



# Security Council

Seventy-sixth year

## 8911<sup>th</sup> meeting

Tuesday, 23 November 2021, 3 p.m.

New York

*Provisional*

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*President:* Mr. De la Fuente Ramírez . . . . . (Mexico)

*Members:*

China . . . . .	Mr. Dai Bing
Estonia . . . . .	Mr. Jürgenson
France . . . . .	Mr. Fodda
India . . . . .	Mr. Singh
Ireland . . . . .	Ms. Byrne Nason
Kenya . . . . .	Mr. Kimani/Ms. Kinyungu
Niger . . . . .	Mr. Abarry
Norway . . . . .	Mr. Kvalheim
Russian Federation . . . . .	Mr. Kuzmin
Saint Vincent and the Grenadines . . . . .	Mr. Bynoe
Tunisia . . . . .	Mr. Cherif
United Kingdom of Great Britain and Northern Ireland . . . . .	Mr. Wickremasinghe
United States of America . . . . .	Mr. DeLaurentis
Viet Nam . . . . .	Mr. Pham

### Agenda

The situation in Libya

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*The meeting was called to order at 3.05 p.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

### **The situation in Libya**

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

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

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

I now give the floor to Prosecutor Khan.

**Mr. Khan:** It is a singular honour to brief the Security Council on this occasion, which is my first opportunity to do so in my new role as Prosecutor of the International Criminal Court (ICC). I present the twenty-second report that has been presented before this organ since resolution 1970 (2011) was adopted in 2011. It is also a pleasure because this is the first face-to-face briefing that the Prosecutor of the ICC has had with the Council in the past two years, due to the strictures of the pandemic.

I think it is only right and proper, with your leave Mr. President, that because this is my first report as Prosecutor, perhaps I may be indulged to say a little bit about my vision. It is a vision in which the relationship with the Council plays a very important part. We live, we say, in the age of reason, the age of man, the age of science in which remarkable battles are done against invisible foes. The coronavirus disease (COVID-19) pandemic is but one example of that. Harnessing collective effort, sharing knowledge, working with purpose shows that amazing things can happen and that lives can be saved. Despite that proven, demonstrable reality, we unfortunately are in a somewhat miserable state when it comes to the continuous violations that so many of our brothers, sisters and children suffer as we speak.

I have hope that the Rome Statute system and the Office that I lead can help to ensure that the tomorrows of our children are better than the yesterdays of so many

of our fellow members of humankind. That message is one that needs to be translated into action. My view is that the Rome Statute principles echo the principles of the Charter of the United Nations. This organ — and the Council knows this far better than I — has a very serious and unique role in the firmament of public international law in terms of international peace and security, not only being a principal organ of the United Nations but having the primary responsibility for maintaining international peace and security.

The Council has acted on notable occasions to ensure that the value of human life is not viewed as some tradable commodity and that impunity will not be committed with abandon. The referrals that the Council has made in the situation of Libya is one example of that action. I look forward to ever-more constructive dialogue with the Council, and I believe quite sincerely and quite practically — not as some theoretical possibility — that there can be a convergence between the Council's own responsibilities under the United Nations Charter and the principles of the Rome Statute to ensure that no safe haven is given for war crimes, crimes against humanity or genocide.

I was sworn in on 16 June; I have barely been in the post for five months. When I was sworn in, I emphasized something that is obvious; however, sometimes the obvious is forgotten. The Rome Statute system that creates the ICC is not the property of Italy, or of Europe or of the West. The values of the Rome Statute belong to humankind everywhere. It is a large family to which every single member of the Council belongs. It is not something that is the sole preserve of States parties. It is owned as much, in my view, by non-State parties as well, should they wish to take ownership of something they already have. It is not the preserve of the common law system or the civil law system or the Islamic law system, but of all traditions of the East and of the West. I think, by any common-sense analysis, this body of law, this joint quest to narrow impunity for genocide, crimes against humanity and war crimes, must be a cause that can bring us closer together, instead of driving us further apart.

The success of my mandate requires support from the Council and from Member States, States parties and non-States parties alike. I am going to be looking at new, imaginative ways of embracing regional organizations and international organizations to share the burden and to do better in the discharge of our human, moral as well as legal responsibilities in relation to the categories

of crime that I have mentioned. I commit today to the Council to use my best endeavours to work towards broader inclusivity in terms of the Rome Statute system and the principles that are owned by Council members. I believe that by doing that we can also foster reconciliation. We can enhance stability and security, not only of nations but of regions. But we can do that only if we work together.

During my term of office as Prosecutor, I am going to give renewed purpose to the principle of complementarity, working with States and allowing States to step up. It is not a favour; the Rome Statute makes it clear that national authorities have primacy. It is in black and white. National authorities have the fundamental right and also the essential responsibility to make sure that these types of crimes are declared illegal — going as far back as the Nuremberg principles, which all permanent members of the Council adhered to. It presents an opportunity to move things forward.

Turning now to Libya, I emphasize again that the Security Council referrals are a priority for me. Perhaps it was the case that over a period of time the scarce resources of the Office were spread too thin. In my view, when the Council acts, we should work in accordance with the Rome Statute to prioritize the matters referred to us by the Council, given its own responsibilities. Of course, we will independently and impartially review the evidence without any view of politics or other agendas. However, in my view, the referrals deserve to be prioritized. In relation to all the inventory before the Office, I have asked that we review those matters. That includes the Security Council referrals that are before the Court: Libya and the Sudan. I hope in my next report that I will be able to set out clear objectives and a road map that would give clarity on these important matters and that would help to more transparently and clearly communicate what the plan is, what we are hoping to do and how we hope to achieve it.

I should also emphasize that, upon assuming office, cognizant of my own responsibilities under the Rome Statute and my ethical obligations under article 42, paragraph 6, of the Rome Statute, I recused myself from any case or situation where there may be an appearance of lack of impartiality, and that includes the case of Mr. Saif Al-Islam Al-Qadhafi. I will therefore refer all Council members to the written report submitted, which deals with those matters. Those cases have been completely handled by my Deputy, Mr. James Stewart, and not by me.

This reporting period has been a challenging time due to COVID-19 as well as due to the security situation in Libya. It has not been easy, and the team has not been able to travel physically to Libya. I had a good meeting with His Excellency Mr. Taher Elsonni, Permanent Representative of Libya, yesterday. I hope and pray that it will be the first of many such meetings, because we need to work together. We need to speak openly and candidly regarding the obvious problem of lack of security and the crimes that merited the Council's referral of matters to the ICC. Conditions permitting, I intend to go to Libya early next year. I would like to engage further with the Government of Libya, but also other stakeholders. That conversation will inform the objectives and the understanding that will be presented to the Council in my next report. There needs to be an open dialogue, and I think that will also be an extremely important part.

Despite the difficulties of the security situation and the challenges within Libya, progress has been made: interviews have taken place; missions have been conducted by members of my Office to different countries; various documents and evidentiary material have been collected, and there has been dialogue with different domestic law enforcement entities. The Office has also taken steps to further confirm, or to try to further verify, reports of the deaths of two suspects, namely, Mr. Mahmoud Mustafa Busayf Al-Werfalli and Mr. Al-Tuhamy Mohamed Khaled. I take this opportunity to ask the representative of Libya for further help and assistance, as well as Council members. If we can verify the exact status of those two individuals, we can take the necessary action of informing the Judges of the International Criminal Court.

We continue to investigate. The simple but unfortunate truth is that, since the situation was referred in 2011, cogent and coherent allegations continue to arise from that ancient land. The plight of women, children and men is something that requires greater action. That requires renewed focus from my Office. I accept that. It requires an acceleration and more demonstrable utility of the Office of the Prosecutor. But it also requires — with the greatest of respect — more engagement and more support from this organ, which referred the matter to the Office of the Prosecutor in the first place.

In this period, we also looked further into the attacks on Tripoli in April 2019, including those related to the Tarhouna mass graves. We have been looking at

the detention facilities in Libya and have a stream of information on both official and non-official detention sites, with allegations ranging from rape, torture and mistreatment to sexual and gender-based violence. There have been allegations regarding the Mitiga Detention Centre, which is controlled by the Special Deterrence Force, and the Gernada, Al-Kuweifiya and Tarek Bin Zayed detention facilities, which are controlled by the Libyan Armed Arab Forces. I ask Libya, all respected members of the Council and States parties to reach out and lend a hand in giving information that will help to stop the suffering and the crimes that are not new to anyone in the Chamber. We cannot do much alone and without partnership. First and foremost, I look forward to a reforging of the relationship with Libya so that we can move forward together.

The other matter that is important is the troubling situation of migrants in Libya. We have had recent allegations of raids on migrant settlements in Tripoli, the excessive use of violence and arbitrary detention of migrants. We call upon the Libyan authorities to establish prompt, thorough and impartial investigations in relation to those matters, with a view to ensuring accountability for those responsible.

With the greatest of humility, I genuinely commend the Council's constancy in condemning all acts of migrant smuggling and human trafficking into, through and from the Libyan territory and off the coast of Libya. That situation manifestly undermines stabilization efforts in Libya and continues to endanger the lives of tens of thousands of people. Accountability efforts must march alongside such condemnations. That situation, by any benchmark, is of such magnitude and complexity, involving multiple States and regions, that it calls out for imaginative and nuanced responses. With your leave, Mr. President, I would like to give one example of such a nuanced response.

Given the scale of the problem and the lack of dedicated resources available to my Office, we have partnered with a joint team — consisting of the European Union Agency for Law Enforcement Cooperation (EUROPOL), Italy, the United Kingdom and the Kingdom of the Netherlands — to combine efforts, share knowledge and try to move things forward in a way that is principled and positive. That engagement has been positive. A couple of months ago, I attended one of the joint team meetings, and I was delighted that, further to that collaborative partnership, the national prosecuting authorities of the Kingdom

of the Netherlands in October arrested and charged someone with this egregious crime. That is one example where, in my humble view, we need to redefine success for the Court. Success does not simply mean the number of trials or proceedings at The Hague. Success means narrowing accountability, supporting national authorities and looking at imaginative ways to work together in a united manner, rather than separately.

Earlier this month, I also had an opportunity to meet with the President of the European Union Agency for Criminal Justice Cooperation, Mr. Ladislav Hamran, during the annual meeting of the Genocide Network. We spoke about this collaboration together, and we are going to be looking at new ways in which we can embrace not just the Agency or EUROPOL, but other regional partners from other parts of the world, and how we can use the Office within the mandate of the Rome Statute to lend a hand to national accountability mechanisms. Article 93, paragraph 10, of the Statute makes it clear that that can take place.

I also take this opportunity to make a plea to the Council, unashamedly and without embarrassment. I do this knowing that the fiscal environment of all Member States has been rendered more acute by the COVID-19 pandemic. We need resources. As compared to the unquantifiable cost of human suffering, even in terms of the movement of people, the lack of security and the other expenditures that are needed, money to the Court, in my humble view, can be well spent. The Council has an option. Article 115, paragraph b, of the Rome Statute makes it clear that the United Nations can provide funds to the Court, subject to the approval of the General Assembly. I would ask that the Council give urgent consideration to the possibility of requesting the United Nations to fund the Court and my Office, at least in relation to the two matters that the Council has referred to the Court. In my humble view, that is completely consistent with the principles of the Rome Statute. It is also consistent with the principles of the Charter. Furthermore, it is consistent with the Council's decision to refer the matter of Libya to the Court. I will make every effort if the Council would take that step, and it would be money well spent. It would be a statement of intent for a new dawn, a new relationship of cooperation with the Office of the Prosecutor, and I think it could have many dividends that could be discussed in other forums.

In conclusion, one thing is clear: the Council has consistently reminded us all that the interests of

peace and stability in Libya require that all parties comply with their public international law obligations, including respect for international humanitarian law and international human rights law. The victims cannot be a soundbite. The victims cannot just be raised as an incantation that makes it look as if we are doing well — and I am talking about myself as well in this. We need to do far better than we have done to date, and we can if we are united. I really ask that we look at new, imaginative ways of partnering, that we look at synergies. We can advance our common objective of accountability in the Libya situation.

If a cause unites us, why not this one? If a response falls upon us — upon the Council — surely that cause and that response must be to eradicate in the twenty-first century genocide, crimes against humanity and war crimes, and to ensure accountability based upon evidence, not polemics, political agendas or political interests. In these remarks, through the lens of justice, I call for a paradigm shift, a new and evermore constructive dialogue and partnership with the Council. In short, I call for nothing less than a new era of engagement between the Office of the Prosecutor and the Council.

**The President** (*spoke in Spanish*): I thank Prosecutor Khan for his briefing.

I shall now make a statement in my capacity as the representative of Mexico.

On behalf of Mexico, I welcome the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, to the Council. It is his first meeting in that capacity, and I thank him for presenting the twenty-second report, pursuant to resolution 1970 (2011), on the situation in Libya.

We recognize the investigative efforts of the Office of the Prosecutor during the 10 years since the situation in Libya was referred to the International Criminal Court. With the upcoming elections, Libya is at a crucial moment. In that political context, it is necessary to underline the importance of the fight against impunity as a cornerstone in the transition and reconstruction of the social fabric. I wish to highlight three points in particular.

The first pertains to cooperation. The cooperation of both the Libyan authorities and the States involved continues to be essential to consolidate progress towards accountability. The fact that the arrest warrants issued

by the Court continue not to be executed constitutes a serious obstacle to the administration of justice. Mexico urges the Libyan authorities, as well as those of other States, to redouble their cooperation efforts with the Court, including the exercise of jurisdiction in national courts, in accordance with the principle of complementarity. In that regard, the ICC's investigative efforts have benefited from close collaboration with the United Nations Support Mission in Libya. We consider it important to strengthen that coordination, with the necessary flexibility to add more positive results. On the other hand, we call for the cooperation agreement with the European Union Agency for Law Enforcement Cooperation to be finalized. That will make it possible to strengthen investigative actions in areas such as crimes committed against migrants.

My second point refers to the crimes committed in Libya against migrants. Both the report of the Secretary-General (S/2021/752) and that of the ICC Prosecutor emphasize the seriousness of the crimes, and about which the Court continues to receive information. We deem it very important to give due attention to their investigation and the applicable sanctions, for which cooperation with regional actors is as necessary as that with other States that seek to exercise their jurisdiction to prosecute those responsible.

For my third and final point, we note that the Prosecutor has indicated in his report that he will give priority to the situations referred by the Council. In that context, we underscore the importance of the Council facilitating support, through the United Nations, for the expenses incurred by the Court as a result of such referrals.

I wish to conclude by reiterating Mexico's support for the work of the Office of the Prosecutor and the Court in general to fulfil its mandate. We hope that the upcoming meetings that the Prosecutor will hold pertaining to the situation in Libya at the end of this month, as well as the visit scheduled for 2022, will make it possible to concretize the progress achieved. This situation was referred to the Court precisely to close the impunity gap, and thereby contribute to the achievement of lasting peace in Libya. We trust that all the actors involved will honour their commitments, keeping in mind the principles of truthfulness and justice that underpin our obligations to the victims of atrocity crimes.

I now resume my functions as President of the Council.

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

**Mr. Pham** (Viet Nam): At the outset, I welcome Mr. Karim Khan, Prosecutor of the International Criminal Court (ICC) for his first briefing to the Security Council. I also welcome the participation of the Permanent Representative of Libya in this meeting. In today's meeting, I wish to stress the following three points.

First, it is imperative to advance the political process in Libya, especially through efforts to ensure the holding of presidential and parliamentary elections on time and successfully. It is equally important that the relevant parties continue to fully respect the ceasefire agreement and the Council arms embargo related to Libya, in order to create a security environment that is conducive to the preparation and holding of elections. We highly commend the recent efforts of the United Nations and regional and international partners in supporting the Libyan parties in those processes.

Secondly, it is essential to continue to improve the humanitarian situation in Libya. The United Nations and international partners must continue to provide support to address the various challenges in that regard, particularly those affecting vulnerable groups such as women, children, migrants and refugees. Furthermore, Viet Nam continues to call for strengthened efforts to protect civilians in Libya from the risks of mines and explosive remnants of war, both in clearance and in education activities.

Thirdly, we take note of the twenty-second report of the Prosecutor of the ICC, pursuant to resolution 1970 (2011). At the same time, we would like to reiterate our consistent position that the State bears the primary responsibility for the implementation of international humanitarian law and the prevention and suppression of serious criminal acts, such as 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 the independence and sovereignty of States.

**Mr. Dai Bing** (China) (*spoke in Chinese*): China welcomes Prosecutor Karim Khan to a meeting of the

Security Council for the first time and congratulates him on his election to the post of Prosecutor of the International Criminal Court (ICC). We also welcome Mr. Taher Elsonni, Permanent Representative of Libya, to this meeting.

The ceasefire in Libya has been generally maintained for some time, and election preparations have continued to advance. The 5+5 Joint Military Commission agreed in October on the action plan for the withdrawal of foreign forces and mercenaries from Libya. The International Conference for Libya was held in Paris in November, where participating parties sent a unified message in support of the elections as scheduled and the complete withdrawal of foreign forces and mercenaries. Libya has been suffering from turmoil for more than 10 years, and the current situation has not come about easily. China encourages all parties to resolve their disputes regarding the elections through dialogue, consultation and other peaceful means and to continue to steadily advance the preparations for the elections. We call on all foreign forces and mercenaries in Libya to complete their withdrawal as soon as possible, in accordance with the relevant action plan, so as to create favourable conditions for the political process in Libya.

Last, but not least, I would like to reiterate that China's position on the Libya-related matters before the International Criminal Court remains unchanged. We expect the ICC to follow the principle of complementary jurisdiction, as stipulated in the Rome Statute, in handling the Libyan issue. We also expect the Court to respect Libya's judicial sovereignty and to play a positive and constructive role for the peace process and national reconciliation in Libya.

**Mr. Bynoe** (Saint Vincent and the Grenadines): At the outset, Saint Vincent and the Grenadines welcomes and congratulates Prosecutor Karim Khan in his new role at the International Criminal Court (ICC). We also thank him for his first presentation of the twenty-second report of the Prosecutor of the ICC to the Security Council, pursuant to resolution 1970 (2011). We also welcome the Permanent Representative of Libya to today's meeting.

Let me begin by reaffirming the unwavering commitment of Saint Vincent and the Grenadines to upholding international criminal justice, which is the *raison d'être* of the ICC and the premise on which we ratified the Rome Statute in 2002. Fundamentally, we

emphasize that the ICC has a critical role to play in our collective pursuit for peace, justice and accountability, particularly in the investigation of the worst crimes against humanity, including genocide and war crimes, as well as in ending impunity and bringing justice to victims.

We are cognizant that States have the primary responsibility in ensuring that justice is properly dispensed, in accordance with their own domestic laws and systems. We are equally mindful that whenever States are unable or unwilling to prosecute those accused of committing the most serious crimes, our multilateral system ought to play a significant role. For those reasons, international courts such as the ICC have been established to guarantee that justice prevails for victims.

Libya is on the precipice of a new era to turn a new leaf in one of its darkest chapters in history. At this juncture, approximately one month before Libya holds its first national elections, the people, especially the victims, must be at the core and the backbone of Libya's justice system in order to facilitate peace, stability and national reconciliation. We therefore encourage the Libyan authorities to continue advancing efforts to end impunity, protect human rights and bring justice and reparations to the victims.

Specifically, we urge the Government of National Unity and Prosecutor Khan to consolidate the gains of their predecessors. At this crucial stage of Libya's history, stakeholders can ill afford to lose any momentum in seeking justice for the victims of atrocities. We therefore underscore the importance of cooperation and the principle of complementarity of the Rome Statute. We maintain that the circumstances in Libya are propitious to the strengthening of cooperation between the Government of National Unity and the International Criminal Court. As such, we look forward to the visit of the Prosecutor to Libya in early 2022 to meet with the Libyan authorities and enhance cooperation that would allow the International Criminal Court to effectively discharge its mandate.

Additionally, we echo our repeated call for non-State parties to accede to the Rome Statute and for State and non-State parties to fully comply with their international obligations in accordance with the Charter of the United Nations.

In conclusion, Saint Vincent and the Grenadines remains in full solidarity with Libya and underscores

that it is past time to redress historical injustices and to do so in a spirit of national reconciliation, healing, reparation and social justice.

**Mr. Abarry** (Niger) (*spoke in French*): I would first like to welcome the holding of this briefing to consider the twenty-second biannual report of the International Criminal Court on the situation in Libya. I take this opportunity to congratulate Mr. Karim Khan on his election as Prosecutor of the Court and wish him every success in his new position. His relevant and impactful briefing on the universality of the Court rang clear with my delegation.

I would also like to congratulate the Office of the Prosecutor on the considerable progress it has made in its investigations since its previous report to the Security Council on this situation in May, and I encourage it to continue its engagement with the Libyan Government of National Unity, in accordance with resolution 1970 (2011). In that regard, we welcome the presence of Ambassador Elsonni in the work of the Council today. Such cooperation is more necessary than ever at a time when Libya is working towards holding elections, an important step towards the normalization of the political situation. Now is the time to send positive signals to the people of Libya, and the resignation of Special Envoy Kubiš at this key moment is far from a positive signal in that regard.

Those responsible for crimes under the Rome Statute can be held accountable only through cooperation and partnership among the Office of the Prosecutor, the Government of National Unity, the States parties to the Rome Statute and the entire international community. In that connection, as noted in the reports of the Court covering the current and previous reporting periods, my delegation welcomes the decrease in the number of crimes under the Rome Statute since the entry into force of the ceasefire agreement signed on 23 October 2020 and the establishment of the Government of National Unity in Libya. We call on the Libyan authorities to launch investigations into the torture, inhuman treatment and sexual crimes that are mentioned in the report, which have been committed in some prisons and several other detention centres under their responsibility, with the aim not only of ending those violations but also of punishing the perpetrators and their commanders, thereby rendering justice to the victims. The same action should be taken for victims of air strikes, landmines, kidnapping and torture, as well as missing persons. We encourage the Libyan

authorities to continue their cooperation with the Office to ensure that the aforementioned crimes committed in Libya are investigated and prosecuted by the competent Libyan courts.

I commend the efforts of the Office in undertaking several investigative missions in Libya, interviewing witnesses and collecting important documents and evidence from individuals, non-governmental organizations and representatives of victims' organizations. We support the Prosecutor's intention to visit Libya in early 2022 to meet with the relevant Libyan authorities and other stakeholders. We need to work with the Libyans and listen to them in order to achieve the progress that we are anticipating.

My delegation welcomes the information that the Office has received on the activities of mercenaries and foreign fighters in Libya. In that regard, we express our support for the call made by the new Libyan authorities, the United Nations Support Mission in Libya (UNSMIL) and the Security Council on armed individuals and groups to withdraw from Libya without delay, as that would undoubtedly contribute to stability in Libya and its neighbouring countries. Furthermore, we join the Office in welcoming the important initiatives and efforts made by Libya, UNSMIL and the international community to bring peace and stability to the country, including the ongoing discussions on traditional reconciliation processes and transitional justice mechanisms.

We note, as previous reports have mentioned, that crimes against migrants continue in the context of human trafficking, a consequence of the conflict in Libya. My delegation shares the concern about the situation of migrants in Libya expressed by the Secretary-General in his report to the Council in September (S/2021/752), which mentions serious violations against migrants and refugees. To that end, we encourage the Office to continue to enhance cooperation, coordination and the exchange of information and expertise with the Libyan authorities, the European Union Agency for Law Enforcement Cooperation and other partners on crimes committed against migrants and refugees, so that the perpetrators of these violent crimes are held accountable.

In conclusion, I reiterate my sincere congratulations to Prosecutor Karim Khan and his Office for their constant, unwavering commitment to combating

impunity, establishing the rule of law and deterring further crimes from being committed in Libya.

**Mr. Fodda** (France) (*spoke in French*): I too thank Prosecutor Khan for his report and his briefing. I reiterate our congratulations to him and wish him success in fulfilling the crucial missions entrusted to him.

France reaffirms our unwavering support for the International Criminal Court and its staff, as well as our commitment to the independence of the Court. We will continue to cooperate actively with the Court, the only permanent international criminal court with a universal jurisdiction, which plays a key role in combating impunity. France will support reforms to strengthen its effectiveness.

With regard to the implementation of resolution 1970 (2011), France recalls that combating impunity is one of the key elements in resolving conflict and achieving reconciliation among Libyan parties. We are counting on the Libyan authorities' full cooperation with the Court and with the United Nations Support Mission in Libya. The Prosecutor's visit to Libya, planned for early next year, will reflect the priority that the Court has attached to this case.

The deaths of the alleged perpetrators of the most serious crimes cannot be considered justice for the victims. All States, whether or not they are parties to the Rome Statute, have an obligation to cooperate fully with the Court and its Prosecutor under resolution 1970 (2011).

The perpetrators of the crimes committed in Libya since 2011 must be prosecuted. The atrocities committed in Tarhouna and south of Tripoli must be fully investigated. The crimes against migrants, refugees and detainees, which are again referenced in the report, cannot go unpunished.

The principle of complementarity, a foundational principle of the Rome Statute, must be leveraged to the fullest extent. We welcome the Office of the Prosecutor's increased interaction with the relevant Libyan jurisdictions and services. International investigators must be granted guaranteed and safe access to Libya's entire territory. The Security Council must continue resolutely to combat impunity and prevent new crimes from being committed. France welcomes the fact that the Committee established pursuant to resolution 1970 (2011) concerning Libya added Osama Al Kuni Ibrahim

to its sanctions list in October, owing to the fact that he has committed serious human rights violations, including torture and violence.

The effectiveness of the fight against impunity will also depend on progress that is made in the political process in Libya. The prospect of parliamentary and presidential elections set to begin on 24 December offers the possibility of a lasting peace. On 12 November, France, Germany, Italy and Libya co-convoked an international conference for Libya facilitated by the United Nations. The conference gave the international community and Libyan actors the opportunity to reaffirm their support to the electoral process and for the withdrawal of mercenaries, combatants and foreign forces from Libya. In accordance with the commitments made by all of the participants in the Paris conference, we must now work to implement the commitments of the Libyan road map endorsed by the Council. France will continue to support the political transition in Libya, in particular through concerted efforts with its European partners and Libya's neighbours.

**Ms. Byrne Nason** (Ireland): I want to thank Prosecutor Khan for his report and briefing this afternoon during his first visit to the Security Council as Prosecutor of the International Criminal Court (ICC). I also want to welcome our friend and colleague, Ambassador Elsonni of Libya.

We have seen a number of hard-won achievements in Libya since the October 2020 ceasefire agreement, including the inauguration of the interim Government of National Unity in March. We continue to view these developments as an opportunity to renew the Court's relationship with Libya and its relevant national authorities and stakeholders. The Prosecutor's intention to prioritize engagement with the Libyan authorities is therefore welcome. Ireland further encourages the Government of National Unity's efforts, working with the African Union in particular, to create a national reconciliation process, as well as its work with the Libyan authorities to strengthen transitional justice institutions. Those are important steps for the future of the Libyan people.

At the same time, we cannot ignore concerning developments. In September, the Secretary-General outlined reports of serious violations in relation to the situation of migrants in Libya. That included reports that certain State officials affiliated with the Directorate for Combating Illegal Migration had allegedly committed

serious human rights violations. We welcome the fact that the Office of the Prosecutor has reviewed those findings. We echo the Prosecutor's point that granting amnesties and pardons for serious crimes, including murder constituting crimes against humanity, is incompatible with internationally recognized human rights.

In the report under consideration, as well as in previous reports, the Prosecutor has voiced concerns about credible and substantive information regarding past and ongoing crimes allegedly committed in official and unofficial detention facilities in Libya. That was echoed in the conclusions of the Independent Fact-Finding Mission on Libya in its October report (A/HRC/48/83), which refers to systemic and widespread violence against anyone opposing the interests of those running prisons. Reports of sexual and gender-based violence, primarily targeting women, remain of deep concern to us. We welcome continued engagement between the Office of the Prosecutor and the United Nations Support Mission in Libya, as well as steps that the Office has taken to foster coordination between stakeholders, including the European Union Agency for Law Enforcement Cooperation, and all efforts aimed at accountability for violent crimes against migrants and refugees in Libya.

The work of the ICC is, of course, complementary to domestic initiatives, and we continue to urge all States to cooperate with the Court as it investigates allegations of serious international crimes in Libya. The continued lack of cooperation with the Court in the execution of arrest warrants is worrisome. We urge all Member States, whether or not they are States parties to the Rome Statute, to execute outstanding arrest warrants. In particular, we once again urge Libya to arrest and surrender Mr. Saif Al-Islam Al-Qadhafi as a matter of urgency. We note the Prosecutor's statement that he will extend particular prioritization to referrals by the Council to the ICC. We reiterate our view that cases referred to the ICC must be accompanied by consistent follow-up support from the Council. That includes budgetary support. Findings of non-cooperation by States in relation to situations already referred by the Council, including the situation in Libya, also require a substantive response.

Ireland strongly supports ICC efforts to hold to account those responsible for the most serious international crimes in Libya in order to ensure true accountability for victims. The Court's pursuit of

justice and accountability in Libya will serve to build trust in the State, especially among communities disproportionately affected by violent conflict. Accountability for atrocity crimes can assist with the important reconciliation processes in Libya and the consolidation of peace. We know that accountability for atrocity crimes also acts as a strong deterrent and contributes to conflict and atrocity prevention efforts.

Allow me to conclude by reiterating Ireland's steadfast support for the work of the ICC in Libya. We remain convinced that accountability is key to peace, stability and justice for the future of Libya.

**Mr. DeLaurentis** (United States of America): I thank Prosecutor Khan for his briefing. We congratulate him on his appointment as Prosecutor of the International Criminal Court. We wish him success in his new role. The United States looks forward to working with his Office and commends the efforts of the Court to investigate and prosecute those responsible for the atrocities committed against the Libyan people since the adoption of resolution 1970 (2011).

The United States has historically been and will continue to be a strong supporter of meaningful accountability and justice for the victims of atrocity crimes through the appropriate mechanisms. Justice, accountability and the rule of law are values that we share and continue to believe are best advanced together. That brings me to today's topic — the Court's ongoing investigation into the situation in Libya.

The chronic insecurity we are witnessing in Libya today is best addressed through accountability, which starts with rigorous documentation and investigation. The precarious human rights situation makes such work all the more difficult. Numerous armed groups and forces have faced allegations of arbitrary killings, indiscriminate air strikes, forced disappearances, torture, unlawful detention and sexual and gender-based violence. Disturbing reports of violence committed in Libyan prisons, with detainees subject to torture and their families denied visitation rights, continue. The situation of internally displaced people, as well as that of migrants, refugees and asylum-seekers, remains dire. Regrettably, Libya remains ill-equipped to accommodate such large population movements.

The unearthing of the mass graves in the town of Tarhouna remains at the forefront of our minds. The gravity of the allegations connected to those graves

demands our ongoing attention and a concerted international response.

We thank the Court, the United Nations, and national authorities for their ongoing investigative work, including efforts to exhume the mass graves and to collect and preserve evidence for use in future prosecutions, truth-telling and other transitional justice measures.

As another marker of the importance of documentation, we also welcome the report of the Independent Fact-Finding Mission on Libya (FFM) released on October 1 (A/HRC/48/83). The Mission interviewed more than 150 individuals and reviewed hundreds of documents on violations and abuses in Tripoli, Ganfouda and southern Libya. The Human Rights Council's establishment in June 2020 of the FFM, mandated to document alleged violations and abuses of international human rights law and international humanitarian law by all parties in Libya since the beginning of 2016, represented a positive step toward accountability. We welcome recent adoption of the Human Rights Council resolution 48/25 to extend the Mission's mandate, but deeply regret that the extension was granted for only nine months, rather than the customary twelve months. The Mission must be afforded the time to conduct an exhaustive review of its current and future findings.

I will now address the question of justice. Former senior officials of the Al-Qadhafi regime, such as Abdullah Al-Senussi and Saif Al-Islam Al-Qadhafi, the latter of whom is subject to an arrest warrant by the ICC 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 violence and turmoil. We call on the Government of National Unity to take all possible action to secure the arrest and surrender of those wanted by the ICC. Moreover, 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.

We also continue to monitor the Libyan legal proceedings against Al-Senussi. We support the ongoing efforts to build domestic capacity to punish perpetrators of human rights abuses and violations and encourage support for local capacity-building and judicial reform in Libya. Guaranteeing due process

rights, as well as protecting the rights and security of victims and witnesses, is central to the success of any domestic prosecutions.

We would like to express our concern, as reported in the final report of the Panel of Experts on the Sudan (S/2021/40), that Abdallah Banda, a prominent ex-Justice and Equality Movement Darfuri commander subject to an arrest warrant by the ICC, launched his own rebel group and has received financing and military materials from the Libyan National Army in return for its support.

This briefing also serves as an important reminder that the victims and survivors of human rights violations and abuses in Libya deserve justice. To achieve that end, such groups need the help and support of civil society advocates. The work of civil society, however, continues to be curtailed by the damaging effects of the Government of National Unity's Decree 286, which regulates the activities of non-governmental organizations. We have credible reports that non-governmental organizations fear retaliation if they should meet with international organizations. The severe restrictions imposed by that decree impede domestic efforts to secure justice for victims and survivors. We strongly urge the Government of Libya to revoke the decree, given its harmful effects on the rights and freedoms of its people.

Finally, I would like to turn to how we can promote peace and security in Libya. The United States reaffirms our call on all actors in Libya to commit to ensuring that free and fair elections take place as scheduled. We welcome the Libyan 5+5 Joint Military Commission's action plan for the withdrawal of all foreign forces, fighters and mercenaries from Libya, in line with resolution 2570 (2021) and the Libyan ceasefire agreement. 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. That violent instability remains a threat to the entire wider region.

The ICC's work in Libya is a critical element of our shared commitments to accountability, peace and security. To achieve those 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 Court's

investigations and contributions, which we hope will help bring true justice to the people of Libya.

**Mr. Kvalheim** (Norway): Allow me to start by extending my congratulations to Mr. Karim Khan on his election as Prosecutor of the International Criminal Court (ICC) and thanking him for today's briefing.

Norway has been a staunch supporter of the ICC from the outset, and today, the mission of the ICC — to fight impunity for the most serious crimes — remains as crucial as ever. Accountability and the pursuit of justice are key components for achieving sustainable peace in Libya and beyond.

Norway lends its full support to the political process in Libya, including the upcoming elections on 24 December. It is critical that the elections be held according to plan. Free, fair and inclusive elections are essential if Libya is to move forward and avoid further destabilization. Norway reiterates the call from Libyans themselves for mercenaries, foreign fighters and foreign forces to leave the country, as decided in the ceasefire agreement just over a year ago and agreed again in the 5+5 Joint Military Commission on 8 October.

Norway welcomes the Prosecutor's prioritization of situations referred by the Security Council. We look forward to his next report which, we understand, will contain information on further concrete steps to be taken. Addressing impunity is critical to stability, reconciliation and sustainable peace in Libya. Resolution 1970 (2011) mandated the Libyan authorities to fully cooperate with and assist the ICC. We call on the Libyan authorities, Libya's partners and the international community to cooperate with the Prosecutor's Office. We would also welcome even closer and more flexible cooperation with the European Union Agency for Law Enforcement Cooperation and the United Nations Support Mission in Libya.

Norway notes that the Prosecutor's Office is continuing its efforts to verify the death of two suspects. We remain deeply concerned by reports of ongoing crimes, including murder, forced disappearances, arbitrary detention in official and unofficial centres, torture and sexual and gender-based violence. The prevention of and response to conflict-related sexual and gender-based violence must be a priority. We should utilize sanctions, where relevant and appropriate, to counter such heinous acts. We also call for reinforced efforts to combat violence against migrants.

We look forward to continued cooperation with all members of the Council in securing accountability for mass atrocities. The Council must uphold its responsibility to fully support the Court, especially in cases it has referred to it. That includes ensuring adequate resources for the Court.

Please be assured, Mr. President, that Norway's support for the Court and the work of its Prosecutor is unwavering.

**Mr. Kuzmin** (Russian Federation) (*spoke in Russian*): We welcome Mr. Karim Khan in his new position as Prosecutor of the International Criminal Court. We hope that his accession to the Court will lead to the correction of the significant imbalances consistently highlighted by our delegation and bring the Court closer to at least partially recovering its badly tarnished reputation.

Some positive developments are already in sight. For the first time, the Court's report on the investigation of the situation in Libya has something we can truly appreciate: honesty. The Office of the Prosecutor openly states that there is a lack of any significant progress in this matter. That is what our delegation has been saying for a decade and is pleased that the ICC has finally stopped pretending to engage in intense activity and admitted the obvious.

In general, the approach of the ICC on the Libyan file remains discriminate, whereby all guilt is placed on only one of the parties to the conflict. We have yet to see any cases opened regarding ostensible crimes committed by militants or the Islamic State in Iraq and the Sham. The Court has not even tried to investigate NATO's illegitimate air strikes on the territory of Libya, which caused numerous civilian casualties.

We regret that Libyan statehood has been razed to the ground for the sake of the ambitions of Western States. That once prosperous country still lies in ruins and needs to be progressively rebuilt. As for the civilian population, whom the do-gooders from NATO tried to protect, it had to suffer the terrors of an all-out civil war, utter chaos, total disorganization and devastation. A decade passed before Libya could detect any positive signs in its complicated political settlement process.

Libya's general elections are scheduled for 24 December. We call on all parties to exercise maximum restraint so as to enable the long-suffering

Libyan people to exercise their legitimate right to elect and be elected.

**Ms. Kinyungu** (Kenya): I thank Mr. Karim Khan for his report and for his first briefing to the Security Council. I also congratulate him on his election as Prosecutor of the International Criminal Court (ICC). Kenya welcomes the participation of the Permanent Representative of Libya in this meeting.

The Libyan people have endured great suffering in the past decade, both from domestic conflicts and from interventions by multiple external actors. In this period, all the shortcomings of the international community's tools for the resolution of humanitarian, security and political crises have been visible. Even as the situation in Libya stabilizes, we cannot help but recall that the travails afflicting the Sahel are a result of actions taken a decade ago. The protection of civilians and the territorial integrity of many States of that region have come under threat due to the externalization of the situation in Libya.

Given that grim history, I am glad to note the tangible progress achieved as Libyans are once again leading their own pursuit of peace and security. Libyans are looking to go into a much-awaited election exactly a month from now. In the exercise of their right to select their leaders and determine how they want to be governed, Libyans will be manifesting their desire for strong national institutions and a national system that grants its people the confidence of peace and prosperity.

Several recent events and Government efforts, including the Libya Stabilization Conference held in Tripoli on 21 October, speak to that determination. Accountability and the delivery of justice are critical elements to the enjoyment of peace and stability. They are also key markers for the trust a people has in its Government. The effectiveness of national judicial and prosecutorial institutions is critical to the exercise of sovereignty, which the fundamental basis for membership of the United Nations, from which the ICC's present engagement with Libya is drawn. As such, Kenya calls for strict adherence to the principle of complementarity with regard to regional and international judicial instruments, including the International Criminal Court.

Sustained peace requires legal accountability, particularly for heinous crimes perpetrated as a continuation of political conflict, but it also requires a sequencing of that accountability with the workings of a

political process that resolves the conflict and advances reconciliation. Focusing solely on legal accountability, without due regard to political reconciliation, can endanger the very peace being sought. Kenya therefore strongly supports Libya's national reconciliation process and encourages its continued implementation under the national reconciliation commission. Reconciliation is a long-term business requiring the goodwill and support of neighbours and friends. That is why Kenya encourages the engagement of the African Union in the process.

The Prosecutor's report has highlighted the plight of migrants in Libya. That problem must be tackled across a broader spectrum, not just in Libya. If serious efforts are not undertaken to respond to the push factors behind their migration, migrants will continue to undertake this perilous journey and endure the indignity and injustice we continue to see being perpetrated. We call on all those involved and aiding in the interception at sea and return of migrants to Libyan ports to desist from that activity. We also urge all the relevant national and international authorities involved to ensure that the safety of migrants and refugees is secured and that they are humanely treated.

Finally, Kenya continues to call for respect for Libya's territorial integrity and sovereignty, including through the withdrawal of foreign fighters and mercenaries from Libya, and for foreign interference in that country to desist.

**Mr. Wickremasinghe** (United Kingdom): I would like to start by offering our thanks to Prosecutor Karim Khan for his powerful briefing today, on the occasion of the twenty-second report of the International Criminal Court (ICC) on the situation in Libya. As this is his first time addressing the Security Council as Prosecutor of the ICC, I would like to assure him of my country's support for him as he carries out his important duties.

United Kingdom welcomes the Prosecutor's report and his intention to visit Libya early next year. We urge the Government of National Unity to facilitate that visit and allow the ICC to investigate with independence, in accordance with the Rome Statute and resolution 1970 (2011). The United Kingdom is committed to providing our full support to the Prosecutor's ongoing investigations on Libya, which are as important as ever at this crucial time in the political process.

We share the concern of the Prosecutor on the conclusions contained in the October report of

the Independent Fact-Finding Mission on Libya (A/HRC/48/83). The report only serves to highlight the importance of the Mission. The United Kingdom welcomes the renewal of the mandate of the Independent Fact-Finding Mission. We call on the Libyan Government to support the Mission by facilitating unrestricted and unfettered access throughout Libya. We urge the Government of National Unity to put an end to crimes committed in detention centres and to investigate the crimes committed in Mitiga prison and the Gernada detention facility. The Government of National Unity should also investigate and address violence against women and girls, including the fates of female detainees at Al-Kuweifiya detention centre, which remain unknown.

United Kingdom takes this opportunity to commend the efforts of the 5+5 Joint Military Commission to develop an action plan for ensuring the withdrawal of foreign forces and mercenaries from Libya. The United Kingdom has been clear that their withdrawal should happen without delay, and the Commission's action plan represents a Libyan-led practical step forward towards their withdrawal. The United Kingdom draws attention to statements of the Office of the Prosecutor that crimes committed by those foreign forces and mercenaries in Libya potentially fall within the jurisdiction of the ICC.

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 concerned by the discovery of yet more graves at Tarhouna. We encourage the Government of National Unity to continue its investigations and take all possible actions to hold those responsible to account.

The United Kingdom has funded humanitarian assistance to provide psychosocial support and access to health care and other basic services and assistance for migrants, refugees and asylum seekers. The United Kingdom appreciates the cooperation that the Prosecutor's Office has been able to offer the national authorities in combating people smuggling and human trafficking.

We underline the importance of the process of national reconciliation and providing accountability and justice for atrocity crimes. We urge the Government of National Unity to work with the Office of the Prosecutor to achieve those goals. We reiterate our call for all relevant States, including both States parties and States non-parties to the Rome Statute, to cooperate

with the ICC in the arrest and surrender of individuals subject to arrest warrants.

The United Kingdom fully supports the Prosecutor's important investigation into the situation in Libya that was mandated by the Council. We will continue to work with his Office and with international partners to close the impunity gap for atrocity crimes in Libya and achieve justice for the people of Libya.

**Mr. Jürgenson** (Estonia): We welcome Mr. Karim Khan to the Security Council on the occasion of his first briefing to the Council as Prosecutor of the International Criminal Court (ICC). We thank Prosecutor Khan for the twenty-second periodic report on the situation in Libya and for his remarks today.

At the outset, I would like to reiterate Estonia's unwavering support to the ICC as an independent and impartial judicial institution and an important pillar of the rules-based international order.

With regard to the situation on the ground in Libya, we remain concerned about reports of continued violence and a lack of security and stability. We recall that all crimes, including those taking place in detention facilities, need to be investigated and prosecuted by the Libyan authorities.

Estonia also remains concerned about the crimes perpetrated against migrants and refugees and notes the ICC's role in assisting national authorities to prosecute cases.

We continue to call for the departure of all foreign fighters and mercenaries from Libyan territory as a first step towards the full and timely implementation of the 23 October 2020 ceasefire agreement, in line with resolution 2570 (2021).

The holding of free, fair, inclusive and credible elections in December this year will prove vital for the strengthening of the rule of law in Libya.

The full cooperation of the Government of National Unity and all other relevant stakeholders with the Office of the Prosecutor is crucial to achieving accountability for those responsible for Rome Statute crimes. Estonia reiterates that the authorities must ensure that ongoing and future investigations be carried out in accordance with international standards and in full cooperation with the ICC.

Estonia welcomes the strengthening of mutual cooperation by the ICC with national authorities and

stakeholders to enhance the collection and preservation of evidence. In that regard, we welcome the meeting of the Office of the Prosecutor with domestic law enforcement agencies to coordinate their respective activities.

Estonia further encourages the strengthening of formats of cooperation and exchange of information between the Office of the Prosecutor and the Panel of Experts on Libya, the Independent Fact-Finding Mission on Libya, the European Union Agency for Law Enforcement Cooperation and the United Nations Support Mission in Libya.

With regard to ensuring the effectiveness of the work of the Court, we would like to take this opportunity to point out the need to ensure that the ICC has the necessary budgetary resources to fulfil its mandate. That includes funds to be provided by the United Nations in relation to the expenses incurred due to the referral of situations by the Security Council to the ICC.

Finally, we recall that the execution of ICC arrest warrants remains essential to uphold justice for victims. Unfortunately, so far there have been no tangible results in the implementation of the warrants in the Libyan case. We encourage the Office of the Prosecutor to ascertain the alleged deaths of the fugitives and urge for full cooperation with the ICC in surrendering the remaining fugitives to the Court.

As Estonia's membership of the Security Council is coming to an end, allow me to once more reiterate our full support for the work of the ICC and urge all States and other stakeholders to uphold and defend the principles and values enshrined in the Rome Statute. Cooperation with the ICC to end impunity and establish justice for the victims in Libya must be prompt and meaningful.

**Mr. Singh** (India): I would like to join others in thanking the Prosecutor, Mr. Karim Khan, for his briefing today. We also welcome the Permanent Representative of Libya, Ambassador Taher Elsonni.

At the very outset, let me place on record that India is not party to the Rome Statute. I would like to recall discussions in the Security Council back in 2011, when India expressed our doubts about the effect of the referral of the situation in Libya to the International Criminal Court (ICC) in bringing about a cessation of violence and the restoration of calm and stability. As we had our concerns then, the referral did not have

its intended impact. In fact, subsequent events have only reinforced our view that, when cases are referred to the Court primarily for political reasons, the ICC mechanism may not be best suited to serve the purpose of justice.

In a month's time, we are expecting the presidential and parliamentary elections in Libya, as decided by the Libyan parties and further reinforced by the Security Council. However, challenges remain, including impediments to the holding of elections in a free, fair and credible manner. In particular, the involvement of external forces in the internal affairs of Libya has negatively impacted progress on the political track, and terrorist forces have been raising their heads once again. The importance of holding elections as planned on 24 December in a free, fair, inclusive and credible manner cannot be overemphasized.

It is also important that the provisions of the ceasefire agreement and successive Security Council resolutions be respected and that the Libyan parties' call for the withdrawal of foreign forces and mercenaries be honoured. India is also concerned about 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. We must ensure that terrorist groups and affiliated entities not be allowed to operate unchallenged in Libya. The continued presence and activities of the Islamic State in Iraq and the Levant in Libya is of serious concern, including due to the potential cascading effect it could have throughout the Sahel region. It is unfortunate that the issue is not drawing the necessary attention it deserves.

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 remain committed to supporting Libya and the Libyan people in that endeavour. We hope that all efforts by the international community, including the ICC, contribute to achieving unity, peace, security and stability in the country and to bringing about an inclusive and comprehensive national reconciliation.

**Mr. Cherif** (Tunisia) (*spoke in Arabic*): As this is the first briefing by Mr. Khan to the Security Council, we would like to join our colleagues in welcoming him and wish him and his team every success. I also thank him for the twenty-second report submitted pursuant to

resolution 1970 (2011). I welcome the presence of the Permanent Representative of Libya in this meeting.

My country is closely following the political and security situation in neighbourly and brotherly Libya at this critical juncture. We stress Tunisia's continued support for Libya and all international and regional efforts to achieve a seamless and peaceful political transition in that brotherly country that promotes security and stability in Libya, in accordance with the will and aspirations of the Libyan people.

Resolution 1970 (2011) and the Rome Statute are the two main points of reference for the Security Council in exercising its functions, aimed at striking a delicate balance between fighting impunity for the most serious crimes and the maintenance of international peace and security in Libya. They also form the basis of the impartial and independent jurisdiction exercised by the International Criminal Court (ICC) in Libya.

We welcome the regular semi-annual briefings by the Prosecutor to the Security Council, which allow for more interaction and coordination between the ICC and the Security Council. We also value striking a balance between focusing attention on the necessary political settlement and stability and accountability.

We appreciate the continued efforts of the Prosecutor and his Office in accordance with his mandate in Libya, despite the restrictions imposed by the coronavirus disease pandemic on their ability to carry out of their functions on the ground. That is evident in the prioritization of contacts with witnesses and victims with a view to collecting reliable evidence in the field. We also commend the coordination and cooperation of the Office of the Prosecutor with the Libyan authorities and other stakeholders, including other States and organizations, towards ensuring the rule of law and documenting serious violations of international humanitarian law and international human rights law in Libya.

Despite the adoption of the ceasefire, we are concerned that the Libyan authorities have recently discovered new mass graves in Tarhouna. That is a reminder of the importance of the responsibility of Libyan and international parties to bring about lasting peace in Libya, in particular through the full implementation of the ceasefire, including the full withdrawal of all foreign fighters and mercenaries from Libya. All parties must respect the arms embargo.

Tunisia stresses that the best means of achieving accountability in Libya is a dialogue-based approach and national measures based on the priority of national jurisdiction and the need for international justice. In that regard, Tunisia welcomes the renewed vision of the Prosecutor of the ICC in addressing Libya's dossier through a practical and flexible approach that stresses the principle of complementarity between the ICC and the national authorities responsible for ensuring accountability on the territory.

We also welcome the report's reference to traditional means of justice and reconciliation that take all complementary options and choices into account, in accordance with the text and spirit of the Rome Statute and based on Libya's ownership and leadership in ensuring the rule of law and post-conflict justice.

We look forward to the visit of the Prosecutor next year to Libya to lay the foundation of dialogue with the Libyan authorities on achieving justice in Libya in a framework of engagement with the permanent national judiciary through the division of labour, the coordination of efforts and building capacity in the rule of law area towards common goals.

In conclusion, Tunisia reaffirms its hope that the situation in Libya will be addressed on the basis of the principles of national ownership, active partnership and joint responsibility, with the steadfast support of the international community and the Security Council towards achieving the desired goals in Libya, a comprehensive political settlement and an end to all forms of foreign intervention, with a view to achieving security and stability in Libya and to setting Libya on the path of sustainable development and prosperity.

**The President** (*spoke in Spanish*): I now give the floor to the representative of Libya.

**Mr. Elsonni** (Libya) (*spoke in Arabic*): At the outset, allow me to congratulate you, Mr. President, on your assumption of the presidency of the Security Council for this month. We wish you every success.

We welcome Mr. Karim Khan and congratulate him on his election as the Prosecutor of the International Criminal Court (ICC). We thank him for his briefing and for the twenty-second report. We also thank Ms. Fatou Bensouda for her work as Prosecutor.

The Libyan people are working tirelessly to build their modern civil State, despite the exceptional circumstances in the country, and to

promote accountability and fight impunity through comprehensive national reconciliation, which begins with justice, truth, openness, apology, reparation and a call for amnesty and forgiveness, which constitute the pillars of transitional justice. Taking those steps will allow us to turn the painful page of the past 10 years in Libya.

Ensuring justice on Libyan territory is a sovereign right and reflects Libya's national jurisdiction to prosecute anyone accused of a crime under the Libyan penal code. It reflects our territorial sovereignty and the sovereignty of our citizens.

The Libyan judiciary is committed to ensuring due process and fair trials for all who have been accused. We reaffirm that our cooperation with ICC is based on the memorandum of understanding between the Office of the Attorney General and the Office of the Prosecutor, which recognizes the role of the ICC in supporting the judiciary in Libya and not substituting for it, because the history of the ICC has been marred by politicization and selectivity in addressing cases referred to it.

Every few days, the General Authority for Research and Identification of Missing Persons announces the discovery of new mass graves in Tarhouna, the most recent of which was on 16 November in the area of Abdaly, on the outskirts of Tarhouna. Two new mass graves were identified and excavations continue. In that regard, we support the cooperation between the Office of the Attorney General and the ICC on the investigations of these mass graves. That includes investigations into other war crimes and violations committed over the past years, without exception and regardless of where they were committed. We await the results of the investigation of the ICC team that recently visited Libya and the Human Rights Council Fact-Finding Mission to identify those involved and to prosecute the fugitives.

Some criminals exploit the circumstances, but that does not mean that they have impunity. Their crimes are not subject to the statute of limitations. The judiciary is fully independent and individuals who are proven to have taken part in those massacres, directly or indirectly, will be held accountable and prosecuted sooner or later.

Libya is working to protect illegal migrants from any violations resulting from the current crisis. Despite all challenges, we are doing our utmost to rescue them, provide them with protection and deport them whenever

possible. We will not accept attempts by some States to require us to naturalize those illegal migrants, as it is not in line with our national legislation.

In this context, we find it strange that the international community is indifferent towards human trafficking. It seems to focus only on Libya. However, we all know that human trafficking networks are international and transboundary in nature. Addressing this phenomenon needs to start with ending the work of these networks and targeting their leaders. That is why we are asking Mr. Khan and his team and the Security Council to prosecute those international criminals and impose sanctions on them without exception, whether in the countries of origin and transit in Africa or countries of destination in Europe.

In conclusion, we reaffirm that Libyans trust that their judicial institutions are able to achieve justice and the rule of law despite all the challenges in the country. The biggest challenge is the ability to enforce the law, which requires the Council's support for our institutions and for the stability and progress of our State. We ask simply that the negative interventions in all their forms be stopped in respect of Libyan national sovereignty and the will of the Libyan people and their right to self-

determination, so that we can build our State into a State of justice and law.

**The President** (*spoke in Spanish*): I would like to ask Prosecutor Khan whether he has anything to add.

**Mr. Khan**: I think the only point I would add is that I have listened very carefully to the members of the Council and the representative of Libya. Two or three members have mentioned the Islamic State in Iraq and the Levant (ISIL), and that point is very well taken. We do know that ISIL generally represents, as the Council has underlined, a threat to international peace and security, and we also know the Sisyphean efforts that countries, particularly in the Sahel, have undertaken to deal with the metastasizing violent ideology. This is a matter that I will look into further. The point is well taken, and I hope in my next report that I will have put some lines forward in relation to that. It is indeed well taken.

**The President** (*spoke in Spanish*): I thank Mr. Khan for that final comment.

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

*The meeting rose at 4.45 p.m..*