



# Security Council

Seventy-eighth year

**9469**<sup>th</sup> meeting

Wednesday, 8 November 2023, 10.10 a.m.

New York

*Provisional*

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*President:* Mr. Zhang Jun . . . . . (China)

*Members:*

Albania . . . . .	Mr. Stastoli
Brazil . . . . .	Mr. França Danese
Ecuador . . . . .	Mr. Pérez Loose
France . . . . .	Mrs. Dime Labille
Gabon . . . . .	Mrs. Onanga
Ghana . . . . .	Mr. Agyeman
Japan . . . . .	Mr. Ishikane
Malta . . . . .	Ms. Gatt
Mozambique . . . . .	Mr. Fernandes
Russian Federation . . . . .	Ms. Zabolotskaya
Switzerland . . . . .	Mrs. Chanda
United Arab Emirates . . . . .	Mr. Alolama
United Kingdom of Great Britain and Northern Ireland . .	Mr. Wickremasinghe
United States of America . . . . .	Mr. Simonoff

## Agenda

The situation in Libya

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*The meeting was called to order at 10.10 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

### **The situation in Libya**

**The President** (*spoke in Chinese*): 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 give the floor to Prosecutor Khan.

**Mr. Khan:** First of all, I thank you, Mr. President, for the opportunity to brief the Security Council today. I also wish to acknowledge and express my personal thanks to His Excellency the Permanent Representative of Libya to the United Nations for his attendance in New York at this meeting of the Council.

If I may, with your leave, Sir, I would wish to begin by offering my most profound condolences to the Libyan families and communities affected by the unprecedented flooding in Derna and other parts of Libya that the world saw in September. I am well aware that that led to the tragic loss of the lives of thousands of Libyans and the destruction of hospitals, schools, residences and infrastructure. That represented further misery and tragedy endured by the Libyan people for years. I simply wish to express my solidarity and that of my Office with the Libyan authorities and the people of Libya as they continue their recovery.

It is now 18 months since, in the twenty-third report presented by my Office on the situation in Libya, I set out a renewed plan for action, a completely new strategy through which we would seek to finally deliver on the hopes and legitimate expectations of survivors in Libya. The new plan reflected an overall approach that I have sought to introduce across the various situations addressed by my Office, based upon a targeted, field-focused and dynamic approach to investigations that seeks to fully harness cooperation with all stakeholders and which measures our progress based on clear objectives.

I am pleased to be able to confirm to the Council again today that we have made significant progress in the implementation of that strategic plan over the past six months. As reflected in my report, that has included a number of key steps towards the realization of the targets and objectives that I set 18 months ago. To give an example, we have continued to accelerate our investigative activities. During this reporting period, the Team undertook over 15 missions in three regions, collecting over 4,000 items of evidence, including video evidence, audio material, forensic information and satellite imagery, as well as conducting numerous witness screenings and interviews.

I am pleased to say that we are reaching our key benchmarks as part of our key lines of inquiry that I set out 18 months ago. We have made particular progress with respect to the crimes related to the 2014 to 2020 period. Those lines of inquiry against key suspects have successfully concluded. The Office is now approaching the stage where investigative activities in relation to this priority line of inquiry, which I detailed in my previous reports, can be assessed as complete. Positive progress has also been made with respect to lines of inquiry such as those pertaining to investigations of detention facilities and crimes against migrants.

Critically, we have deepened our engagement with those affected by alleged Rome Statute crimes. We have increased contact with victims, victims' associations and representatives and other civil society organizations on the situation in Libya. We have been significantly aided in that objective by the continuous presence my Office has had in the region. A presence in the region is absolutely essential to effective investigation and the prompt delivery of our mandate. That increased engagement has enriched and helped to further accelerate the investigation, providing access to key new potential evidence and witnesses.

As part of those efforts, in July my Office also held a multi-day training seminar with many different Libyan civil society organizations to discuss and explain the application of the guidelines for civil society organizations that we developed with European Union Agency for Criminal Justice Cooperation. That is part of a joint endeavour — the partnership that I mentioned previously — to try to bring everybody onboard, not have spectators, and ensure that we try to more thoroughly and completely investigate crimes under our jurisdiction.

We are also continuing our progress in harnessing advanced technology in the quest for wider and more meaningful justice. Major steps forward during this reporting period included revolutionizing our approach to the use of technology in our investigations. That included, for example, transitioning our evidence holdings into a cloud-based evidence management system, which will allow the Libya team to draw on artificial intelligence and machine-learning tools, such as automated transcription and translation of video and audio material. During the same period, we also launched OTPLink, which is a digital platform that allows for a more secure transmission of information from external stakeholders, including witnesses. That is something that has become available not only to witnesses in the Libya situation, but also others addressed my Office as well.

As highlighted in my report, our work has not been restricted to simply accelerating our own independent investigations and prosecutions. I have said it before and want to underline my commitment: deepening collaboration with national authorities through a more dynamic approach to cooperation and complementarity is central to my vision of the work of the Office everywhere. That renewed approach has had particular impact with respect to our investigations into crimes against migrants in Libya.

It really does not matter which flag is behind a judge or a prosecutor. As I have said — and I hope members will not tire of hearing it — the central objective under the Rome Statute is that, wherever possible, the flag behind a judge or prosecutor should be a flag of a State Member of the United Nations, and not the International Criminal Court.

We should judge our success not only by the number of prosecutions before the ICC but by our integrity and resilience and by the rigour and professionalism of our independent investigations. Our ultimate assessment of the impact of the Council's referrals for survivors and the families of victims must actually incorporate the results that we have helped to deliver and have supported collectively in the domestic jurisdictions of Member States. The Office must work as a hub, not as an apex, and we work in partnership with any State or national authority that wants to join hands in the quest for more justice and accountability and less impunity.

In line with that approach, my Office has continued to work closely over the past six months with the joint team that is investigating crimes against migrants on

the central Mediterranean route, a team that we joined last year. Our membership of that joint investigative team represents a fundamentally new way of working with national authorities. In the past six months we have completed several joint investigative missions. We have held weekly information-sharing meetings with those key partners and are accelerating collective action. An expert-level meeting of the joint team was held at the end of October to share updates and information and to prepare for the strategic-level meeting that will be held next month. Based on that collective work, the Office has been able to provide tangible support with respect to ongoing investigations and prosecutions and to key suspects in human trafficking investigations and prosecutions in Italy and the Netherlands. As is also reflected in my report, our engagement and cooperation with Libyan authorities remains at the heart, the absolute centre, of our strategy with respect to the situation.

In the last reporting period, I confess that we had some challenges with cooperation. Despite much effort, we were unable to obtain visas to enter Libya for operational-level field missions, which would have served to accelerate our collaboration with Libya and the Libyan authorities even further and would have helped to enhance our work in the area of forensics and our continued field presence in Tripoli. But there has been discernible improvement and I think it is only right to bring that to the attention of the Council, particularly since the arrival here in The Hague of Ambassador Ziad Daghim. In line with the instructions that were transmitted to the Ambassador by the President of the Presidential Council, Mr. Mohamed Menfi, the Embassy confirmed that it would extend its full cooperation to the Office. I received my own visa for Libya and visas for members of my Office only this morning. God willing, that will also mean that my next report to the Council will be given from the territory of Libya. I hope that can take place. I am pleased to confirm to the Council that this cooperation will hopefully form a solid basis for us to report on more significant progress over the next period.

In the past six months, through our partnership with the communities affected, the Libyan authorities and international partners, we have continued our positive momentum in relation to the situation in Libya and are actually seeing real results. With the greatest of respect for the Council, I want to emphasize that we cannot take that progress for granted. The resource constraints that my Office is facing are real and profound and are putting increasingly critical pressure on our ability to

deliver on our mandate across the various situations we face. During the reporting period we received valuable extrabudgetary support from States that has benefited our work, including the secondment of national expert specialists on sexual and gender-based crime, for example, and the provision of financial contributions supporting the technological reforms that I have already referred to. However, while these contributions have had a tangible positive impact and have allowed us to make progress, the past six months have made it even more apparent to me that we are facing certain challenges due to what can only be described as an inadequate, insufficient core budget for my Office.

Based on a fundamental strategic review of our work — and I recently launched our new 2023–2025 strategic plan — I have identified significant resource shortfalls and have made a request to the Assembly of States Parties for an increased budget in 2024, particularly with regard to our ability to investigate financial flows that are relevant to the Libya situation and proceeds of crime. God willing, in December, at the Assembly of States Parties that will take place in New York, I will be making a request to all States parties to the ICC to demonstrate their continued commitment to the proper application of international law and to giving the men and women of my Office the resources needed so that we can vindicate the rights not only of survivors in the Libya situation but of all those in every other situation — because, of course, every human life matters equally.

In my first briefings to the Council as Prosecutor, I underlined the fact that for survivors and for the communities and families affected, for those looking for their loved ones or grieving their passing, I have to provide a clear vision as to what my Office's ultimate collective goal is, pursuant to the mandate it was given by the Council and pursuant to resolution 1970 (2011). I made it very clear in my very first briefing to the Council (see S/PV.8911), with regard to the situations both in the Sudan and in Libya, that referrals cannot be a never-ending story.

Through the new investigative strategy that I have placed before the Council, which I have touched on today, I sought to provide much greater clarity with regard to what we are doing and what we are focusing on. While my hands are tied to some extent with regard to what I can say publicly because of the duties of confidentiality that I owe to the Court and orders of the Court, I am of the view that the results of this new strategic approach are

significant and clearly discernible. But as we continue to build on that momentum, it is critical that my Office continue to proactively and meaningfully engage with the Council, the Government of Libya and, of course, with survivors, to begin to chart a path that leads to the successful completion of our investigative activities in relation to the situation as a whole. The legal basis for my Office to investigate crimes connected to this referral, underpinning our investigative strategy, is clear and ongoing. But that does not prevent us from setting out a course aimed at fulfilling the core mandate that the Council tasked the ICC and my Office with engaging with, pursuant to resolution 1970 (2011). I believe it is essential that we pursue that path in order to enhance the trust between us and demonstrate a willingness, an ability and a road map that will enable us to close the situation in a way that ensures that we have discharged our responsibility as effectively as we can. That will require deeper engagement with national authorities, based on complementarity, while continuing to strengthen my ability and that of my Office to prosecute those subject to public and non-public arrest warrants before the ICC.

Reflecting that approach and as noted in the report members have before them, it is my intention to work in the next six months with relevant key stakeholders to prepare a plan for the completion of activities by the Office pursuant to resolution 1970 (2011). I hope and will aim to be able to complete the investigative activities in relation to the key lines of inquiry that I have previously detailed by the end of 2025. Whether that goal is achievable will depend on if we can collectively deliver on the plans outlined in the report and if cooperation with Libya can move forward in the way that is necessary. While we chart that path together, my Office will continue with our activities pursuant to all our lines of inquiry with commitment and dedication in relation to the resolution.

In the coming months, I intend to continue to rely upon our engagement and cooperation with the Council, with survivors, with Libya and with all international partners. If we work together, if we try to put the interests of victims first, and if we believe that injustice is not inevitable but justice is the birthright of every child, we will have a hope of improving the situation in Libya and discharging our responsibilities more effectively and more completely than we perhaps have in the past. I really look forward to working together with each and every member of the Council so that we

can strive to meet and fulfil the legitimate expectations of the victims and their families in Libya, the hopes and aspirations of the people of Libya and, of course, the trust that the Council placed in the ICC when the referral was made all those years ago.

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

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

**Mr. Ishikane** (Japan): I thank Prosecutor Khan for briefing us on his twenty-sixth report on the situation in Libya.

At a time when international peace and security is being challenged around the world, the International Criminal Court (ICC), as the central institution of the international criminal justice system, stands at the front line of the global fight against impunity. The perpetrators of serious crimes must be held accountable, and justice under the rule of law must be achieved.

Japan welcomes the continued progress in the investigation led by the Office of the Prosecutor under its renewed strategy of April 2022, fully utilizing available resources and modern technologies. Japan also recognizes the support provided to the Prosecutor's Office by the United Nations Support Mission in Libya. In particular, Japan takes note of the enhanced investigative activities regarding crimes against migrants, with the engagement of the relevant national authorities, other States, international and regional organizations, and civil society organizations. Japan is also encouraged to hear that investigations in relation to the 2014–2020 operation have moved towards the completion phase. Japan looks forward to the upcoming report to the Security Council outlining a potential road map towards that goal.

On the other hand, it is a little unfortunate that cooperation with the Libyan authorities is still falling short of our expectations. Japan calls on both the Libyan authorities and the ICC to rapidly resolve outstanding issues, including with regard to visas, in a positive way, so that the Court can operate in Libya and carry out its necessary mission.

Another challenge is the lack of major progress in the investigation into the 2011 violence, including the prosecution of Saif Al-Islam Al-Qadhafi. We look forward to seeing the Court expedite its process.

When Japan and Switzerland hosted the Arria formula meeting in July, many States called for further utilizing the Court for international peace and security and requested enhanced cooperation with the Security Council, as well as with each Member State.

Japan proudly supports the Court by providing both human and financial resources, and we hereby reconfirm our unwavering commitment thereto. Japan stands ready to further engage with relevant Member States and will continue our robust support for the crucial activities of the Court.

**Mrs. Chanda** (Switzerland) (*spoke in French*): Switzerland thanks the Prosecutor for his briefing and for presenting his twenty-sixth report on the situation in Libya. The report is a guarantee of transparency and gives us a clear and complete account of the Office's efforts over the past six months, in accordance with the mandate contained in resolution 1970 (2011).

I would like to address three points.

First, we commend the Office of the Prosecutor for the continued and significant progress made in implementing the renewed action strategy for Libya. Switzerland notes with interest the progress made on the four lines of investigation. Of particular note is the progress made in the investigation into crimes linked to the 2014–2020 operations, which will soon be considered complete. We also welcome the focus on psychosocial support for victims and support for witnesses in terms of security and medical aid, including with the assistance of national authorities. Moreover, we welcome the Prosecutor's indication that the Office will be able to present in its next report a potential road map for the completion of the Office's activities in accordance with resolution 1970 (2011). That announcement demonstrates the Office's commitment to carrying out its activities by following clear and concrete objectives.

Secondly, Switzerland subscribes to the Court's digitalization efforts, which contribute to its receptiveness to new technologies aimed at enhancing its efficiency. Taking advantage of new technologies while preserving its integrity will allow the Court to optimize its efficiency. We therefore take note of the digitalization of evidence and the launch of a digital platform. By enabling secure and rapid exchanges of communications, it contributes to the security of victims, witnesses and civil society organizations. In that context, we emphasize that data security and

the protection of judicial infrastructure is essential. We condemn even more strongly the cyberattack to which the Court fell victim this summer. Furthermore, for the Court to exercise its mandate effectively, its independence and impartiality must be preserved. To that end, we would like to emphasize here the importance of endowing it with human and financial resources commensurate with the tasks incumbent upon it.

Thirdly, cooperation is key in enabling the Court to fulfil its mandate. We therefore strongly encourage the Libyan authorities to continue their cooperation with the Office of the Prosecutor, particularly with regard to the granting of visas. Those are essential elements for the Office to be able to carry out field missions and ensure its presence in Libya. We welcome the Office's extensive cooperation with third States, particularly regarding crimes against migrants. Such cooperation demonstrates a positive application of the principle of complementarity, which is at the heart of the Rome Statute. We also welcome the Office's continued efforts to engage with civil society, and we reiterate our concern about the restrictions imposed on civil society in Libya. Finally, we encourage the continuation of close collaboration between the United Nations Support Mission in Libya and the Office of the Prosecutor, particularly during field missions.

Allow me to conclude by echoing the words of Noura Al Jerbi, who briefed the Council in August:

“By holding individuals and institutions responsible for past wrongs, Libya can build the foundation of trust, stability and progress that is essential for a peaceful future.” (*see S/PV.9402, p.6*)

Switzerland wishes to reaffirm its full support for the International Criminal Court. As everyone here knows, there can be no lasting peace without justice.

**Mr. Agyeman** (Ghana): I would like to begin by thanking Mr. Karim Khan for presenting to the Council the twenty-sixth report of the Prosecutor of the International Criminal Court on the situation of Libya. I also acknowledge the presence of Ambassador Taher Elsonni of Libya and note his active contribution to the Council's consideration of this matter.

Over the course of the past 23 months, and as a member of the Council, Ghana has strived to support the efforts of the Prosecutor in furtherance of his mandate established by resolution 1970 (2011). As we

make our last statement on this agenda item during our present membership of the Council, our confidence in the work of the Prosecutor remains undiminished, and we commend the strong progress made in the implementation of the renewed strategy of the Office in relation to the situation in Libya.

We join in welcoming the continued transparency and clarity provided by the Office with respect to the progress made on the four key lines of inquiry under this strategy and are happy to note the conclusion of lines of investigation against key suspects of the crimes related to the 2014 to 2020 operations. We look forward to the Prosecutor's potential road map for the completion of activities pursuant to resolution 1970 (2011).

On the lines of inquiry addressing the detention facilities and crimes against migrants, Ghana, together with other African members of the Council, continues to express grave concern about the human rights violations of migrants wherever they occur and reiterates the call for perpetrators of such crimes in Libya to be held accountable. We therefore hope that the progress made by the Office with respect to crimes against migrants will serve as an important reference for accountability and as a deterrence to others who commit crimes against migrants.

In furtherance of the principle of complementarity, which is at the heart of the Rome Statute and has been a common refrain of Ghana during our meetings, we welcome the commitment of the Prosecutor to work more closely with national authorities to deliver accountability for international crimes and welcome the cooperation with the six third States in line with that principle. As part of efforts by the Office of the Prosecutor to effectively implement the mandate provided by the Council, we believe that the approach of complementarity and cooperation will also help to build the capacities of Libyan institutions, as well as those of third States, towards national trials of indictees.

We commend the efforts to innovate and the use of OPTLink for the Libyan and other situations as they relate to external stakeholders, including witnesses. We encourage the continued cooperation and partnership of the authorities of Libya for the work of the Office of the Prosecutor and underscore the importance of full cooperation of all relevant national authorities for the success of the work of the Prosecutor, as envisaged by resolution 1970 (2011), especially relating to the issuance of entry visas and access to documents and places of interests to aid investigations.

Finally, in furtherance of the referral made by the Security Council to the Court of this matter, Ghana urges the sustained support of the Council for the necessary financial resources required by the Court to discharge its mandate. We reaffirm our support for the call by the Assembly of States Parties for additional funding to the Court's 2024 budget proposals.

We also express appreciation to the United Nations entities, including the United Nations Support Mission in Libya, for their continued support of the work of the Office of the Prosecutor on the situation in Libya and underline the importance of ongoing support in anticipation of increased field missions to Libya in the coming months.

Outside of the Council, Ghana will continue to follow this matter closely in line with its international law commitments and provide support for relevant processes as necessary to support the peace and stability of Libya.

**Mr. Wickremasinghe** (United Kingdom): I would like to start by thanking Prosecutor Khan for his important briefing today on the occasion of the twenty-sixth report of the Prosecutor of the International Criminal Court (ICC) on the situation in Libya. The United Kingdom gives its full support to the Prosecutor's ongoing investigations. And we welcome his latest report to the Council.

We welcome the good progress in the implementation of the renewed strategy of the Office of the Prosecutor, in particular the indication from the Prosecutor that the Office will be in a position to outline a potential road map for the completion of its activities pursuant to resolution 1970 (2011) in his next report. We welcome the update from the Prosecutor on the four key lines of inquiry in the strategy. We are pleased to note the increased engagement with witnesses, survivors and civil society through the Office's continuous presence in the region. Justice is vital to long-term security and stability.

We note also the progress made by the Office with respect to crimes against migrants and the efforts to work more closely with national authorities to deliver accountability for relevant crimes. We recognize the Prosecutor's call for resources to address the identified strategic risks and the need to ensure the Office is sufficiently resourced to conclude its investigations. The ICC is an important tool to deliver justice for Libya through transparent investigations. We must therefore

ensure that the ICC is in a position to set out and deliver a road map to complete investigations and to do justice for the people of Libya.

In that respect, we welcome the support and engagement of the United Nations Support Mission in Libya (UNSMIL) with the ICC investigation. However, we also emphasize the importance of the cooperation of the Libyan authorities with the ICC investigation, in accordance with the requirements of resolution 1970 (2011). Such cooperation includes the issuance of visas to ICC staff, the provision of documentation and other evidence to the ICC, and the surrender of individuals subject to arrest warrants.

In conclusion, we underline that the United Kingdom remains committed to working with the Prosecutor's Office and urge it, along with the Libyan authorities, UNSMIL and others, to build on the progress to date and to ensure the delivery of justice for the people of Libya.

**Mr. Stastoli** (Albania): I thank Prosecutor Khan for today's briefing which highlights the key investigative elements included in its twenty-sixth report pursuant to resolution 1970 (2011). We also welcome the presence of the representative of Libya at today's meeting.

As a party to the Rome Statute, Albania is a strong supporter of the International Criminal Court (ICC) in its mission of delivering justice for international core crimes.

The ICC is playing an important role in pursuing justice in Libya, despite the multiple challenges, including the devastating floods. Allow me, at this point, to express our solidarity with the people of Libya.

Albania commends the tangible progress achieved in all fields of inquiries and appreciates the cooperation established between the United Nations Support Mission in Libya, the Office of the President of Council and the Office of the Prosecutor. We also welcome the cooperation with the fugitive-tracking team of the International Residual Mechanism for Criminal Tribunals in bringing to justice the perpetrators of atrocity crimes.

As we have stated before in the Chamber, we consider the ICC a key component of the global struggle to end impunity and strengthen accountability. It represents the only hope for the victims of atrocity crimes to receive justice. We fully support it.

The independence of the judiciary system is a universal principle, I believe, we all share, and any attempt to undermine the impartiality and the independence of the courts goes against the Charter of the United Nations and shared values. Albania condemns the cyberattack against the Court's infrastructure. Any effort to put pressure on judges or interfere in the judicial process is unacceptable.

We urge the Libyan authorities to promote and protect human rights; to protect civilians, including migrants; and to deliver justice for the atrocity crimes committed on Libyan territory. In that regard, the Office's presence in Tripoli must speed the evidence-collection process and support the victims of such horrific crimes. Albania welcomes Prosecutor Khan's vision for the completion of the new strategy in a reasonable time frame. That is the way to make sure that the perpetrators of atrocity crimes at large will face justice soon.

We commend the ICC's collaboration with the Independent Fact-Finding Mission on Libya and its engagement with affected communities and civil society in gathering evidence on extrajudicial killing, torture, rape, sexual slavery, inhuman treatment and crimes against migrants.

Albania fully supports the Trust Fund for Victims, aiming to reintegrate them in society. Particular protection must be given to women and children. This is momentum for accountability, a unique opportunity for Libya to ensure justice, support reconciliation and cut — once and for all — its links with a dark past.

In conclusion, as this is Albania's last meeting on the ICC and Libya, I would like to assure the Council that Albania will continue to stand beside the victims of atrocities and work closely with Libya, the ICC and other partners in promoting human rights, the rule of law and reconciliation. Delivering justice and accountability are preconditions for lasting peace, security and development in Libya and elsewhere.

**Mr. Alolama** (United Arab Emirates) (*spoke in Arabic*): At the outset, I welcome the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, and I thank him for his briefing. I also welcome the participation of the Permanent Representative of Libya, Ambassador Taher Elsonni, in today's meeting.

The Libyan people continue to suffer from the massive devastation caused by the floods in September. The international community must consider how to best

help Libya to recover and how to build on the solidarity and unity the Libyan people have shown in the aftermath of that disaster in order to regain momentum in the political process and achieve a Libyan-led and Libyan-owned political settlement in which accountability and transitional justice are key elements.

In that regard, we emphasize that it is the primary responsibility of States to prevent and address crimes committed on their territories within their jurisdictions, including atrocity crimes. A strong national accountability system is the best way to promote the rule of law, fight impunity and provide care for the victims.

We are encouraged in that regard by the Office of the Prosecutor's increased engagement with Libyan national authorities, pursuant to the ICC's fundamental principle of complementarity. We stress the importance of continuing and deepening that cooperation with the relevant national authorities in Libya through engagement and dialogue.

Investigating the crimes committed against migrants is an important priority of the ICC. Those important investigations must be carried out through active cooperation with the national Libyan authorities and with strong support for their local efforts.

Close and intensified international cooperation is also necessary to dismantle the transnational organized criminal networks that prey upon migrants and displaced persons, including in countries of origin, destination or transit.

In conclusion, the United Arab Emirates affirms its support for United Nations efforts in support of Libya, and we hope that concerted efforts are made to realize the legitimate aspirations of the people of Libya and restore security and stability in the Middle East and North Africa.

In that regard, we stress that achieving peace in the region will be possible only by stopping the bloody war on the Gaza Strip, where women and children are bearing the brunt of its impact. That war threatens to expand the conflict as tensions are escalating across the region.

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



At the outset, I extend the deepest sympathy of the United States to all those in Libya affected by the tragic loss of life following the devastating storm almost two months ago. Libyan leaders must now come together to put the needs of flood victims first and carry out a unified approach to reconstruction — coordinated between the East and West, with transparency guarantees and support from the international community.

The United States voted for resolution 1970 (2011) and has steadfastly supported the investigation of the International Criminal Court (ICC) into atrocities in Libya since its adoption as a recognition that justice for the victims of atrocities and accountability are the necessary foundations for a future Libya that is peaceful, free and secure. We commend the extraordinary dedication of the Office of the Prosecutor's Staff and its sustained efforts to investigate and prosecute those most responsible for the atrocities committed in Libya against the Libyan people and migrants since February 2011.

In particular, we are encouraged by the Office of the Prosecutor's progress on the four key lines of investigative inquiry. We are heartened that the Office is taking a twin approach to investigations — first, strengthening its capacity to undertake the core prosecutorial functions of gathering and analysing evidence, including forensics, open-source investigations and enhancing legal cooperation; while second, meaningfully engaging civil society and supporting victims and witnesses, including through prioritizing psychosocial rehabilitation and trauma-informed approaches. The legal element and the human element are both fundamental. Libyans and migrants have suffered torture, rape, extrajudicial killing, arbitrary arrest and prolonged pretrial detention. To honour their rights, their dignity and their humanity, we must ensure that the individuals most responsible, either directly or indirectly, are held accountable and that victims receive assistance throughout their recovery and rehabilitation.

We welcome the Office of the Prosecutor's deepening cooperation with third States, international bodies and regional organizations. That cooperation multiplies the available avenues for joint action to pursue accountability for a range of crimes. While we are disappointed about the absence of steady and reliable cooperation by the Libyan national authorities during the reporting period, we are encouraged that there may be a more positive trajectory for engagement with them. We call on Libyan

authorities to further increase their cooperation with the Court, including by granting visas to those involved in critical investigative missions, enforcing arrest warrants and swiftly finalizing the establishment of an Office of the Prosecutor liaison office in Tripoli.

Ensuring justice and accountability for the horrific crimes committed in Libya since the Security Council adopted resolution 1970 (2011), including those of former senior officials of the Al-Qadhafi regime, such as Saif Al-Islam Al-Qadhafi, is a task that falls to all of us. We must all look for ways to effectuate that referral and its imperative of cooperation, including through providing the ICC the support it needs to be successful. Justice and accountability will be essential to build a future for Libya that is marked by peace, the rule of law and respect for the dignity of every human being. The people in Libya deserve nothing less.

**Ms. Gatt (Malta):** Let me thank Prosecutor Khan for the report and his briefing this morning.

I reiterate Malta's strong support for the work of the International Criminal Court (ICC) and the tireless efforts of the Office of the Prosecutor in pursuing justice for victims of the most horrific crimes in different conflict situations. I also welcome the Permanent Representative of Libya to today's meeting.

The ICC's work in relation to the Security Council's referral of the Libyan situation is critical — not only for accountability for international crimes, but also for long-term peace and stability in the country.

In that regard, we are pleased with the progress made during the reporting period on the implementation of the renewed strategy of the Office on the situation in Libya. We want to mention the significant progress across the lines of inquiry, particularly in addressing the 2014-2020 operations, where lines of investigation against key suspects were successfully concluded and the Office is approaching the completion stage of the investigative activities. We are also encouraged by the positive progress with respect to the inquiries addressing detention facilities and alleged crimes against migrants. We commend the accelerated engagement with the European Union Agency for Law Enforcement Cooperation on those crimes, as well as with relevant national authorities through the joint team established to support the investigations. The proactive policy of cooperation with third States, regional organizations and international partners enhances complementarity, and is essential to achieve the objectives of the mandate.

We remain extremely concerned about the occurrence of crimes against vulnerable individuals. In that regard, we welcome the appointment of a second investigator specialized in sexual and gender-based crimes, and the Office's increased engagement with victims, victims' associations and representatives, other civil society organizations and human rights activists, inside and outside Libya. We call for effective psychological and rehabilitative assistance to victims, and we reiterate the importance that the assistance be age appropriate, survivor centred and gender responsive. Malta acknowledges the continued assistance provided by the United Nations Support Mission in Libya to the Office. We underline the importance of that ongoing support in anticipation of increased field missions to Libya in the coming months. We are also encouraged by the renewed commitment of the relevant Libyan authorities to facilitating the Office's access to Libya. We hope that this will accelerate cooperation in the coming months. Such cooperation is essential to enhance accountability and complementarity and to bring justice closer to the victims.

The situation in Libya is one that continues to warrant the international community's focus and support. Libya's enduring political impasse continues to foster instability. Our collective aim is to ensure a durable and sustainable peace, which can be achieved only if there is justice for the victims and survivors of atrocity crimes. It is for that reason that Malta maintains its unwavering support to the Court in all its efforts towards accountability.

**Ms. Zabolotskaya** (Russian Federation) (*spoke in Russian*): Our position on the ineffective and politicized activities of the so-called International Criminal Court and its so-called Prosecutor was set out exhaustively during the Security Council's previous meeting on this matter (see S/PV.9320). That position has not changed in any way, and is available for review in the verbatim record of 11 May 2023 and has also been posted on the website of the Permanent Mission of the Russian Federation to the United Nations.

Today, however, we once again have to pose the question: why is the Council spending time on useless run-arounds with the International Criminal Court? In terms of substance, the Prosecutor's latest report is as empty as his promise to prioritize the consideration of the situations referred by the Council. Year after year, we read the same run-arounds. The word order is the only thing that changes, but we continue the

same discussion and, for some reason, pretend that something is happening. We read with great interest about Mr. Khan dealing with matters, for example, regarding migrants. However, what do we hear from him about that? We hear that he is cooperating with the structures of the European Union on that question, while he should in fact have been considering their violations against migrants. That picture is telling and common, and is the same on all fronts. In Darfur, for example, the situation is the same. The result is not just non-existent, it is negative, if we take into account the situations in Libya and the Sudan. At the end of the day, there is nothing surprising here. The only real priority for the International Criminal Court are made-to-order trials shamelessly paid for by Western countries, which pour millions of dollars into this pseudo-court under the guise of voluntary contributions.

Against that backdrop, it is surprising to hear the International Criminal Court's constant complaints about a lack of funds. Even its regular annual budget is thrice as large as that of the United Nations International Court of Justice, and that is not counting generous assistance from sponsors. Despite that, some of our colleagues on the Council are calling for considering additional injections of funds to assist the Court. We believe that we have observed the progressive deterioration of the Court for too long to believe that additional funds can somehow redress the situation.

In that regard, we wish to propose another measure. Let us consider recalling from the International Criminal Court situations that had previously been referred to it on Libya and the Sudan. If the Council could refer those situations to the Court, in our view they can therefore be recalled. That would be very useful because the Council would be free of having to listen to these so-called reports, and we would have an opportunity to begin to deal with delivering real assistance to those countries, including on the question of the reinforcement of their legal systems. The political process and national reconciliation must be in the hands of the peoples of those countries. The International Criminal Court is clearly not helping in that regard. The years of procrastination by the pseudo-court and its officials on Libya and Darfur speak for themselves. That is more striking than what can be seen in any report. Reports on the imitation of the work are heard twice a year, which is clearly a pointless waste of our time. This time should be devoted to other more significant issues. Right now, for example, the question of Middle East settlement should be a priority for the Council.

For years, we have heard another premise, that the International Criminal Court's investigation into a particular situation allegedly prevents its escalation and allegedly deters the parties from committing serious crimes under international law. Of course, that sounds great, but let us take a look at the reality. In our view, a good illustration is the current crisis in Palestine, a situation that the International Criminal Court has been preliminarily studying since 2015 and formally investigating since 2021. On 6 November, nearly one month after the current escalation began, the Secretary-General stated that more United Nations aid workers have been killed than in any comparable period in the history of our Organization. He also said that Gaza is becoming a graveyard for children. Every day, hundreds of girls and boys are killed or injured. It would seem that if the International Criminal Court's investigation into the situation in Palestine has been ongoing since 2021, then some kind of action could have been undertaken — for example, the issuance of arrest warrants or something else. But no, we see nothing of the kind. The British pseudo-prosecutor lectures us about international humanitarian law, but it is not clear to whom those lectures are addressed. Wake up, Mr. Khan — United Nations agencies are talking about war crimes with uncharacteristic bluntness.

Moreover, there is nothing surprising in the inaction of this pseudo-court on the situation in Palestine. If anybody harboured any illusions about this organization, I think that now there should be no doubt. The situation has shed light on any dark spots in this question. The International Criminal Court Prosecutors pretend to be principled only when it is beneficial to the West. They are willing to cobble together tailor-made arrest warrants in a matter of days. For a fee, they can be issued to coincide with specific events. You want to whitewash the NATO aggression against Libya? Be our guest. You want to distract attention from the Russia-China or BRICS summits? Have another sham warrant. And the opposite is also true. When an investigation harms the interests of the West, it is dropped. We all remember that that is exactly what the current British Prosecutor of the ICC did with regard to the investigations into the United States and United Kingdom's war crimes in Iraq and Afghanistan.

In that regard, we pity the Palestinians, who genuinely pinned their hopes on the ICC to the very end. No justice should be expected from this pro-Western puppet pseudo-judiciary, which has been bought and

sold. The ICC today is not only a bottomless pit for financial resources and a symbol of empty hopes and wasted time. It has become a living illustration of the degradation and degeneration of international criminal justice. It is a great pity that this is going on right in front of us and that the high ideals of Nuremberg have been betrayed. The efforts of its corrupt officials have reduced the ICC to a punitive instrument for settling political scores with those who have fallen foul of the collective West. What does this body have to do with justice?

We would like to emphasize once again that as a politicized, puppet structure, and on top of that, one established on the basis of an agreement between a limited number of countries, the ICC should on principle not be granted the possibility of intruding on the normal functioning of the United Nations and its bodies. Not a penny of the United Nations regular budget should go to this puppet tribunal, and we demand that the Secretary-General keep a close eye on that.

**Mr. França Danese (Brazil):** I thank the Prosecutor of the International Criminal Court for his briefing on the Court's twenty-sixth report on the situation in Libya. I also welcome the Permanent Representative of Libya to today's meeting.

Complementarity is one of the cornerstones of the Rome Statute system. It is the primary duty of States to exercise their criminal jurisdiction over those responsible for serious crimes. Only when the State concerned is unable or unwilling to fulfil its duties can the International Criminal Court be called into action. Brazil welcomes the efforts of the Office of the Prosecutor to strengthen its cooperation with the Libyan national authorities. Resolution 1970 (2011) recognized that States that are not parties to the Rome Statute have no obligation under the Statute. At the same time, in accordance with the resolution and under Chapter VII of the Charter of the United Nations, the Council decided that the Libyan authorities should cooperate fully with the Court and the Prosecutor.

We note with appreciation the Office's comments that its recent engagement with the Libyan authorities has shown a more positive trajectory. Resolution 1970 (2011) also urged all States and the regional and other international organizations concerned to cooperate fully with the Court and the Prosecutor regarding the situation in Libya. For a treaty-based tribunal such as the ICC, cooperation among States parties is vital to

enabling it to exercise its functions. Since the Court has no enforcement instruments, it relies solely on the cooperation of States. Its requests for cooperation should be fully consistent with the Rome Statute and the relevant resolutions of the Council.

In promoting accountability for the most serious crimes under international law, we should be guided not by politicization but rather by the aim of providing justice to the victims. Brazil therefore welcomes the efforts to empower victims, witnesses and the communities affected, both inside and outside Libya. We encourage the Prosecutor to further engage with victims and their representatives. To ensure that no accusations can be made of selectivity and double standards, all victims of the most serious crimes must be treated equally, regardless of the situation under investigation. Although no judgments have been brought in the Libyan situation so far, we welcome the efforts that the Office of the Prosecutor has made to collect evidence and appreciate the progress that has been made in the investigations. In order to be fully transparent, we encourage the Prosecutor to provide additional information regarding his four key lines of inquiry. Brazil expects that the efforts of the Office of the Prosecutor will ensure justice and accountability, in accordance with the principle of complementarity. We hope that a fruitful relationship between the Office of the Prosecutor and the Libyan authorities will foster a culture of justice and accountability in Libya.

**Mr. Pérez Loose** (Ecuador) (*spoke in Spanish*): My delegation thanks the Prosecutor of the International Criminal Court and his team for the presentation of the twenty-sixth report on the situation in Libya, whose Permanent Representative we welcome to this meeting.

Impunity undermines efforts to resolve conflicts in societies and perpetuates cycles of violence, which is why the referral of the situation in Libya to the International Criminal Court is key not only to ensuring accountability for the crimes committed but also to achieving long-term peace and stability in the country. In that regard, my delegation will focus on three points made in the report.

First, we note that progress has been made in pursuing the four lines of investigation proposed in the renewed strategy of action, presented in April 2022. That has been possible thanks to the expansion of investigative activities and to information obtained from victims and their families, civil society organizations,

international bodies and third States. In that progress, we want to highlight the improvement in the collection of evidence of crimes committed in detention centres. We also welcome the appointment to the Libyan joint investigative team of experts in human trafficking in the region. We are confident that their support will help to combat the impunity that has characterized crimes committed against migrants, including sexual and gender-based crimes.

Secondly, the full cooperation of the Libyan authorities is essential to enabling the Office of the Prosecutor to fulfil its mandate in accordance with the principle of complementarity. In that regard, we urge the Libyan Government to reaffirm its commitment to cooperation through concrete action, such as issuing visas to the members of technical teams so that they can visit and meet with their Libyan counterparts. We also support the cooperation that the Prosecutor's Office has maintained with third States, which has led to progress in the investigations of those responsible for crimes against migrants, as well as the ongoing support it receives from the United Nations Support Mission in Libya.

Thirdly, we reiterate our concern about the budgetary constraints facing the Prosecutor's Office, which according to the report represent one of its main challenges in implementing its mandate. The situation, which has been ongoing, highlights the need for the United Nations to assume the costs of the situations that the Council refers to the Court. We also welcome the Prosecutor's indication that the Office will be able to present, in its next report, a potential road map for the completion of the Office's activities in accordance with resolution 1970 (2011).

In conclusion, we underline the role of the International Criminal Court in international peace and security and reaffirm our support for its independence and impartiality.

**Mrs. Onanga** (Gabon) (*spoke in French*): I would like to thank you, Mr. President, for convening this debate, and I thank the Prosecutor of the International Criminal Court, Mr. Karim Khan, for presenting his twenty-sixth report pursuant to resolution 1970 (2011). I welcome the presence among us of the representative of Libya.

We note with satisfaction the tangible progress made under the renewed strategy for investigating and analysing evidence of alleged serious crimes

committed in Libya in 2011, crimes linked to the 2014–2020 military operations and crimes committed against migrants. The strategy's implementation was based on an inclusive approach, including a focus on the use of artificial intelligence and machine-learning tools. Those modern tools provide the advantage of broadening the already wide range of quantitative and qualitative tools available to the investigative teams. In that regard, we commend the tireless efforts of stakeholders, experts, institutions and esteemed organizations, which have enabled the Court to move towards the completion phase of the investigation process. This should facilitate efforts to identify the alleged perpetrators of the crimes. Moreover, the digital platform launched by the Office of the Prosecutor to facilitate the submission of information, while also guaranteeing protection for those submitting it, is an essential tool.

Gabon would like to reaffirm its appreciation for the cooperation and assistance provided by third States and relevant stakeholders in line with the principle of complementarity, which has facilitated evidence gathering, in particular for crimes committed against migrants.

My delegation has taken note of the budgetary constraints facing the Office of the Prosecutor. It goes without saying that it is our duty to ensure stability for the Office's budget so that it can fulfil its important mandate and the Prosecutor can carry out his work in a predictable manner and as flexibly as required. We encourage the Prosecutor to continue to work closely with the Libyan authorities, in addition to involving more international and regional players and civil society, who could make a significant contribution to the success of that vast and delicate undertaking. In that context, emphasis on dialogue with victims, victims' associations, local communities and civil society is essential and should be enhanced in order to promote justice. It is vital to prioritize an approach that encourages truth-telling, justice, reparation and guarantees of non-repetition.

Combating impunity must remain an imperative for all. This requires the international community's continued support to fully equip the Prosecutor in his sensitive work with the parties concerned. My delegation recognizes the volatile security context in which the Prosecutor's new investigative strategy is being carried out, and we appreciate his efforts. Indeed, the military-political crisis that has affected Libya for more than a decade remains entrenched to this day. The

armed violence is far from being contained. It goes without saying that in such a climate of fear, victims and witnesses can feel threatened, which makes the exercise of justice even more complex and dangerous. I would therefore like to take this opportunity to once again express my appreciation to the United Nations Support Mission in Libya for its logistical support to strategic operations, as its presence on the ground helps to ensure the safety and security of the Prosecutor and his team in the field. In that connection, we encourage the Special Representative of the Secretary-General for Libya, Mr. Abdoulaye Bathily, to continue his efforts, and we assure him of our full support.

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

Additionally, since this is the last briefing on Libya by the Prosecutor that Gabon will attend before the end of its mandate on the Council, I would like to reiterate our support to the efforts of the Prosecutor and his team aimed at ascertaining the facts in the context of combating impunity.

**Mrs. Dime Labille** (France) (*spoke in French*): On behalf of my delegation, I would like to thank Prosecutor Karim Khan for his twenty-sixth report on the situation in Libya, and I welcome the presence of the Permanent Representative of Libya in the Chamber.

The International Criminal Court plays an essential role in combating impunity for perpetrators of the worst atrocities and in responding to the need for justice expressed by victims, thus contributing to the integrity of a rules-based international order. We reiterate our commitment to supporting and defending the principles and values enshrined in the Rome Statute and to preserving the Statute's integrity. In that regard, France condemns the recent cyberattack on the International Criminal Court — an unacceptable act that obstructs the proper exercise of justice. We reaffirm our full support to the Court and its staff in the fulfilment of their mandates and activities aimed at rendering justice to the victims of the most serious crimes under international law.

In line with our consistent position, and recognizing the challenges the Court faces, France will continue to provide political, operational, human and financial support to the Court's work. In that connection, France takes due note of the Office's request for an increase in its budget in order to respond effectively to the risks identified in its new strategy regarding the situation in Libya, presented to the Security Council by the Prosecutor in April 2022 in his twenty-third report (see S/PV.9024), and not to hinder its ability to fulfil its mandate.

With regard to the four main lines of investigation under that strategy, France welcomes the positive indicators and the progress reported, particularly concerning the line of investigation into crimes committed during operations from 2014 to 2020, which is nearing completion. We note that the Office expects to be able to present in its next report a potential road map for the completion of its activities in accordance with resolution 1970 (2011).

Combating impunity for the crimes committed in Libya will be possible only through active cooperation between the Court and the national authorities. In that regard, France notes the impact that the floods in September had on the Office's fulfilment of certain operational missions. My delegation takes this opportunity to express its sincere condolences to the families of the victims of that catastrophe and assures them of our full support. France notes the efforts that the Office has undertaken, despite that tragedy, to strengthen and improve cooperation with the Libyan authorities. In particular, we note the progress achieved by the Office in relation to detention centres and crimes against migrants, which was made possible through that close cooperation. The arrest and prosecution of key suspects linked to crimes against migrants in Libya by the competent national authorities, including on the basis of information, evidence and guidelines provided by the Office of the Prosecutor, is commendable.

We continue to encourage the Libyan authorities to cooperate with the Office of the Prosecutor, in liaison with the new ambassador appointed from the Netherlands, in particular in ensuring access to documentation required for investigations, cooperating with the competent technical authorities, issuing visas and responding to requests for assistance from the Office. In that regard, it is worth encouraging the strengthening of the missions of the joint team for Libya and the progress made towards establishing a liaison

office for the Prosecutor in Tripoli in 2024. France also welcomes the fact that the increased assistance in Libya has enabled the Office of the Prosecutor to engage more closely with victims, witnesses and the communities affected. We want to highlight the Office's efforts to work closely with civil society organizations in the region, including by conducting a seminar on the use of the guidelines for organizations on documenting international crimes and human rights violations. We encourage that approach and the intensification of exchanges with those organizations.

The most serious crimes committed in Libya since 2011 must all be investigated and prosecuted, including crimes committed by Da'esh and against migrants and refugees. To that end, the assistance provided to the Office of the Prosecutor by international and regional organizations and by civil society representatives present in Libya is vital. France also welcomes the coordinated investigative activities and international cooperation with third States and international agencies. We commend the various United Nations entities, including the United Nations Support Mission in Libya and the Independent Fact-Finding Mission on Libya, which continue to provide strong support to the Office of the Prosecutor.

Finally, we urge all stakeholders in Libya to commit to a sovereign, united, stable and democratic Libya. That is essential for the country and for regional stability.

**Mr. Fernandes** (Mozambique): I would like to thank Mr. Karim Khan, Chief Prosecutor of the International Criminal Court, for his briefing. I acknowledge the presence of the Permanent Representative of Libya at this meeting.

Mozambique recognizes the significance of promoting justice and accountability for the atrocities committed in Libya. We believe that combating impunity is a precondition for lasting peace in that country, and it is an integral part of the Security Council's efforts. The Security Council's unanimous adoption of resolution 1970 (2011) is a testament to its commitment to fighting impunity for the perpetrators of the most heinous international crimes. We welcome the progress made by the Office of the Prosecutor under its renewed strategy, particularly with regard to the lines of investigation defined, that is, the violence of 2011, crimes in detention facilities, crimes related to the operations between 2014 and 2020 and crimes against migrants.

Holding those responsible for crimes against humanity and war crimes accountable depends largely on a rigorous investigation, which must be based in law. Mozambique encourages the Prosecutor's team in its investigative and prosecutorial activities, guided by the principles of complementarity, independence and impartiality. As a court of last resort, the International Criminal Court is based on the principle of complementarity to national jurisdictions, and Libyan ownership of the process must therefore be observed.

The participation of victims in criminal proceedings is an essential component of the investigation. Their interests must be taken into account at every stage of the proceedings. In that context, we note with appreciation that the Office of the Prosecutor places the survivors and the families of the victims at the heart of the investigation. The fact is that the increasing engagement with the victims outlined in the report of the Prosecutor is critical to determining the outcome of the investigation and thereby attaining the legitimate aim of delivering justice to the victims and survivors.

In conclusion, I would like to emphasize the role of cooperation, especially with local authorities, in the successful implementation of the Prosecutor's mandate, as established in resolution 1970 (2011). According to the aims clearly stated in the report, we encourage the Office of the Prosecutor to continue to engage in dialogue with the Libyan authorities and other stakeholders to create conditions that can enable a constructive way forward to justice, peace and stability in Libya.

**The President** (*spoke in Chinese*): I shall now make a statement in my capacity as the representative of China.

I listened carefully to the briefing by Prosecutor Karim Khan. I welcome the Permanent Representative of Libya to today's meeting.

With regard to the work of the International Criminal Court (ICC) in Libya, China's position is consistent and clear. The cases currently being handled by the ICC were submitted in 2011. We hope that in the specifics of its work, the Court will continue to strictly follow the principle of complementarity as set out in the Rome Statute, respect the judicial sovereignty of the parties concerned and their reasonable views, and maintain close communication and cooperation with the Libyan authorities. Peace and stability in Libya are prerequisites for ensuring judicial justice. At present,

promoting the political transition is a priority for the international community and the United Nations in their work in Libya. We must adhere to the principle of Libyan leadership and ownership, respect the will of the Libyan people and avoid externally imposed solutions. The ICC's efforts should help promote the political and peace processes in Libya and assist the Libyan parties in strengthening unity and building consensus, while avoiding any amplification of their points of contention and differences.

In conclusion, I would like to reiterate that China supports maintaining international peace and security by pursuing accountability for the most serious international crimes. In the face of major crises and challenges that are of great concern to the international community, China hopes that the ICC will apply international law uniformly and equally and avoid double standards and exceptionalism.

I now resume my functions as President of the Council.

I give the floor to the representative of Libya.

**Mr. Elsonni** (Libya) (*spoke in Arabic*): At the outset, I would like to congratulate you, Mr. President, on China's assumption of the presidency of the Security Council for this month, and to wish you every success. I also thank Mr. Karim Khan for his briefing and for his twenty-sixth report, of which we have taken note.

My remarks today will be brief and perhaps repetitive, given that while we appreciate the efforts of Mr. Khan and his team, there is frankly nothing new to say, since as far as Libyans can tell, there has been no movement in the case of Libya before the International Criminal Court (ICC) for years now. That has held true not only during Mr. Khan's tenure but during that of his predecessors as well.

We have alternated between feeling that the status quo is being deliberately prolonged or that the case is being politicized. That is leading the Libyan people to ask when they will see results from the ICC. After all the years of investigations and exchanges of information, evidence and clues mentioned in the Prosecutor's report, where are the results? Twelve years and 26 briefings to the Council, and today Mr. Khan spoke about approximately 15 missions, 4,000 clues and pieces of evidence and the use of artificial intelligence. The important question remains. Where are the results? Why, for instance, have the names of those involved in the crime of the mass graves in Tarhuna not been

revealed? In his last briefing six months ago (see S/PV.9320), Mr. Khan informed us that he had handed down indictments a while back, yet we have seen no results. We do not understand why the ICC's progress has been so slow when we have seen it show record speed in determining the names of accused persons in other international cases and demanding their surrender to the Court.

At the previous briefing we welcomed the efforts of Mr. Khan and his team and the strategy that he prepared (see S/PV.9320). We also welcomed his visit to Libya last year and considered it evidence of improved cooperation between Libyan authorities and the ICC, especially for assessing the situation on the ground and listening to the families of the victims. We especially appreciated his visit to Tarhuna, accompanied by officials from the Libyan Prosecutor's Office, to witness the tragedy of the mass graves there.

We reaffirm that Libya is committed to holding accountable and punishing all who perpetrated crimes and violations according to our national laws, sooner or later and despite the challenges. Achieving justice on Libyan soil is a sovereign duty and part of our national jurisdiction, and we remain committed to that. The Libyan judiciary is committed to fair and impartial trials for all suspects, however long it takes. The crimes perpetrated are not subject to any statutes of limitations. We stress once again that our cooperation with the ICC according to its mandate is complementary to the work of the Libyan judiciary and not a substitute for it. The Libyan judiciary is capable of rendering verdicts on cases before it. It is independent, and Libya's Public Prosecutor is capable of investigating and determining the truth and has indeed done so in several cases. We have technical investigation teams that can address disputes.

Cases have been subject to investigation and we have been able to apprehend suspects, refer them to national courts and see sentences handed down by those courts. We have been able to complete investigations of crimes related to the trafficking of persons locally and internationally, currency smuggling and the mass graves in Tarhuna. What we are asking today is for the ICC to share the results of its work with us so as to help us apprehend those who are still at large and try them under our national jurisdiction. We cannot remain under the mandate of the ICC indefinitely. The Libyan judiciary has deep roots and is not a newly established institution. We stress that supporting stability in Libya

and finding a comprehensive political solution to the current crisis are the best ways to administer justice and ensure accountability and the rule of law. We cannot separate the political situation, our society's ongoing division and the failure of the international community, especially the Security Council, from the current situation and the crimes committed during the crisis in my country.

In conclusion, today's meeting is about Libya, and the Prosecutor of the ICC is here with us. We are talking about administering justice, the rule of law and accountability. We therefore feel obliged to take this opportunity to highlight the situation in Gaza and the grave acts of aggression and violations being perpetrated by the Israeli occupation forces. We are now in a second month of the aggression there. So far nearly 11,000 civilians have lost their lives, including 4,500 children, and another 2,000 are still under the rubble. Besides that, 72 United Nations staff members, 31 journalists and hundreds of medical personnel have been killed. More than 1.5 million people have been displaced. Water, fuel, food, electricity and humanitarian assistance have been cut off. Bakeries have been destroyed. Hospitals and United Nations offices have been bombed. Nearly half of the city of Gaza, known as the largest open-air prison in the world, has been destroyed. Today it is a tomb for children.

Mr. Khan visited the Rafah border crossing on 29 October. He wanted to enter Gaza but was either unable to do so or was prevented. Despite that, he could see the tragic situation. He said that the people of Gaza deserve the same justice as any other people and that we must do something to put an end to the catastrophic situation in Gaza. Today, 10 days after his visit to Rafah, the numbers of the victims have increased enormously and the suffering has doubled. Are those not war crimes, crimes against humanity and genocide, in the view of the ICC? And if not, what are they? We urge the Prosecutor to take swift practical measures in line with his principles and statements in order to hold accountable those who are perpetrating massacres in full view of the world. We call on the ICC to move quickly in that regard, just as it has responded quickly to other recent conflicts. Those being killed in Gaza and the West Bank are people too. They are innocent and deserve justice. The ICC's credibility is now at stake, and there are some around the world who doubt its capabilities. The issue is not the number of cases the ICC is considering. What matters is how many cases



are completed and how many suspects are apprehended and brought to justice. History will judge, and there can be no peace without justice.

**The President** (*spoke in Chinese*): Prosecutor Khan has asked for the floor to make a further statement. I give him the floor. I hope he will be brief.

**Mr. Khan:** I thank the Council for the opportunity to brief it again. I have listened attentively to the observations and comments from the representatives and will reflect on them. I could not agree more that complementarity is at the heart of the Rome Statute in the situation in Libya, and in many others. We are seeking to give effect to it.

I want to underline what I said in my remarks and in the statement, which is that very real progress has been made. But I am an officer of the Court and bound by obligations of confidentiality. I am also subject to judicial orders, so I cannot say more except that real, discernible progress has been made, and that I look forward to engaging with the Libyan authorities to ensure that we can work together and discharge our mandate so that people can be apprehended. Libya has a particular role to play in apprehending individuals on the territory of Libya, and we can work together in partnership to fulfil the obligations of complementarity.

Two representatives mentioned the situation in Palestine. Of course, the focus of today's briefing is Libya. But as the subject has been raised, I will simply emphasize what I said publicly at Rafah and in Cairo, five days after 7 October, which is that this is an active investigation. I appointed a senior lawyer to the Palestine investigation only a few months ago,

in addition to the other members of the team. I am aware of the international concern and the seriousness of the allegations that we are seeing, and I have stated repeatedly that the hostages should be released, there should be no missile strikes targeting civilians from Palestine into Israel or from Israel into Palestine, and the principles of distinction, proportionality and precaution must be honoured. I have also said, and this is very important, that humanitarian relief supplies must be allowed in, without further delay.

That is what the Secretary-General has underlined and what Under-Secretary-General Martin Griffiths of the Office for the Coordination of Humanitarian Affairs has emphasized. It is what the Director-General of the World Health Organization has emphasized, and it is a fundamental requirement under the Geneva Conventions that we ensure that civilians, children — who could be our children, we must view them as if they were our children — people old and young, the healthy and the sick, feel the law in action. I am seized of the matter. We are moving things forward, but I cannot give a running commentary on the investigation. However, it is one that requires proper attention. I will end where I started in my earlier remarks — every human life matters equally. And as I emphasized in Cairo, there is no such thing as children of a lesser God. Everybody has worth, every life is precious and every life must feel the protection and the value of the law.

I think that the commitment I have given is one that we can try to deliver on together — not by polemics but by way of partnerships. I just wanted to address that as the issue was raised by two representatives.

*The meeting rose at 11.50 a.m.*