that aim to bring about lasting peace and stability throughout the country.

Annex XIII**Statement by the Permanent Representative of Tunisia to the United Nations, Tarek Ladeb**

[Original: Arabic]

I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her valuable briefing and for the twenty-first report of her Office pursuant to resolution 1970 (2011). I also welcome the Permanent Representative of Libya to this meeting.

Tunisia welcomes the recent political developments in neighbouring Libya during the reporting period, namely, the installation, under United Nations auspices, of an interim Government of National Unity and the agreement to hold free and fair national elections at the end of this year.

My country is heartened by recent indications that the restoration of stability is on the horizon in Libya, with the incidence of violence and the most serious crimes in the country on the wane. In that regard, we stress that it is imperative for all Libyan and international parties to work to restore overall calm in Libya, in particular by respecting and supporting the full implementation of the ceasefire agreement, including the withdrawal of all foreign forces and mercenaries from Libya, and by complying with the arms embargo. We are optimistic that this positive climate will contribute to creating the conditions for accountability and inclusive Libyan national reconciliation in the context of national unity and political and intercommunal harmony.

Tunisia supports the mandate of the Prosecutor and her Office in the context of the situation in Libya. In that regard, we note with satisfaction the ongoing field investigations being conducted by the Office of the Prosecutor in accordance with resolution 1970 (2011). We have also taken note of information circulating concerning the deaths of Mahmoud Mustafa Busayf Al-Werfalli and Al-Tuhamy Mohamed Khaled, for whom the Court had issued arrest warrants. We look forward to continued coordination and cooperation between the Court and all the parties concerned to verify the alleged deaths and uncover their causes and circumstances. We hope that the Court's activity in Libya will reinforce the principles of complementarity and cooperation underlying the Rome Statute in a manner consistent with the demands of the political transition in Libya, so that peace and justice can be mutually reinforcing, on the basis of the relevant Security Council products and the Rome Statute.

Efforts to ensure accountability for international crimes committed in Libya should focus on dialogue and empower Libyan domestic procedures. We stress that meaningful interaction in this area between the Court and the Libyan authorities is possible if it is based on joint coordination, constructive engagement and concerted efforts to effectively investigate and prosecute persons implicated in serious crimes.

The challenges of obtaining solid and reliable evidence in order to address allegations of grave crimes committed in Libya in an effective manner underscore just how important it is to build the capacities of Libyan agencies in various relevant areas, as well as to promote Libya leadership and ownership, thereby contributing to strengthening the rule of law in Libya and building peace in a way that genuinely reflects the principles of cooperation and complementarity enshrined in the Rome Statute.

Annex XIV**Statement by the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations**

I would like to offer my thanks to the Prosecutor, Ms. Bensouda, for briefing us today on her twenty-first report on the situation in Libya.

I welcome recent political progress in Libya, including the appointment of the interim Government of National Unity. As noted in resolution 2570 (2021), this Government is charged with making the necessary preparations for inclusive, transparent and credible national presidential and parliamentary elections on 24 December 2021. As part of the process towards securing a sustainable political settlement, the Government of National Unity must start the process of national reconciliation and provide accountability and justice for atrocity crimes, and I encourage the Government of National Unity to work with the Office of the Prosecutor to achieve these goals and to facilitate the work of the United Nations Independent Fact-Finding Mission on Libya.

However, despite this progress, we remain gravely concerned by continuing reports of human rights violations and abuses. The United Kingdom fully endorses the Office of the Prosecutor's call for the withdrawal of all foreign forces and mercenaries from Libya without delay, and that crimes committed by those foreign forces and mercenaries could fall under the jurisdiction of the International Criminal Court (ICC). The United Kingdom condemns the violence perpetrated by Libyans and foreign forces and mercenaries, particularly against civilians.

Despite the October 2020 ceasefire agreement, the Prosecutor notes continued indiscriminate attacks against civilians, including the assassination of activists and human rights defenders. The United Kingdom condemns the deplorable killing of lawyer Hanan Al-Barassi on 10 November in Benghazi and calls for a full, immediate and transparent investigation, in cooperation with the United Nations Fact-Finding Mission on Libya. We also call for better protection of women human rights defenders in particular.

The security and justice sector remains dysfunctional. Both the Prosecutor and human rights organizations have continued to document evidence of the widespread use of violence by militias against refugees and migrants, including torture, physical violence, gender-based violence, forced labour, deprivation of food and water and the murder of detainees.

I urge the Government of National Unity to take note of the Prosecutor's report and put an end to crimes committed in detention centres and investigate crimes committed at the Mitiga prison and the Gernada detention facility. The Government of National Unity must also investigate and address violence against women and girls, including the fates of the female detainees at Al-Kuweifya detention centre, which remain unknown.

The United Kingdom is clear that civilians must be protected in conflict and that those responsible for violations of international law must be held to account. We are deeply shocked by the continuing discovery of mass graves in Tarhouna and southern Tripoli reportedly linked to abductions and killings allegedly committed by the Al-Kaniyat militia, which the United Kingdom designated on its Libya sanctions regime on 13 May. I encourage the Government of National Unity to take all possible actions to hold those responsible to account.

We thank the Prosecutor for her update on the cases against Mr. Al-Qadhafi, Mr. Al-Werfalli and Mr. Khaled. The alleged killing of Mr. Al-Werfalli before he was brought to justice only highlights the ongoing atmosphere of impunity in Libya. The

Libyan authorities must investigate the alleged deaths of Mr. Al-Werfalli and Mr. Khaled, but also take the necessary action to arrest and surrender Mr. Al-Qaddafi to the Court. We reiterate our call on all relevant States, including States parties to the Rome Statute and non-States parties, to cooperate with the ICC in the arrest and surrender of individuals against whom warrants have been issued.

The United Kingdom is committed to providing our full support in the Prosecutor's ongoing investigations in Libya, which are all the more important at this crucial time in the political process.

Annex XV**Statement by the Acting Alternate Representative for Special Political Affairs of the United States of America to the United Nations, Jeffrey DeLaurentis**

I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her twenty-first briefing to the Security Council on the Court's work on the situation in Libya.

As Prosecutor Bensouda prepares to end her term, the United States commends her efforts since the adoption of resolution 1970 (2011) to investigate and prosecute those responsible for the heinous atrocities committed against the Libyan people. Let me start by noting the important and necessary step that President Biden took in lifting the sanctions previously imposed on her and her colleague, Phakiso Mochochoko. Those sanctions were inappropriate. As United States Secretary of State Blinken said, the concerns of the United States with the ICC would be better addressed through engagement with all stakeholders in the ICC process. For our part, we hope this can help us return to a time of cooperation between the United States and the ICC. After all, justice, accountability and the rule of law are values we share, and we believe that they are advanced by engaging with the rest of the world. That brings me to today's topic — the ICC's investigation into the situation in Libya.

First, let us start with the investigations themselves. The United States Government is deeply alarmed about reports of continued atrocities and other human rights abuses in Libya, such as arbitrary killings, indiscriminate air strikes, enforced disappearances, torture, unlawful detention and sexual and gender-based violence. We need to document those abuses and do something about them. We therefore strongly support the Human Rights Council's creation of an international fact-finding mission to do just that. That mission must be granted full access throughout Libya.

The discovery of mass graves in Tarhouna — reportedly containing the remains of more than 100 men, women and children — horrified the world. We thank the ICC, the United Nations and national authorities for cooperating in sending an investigative team to inspect and investigate these mass graves. We support continued efforts to investigate and exhume these mass graves and to collect and preserve evidence for use in future prosecutions, as well as other potential Council actions in that regard.

Now, let us talk about justice. Former senior officials of the Al-Qadhafi regime who are subject to ICC arrest warrants for charges of war crimes and crimes against humanity must face justice. The perpetrators of serious human rights violations, war crimes and crimes against humanity must not be allowed to continue to inflict misery, violence and turmoil. As such, any individual, group or country providing protection and refuge to those individuals should and must immediately alert and otherwise facilitate their transfer to the appropriate authorities.

Furthermore, we urge the Council to take overdue action on designating malign actors. Libyan armed groups and security forces on all sides stand accused of perpetrating and enabling human rights abuses. Specifically, the United States has nominated Mohammed Al-Kani and the Al-Kaniyat militia to the Security Council Committee established pursuant to resolution 1970 (2011), concerning Libya, for gross human rights abuses, including disappearances, torture and killings. The horrific mass graves I just mentioned offer clear evidence of their crimes. Those designations would send a strong message by the Security Council for Libyan authorities and the international community to take action against human rights abusers and end the culture of impunity in Libya that has fuelled the conflict.

Victims and survivors deserve justice. Accountability would deliver a powerful deterrent message to those who bear responsibility for atrocities and other human rights abuses — that such actions will not be tolerated.

Finally, let us discuss how we can promote peace and security in Libya. As the Libyans have made clear — and the Council has unanimously affirmed — external actors involved in this conflict, including foreign forces and mercenaries, must cease their military interventions and withdraw from Libya immediately. Further, all external military support inconsistent with the United Nations arms embargo must end. That includes the training and financing of mercenaries, proxy forces and armed groups. The recent violent instability in Chad underscores the dangers foreign mercenaries pose — not just to Libya, but to the wider region.

The ICC's work in Libya is a critical element of our international commitment to accountability, peace and security. To achieve these goals in Libya, the appropriate mechanisms, including international, hybrid and domestic courts, need to deliver for victims of atrocities. We will continue to support the ICC's investigations and contributions, which we hope will help bring true justice to the people of Libya.

Annex XVI**Statement by the Deputy Permanent Representative of Viet Nam to the United Nations, Hai Anh Pham**

At the outset, I welcome Ms. Fatou Bensouda, Prosecutor of the International Criminal Court and Ambassador Taher Elsonni, Permanent Representative of Libya, to this meeting.

At today's briefing, Viet Nam wishes to stress three points.

First, we warmly welcome the continued positive developments since the beginning of 2021 in the political and security fronts in Libya. It is crucial to seize this window of opportunity to achieve lasting and sustainable peace in the country.

In that regard, Viet Nam calls on the Government of National Unity of Libya to put forward its best efforts to facilitate the transitional period and make all necessary preparations for the holding of national elections later this year, in line with the agreed road map.

It is equally important to fully implement the provisions of the 23 October 2020 ceasefire agreement. We look forward to the work of the United Nations Support Mission in Libya in support of the Libyan-led and -owned ceasefire monitoring mechanism and in preparation for elections. At the same time, the United Nations arms embargo related to Libya must continue to be strictly upheld.

Secondly, it is essential to continue to improve the economic and humanitarian situation in Libya. Despite the progress achieved so far, more than 1.3 million people in the country are still in need of humanitarian assistance. We are also concerned about the various challenges that vulnerable groups — particularly women, children and migrants — are facing.

The United Nations and international partners must continue to provide support for Libya in that regard. Furthermore, Viet Nam continues to call for strengthened efforts in protecting civilians from risks of explosive remnants of war in Libya.

Thirdly, we take note of Prosecutor Bensouda's updated report pursuant to resolution 1970 (2011).

At the same time, we would like to reiterate our consistent position that each State bears the primary responsibility for the implementation of international humanitarian law and the prevention and suppression of serious criminal acts, such as crimes of aggression, war crimes and crimes against humanity. The establishment of accountability for violations of international humanitarian law and serious criminal acts shall be conducted in accordance with the fundamental principles of international law, including respect for each State's independence and sovereignty.

Annex XVII**Statement by the Permanent Representative of Libya to the United Nations, Taher Elsonni**

[Original: Arabic]

At the outset, I should like to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month and to wish you every success in your endeavours. I also wish to thank Ms. Fatou Bensouda for her report and briefing today.

Positive developments in Libya over the recent period have resulted in the establishment of a unified executive authority, ending the crisis of legitimacy that for years had been one of the primary causes of the conflict. One of the key priorities of this new political arrangement has been to provide the country with leadership in the run-up to the presidential and parliamentary elections scheduled for the end of this year. We hope that the international community will intensify its efforts to make the elections a success, thereby enabling the country to attain stability and allowing the values of liberty, justice and the rule of law to take root.

There is no doubt that the Libyan people is determined to build a modern civil State, the country's extraordinary circumstances at present notwithstanding. The principle of accountability can take root only once an inclusive national reconciliation process is under way. That process must begin with delivering justice, uncovering the truth, fostering openness and making reparations. As we all know, those steps are the building blocks of transitional justice. Without them, it will be impossible to turn the painful page on the past decade of suffering endured by the Libyan people.

In that context, in the spirit of forgiveness and reconciliation, which the Government has been attempting to foster, the Ministry of Justice announced a few days ago that tangible steps would be taken to release persons being held in detention facilities. To date, 78 detainees have been released, and a prisoner exchange was conducted just a few days ago under the auspices of the 5+5 Joint Military Commission. Efforts are being made throughout Libya to secure the prompt and unconditional release of wrongfully imprisoned citizens in respect of whom no charges have been brought or arrest warrants issued, or who have been proven innocent.

We reaffirm that the national judiciary has a mandate to prosecute all defendants, in accordance with the Libyan penal code and the sovereignty of Libya over its territory and citizenry. The Libyan judiciary is committed to guaranteeing all defendants a fair trial. We in Libya regard the role of the International Criminal Court (ICC) in delivering justice and preventing impunity to be a complementary one, especially with regard to persons outside State jurisdiction. Therefore, we hope that all States will cooperate with the Libyan judicial authorities to conduct the necessary investigations and assist in handing over wanted persons to the national justice system. In that connection, we welcome the cooperation between the Office of the Attorney General of Libya and the Office of the Prosecutor of the International Criminal Court.

We agree with what Ms. Bensouda has noted in her various reports regarding the occurrence of numerous human rights violations, war crimes and crimes against humanity in certain areas of Libya, including arbitrary detentions, enforced disappearances, secret prisons, extrajudicial military trials, human trafficking and mass graves discovered after the recent war on Tripoli and its environs. We are still awaiting the results of investigations conducted by the ICC team that visited Libya recently and the identification of the persons implicated in those grave violations,

which were perpetrated for manifold reasons, including political or regional motives or, in the case of armed groups or mercenaries, criminal motives.

In that connection, it is important to note that, while some criminals may be benefiting from conditions as they are now, they will ultimately be held accountable because there is no statute of limitations on those crimes. I assure the Council that the Libyan authorities are committed to delivering justice to the victims and their families and to protecting all Libyan citizens and foreign nationals on Libyan soil. In that regard, we wish to stress that the Libyan State is determined to protect illegal migrants from any violations that they might be exposed to as a result of the ongoing crisis. In spite of all the challenges, we are doing everything in our power to protect and rescue them and return them to their countries whenever possible. However, we must also note that, while we welcome cooperation with specialized international humanitarian organizations, we will under no circumstance accept attempts by certain countries to create or impose conditions that would establish the principle of asylum and settlement, in contravention of domestic laws and legislation. In order to solve this problem, we ask the International Criminal Court to also prosecute human traffickers, smugglers and their cross-border networks in Africa and Europe, not just persons involved inside Libya.

Without a doubt, we must bring to fruition the consolidation of State institutions and the reform and development of the judicial system in order to tackle the challenges I mentioned. In turn, that will require Government support and a stable country. Most important, all kinds of foreign intervention must come to an end. Understanding and support from the Security Council and the international community for the will and national decisions of Libyans will certainly contribute significantly to achieving justice and reconciliation and building a State of institutions that is governed by the rule of law.

Lastly, against the backdrop of our discussion of justice and human rights, although the situation in Libya is the subject of today's meeting, we can never lose sight of the tragic situation that our brethren are currently enduring in Palestine. We, the Government and the people of Libya, take this opportunity to condemn in the strongest terms attacks on the Palestinian people by the occupying forces, starting with the incidents in the neighbourhood of Shaykh Jarrah and the eviction of families from their homes, and including the attack on worshipers in the Al-Aqsa Mosque, the desecration of holy sites during the blessed month of Ramadan and the subsequent savage bombardment of the Gaza Strip, which continues to this day and which has claimed dozens of innocent lives, including among women and children.

We therefore call on the Security Council to take practical and effective measures to put an immediate end to these attacks and to abandon a policy of double standards that equates the aggressor with the people being attacked and forgets who is the perpetrator and who is the victim. That policy is what has caused many to despair of finding a peaceful solution to the crisis and made the principle of self-defence the monopoly of only one party, no matter what violations it commits.

We stress that, whatever the magnitude of the crisis my country is facing, and no matter what internal differences we may have, the Libyan people will always be united in its agreement that the question of Palestine is the fundamental issue, that the Palestinian cause is just and that the rights of the Palestinian people must be restored to that people's satisfaction, with the establishment of an independent State of Palestine with Jerusalem as its capital. There can be no peace without justice.