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Seventy-fourth year

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Provisional

<i>President:</i>	Ms. Pierce	(United Kingdom of Great Britain and Northern Ireland)
<i>Members:</i>	Belgium	Mr. Pecsteen de Buytswerve
	China	Mr. Zhang Dianbin
	Côte d'Ivoire	Mr. Moriko
	Dominican Republic	Mr. Singer Weisinger
	Equatorial Guinea	Mr. Esono Mbengono
	France	Mrs. Gasri
	Germany	Mr. Schulz
	Indonesia	Mr. Syihab
	Kuwait	Mr. Alotaibi
	Peru	Mr. Duclos
	Poland	Ms. Wronecka
	Russian Federation	Mr. Kuzmin
	South Africa	Mr. Matjila
	United States of America	Mr. Simcock

Agenda

The situation in Libya

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The meeting was called to order at 10 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Libya

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

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

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

I would remind Council members that this meeting will be followed by consultations on the same agenda item. It would therefore be most helpful if we could move expeditiously through both.

I give the floor to Prosecutor Fatou Bensouda.

Ms. Bensouda: I welcome the opportunity to engage with the Security Council once again as I present my eighteenth report on the situation in Libya, pursuant to resolution 1970 (2011). Before I begin, I would like to congratulate the United Kingdom on assuming the presidency of the Security Council for the month of November. I wish the presidency and the wider Council success in the important work before them.

At the outset, I must observe with serious concern that there was an escalation of violence in Libya during the reporting period. Reports indicate that there have been a high number of civilian deaths, thousands of persons internally displaced and a sharp increase in abductions, disappearances and arbitrary arrests across the country. As recently highlighted by the Special Representative of the Secretary-General in Libya, Mr. Ghassan Salamé, without the unequivocal support of the Council and the broader international community for an immediate end to the Libyan conflict, Libya will be at risk of being embroiled in persistent and protracted conflict and continued fratricide (see S/PV.8611).

The implosion of Libya must carry a heavy burden on the conscience of the international community and galvanize meaningful action to assist the Libyan authorities in bringing stability to the country and an end to the cycle of violence, atrocities and impunity.

Impunity serves as both an obstacle and a threat to stability and must be checked through the force of law. My Office continues to strive to do its part to ensure justice for victims and hold accountable those alleged to be responsible for committing Rome Statute crimes in Libya. I am pleased to inform the Council that my Office has made further progress in its existing investigations and is continuing to work on applications for new warrants of arrest.

Regarding recent developments in the case against the suspect Mr. Saif Al-Islam Al-Qadhafi, the Council will recall that Mr. Al-Qadhafi's challenge to the admissibility of his case was rejected earlier this year. Mr. Al-Qadhafi had filed an appeal against this decision. The Appeals Chamber recently ordered that a hearing be scheduled before it on 11 and 12 November to hear submissions and observations in Mr. Al-Qadhafi's appeal. The Appeals Chamber has invited the State of Libya to submit observations on issues arising from the appeal by tomorrow, 7 November. The Appeals Chamber had previously also invited the Council to submit observations on the appeal by 24 October. The Council did not elect to do so. Nonetheless, both the State of Libya and the Council are invited to attend the scheduled hearing next week in The Hague. Let me stress that irrespective of the current admissibility proceedings, Libya remains under an obligation to arrest and surrender Mr. Al-Qadhafi to the International Criminal Court (ICC).

The failure to execute warrants of arrest is not limited to Mr. Al-Qadhafi's case. The ICC arrest warrant against Mr. Al-Tuhamy Mohamed Khaled has remained outstanding for more than six years. Furthermore, the two arrest warrants against Mr. Mahmoud Mustafa Busayf Al-Werfalli have remained unexecuted for more than two years since the first warrant was issued. The three cited ICC fugitives stand accused of grave international crimes. These crimes include the war crimes of murder, torture, cruel treatment and outrages upon personal dignity, and the crimes against humanity of persecution, imprisonment, torture and other inhumane acts. My Office has reliable information on the current whereabouts of all three suspects. Yet, Mr. Al-Qadhafi, Mr. Al-Tuhamy and Mr. Al-Werfalli remain at large, and justice remains elusive for the victims of their alleged crimes.

First, Mr. Al-Qadhafi is believed to be in Zintan, Libya. Secondly, when the warrant for Mr. Al-Tuhamy's arrest was issued, he was believed to be residing in

Cairo, Egypt. This was reflected in the arrest warrant itself, which was unsealed on 24 April 2017. The information currently available to my Office indicates that Mr. Al-Tuhamy still resides in Cairo. Thirdly, Mr. Al-Werfalli — a suspect we allege to be individually criminally responsible for war crimes under the Rome Statute — continues to enjoy his liberty in the Benghazi area.

Furthermore, credible reports investigated by my Office indicate that the General Command of the Libyan National Army recently — on 8 July — promoted Mr. Al-Werfalli from the rank of Major to Lieutenant Colonel. This promotion sends a clear message that General Khalifa Haftar, Commander of the Libyan National Army, has no intention to genuinely prosecute Mr. Al-Werfalli for the crimes alleged against him in the ICC arrest warrants. On the contrary, it seems that Mr. Al-Werfalli continues to be rewarded for his behaviour. In this respect, I note that this is the second time that the General Command of the Libyan National Army has promoted Mr. Al-Werfalli. The first promotion took place on 25 May 2017, after videos depicting the first four unlawful executions allegedly perpetrated by Mr. Al-Werfalli had already been posted online.

During the reporting period, my Office also continued to investigate allegations against other perpetrators with a view to potential applications for additional warrants of arrest. The effective power to arrest and surrender ICC suspects rests solely with States. However, my Office is working to increase opportunities for outstanding arrest warrants to be executed. To this end, in line with its strategic goals, my Office is developing, in coordination with States, enhanced strategies and methodologies to track and arrest suspects. In accordance with resolution 1970 (2011), I urge all States, including Libya and Egypt, to facilitate the immediate arrest and surrender of the Libyan fugitives to the Court.

The situation in Libya continues to be grave. I am deeply alarmed by reports indicating that, since early April, more than 100 civilians have been killed, 300 have been injured and 120,000 have been displaced as a result of the armed conflict. As detailed in my report, several events of particular concern have occurred over the past six months. I strongly condemn the car bomb attack in Benghazi on 10 August that killed five people, including three United Nations staff members, and injured multiple other civilians. I also note reports of the indiscriminate shelling of the Mitiga airport in

Tripoli and the multiple attacks perpetrated against health workers and medical facilities. On 2 July, air strikes on a migrant detention centre in Tajoura, east of Tripoli, reportedly killed 53 people and injured 130. In addition, there have been reports of an alleged summary execution of Libyan National Army-affiliated fighters and some civilians at Gharyan Hospital.

My Office is also following events in southern Libya, where violent clashes and air strikes in Murzuq have reportedly claimed many lives. I reiterate my previous calls to all parties to the armed conflict to heed the rules of international humanitarian law. My team continues to examine allegations against all parties to the conflict in order to assess whether they bear criminal responsibility under the Rome Statute. I condemn all unlawful violence in Libya resulting in the loss of life and injury. My Office remains seized of the situation in Libya, and if the actions of any party amount to war crimes or crimes against humanity and all the required elements of the Rome Statute are satisfied, they may be liable to prosecution. Let me be clear. I will not hesitate to bring new applications for warrants of arrest against those most responsible for alleged crimes that fall under the jurisdiction of the ICC.

With regard to alleged crimes committed against migrants in Libya, the Council will recall that my Office has adopted a two-pronged approach aimed at closing the impunity gap. My team continues to collect and analyse documentary, digital and testimonial evidence relating to alleged crimes committed in detention centres. We are assessing the viability of bringing cases before the ICC in relation to migrant-related crimes in Libya, based on that evidence-driven process. It is worth recalling that the ICC is a court of last resort, in accordance with the principle of complementarity. It acts only when States do not genuinely investigate and prosecute serious international crimes or are unable to do so. Consistent with that principle, my Office is concentrating its efforts on positive complementarity. Pursuant to goal 6 of my Office's strategic plan, my team is actively assisting States that are investigating and prosecuting individuals who have allegedly committed crimes against migrants in Libya. My Office's collaborative efforts with national law-enforcement authorities have helped to identify which of the judicial actors are best placed to investigate and prosecute migrant-related crimes in Libya, and I am pleased to inform the Council that this strategy of cooperation has borne fruit. My Office has provided key evidence and

information to national authorities that has facilitated progress in a number of investigations and prosecutions related to crimes against migrants in Libya.

I would be remiss if I did not recognize the ongoing cooperation of the Office of Libya's Prosecutor-General. I commend the Libyan authorities for their continued commitment to implementing the November 2013 memorandum of understanding concluded between the Government of Libya and my Office. I also greatly appreciate the support offered by many States, including Italy, the Netherlands, Tunisia, the United Kingdom, Lithuania, Ireland, Spain and France. I note the extension of the mandate of the United Nations Support Mission in Libya and look forward to our continued valuable collaboration.

The perpetrators of serious international crimes are emboldened when they believe they will never face justice. The cycle of impunity has provided a breeding ground for the committing of atrocities in Libya. Breaking that cycle requires a concerted international effort in order to ensure accountability for atrocity crimes. Through the arrest and surrender of ICC fugitives, the international community can begin to bring justice to the victims in Libya and help prevent future crimes and victimization. I reiterate my call to General Haftar and those working with him to facilitate the arrest and surrender to the ICC of Mr. Al-Werfalli without further delay, so that he can answer for his crimes in a court of law and in order for the truth to be established.

I call on all States to do everything in their power to ensure the surrender to the Court of all three Libyan fugitives. I also call on all parties to immediately cease all indiscriminate attacks and to comply with their duties under international humanitarian law. Libya will continue to be a priority situation for my Office in 2020. I remain committed to fulfilling my mandate with the aim of holding to account those responsible for the most serious crimes of international concern. The Council, as well as State and non-State parties, is once again urged to provide full support to the ICC with a view to achieving its mandate in Libya and in order to break the cycle of impunity. It will soon be a decade since the Council referred the situation in Libya to my Office. The people of Libya deserve peace and stability. Bringing to justice those responsible for war crimes and crimes against humanity facilitates that coveted outcome.

The President: I thank Prosecutor Bensouda for her briefing.

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

Mr. Kuzmin (Russian Federation) (*spoke in Russian*): The eighteenth report of the International Criminal Court (ICC) on this issue is extremely short on information regarding the outcomes and dynamics of the work of the Court on the investigation in Libya. There is nothing to comment on. I should like simply to reiterate the words with which the Prosecutor of the ICC concluded her briefing today:

(*spoke in English*)

"It will soon be a decade since the Council referred the situation in Libya to my Office. The people of Libya deserve peace and stability."

Mr. Pecsteen de Buytswerve (Belgium) (*spoke in French*): I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her written report and the very informative briefing she has just given us.

Belgium welcomes the progress made by the Office of the Prosecutor in its ongoing investigations and its work aimed at submitting applications for new arrest warrants. We also welcome the Office's monitoring of the current hostilities in order to determine whether crimes have been committed that fall within the jurisdiction of the Court. At the same time, it is regrettable that the three arrest warrants issued by the Court have still not been executed. The resulting impunity is an affront to the victims and their loved ones, as it undermines any hope of achieving a lasting peaceful solution to the crisis in Libya, of which justice is an essential element.

The Council cannot remain indifferent to this situation, since it was the Council itself that triggered the ongoing cases before the ICC through its adoption in 2011 of resolution 1970 (2011). In that resolution, the Council called on all States Members of the United Nations, whether States parties to the Rome Statute or not, to cooperate fully with the Court and the Prosecutor. We note that the Office of the Prosecutor still has information on the location of the three suspects, as Ms. Bensouda just explained to us — Mr. Al-Qadhafi in Zintan, whose brigades are allies of the Government of National Accord; Mr. Al-Werfalli in the Benghazi area, which is under the control of General Haftar's Libyan

National Army; and Mr. Al-Tuhamy in Cairo. The Court, which is entirely dependent on the cooperation of States for the execution of its arrest warrants, once again urges all of the relevant authorities to facilitate the immediate surrender of each of those individuals to the ICC. Failing that, Belgium believes that the Council should assume its responsibilities by examining every possible measure to facilitate the arrest and surrender to the Court of the three suspects. In that regard, I would like to point out that the Council could consider including on the sanctions list those persons against whom the Court has issued arrest warrants, for example.

In its report, the Office of the Prosecutor also discusses its two-pronged approach to allegations of crimes committed against migrants in Libya. Belgium especially welcomes the Office's strategy for cooperating with Libya and the other States concerned in order to support investigations and prosecutions at the national level. As the Prosecutor reminded us, the ICC has never been called on to prosecute all the perpetrators of the most serious crimes. In accordance with the Rome Statute, it is complementary to national criminal jurisdictions and intervenes only if the State is unwilling or unable to effectively carry out investigations or prosecutions. In the circumstances, we should welcome the fact that the Court's cooperation strategy has already produced positive and concrete results in national investigations and prosecutions.

Lastly, I would like to highlight the continued cooperation of the United Nations Support Mission in Libya with the ICC and its willingness to provide it with certain kinds of information on events related to the ongoing armed conflict. We should welcome this kind of collaboration between a United Nations special political mission and the Court as a model that could be followed in other, similar cases.

Ms. Gasri (France) (*spoke in French*): I too would like to thank Prosecutor Bensouda for her report and briefing.

A permanent criminal court with a universal jurisdiction is more essential than ever if we are to prosecute the perpetrators of the most serious crimes and break the cycles of impunity and violence that operate in too many crisis situations. France considers that the International Criminal Court is a pillar in the fight against impunity at the international level. In order to fulfil that task, the Court must be able to act and exercise its prerogatives without hindrance and within

the framework established by the Rome Statute. In that regard, France reiterates its support for the Prosecutor and her Office in implementing resolution 1970 (2011).

The current situation weakens the peace efforts going on in Libya. As the Prosecutor notes in her report, violations of human rights and international humanitarian law have increased in recent months. Attacks on civilians, the trafficking of migrants, arbitrary detention, enforced disappearances and sexual violence are unacceptable. We also reiterate our concern about the disappearance in Benghazi in July of Ms. Siham Sergewa, a member of Parliament. We call on the competent authorities to investigate this as soon as possible and to obtain information on her location.

It is a matter of urgency to ensure that the Libyan parties resume dialogue and work without delay on both the signing of a ceasefire agreement and a lasting political solution, based on the principles agreed on in Paris, Palermo and Abu Dhabi. That political settlement should pave the way for credible parliamentary and presidential elections. In that regard, we reiterate our support for Special Representative of the Secretary-General Ghassan Salamé and his three-point plan established at the ministerial meeting co-chaired by Mr. Jean-Yves Le Drian, France's Minister for Europe and Foreign Affairs, and his Italian counterpart on the margins of the high-level segment of the General Assembly. We also support the holding of an international conference in Berlin, which should enable the international community to give clear and unanimous support to a resumption of a political dialogue between the Libyan parties, before the holding of an inter-Libyan conference that is truly inclusive and representative of Libyan society today, particularly its women and young people. As recalled in the statement of the Heads of State and Government at the Group of Seven Summit in Biarritz, the United Nations and the African Union could organize such a conference.

In that context, combating impunity is one of the keys to resolving the conflict. The prosecution and conviction of criminals are essential to rebuilding the State and restoring democratic life in Libya. The establishment of strong and independent judicial institutions is a guarantee of stability for the country that the International Criminal Court should complement. I would like to make three specific points.

First, the fight against impunity requires the full and complete cooperation of all stakeholders and the Libyan

parties first and foremost. We note that the Prosecutor is pleased with the cooperation of the Libyan Prosecutor-General. Besides that, the cooperation of all the States concerned is necessary whether or not they are parties to the Rome Statute. The Court's arrest warrants must be executed, which would send a strong message about the impartiality of justice in Libya. Furthermore, the effective cooperation established between the Office of the Prosecutor and the United Nations Support Mission in Libya, as well as with various other organizations, including INTERPOL, should continue.

Secondly, all the most serious crimes committed in Libya since 2011 and that continue to be committed today must be investigated and prosecuted, including those committed by Da'esh. In that regard, we have taken note of the Prosecutor's statement of 16 April and her announcement today regarding the possibility of issuing new arrest warrants.

Lastly, we welcome the attention of the Prosecutor to crimes committed against migrants. Once again, the facts and findings that she mentioned in her report remind us of the seriousness and magnitude of that intolerable situation. We welcome her Office's rigorous approach, based on the principles of cooperation and complementarity with Libyan jurisdictions. We welcome the fact that the sharing of some evidence and information with local authorities operationally has pushed forward investigations at the national level.

In conclusion, the vicious circle of impunity and instability in Libya that benefits only terrorist groups, criminal organizations and militias must be broken. That is why we must provide immediate responses to the challenges facing Libya, which cannot be met without the effective assistance of the Court and the support of the Security Council. France will continue to cooperate fully with the International Criminal Court and to mobilize the Security Council in that regard.

Mr. Simcock (United States of America): I thank the Prosecutor of the International Criminal Court (ICC) for her briefing. It is shameful that several of the most notorious perpetrators of crimes against the Libyan people this past decade continue to enjoy impunity. Saif Al-Islam Al-Qadhafi, Mahmoud Al-Werfalli, Al-Tuhamy Mohamed Khaled and Abdullah Al-Senussi must face justice for their alleged crimes. We call on the individual Libyans or groups that are harbouring Al-Qadhafi and Al-Werfalli to deliver them to Libyan authorities immediately. We also call on those who are

sheltering Al-Tuhamy, former head of Libya's notorious Internal Security Agency, to end their protection of that perpetrator. We are also closely watching the Libyan Supreme Court's case against Abdullah Al-Senussi.

Accountability for those architects of Libya's darkest days would ensure that the Libyan victims of their atrocities are not forgotten. It would also deliver a powerful message of deterrence to future abusers and to those involved in the current conflict who may be guilty of atrocities. We regret that collectively we have little to show in the service of justice for the Libyan people and remedying the suffering that they have endured at the hands of those individuals. Beyond those four cases, violence and abuses continue in Libya today. Human traffickers and smugglers prey on the most vulnerable, especially migrants, refugees and asylum-seekers in Libya. A civil war continues to rage, and the number of civilian casualties and injuries is escalating. We strongly support accountability for any crimes that have been committed, including by officials and senior leaders involved in those networks.

The United States Government continues to receive other reports of potential human rights abuses in Libya, including accounts of arbitrary killings, forced disappearances, unlawful detention, torture and sexual violence perpetrated by multiple militia groups and security forces, including people in leadership and command positions. The current conflict in Libya has had a destabilizing humanitarian effect, resulting in an increased number of displaced persons, including the migrant and refugee population. Prolonging that conflict will further strain the provision of basic services to the population and will contribute to political insecurity and instability.

Libya's political and security instability has created an environment conducive to human rights abuses. In an effort to address the root causes of these atrocities, the United States continues to support a rapid return to a political process. We thank Special Representative Salamé for his ongoing efforts to secure a negotiated political solution to this crisis. Mr. Salamé and the United Nations Support Mission in Libya team face great physical risk in the work they are doing. We were reminded of this by the terrorist attack that killed three United Nations employees in Benghazi a few months ago, as well as by the recent air strike, in violation of the United Nations arms embargo, that nearly hit the United Nations compound in Tripoli. We continue to call for de-escalation, a ceasefire, economic reforms

and an improvement in the security environment, and we condemn all acts of violence against the Libyan people and the United Nations workers who are trying to help the country achieve stability.

The United States has historically been and will continue to be a strong supporter of meaningful accountability and justice for victims of atrocities through appropriate mechanisms. The perpetrators of atrocity crimes must face justice, but we must also be careful to recognize the right tool for each situation. I must reiterate our long-standing and principled objection to any assertion of the ICC's jurisdiction over nationals of States that are not party to the Rome Statute, in the absence of a Security Council referral or the consent of such States. Our concerns regarding the ICC and the situation in Afghanistan are well known. Our position in no way diminishes the commitment of the United States to supporting accountability for atrocity crimes, violations of international humanitarian law and gross violations of human rights.

Mr. Moriko (Côte d'Ivoire) (*spoke in French*): My delegation welcomes the holding of this briefing to consider the biannual report on the activities of the International Criminal Court (ICC) in Libya. We commend Ms. Fatou Bensouda, Prosecutor of the Court, for her detailed briefing. Côte d'Ivoire would like to assure her of our full support and to urge all States, including States that are not party to the Rome Statute, to fully cooperate with the ICC in order to end impunity.

My delegation notes with concern that since the previous report of the Prosecutor (see S/PV.8523), the security situation in Libya has deteriorated considerably, owing to the ongoing violence that began on 4 April between the forces of General Khalifa Haftar and those of the Government of National Accord led by Prime Minister Faiez Serraj. The deterioration in the security situation has allowed the Libyan branch of the Islamic State in Iraq and the Levant to take root. The attack in Benghazi on 10 August that claimed the lives of three members of the United Nations Support Mission in Libya (UNSMIL) demonstrates the need to draw the attention of both the Council and the International Criminal Court to the activities of that terrorist group.

My country is therefore concerned about the decision taken by the European Union, in a context marked by continued violations of the arms embargo on Libya, to temporarily suspend the deployment of its

naval assets in Operation Sophia, starting on 27 March of this year. It is also troubling that the efforts to secure a ceasefire and bring the parties to the conflict back to the negotiating table may be futile. In that regard, Côte d'Ivoire hopes that the upcoming international conference on Libya to be held in Berlin will help to silence the guns and sustainably revive the political process with a view to ending the crisis. A stable security environment is key to ensuring more effective cooperation between Libya and the ICC.

Côte d'Ivoire notes with regret that the ICC's arrest warrants for Libyan nationals have not yet been executed, due mainly to the current security situation, which is affecting the institutional capacity of the Government of National Accord to fulfil its obligations under the Rome Statute. We therefore call on the Libyan parties to remove all the obstacles to full cooperation with the ICC in order to bring the alleged criminals to justice before the relevant international tribunals. My country continues to believe that the fight against impunity must be an integral part of the process of national reconciliation if we are to create the conditions for lasting peace in Libya. In that connection, we welcome the statement by the Prosecutor on 8 May (see S/PV.8523) with regard to continuing to search for evidence of alleged crimes against migrants, since the extension of the ICC's jurisdiction to crimes committed against migrants is proving crucial. We welcome the progress made by the Office of the Prosecutor in that area.

In conclusion, Côte d'Ivoire reiterates its commendation and support to Prosecutor Bensouda and her Office for their perseverance in implementing the principle of accountability for crimes under the Court's jurisdiction. We also commend the excellent work done by UNSMIL, which has provided valuable assistance to the investigations of the ICC. Finally, my country calls on the United Nations, and the Council in particular, and the African Union to join forces in order to achieve a swift end to the clashes in Tripoli and the surrounding areas, and to enable peace to be restored in Libya and the Sahel.

Mr. Duclos (Peru) (*spoke in Spanish*): We welcome the valuable briefing delivered by the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda.

Peru deplores the continuing armed conflict in Libya, including the indiscriminate and deliberate

attacks on the people and on civilian infrastructure, which have resulted in numerous civilian casualties and the displacement of thousands. We reiterate our strong condemnation of the many signs of the commission of atrocity crimes and the grave situation caused by violations of human rights and international humanitarian law.

Almost nine years ago, as part of its concrete efforts to tackle impunity, the Council expressed its confidence in the jurisdiction of the International Criminal Court by referring the situation in Libya to it (see S/PV.6491). In that connection, we reaffirm the validity of the values of the Rome Statute and the importance of ensuring that States cooperate with the Court. In particular, we call on the Libyan authorities, as well as those of any other States concerned, to execute the arrest warrants ordered by the Court, especially those against Mahmoud Al-Werfalli and in the other cases mentioned by the Prosecutor, whose multiple and despicable crimes continue to go unpunished and undermine the confidence that judicial institutions need if they are to be an effective deterrent. The Council must consider measures to tackle these situations, as the representative of Belgium mentioned. In that context, we reiterate our firm support for the mandate of the Prosecutor of the International Criminal Court. All cooperation with her work, particularly by States parties, must be understood as an opportunity to strengthen justice and the rule of law in the domestic and international arenas.

The armed conflict in Libya has also increased the space available to terrorist organizations such as the Islamic State in Iraq and the Levant and its affiliates, as well as Boko Haram, which is taking advantage of the power vacuum to control territory, carry out heinous attacks and associate with organized crime. We welcome the fact that in accordance with the principle of complementarity, the Office of the Prosecutor is also considering such situations, as well as others that we have mentioned, as atrocity crimes, including their possible link to ongoing investigations.

In conclusion, I want to emphasize that confidence in justice, the rule of law and the institutions responsible for guaranteeing it is key to resolving and preventing the conflicts affecting a growing number of countries. The International Criminal Court must therefore continue to play the vital role for which it was created, that is, fulfilling its responsibility to protect populations and ensure accountability for atrocity crimes, as a central

element of the international rules-based order that we all defend.

Ms. Wronecka (Poland): I thank the Prosecutor for her briefing.

Poland remains supportive of the efforts of the International Criminal Court (ICC) to fight impunity and ensure accountability for those responsible for the most serious crimes of international concern committed in Libya. We are grateful for the commitment of the Prosecutor and her team in that regard, despite the difficult situation on the ground and the limited resources available.

Poland welcomes the cooperation of States and other stakeholders, including civil society, with the Office of the Prosecutor regarding its investigations of the situation in Libya and encourages its further development. At the same time, we echo the Prosecutor's request for cooperation from the relevant authorities in executing the outstanding arrest warrants issued by the Court in connection with the situation in Libya. We also endorse Ms. Bensouda's call on the relevant States to take all steps within their power to ensure the arrest and surrender of the suspects to the ICC without further delay. We recognize the latter as a crucial step not only in fighting impunity and ensuring accountability, but also in strengthening the rule of law and deterring further crimes, which is crucial for achieving peace, security, stability and prosperity in Libya.

Cooperation with the Office of the Prosecutor is most important, given the multiple serious violations of international human rights and international humanitarian law that have reportedly been committed since the previous report of the Prosecutor was issued. Poland condemns such acts and calls on all parties and armed groups involved in the fighting to fully respect the relevant laws. We remain deeply concerned about the situation of both the people of Libya and the migrants and refugees living there. At the same time, we are grateful for the Office's monitoring, investigative and analytical activities related to such crimes and its focus on the strategy of cooperation and coordination with Libya and other relevant States in support of nationally led investigations and prosecutions.

In conclusion, I would like to reiterate the call for an end to all violations, for respect for international law, including international humanitarian law and human rights law, for support for the ICC's ever more

vital work and for the political process in Libya, and for sparing no effort to achieve peace and justice there. The people of Libya deserve no less.

Mr. Alotaibi (Kuwait) (*spoke in Arabic*): At the outset, we thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her valuable briefing on her eighteenth report to the Security Council, pursuant to resolution 1970 (2011). We renew our support for the efforts of the ICC to achieve justice and combat impunity under international law.

We commend the ongoing role of the Office of the Prosecutor despite the many challenges it faces in fulfilling its responsibilities to track down and bring to justice the perpetrators of crimes and violations under difficult and tenuous security conditions in Libya, along with the military operations that have been ongoing around the capital of Tripoli since the beginning of April. We share Ms. Bensouda's concern about the increasing frequency of armed clashes that have led to the deaths and injuries of many people and the displacement of thousands of civilians from the areas of clashes.

We also commend the important role of the United Nations Support Mission in Libya (UNSMIL) at the helm of which is the Special Representative of the Secretary-General for Libya, Mr. Ghassan Salamé who presented a three-step proposal. We reaffirm our support for his efforts, and we hope that they yield results soon. We call once again on the Libyan parties to show restraint, respect international humanitarian law, not target civilians or civilian infrastructure and resume the political dialogue under the auspices of the United Nations.

We also express our concern with regard to the observations made in the report of the Prosecutor in connection with the suffering of migrants in detention centres, which constitutes a violation of international humanitarian law and has been exacerbated by the recent launch of military operations and the mounting activities of the terrorist group of Da'esh in many parts of Libya.

We reiterate our position that the primary responsibility for achieving justice across Libya falls on the shoulders of the Libyan authorities by exercising their sovereign jurisdiction, pursuant to article 1 of the Rome Statute. The ICC must take into account Libya's national criminal jurisdiction concerning cases under the consideration of Libyan courts to achieve

complementarity between the ICC, which complements national criminal jurisdiction, and the Libyan judiciary.

We recognize the scope of the security challenges in Libya affecting the work of Court experts in carrying out the necessary investigations, and we welcome the assistance provided by States, international and regional organizations, civil society organizations and the relevant Libyan authorities and UNSMIL to the Office of the ICC Prosecutor. That will contribute to increasing the effectiveness of the investigations carried out by the Office in fulfilling its mandate.

Mr. Zhang Dianbin (China) (*spoke in Chinese*): I thank Ms. Bensouda for her briefing.

The conflict in Libya has been raging for more than eight years, wreaking havoc on the country and its neighbours, bringing enormous suffering to the Libyan people and threatening international peace and security. China has always believed that the issue of Libya must be resolved through a political process. We hope that all parties to the conflict will focus on the interests of the country and the people, achieve a ceasefire as soon as possible, ease tensions, return to political dialogue and consultations, and actively promote the process of reaching a political settlement in Libya. China supports all efforts that will help stabilize the situation in the country and promote a political solution to the Libyan issue.

In late July, Mr. Ghassan Salamé, the Special Representative of the Secretary-General for Libya, proposed a three-point plan, which provides ideas for resolving the Libyan crisis. The international community should play a constructive role in implementing the relevant recommendations. China supports a Libyan-owned and Libyan-led political-settlement process and encourages Special Representative Salamé and such regional organizations as the African Union and the League of Arab States to continue their mediation efforts and form synergies.

While respecting Libya's independence, unity, sovereignty and territorial integrity, the international community should continue to provide support for and assistance to Libya so that the country achieves peace, stability and development as soon as possible. China's position with regard to the International Criminal Court remains unchanged.

Mr. Matjila (South Africa): At the outset, let me thank the Prosecutor of the International Criminal Court

(ICC), Ms. Fatou Bensouda, for her comprehensive briefing on the situation in Libya.

South Africa continues to support resolution 1970 (2011), which calls for a cessation of violence against civilians and mandates the ICC to investigate war crimes and crimes against humanity. We also urge non-State parties to the Rome Statute to support the Prosecutor of the ICC in discharging her responsibilities. While South Africa is concerned about the apparent lack of movement in some of the cases, it is encouraged by Libya's efforts to try cases domestically and urges that justice be carried out as expeditiously as possible.

South Africa welcomes the Office of the Prosecutor's increased focus on cooperation and coordination with Libya and other relevant States in order to support national investigations and prosecutions. South Africa ardently supports strengthening complementarity through the development of domestic institutions to investigate and prosecute crimes.

South Africa remains concerned about the current ongoing fighting in Libya, which is not conducive to finding a political settlement that will bring an end to Libya's long transitional period. We condemn the continued loss of civilian lives and crimes being perpetrated against migrants. We call on all parties to fully respect international humanitarian law and human rights law.

We appreciate the commitment of the Office of the Prosecutor to monitor and expand its investigations, with a view to potentially prosecuting new crimes within its jurisdiction. At the same time, we call on all parties and stakeholders to recommit to building durable peace in Libya on the basis of inclusive political dialogue as the only viable means to achieving sustainable peace in Libya. We also acknowledge and emphasize the role of the Security Council in promoting political dialogue and supporting all efforts to bring about a peaceful settlement of this conflict.

Mr. Schulz (Germany): Let me also at the outset thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing.

The ICC is, and remains, a crucial pillar of a strong rules-based international order. We fully support the ICC, its impartial work and the values enshrined in the Rome Statute. In 2011, the Council referred the situation in Libya to the ICC so as to ensure accountability for the most serious crimes. We commend the Prosecutor

for her commitment to ensure justice for the victims of atrocities in Libya. However, as we again heard in her briefing this morning, the security and human rights situation in Libya is extremely worrisome and her work is far from done. More needs to happen to fully implement the mandate of the ICC as well as her own mandate. We therefore encourage the ICC to step up its activities with regard to Libya and urge Member States to execute the arrest warrants.

The full cooperation and assistance of Member States remain essential for the Office of the Prosecutor to fulfil its mandate. The fact that arrest warrants for Libyan nationals have not yet been executed is deeply worrisome. It is important to execute them in order to provide justice to the victims as well as to prevent such crimes from being perpetrated again.

We are also highly concerned about the systematic use of sexual violence against refugees and migrants in Libya, as reported by the Prosecutor. Let me therefore again recall the sanctions listing criteria introduced by the Council on sexual and gender-based violence, which clearly recognize the devastating effects of such heinous crimes on peace and reconciliation in Libya.

We welcome Libya's commitment to justice and call for the further strengthening of its cooperation with the Court. The competent authorities must ensure accountability for all crimes. Until such time as the Libyan authorities can prosecute all international crimes, the ICC must be there to ensure accountability.

Let me also speak very briefly about the violations of human rights and international humanitarian law to which the Prosecutor referred in her briefing this morning. As the fighting in Libya persists, the human cost continues to rise. We have heard about that many times. To take just one example, the United Nations Support Mission in Libya (UNSMIL) reports that there have been 57 attacks on health-care facilities in 2019. Attacks on civilians constitute a breach of international humanitarian law. Accountability for crimes under the Rome Statute and full respect for international law are prerequisites to sustainable peace in Libya. It is the duty of the international community to ensure that there will be consequences for the perpetrators. The absence of accountability encourages the repetition of crimes and impunity.

Let me also say that the enormous influx of arms, despite the United Nations arms embargo, is one of the core causes of the humanitarian disaster in Libya.

We have discussed this many times. Nevertheless, the flow of weapons and the fighting continue, all of which must stop immediately. Observing and actually implementing the arms embargo require the support of a unified international community that rallies behind the efforts of Special Representative of the Secretary-General Salamé and UNSMIL and a Council that unites behind its own decisions.

In conclusion, let me express once again our full, continued and steadfast support for the ICC and the efforts of the Prosecutor in establishing accountability to enforce urgently needed respect for the rule of law. We call on the members of the Council and, indeed, on all United Nations Member States to support the Court in order to end impunity and ensure accountability. Let me also again call on those that have not yet joined the Rome Statute to consider doing so.

Mr. Singer Weisinger (Dominican Republic) (*spoke in Spanish*): We thank Prosecutor Bensouda for her usual enlightening words and applaud the efforts of her Office to bring about justice and peace for the victims in Libya.

We would like to begin by expressing our deepest condolences to the families of the civilians who died in recent months, in particular the families of United Nations staff, victims of the heinous acts in Benghazi. The loss of innocent lives affects us all. We therefore reaffirm our commitment to cooperating with the Court in order to ensure that justice is done and that due reparations take place.

The Dominican Republic supports and echoes the call by Prosecutor Bensouda on the parties to the conflict to respect the norms of international humanitarian law, emphasizing the need to protect civilians and civilian infrastructure, such as hospitals, schools and detention centres.

We would also like to express our deep concern with regard to the migrants and refugees in Libya. Incidents such as the horrific bombing of the detention centre in Tajoura must be stopped and those responsible brought to justice. In that regard, we encourage further investigation and review of evidence relating to crimes committed against migrants and refugees in official and unofficial detention centres in order to bring a case before the Court if the relevant legal requirements are met.

In that regard, the Dominican Republic wishes to emphasize the importance that countries recognize the complementary role played by the International Criminal Court in ensuring the prosecution, investigation and punishment of crimes against humanity and war crimes. We therefore welcome the focus on strategic cooperation and coordination with Libya and other States, in line with the Strategic Plan for 2019-2021 of the Office of the Prosecutor of the Court.

In addition, we welcome updates on the progress in the trial of Mr. Saif Al-Islam Gaddafi. We await the outcome of the upcoming hearings.

We regret the fact that there has not been progress with respect to the cases against Mr. Al-Werfalli, Mr. Al-Tuhamy and Mr. Al-Senussi. However, above all, we regret receiving the news that Mr. Al-Werfalli, despite having been accused of having murdered 43 people, has been promoted to the rank of Lieutenant Colonel in the Libyan National Army, which is unbelievable.

We wish to once again reiterate the urgent need for the Libyan authorities to cooperate with the Office of the Prosecutor. Without that commitment, we will not be able to see the desired results of her term. We call on Council members to continue to encourage cooperation between the Libyan authorities and the International Criminal Court so as to execute outstanding arrest warrants.

As the international community, we are committed to maintaining international peace and security. We must therefore rally behind the efforts of Prosecutor Bensouda to end impunity in Libya. Furthermore, we should not forget the preventive and deterrent role of the Court, which is fundamental to reducing violations of fundamental rights and restoring peace to Libyan society.

Mr. Esono Mbengono (Equatorial Guinea) (*spoke in Spanish*): Before I begin my statement, I would like to express the Republic of Equatorial Guinea's full support for the brotherly Libyan people. We also welcome the presence of Ms. Fatou Bensouda, Prosecutor of the International Criminal Court.

The Republic of Equatorial Guinea is deeply concerned about the situation in Libya, particularly with regard to the humanitarian and security situation, which continues to deteriorate.

We note that, since April this year, violence and growing instability have resulted in hundreds of civilian deaths and thousands of displaced persons. That situation benefits not the Libyan people but those who prefer to maintain the status quo in order to keep control of the country and principally of its resources. For that reason, we call once again for unity on the part of the Libyan people, and we encourage them to bring about understanding and peace, which will make possible stability throughout the country and make the Libyans themselves the owners and masters of their own destiny. We call on the parties to establish a ceasefire to that end and to allow access of humanitarian assistance. We invite them to return to the path of political dialogue as the only solution and to resume the United Nations-led process.

In that vein, we would like once again to praise the work of the United Nations Support Mission in Libya, headed by Mr. Ghassan Salamé, as well as that of the African Union. We also demand that the parties to and participants in the conflict respect human rights and international humanitarian law.

We emphatically condemn the attacks on civilians and civilian infrastructure, including those on health centres, medical personnel and related facilities, and on schools and detention centres. We reiterate that such actions represent violations of human rights and international humanitarian law and could constitute war crimes. We are also concerned at the situation of the migrants and refugees who are trapped in the country and who are victims of inhumane treatment. All of these issues require in-depth consideration by the Security Council with the utmost objectivity in order to seek a real and practical solution to this conflict, which could have been averted.

To conclude, the Republic of Equatorial Guinea wishes to reiterate its non-recognition of the jurisdiction of the International Criminal Court for reasons that are known to all.

Mr. Syihab (Indonesia): At the outset, I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing. We have taken note of the Prosecutor's eighteenth report to the Security Council pursuant to its resolution 1970 (2011), on Libya.

Indonesia joins others in expressing deep concern at the situation in Libya. Today I would like to make the following points.

First, like others, Indonesia calls for the immediate cessation of hostilities in Libya. We welcome the efforts made by the United Nations and other partners to bring the parties to the conflict back to political negotiations. To that end, we reiterate our full support for Special Representative of the Secretary-General Ghassan Salamé and the United Nations Support Mission in Libya.

The international community, including the Council, needs to show that we are united in our support for the Libyan people and refrain from taking actions that will push peace further out of our reach.

Secondly, like others, we, too, are concerned at the large number of grave violations of international law and of serious multidimensional crimes, as we just heard in Prosecutor Bensouda's update. We join the Prosecutor's call, in her statement of 16 April, on all parties and armed groups involved in the fighting to fully respect international humanitarian law and take measures to protect civilians.

That leads me to my last point, which relates to the ICC proceedings. Indonesia is committed to pursuing justice in Libya. The efforts to pursue it are part of the wider efforts to achieve long-lasting and sustainable peace in Libya, including the current ongoing effort by Special Representative of the Secretary-General Salamé and in particular his three steps of mediation effort.

The rule of law must be respected; peace cannot be complete and sustainable without justice; and justice cannot prosper in the absence of peace. For Indonesia, the priority at hand is to cease all remaining hostilities and return to the political dialogue. Action by the international community must be taken on the basis of careful decisions so as to avoid provoking further violence, endangering lives and jeopardizing the quest for peace.

I join the Prosecutor in stating that it is Libya's obligation, first and foremost, to ensure accountability for crimes committed on its territory. We therefore must empower the Libyan judicial authorities to enable them to exercise their sovereignty. That is why the referral of the situation in Libya to the ICC should not dissuade the competent Libyan authorities from invoking its jurisdiction to investigate gross violations of human rights and bring the perpetrators to justice.

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

I, too, would like to thank the Prosecutor for briefing the Council in her eighteenth report on the situation in Libya. The United Kingdom strongly supports the work of the International Criminal Court (ICC). Its role in holding accountable those responsible for the most serious crimes in Libya is of paramount importance, and this is especially so given recent flagrant breaches of international humanitarian law and human rights violations and abuses, including the targeting of civilian infrastructure such as the Tajoura detention centre in July, as she set out.

The conflict is having an unacceptable impact on civilians, including migrants and refugees. The United Kingdom is clear that civilians should be protected and that those responsible for violations should be held accountable. The ICC is crucial to this.

International criminal justice is a collective effort. States should ensure cooperation and fulfil their obligations. We support the Prosecutor's call for all relevant States, including State parties and non-State parties, to cooperate with the ICC in the arrest and surrender of warranted individuals. We share concerns over reports of Mr. Al-Werfalli's promotion within the Libyan National Army and the ICC's call on General Haftar to facilitate his immediate surrender.

It is clear that the ongoing conflict is having an unacceptable impact on the humanitarian and human rights situation in Libya. We call on all Member States to continue to engage with United Nations-led efforts to secure greater security and stability. We all know that there is no military solution to Libya's problems. All parties to the conflict should commit to an immediate ceasefire and respect their obligations under international humanitarian law.

The indiscriminate shelling of civilian infrastructure such as Mitiga airport threatens Libyan lives and livelihoods. This is unacceptable. The United Kingdom remains particularly concerned over the disappearance of House of Representatives member Siham Sergewa in July, and we reiterate our condolences following the car-bomb attack in Benghazi, which killed five people, including three United Nations staff members.

Support for international criminal justice is a fundamental part of our foreign policy, and the British Government strongly supports the ICC's role in pursuing accountability in Libya. The United Kingdom has always been and remains a strong supporter of the mission of the ICC to hold accountable those accused

of the most serious crimes, to uphold the rule of law and to achieve justice for victims. We will continue to support the Prosecutor and her team as they pursue their investigations.

I now resume my functions as President of the Security Council.

I give the floor to Ms. Bensouda to respond to the questions posed or comments made.

Ms. Bensouda: There will be no further comments from me.

The President: I now give the floor to the representative of Libya.

Mr. Elmajerbi (Libya) (spoke in Arabic): At the outset, I wish to congratulate you, Madam, on your assumption of the presidency of the Council for this month, and I wish you every success in the discharge of your mandate. I also thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her eighteenth report and her briefing today as well as her relentless efforts to pursue justice and to fight impunity.

The pursuit of justice across Libya is an issue of sovereign and national jurisdiction.

However, that does not mean that we will not cooperate with the ICC. The Libyan national judicial authorities view the work of the ICC as the complementary judicial efforts of a partner that embody a spirit of cooperation and integration between the national judiciary and international justice. The Prosecutor has repeatedly underscored that cooperation on many occasions and in her reports. My Government understands the Prosecutor's statements regarding the slow pace of the Libyan judiciary in its prosecution of certain suspects. That is thanks to the security situation in Libya, resulting from military confrontations that alternately escalate and de-escalate in a vicious circle of violence, as well as the unlawful offensive conducted by the Haftar forces against Tripoli and its suburbs. We should point out that some of the suspects being pursued by the national judiciary and the ICC no longer reside on Libyan territory.

With regard to the judicial aspect, we want to emphasize the ability of our national judicial system to prosecute all who have committed crimes on Libyan territory, which are not subject to the statute of limitations. We should take into account the fact

that the security situation in Libya continues to enable the perpetration of many crimes against civilians. We therefore emphasize that the Libyan judiciary has been monitoring all of these violations, including an air strike by Haftar forces on 6 October on an equestrian club in the Janzour area of Tripoli, which injured many innocent children, and another carried out in the Farnaj area of Tripoli on 14 October, which killed three girls from one family, as well as considerable military operations targeting many innocent people in more than one area. Those incidents must be followed up on and investigated.

In that respect, the Government of National Accord has repeatedly asked the Council to dispatch a fact-finding mission to investigate the many violations and irresponsible actions that have been taken against innocent people, with a view to establishing the facts, pursuing their perpetrators and holding them accountable. In that connection, we reiterate that our judiciary is capable of carrying out such a mission if it is given the opportunity to do so. That will be possible when there is political and security stability in the country, which the Special Representative of the Secretary-General is pursuing through his efforts to hold an international conference, followed by a national congress attended by all the political parties in Libya, aimed at reaching an agreement that is acceptable to all parties.

With regard to the concern expressed in the Prosecutor's report about the situation of illegal migrants, the Government of National Accord reiterates that it has taken speedy measures to protect them. In cooperation with the International Organization for Migration, we have moved migrants from the areas of confrontation, but in spite of that, aircraft of the aggressor force

carried out an air strike on a migrant centre in Tajura, in Tripoli, killing 53 people and injured 130. We once again reiterate that the Government then requested that the Council set up a fact-finding mission to investigate the matter and to hold the perpetrators to account. The Government is monitoring all such violations against hospitals, public facilities and civilian infrastructure, and we have taken all the necessary measures to protect civilians and keep them out of harm's way, especially in areas of military confrontation.

Abductions, disappearances and arbitrary detentions have accompanied the aggressor force's aggression against Tripoli, including the disappearance of Ms. Siham Sergewa, a member of Parliament, from her house in Benghazi. Many Libyan and international parties, including the United Nations, have demanded that her whereabouts be disclosed and that she be released.

In conclusion, the Government of National Accord reiterates its full commitment to resolution 1970 (2011), especially with regard to the mandate of the ICC. We hope that the Council will consider the Libyan issue a priority and will not ignore it, ensuring continued cooperation with Special Representative Ghassan Salamé in order to achieve peace and stability and end this impasse. That will require a concerted effort on the part of all the members of the Council to overcome their differences, with a view to adopting a binding resolution to end the hostilities, compel the forces of aggression to return to where they came from as soon as possible and seize the opportunity to achieve peace in my country, Libya, so that we can rebuild the country and relaunch its development.

The meeting rose at 11.15 a.m.