



# Security Council

Seventy-ninth year

*Provisional*

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Tuesday, 14 May 2024, 10 a.m.

New York

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<i>President:</i>	Mr. Afonso . . . . .	(Mozambique)
<i>Members:</i>	Algeria . . . . .	Mr. Gaouaoui
	China . . . . .	Mr. Dai Bing
	Ecuador . . . . .	Mr. De La Gasca
	France . . . . .	Mrs. Dime Labille
	Guyana . . . . .	Mrs. Rodrigues-Birkett
	Japan . . . . .	Mrs. Shino
	Malta . . . . .	Ms. Gatt
	Republic of Korea . . . . .	Mr. Hwang
	Russian Federation . . . . .	Mr. Nebenzia
	Sierra Leone . . . . .	Mr. Kanu
	Slovenia . . . . .	Mr. Žbogar
	Switzerland . . . . .	Mrs. Chanda
	United Kingdom of Great Britain and Northern Ireland . .	Mr. McIntyre
	United States of America . . . . .	Mr. Simonoff

## Agenda

The situation in Libya

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*The meeting was called to order at 10.05 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

### **The situation in Libya**

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

In accordance with rule 39 of the Council's provisional rules of procedure, I invite 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 Mr. Khan.

**Mr. Khan:** It is a great privilege to have the opportunity once again to brief the Security Council this morning. I would like to express my thanks to my brother His Excellency the Permanent Representative of Libya to the United Nations for attending.

Two and a half years ago, I first had the opportunity to brief the Council on the situation in Libya (see S/PV.8911), and in those remarks, through the lens of Libya, I called for what was, in effect, a paradigm shift: a new and constructive dynamic with the Council. I emphasized to all members on that day that I would prioritize referrals to the International Criminal Court made by the Council and that I would do my utmost to ensure that more resources were given to Council-referred situations. I also expressed the view that, in my respectful opinion, the situations in Libya and Darfur had been allowed to drift for too long, and I was committed to using my best efforts with the colleagues who work in the Office to change things, to bring about a new dynamic and to produce credible and impactful results that we could show to the people of Libya, the victims there and the Council. Six months after that initial briefing, I outlined and presented a renewed strategy regarding Libya (see S/PV.9024). I detailed four key lines of inquiry that we would take forward in order to deliver meaningfully, and I publicly set out benchmarks that would be applied to our work so we could collectively measure the progress being made towards justice and accountability and the rule of law and so we could also candidly discuss the challenges that we could address together.

It is my respectful view that, over the past 18 months, we have indeed reinvigorated our work, and we have set a basis for achieving the objectives I set out in the strategic vision I detailed in April 2022. While as an officer of the Court, I am constrained in detailing all the progress that has been made, I can say that we have made considerable progress in line with the renewed strategy. In the past six months alone, as reflected in the report that we submitted to the Secretariat, the Libya unified team has completed 18 missions in three geographical areas. It has collected more than 800 pieces of evidence, including video and audio material. It has taken more than 30 interview and screening statements, and we have made significant progress in relation alleged crimes in detention centres in the 2014–2020 period. We have continued to provide concrete, tangible and meaningful support for national proceedings involving crimes against migrants, and at the end of March, I hosted members of the joint investigative team at headquarters in The Hague, when the team and I further detailed how we could achieve synergies to ensure the crimes against the most vulnerable individuals are properly investigated and prosecuted.

Our work is moving forward with increased speed and with a focus on trying to deliver on the legitimate expectations of the Council and civilians — the people of Libya. Today, in this, my sixth report to the Council and the twenty-seventh in total, I think that we have reached a landmark moment by announcing a road map towards what could be the completion of the investigative stage in terms of resolution 1970 (2011). In presenting the road map, which is detailed with greater specificity in the report, I want to be clear: we are not cutting and running or finding a way to exit stage left, nor are we gradually foreshadowing a curtailing of our work or a lack of focus, energy or vigour. We are not saying that we cannot deliver. That is something that I professionally cannot accept, and it is something that the Council should not and would not accept, because it has referred a very serious matter to the International Criminal Court under Chapter VII, realizing that justice was essential for the people of Libya. Rather, the road map I detailed in the report represents, I think, a genuine and dynamic vision for the fulfilment of the mandate that the Council entrusted to us. It details a focused set of activities that we will implement, God willing, in the next 18 months and beyond, to significantly expand the impact of our action in the Libya situation. And the road map is a collective work; we are not the only operator

on the international level. We have to work shoulder to shoulder with the authorities in Libya, with the Council and with all States parties.

And there are positives. Only last month, my deputy prosecutor, Nazhat Shameem Khan, the Deputy Prosecutor of the Court with responsibility for the Libya situation, had a successful mission to Tripoli and a productive meeting with the Attorney General and met with different civil society actors in Tripoli, as well as in Tunis. In the last reporting period, more than 25 such engagements took place between my Office and civil society organizations, and with Libyan civil society in particular. We also continued dialogue with the Council through working-level briefings last month, outlining and trying to flesh out and give more details as to the proposed road map.

Based upon that, I respectfully present two key phases that are detailed in the written document.

The first is the intention — the hope — and target to complete the investigative stage between now and the end of 2025. That is the investigative stage of the situation. Of course, it is not going to be easy; it is going to require cooperation, candour and a can-do attitude from my Office, but also from the authorities in Libya. However, that period, hopefully, will give rise to even more additional applications for warrants of arrest and greater support by my Office for national proceedings in Libya.

Complementarity is a foundation of the Rome Statute, but burden-sharing is linked to that principle of complementarity; it involves trying to understand from the Libyan colleagues, including the Libyan Attorney General, where their problems are, and trying to forge ahead with this principle that the rule of law can be effective and must be applied equally. In addition, and linked to that — and again, it requires work and focus, we have trying to improve and reinvigorate our approach to fugitive tracking and arrests. With the help of Registry colleagues, the aim would be to give effect to arrest warrants and to have at least initial proceedings start before the Court in relation to at least one warrant by the end of next year.

The second part relates to judicial and complementarity aspects. If that goes to plan, following the end of 2025, we want to move posture and try to help and support Libya. That can start now — with technical assistance, burden-sharing, training, know-how, use of artificial intelligence technology and the technical skills required to build those types of cases — and focus again with Libyan colleagues on arrest and tracking.

In parallel to all of that, we want, on every level, to deepen our relationship with the Libyan authorities under complementarity; it cannot just be with the Attorney-General and the Deputy Prosecutor, or with myself and other individuals. It needs to penetrate all strata of Libyan authorities, and they should know that they have in the Office of the Prosecutor men and women who are not driven by any political imperative or interest, but who are really trying to give life and give purpose to the principle of equality before the law and the value of the lives that have been lost in Libya to date.

Crucially, the road map, I think, is something that the victims of Libya can look to, not as hot air or spin but as something meaningful and with impact to advance their right to justice. I think that it presents an opportunity to meaningfully deliver on resolution 1970 (2011), which the Council adopted in 2011. However, that is not a given because we need continued increased support from Libya. We need to walk shoulder to shoulder together, not for our own individual interests or the interests of the ICC or for a Government, but for the interests of humankind and the people of Libya.

I think that recently we have had very positive news: multiple-entry visas have been issued by the Libyan authorities that allowed my Deputy Prosecutor to go to Libya last month. There were also missions in December of last year; forensic experts also went last year. I think that the meeting between Deputy Prosecutor Nazhat Shameem Khan and His Excellency Mr. Al-Siddiq Al-Sour, the Attorney General, was extremely important, particularly with regard to burden sharing and being candid in terms of what we can do and the mutual roles of the authorities and the ICC, and with regard to starting and deepening a dialogue that will strengthen not only the rule of law; hopefully, we can work and help strengthen together the Attorney General's office as well, if that cooperation and technical assistance are something that the Libyan authorities wish to avail themselves of.

We anticipate in the next period that there will be further missions between my members of my Office to Tripoli. I think that there is enthusiasm — I do not think that that is pitching it too high — around our opening an office in Tripoli. I think that doing so will help complementarity, will help the investigations and will help the discharge of resolution 1970 (2011) and the Rome Statute obligations. Therefore, there is plenty of positive news, given what I had said previously about the difficulties caused by the lack of visas.

In addition to the meeting with the Attorney General, it is only right that I also applaud and thank positively His Excellency Mr. Ziad Daghim, the Ambassador of Libya to the Kingdom of the Netherlands. I think that his arrival has also ushered in increased candour, partnership and dialogue, which are being felt in terms of the cooperation. I wish to applaud him and the Libyan authorities for that change.

But marching forward does require solutions, not problems with every solution that is presented. That is a choice; it is also a mindset, from my Office and from the Libyans. The world is very imperfect. The law has some fundamental requirements that cannot be airbrushed away or diluted, but it can be a solution to problems that exist.

In my first briefing to the Council on this situation, I hoped, I prayed and I intimated that there was an opportunity and that if a cause could unite the Council, I believed and hoped — naively perhaps — that it would be the cause of international criminal justice. Which State is in favour of genocide, war crimes or crimes against humanity? Which State does not want to be a protector of the vulnerable? Which State does not want to be on the side of legality and against the kinds of violations that we see in so many parts of the world? And notwithstanding all the difficulties that surround us in a very often dysfunctional world, a world in which too many people feel exposed to the elements, I still think that that presents an opportunity — if we work together and if we realize that continuing business as usual will lead us to the abyss and beyond — to do the right thing, to look at people who have little shelter and who have suffered enormously for many different reasons and determine that the rule of law must count for them.

Therefore, a paradigm shift is still needed. It is not going to be achieved by words or a strategy or a road map. It is something that we all — individually as States, as the Council, as Libya and as my Office — have to do, that is, to really try to be servants of something bigger than ourselves. If we can allow the law to breathe at this moment, if we can recognize that different States and different interests have certain situations that are politically difficult for them, but realize that there is value in an International Criminal Court that is not part of the political discourse, but that is trying and endeavouring to be deaf to the noise and applying something that should be pristine and valuable, which is the yardstick of human conduct that should bind us

all, to keep us away from that abyss that I mentioned, this could yet be a moment of reawakening to change direction. Otherwise, when one looks at Libya, when one looks at other situations in the world, whether it be Ukraine, Palestine, the Rohingya or any other place one wishes to look at, we see issues. This is the time, I think, for the law to be allowed to breathe, as the Council has found, as a precondition for stability and international peace and security, which are direct responsibilities of the Council.

To do that, we need to understand that the Rome Statute, the Geneva Conventions, customary international law and the Charter of the United Nations, are part of the tapestry of civilization that will allow us to survive this present inclement weather, this present perilous moment that we are facing. If we are real and sincere about the fact that every human life matters equally, the rule of law must apply in Libya, as it must in every other situation. We can only do that with the Council's help, support and solidarity for something that otherwise can be rendered irrelevant — but something cannot, and that is the law.

I thank you, Mr. President, for this opportunity. I always remain ready and willing to engage with the Libyan authorities and with the Council.

**The President:** I thank Prosecutor Khan for his important briefing.

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

**Mrs. Chanda** (Switzerland) (*spoke in French*): Switzerland would like to thank the Prosecutor for his briefing and for the presentation of his twenty-seventh report on the situation in Libya, pursuant to the mandate included in resolution 1970 (2011).

The report is of particular importance, as it addresses not only the progress made in recent months, but also future prospects, in particular by proposing a road map for the completion of the Office's investigative activities concerning the situation in Libya. Allow me to highlight three points.

First, the steady and significant progress made in implementing the renewed strategy are important milestones on the road to accountability in Libya. Switzerland notes with interest the progress made in the four lines of inquiry. The progress made in the collection and analysis of evidence concerning crimes committed in detention centres, as well as the assistance provided

to third-party States in their national trials relating to crimes against migrants, deserve special mention. We also appreciate the emphasis placed on psychosocial support for victims and medical and security assistance for witnesses, in collaboration with local authorities.

Secondly, the development of a road map to complete the investigation phase testifies to the Office's commitment to pursuing its activities with clear and precise objectives. It is nevertheless essential that the implementation of any completion strategy be closely consulted with all stakeholders, including victims and survivors. We note that planning for the completion of investigations does not mean a reduction in the Office's activities, but rather an intensification of investigative efforts. In that respect, we welcome and encourage the efforts undertaken by the Office to strengthen cooperation with the Libyan authorities according to the principle of complementarity, also beyond the investigation period.

Thirdly, cooperation is key to enabling the Court to fulfil its mandate. We take note of the granting of visas and the various visits and substantial exchanges that took place during the period under review with the Libyan authorities, in particular the Prosecutor General of Libya. We hope to see a continuation of efforts in that direction, in application of resolution 1970 (2011). We welcome the Office's extensive cooperation with third-party States, particularly with regard to crimes against migrants. Furthermore, we stress the importance of effective and useful collaboration with civil society, affected communities and victims. We reiterate our grave concern about the restrictions imposed on civil society in Libya.

The Court can only fulfil the mandate we have given it if it enjoys strong support. We reaffirm our unconditional support for the Court as an independent and impartial judicial institution, and pledge that we will continue to implement our cooperation obligations under the Rome Statute. We reiterate our commitment to uphold and defend the principles and values enshrined in the Rome Statute and to preserve the integrity of the Court, undeterred by any expressed threats or measures taken against it, its officials and those who cooperate with it. We call on States to refrain from exerting any form of pressure and insist that all attempts to obstruct, intimidate or unduly influence Court officials must cease immediately. We recall that such attacks on the administration of justice of the Court are prohibited by the Rome Statute. By fulfilling its mandate, the

Court makes an important contribution to lasting peace and reconciliation. It is our common responsibility to ensure that it can effectively deliver justice.

**Mrs. Shino (Japan):** I thank Prosecutor Khan for briefing us on the twenty-seventh report on the situation in Libya, his sixth. I also welcome Ambassador El-Sonni, Permanent Representative of Libya, to today's meeting.

It has been 13 years since the Council referred this case to the International Criminal Court (ICC). The Court has engaged in investigations not only with regard to the 2011 violence, but also on issues with detention facilities, crimes related to the 2014–2020 operations and crimes against migrants, under the mandate pursuant to resolution 1970 (2011).

Japan appreciates the investigative efforts of the ICC and supports the Prosecutor's belief that those efforts should not be viewed as never-ending stories. Realizing the objectives of the mandate established by the Council is critically important in the current international political landscape.

In that regard, Japan welcomes the road map towards completion of the investigative phase in relation to the situation in Libya. We take note that the road map includes a significant activity plan for the next 18 months, including the ICC's intensified support for multiple prosecutions in domestic courts. We would also like to highlight that the road map also covers the Court's continuing role in the judicial and complementarity phases, even after the completion of the investigation at the end of 2025.

At the same time, we would like to recall that the humanitarian and human rights situation in Libya remains distressing amid rising instability in the region. The Security Council press statement issued earlier this month (SC/15690) emphasized the importance of providing a safe environment for civil society organizations. In that context, it is important to ensure that the ICC works closely with affected communities and deepens partnerships with States, civil society and regional and international organizations during the process of completing the investigative phase in order to achieve accountability for the people in Libya. We also stress the critical importance of continued and substantial engagement with those groups, including victims, during the next phases of the judicial and complementarity processes to realize justice, even given the political stalemate.



With regard to procedure, since this is the very first case in which the Security Council will see the completion of an ICC investigative phase under a mandate given by the Council through a resolution, we recognize the need for the Council to consider appropriate action to reflect that transition. This may include consideration of the reporting requirements of the Prosecutor's Office after 2025.

Before concluding, we would like to welcome the improved cooperation of the Libyan authorities, as highlighted in the report, including the issuance of multiple-entry visas and direct engagement with Libyan legal authorities. We also take note that the road map for completion of the investigation phase was developed in consultation with the Libyan authorities and express our hope that cooperation and efforts for complementarity, as laid out in the Road map, will increase.

The successful completion of the investigative phase should serve to improve justice under the rule of law and push forward the fight against impunity. As the Prosecutor noted as he concluded his briefing — the rule of law must apply in Libya and in the rest of the world. Japan always stands ready to support the Court in the fulfilment of its critical role.

**Mr. McIntyre** (United Kingdom): Let me begin by thanking Prosecutor Khan for his briefing today on his Office's twenty-seventh report on the situation in Libya. The United Kingdom reiterates our support to the ongoing investigation and welcomes the Prosecutor's latest report to the Council.

The United Kingdom was pleased to read in the report of the progress made in the investigation during this reporting period. We note, in particular, the large number of missions and the extended fieldwork carried out by the Office over the past six months. We especially welcome the visit of Deputy Prosecutor Nazhat Shameem Khan to Tripoli and Tunis in April of this year in order to engage directly with victim groups.

We also welcome the publication of the road map, which outlines a clear pathway for the completion of the investigative phase. We were pleased to read in the report that the Office actively sought input from civil society partners, victims and their representatives and gave their views consideration during the development of the road map.

We agree with the Prosecutor that, in order to achieve the objectives set out in the road map, active cooperation from the Libyan authorities will remain necessary.

We therefore welcome the news that cooperation and collaboration with Libya has increased significantly during this reporting period. It is clear that sustained cooperation will be required in order to support the completion of the investigative phase by the end of 2025 and to ensure success thereafter.

We were also pleased to hear today of the plan for the establishment of a liaison office in Tripoli. We hope that this will support the transition from the investigative phase, facilitate other information-sharing and further consolidate the partnership between Libya and the Office of the Prosecutor.

In conclusion, we reiterate the United Kingdom's continued commitment to working with the Prosecutor's Office and urge them — as well as the Libyan authorities, the United Nations Support Mission in Libya and others — to build on the progress made in order to deliver justice for the people of Libya.

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

The International Criminal Court (ICC) has an important role to play in the international system of justice, and the work of the ICC in Libya supports our collective pursuit of accountability, peace and security.

The United States commends the extraordinary dedication of the Court's staff and the sustained efforts to investigate and prosecute those most responsible for the heinous atrocities committed since February 2011 against the Libyan people and individuals who find themselves on Libyan territory.

The Prosecutor's most recent report to the Council reflects considerable progress in the past six months. The investigative and cooperative activities undertaken by the Office of the Prosecutor, including conducting numerous missions to Libya, accelerating its engagement with national authorities and deepening its engagement with civil society partners, have enhanced the foundations for accountability in the face of ongoing challenges in Libya and a difficult operating environment.

We congratulate Prosecutor Khan on the increase in momentum around investigations into the four priority areas of inquiry — the Office's development of a rigorous process for prioritization, preparations under way towards seeking additional arrest warrants and

efforts to commence trial proceedings expeditiously. The acceleration of those activities is all the more important as the Office is concluding the investigative phase, as part of the implementation of the ICC's Libya strategy and road map.

We call on Libyan authorities to do more to support and advance global accountability efforts and to enhance cooperation with the ICC, including in ensuring that all those subject to arrest warrants face justice as soon as possible. Former senior officials of the Al-Qadhafi regime, such as Saif Al-Islam Al-Qadhafi, who is still subject to an ICC arrest warrant on charges of crimes against humanity, must face justice.

The United States also recognizes, with gratitude, the engagement between the Libyan authorities and the ICC in cooperation and promoting complementarity, pursuant to the two-track approach identified in the Office's recent policy paper on complementarity and cooperation.

We urge Libya's continued cooperation in keeping with resolution 1970 (2011) in all aspects of the current investigations, including the issuance of visas to facilitate field work, iterative engagements with senior Libyan officials and technical experts, and establishment of a field office in Tripoli.

We also encourage ongoing collaboration, collective investigative activities via the joint team and two-way information-sharing with other national authorities focused on crimes committed in Libya, particularly those affecting migrants — an area of concern emphasized by the Council in resolutions 2647 (2022), 2702 (2023) and 2698 (2023). We recognize the importance of that work continuing in parallel with proceedings before the Court and beyond.

The United States also commends civil society and survivor engagement and the commitment of the Prosecutor's Office to implementing trauma-informed approaches. The United States welcomes the increased contact with victims and civil society organizations in Libya as crucial to the delivery of justice for victims who have waited far too long to be heard.

Victims and survivors deserve justice, which can be a powerful, stabilizing force for Libya's future. We particularly appreciate the emphasis on empowering victims and survivors and on witness protection, including the provision of psychosocial support, which must be paramount during and beyond the

trial proceedings. We also encourage organs of the Court to ensure greater transparency and participation for victims and the affected communities in the Court's work.

We continue to believe that resolving political uncertainty and promoting accountability will go a long way towards addressing the chronic instability in Libya, including the mobilization of armed groups. Human rights violations and abuses will continue unless meaningful steps are taken to resolve those issues and promote accountability.

A critical step towards peace and stability is the withdrawal of all armed groups and mercenaries from Libya, without further delay, in line with resolution 2656 (2022) and the October 2020 Libyan ceasefire agreement. The people of Libya deserve stability and justice, and we support the International Criminal Court's efforts to help bring justice to the people of Libya.

**Mr. Žbogar** (Slovenia): I would like to thank Mr. Khan, Prosecutor of the International Criminal Court (ICC), for his briefing and his report. I would also like to thank him for his appeal to the Security Council that the rule of law — international humanitarian law and international law — applies to all cases and every situation on our agenda. The erosion of compliance with the rule of law is calling into question not only the relevance of the Security Council, but also the international order built with the Charter of the United Nations and international law at its centre. Therefore, that is something that we should all continue to reflect on.

The situation in Libya is the second and, unfortunately, for now, also the last case referred by the Security Council to the ICC. With that referral, the Security Council confirmed that the most atrocious international crimes are a threat to international peace and security. To ensure peace and security, accountability for international crimes and the fight against impunity are essential.

Therefore, I will begin by expressing Slovenia's strong and unwavering support for the ICC and for the work of the Prosecutor. We must do all we can to ensure the ICC is able to carry out its mandate independently and impartially and without outside interference.

I would like now to make a few points regarding the Prosecutor's twenty-seventh report, the most recent, on the situation in Libya.

We welcome the progress made in the investigations in the latest reporting period, especially in relation to crimes committed in detention facilities and crimes related to the 2014–2020 operations.

We especially welcome the significant engagement of the Prosecutor with victims' associations and civil society. A victim-centred approach and ensuring protection and comprehensive support empowers survivors and is extremely important for Libyans and for migrants who have suffered the most heinous crimes.

We also welcome the efforts made by the Prosecutor in the engagement with the Libyan authorities. We note the positive developments, and we encourage the Libyan authorities to carry on with concrete steps in ensuring continued and further improved cooperation with the Prosecutor. As emphasized in the report, the completion of the investigative phase by the end of 2025 depends on cooperation from the Libyan side.

We commend the efforts made by the Prosecutor regarding cooperation with third States. We emphasize the importance of the cooperation with the joint team in investigating crimes against migrants, and we support the intention of the Prosecutor to continue with such engagement beyond 2025.

The Prosecutor intends to complete the investigation on the Libya situation by the end of 2025. In that regard, we welcome the road map presented with two core phases — the investigative phase and the judicial and complementarity phase.

We support the Prosecutor's intention that, after the completion of the investigation, his engagement with victims will not cease. Victims must not be forgotten, and we note the readiness of the Office of the Prosecutor to engage further with civil society and victims to address their concerns.

Lastly, I would like to emphasize that, for the Court and the Prosecutor to be able to carry out their mandates, it is necessary to ensure adequate financial and human resources. We will continue to support the call for additional resources, across all situations and in particular also with respect to the Libya situation.

It has been 13 years since the Security Council deemed the situation in Libya a threat to international

peace and security and referred it to the ICC. The investigation is now near completion and the second, the judicial and complementarity, phase will begin, in line with the mandate of the Council.

I will conclude by repeating that it is not possible to achieve lasting peace without justice. And to ensure justice, we will continue to support the impartiality and independence of the ICC.

**Mrs. Dime Labille** (France) (*spoke in French*): On behalf of the French delegation, I would like to thank Prosecutor Karim Khan for presenting to the Security Council the twenty-seventh report of the Office of the Prosecutor of the International Criminal Court, pursuant to resolution 1970 (2011), and for his road map towards the completion of the investigative activities of the Office of the Prosecutor in Libya.

The Prosecutor can count on France's continued support for the independent and impartial work of the International Criminal Court, which plays a vital role in combating impunity for the most serious international crimes. That is one of France's priorities in diplomatic action. And we reaffirm our full support for the Court and its personnel in fulfilling their mandates and activities. The Office of the Prosecutor must be able to exercise its prerogatives without external pressure, hindrance or obstruction.

France welcomes the progress made in implementing the strategy of the Office of the Prosecutor, presented in its twenty-third report in 2022(see S/PV.9024). Combating impunity for crimes committed in Libya will be possible and effective only through active cooperation between the Court and the Libyan national authorities.

In that regard, France welcomes the Office's efforts to strengthen and improve cooperation with the Libyan authorities, including the official visit of Deputy Prosecutor Nazhat Shameem Khan to Tripoli last month. We note the commitment of the Libyan authorities, who have issued multiple-entry visas to certain Court representatives. Full access to Libyan territory is an essential condition for the fulfilment of the mandate conferred by the Council to the Court, in accordance with the terms of resolution 1970 (2011).

The most serious crimes committed in Libya since 2011 must all be investigated and prosecuted, including crimes committed by Da'esh and crimes against migrants and refugees. We are concerned about the arbitrary



detentions and cases of inhumane detention conditions, including of migrants and refugees. The authorities in charge of the detention centres concerned must allow access to international observers and investigators without delay. The enforced disappearances and sexual violence described in the Office's report are unacceptable. There must be no doubt that anyone inciting or committing such crimes today is liable to prosecution. Combating human trafficking remains a priority for France.

We welcome the progress made by the Office of the Prosecutor over the past six months in its investigations, including the completion of more than 18 missions and the collection of more than 800 pieces of evidence. We welcome the use of technical innovations, such as the publicly accessible OTPLink portal, which has enabled the Office to receive 28 communications related to the situation in Libya over the past six months.

Cooperation between the Office of the Prosecutor and States, as well as with international and regional organizations, is invaluable. In that regard, we welcome the strengthening of working relations with the United Nations Support Mission in Libya and the cooperation with the European Union Agency for Law Enforcement Cooperation.

We call on the Office of the Prosecutor to continue its efforts to cooperate with victims' groups and civil society organizations in Libya. France encourages the Prosecutor to ensure that the victims are consulted and involved in the implementation of the strategy to conclude his investigations in Libya. It is essential to continue to ensure that the victims can be rehabilitated by the International Criminal Court when the acts are recognized as constituting crimes under the Rome Statute.

France has taken note of the Office of the Prosecutor's decision to conclude its investigations in Libya and ensure a successful transition to the judicial phase of activities by the end of 2025. France welcomes the Office's plan of action, which provides for the issuance of new arrest warrants in several of the priority lines of inquiry defined in the strategy related to the situation and the intensification of efforts in terms of arrest strategy, tracking fugitives and preserving evidence.

However, my delegation would like to know the opinion of the Office of the Prosecutor of the degree of cooperation by the Libyan authorities, as we regretted

the difficulties encountered last November, including the implementation of the principle of complementarity, at a time when there is no effective political stability in Libya. Similarly, it would be interesting if the Prosecutor could elaborate on the various changes that have taken place with regard to the judicial phase, the success of which depends on the arrest of fugitives. My delegation understands that, once the investigation phase is completed in 2025, the Office of the Prosecutor does not intend to ask the Pre-Trial Chamber to issue further arrest warrants.

In conclusion, let me recall that France attaches great importance to the relaunch of a political process in Libya that respects human rights and the rule of law. We are concerned about the increased repression of civil society and human rights defenders and the pressure on judges and lawyers, which run counter to respect for the rule of law and hampers the strengthening of democracy in Libya.

France reiterates its support for the work of the United Nations, which is essential to restoring stability and unity in Libya. We encourage all Libyan stakeholders to engage in dialogue, under the auspices of the United Nations, in order to form a new unified Government capable of leading the country towards free, transparent and inclusive presidential and legislative elections throughout Libya.

Lastly, the judicial action of the International Criminal Court and its results play a fundamental role in achieving those objectives and ensuring sustainable development in the country.

**Ms. Gatt (Malta):** Let me thank Prosecutor Khan for his report and for his briefing this morning. I would also like to welcome the Permanent Representative of Libya to today's meeting.

Accountability is essential for durable and sustainable peace. As Volker Türk, United Nations High Commissioner for Human Rights, said,

“we know that if impunity reigns and if the facts are not told and if the truth is not told, we will have grievances going on and on and on”.

That applies to all conflict situations. In that regard, Malta reiterates its support for the work of the International Criminal Court (ICC) and the efforts of the Prosecutor and his Office in pursuing justice for the victims of the most horrific crimes. The ICC's work in relation to the Security Council's referral of the situation

in Libya is critical to long-term peace and stability in the country. We commend the continued implementation of the ICC's renewed strategy, including in relation to events between 2014 and 2020, and the provision of concrete support to national proceedings. We also take note of the road map towards the completion of the investigative phase by the end of 2025 and the objectives of additional arrest warrants, fugitive tracking and the preservation of evidence. Those steps will lead to the transition into the judicial phase of the Court's activities. We underline that that endeavour to complete investigations should be sensitive to victims' needs and their right to justice.

Malta commends the positive momentum with respect to engagement with Libyan authorities, including the recent visits of the Office and the issuance of multiple-entry visas. Such cooperation is essential, both in relation to the Court's road map and the implementation of complementarity activities with Libyan authorities. The proactive policy of cooperation by the Court with other States, regional organizations and international partners enhances complementarity and is essential to achieving the objectives of the mandate.

Let me also recognize the deepening engagement with civil society, including Deputy Prosecutor Khan's recent meetings with civil society organizations and victims' groups in Tripoli and Tunis. We encourage the Office to maintain a meaningful consultative process on the road towards the completion of investigations and afterwards — a process that involves listening to the voices of victims, survivors, their families and the communities affected. Moreover, as part of the cooperation with the Libyan authorities, we underline the importance of measures that protect civil society organizations to fully empower them to carry out their activities.

We remain concerned about the incidence of sexual and gender-based crimes against migrants, crimes against children, enslavement, torture, arbitrary detention and killings. The Security Council and the international community must redouble efforts in support of Libya to ensure that alleged wrongdoers are held accountable. We call for effective, comprehensive and non-discriminatory psychosocial and health services for survivors and reiterate the need for such services to 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 and underlines the importance of that ongoing support in anticipation of increased field missions to Libya in the coming months ahead of the completion of the investigation phase. The situation in Libya continues to warrant the international community's focus and support.

Before concluding, let me reiterate the call of the Court on all States to respect the integrity and independence of the Court and to cooperate actively with its investigations. We underline the importance of its impartial work in combating impunity for atrocity crimes, which is ever-more necessary in our world. If we do not address accountability, we will not end the cycles of violence that continue to inhibit our efforts towards peace and security.

**Mr. Dai Bing (China)** (*spoke in Chinese*): I listened attentively to the briefing by Prosecutor Karim Khan. I welcome the presence of the Permanent Representative of Libya, Ambassador El-Sonni, at today's meeting.

China's position on the work of the International Criminal Court (ICC) in Libya remains unchanged. The case currently before the ICC was referred to it in 2011. We take note of the road map for the completion of the investigation phase outlined by the Prosecutor. We hope that in its work going forward the ICC will strictly abide by the principle of complementarity enshrined in the Rome Statute, maintain an independent, objective and impartial position, fully respect the judicial sovereignty and legitimate views of the countries concerned and maintain close communication and cooperation with the Libyan authorities.

Achieving peace and stability in Libya is a prerequisite for delivering judicial justice. The international community should uphold the Libyan-led and Libyan-owned principle, respect the country's sovereignty and territorial integrity, support intra-Libya dialogue and consultation, promote the political transition and avoid imposing external solutions. When carrying out its Libya-related activities, the ICC should contribute to strengthening solidarity and unity among all Libyan parties and avoid amplifying differences and tensions.

China supports punishing the most serious international crimes in order to maintain international peace and security. When confronted with major crises and challenges that are of great concern to the

international community, the ICC should exercise its powers in accordance with the law, apply international law in an equal and consistent manner, avoid double standards and exceptionalism and effectively safeguard international equity and justice.

**Mr. Gaouaoui** (Algeria) (*spoke in Arabic*): We listened with great interest to the briefing of the Prosecutor of the International Criminal Court (ICC) and took note of his report to the Council on the implementation of resolution 1970 (2011), including the proposed road map for the beginning of the judicial phase. We also welcome the participation of the Permanent Representative of Libya in our meeting today.

At the outset, I would like to emphasize that my country, Algeria, condemns all crimes committed, regardless of the perpetrators or victims. We stress that the principle of non-impunity is one of the most important pillars on which Algeria is based. It must be the compass that guides the international community and the ICC regarding all crimes committed anywhere in the world.

For more than 13 years, our sisterly neighbour, Libya, has known instability that burdened the Libyan people and weakened the institutions of the Libyan State, whether central or local. What is happening in Libya is a shared responsibility. Yes, it is a responsibility shared among all members of the international community, especially those that blessed or participated in — and are still participating — a conflict of interest and influence on Libyan soil.

Libya's instability has made it a hotbed of organized crime, especially for irregular migrants who find themselves victims of human trafficking gangs. The continued flow of weapons involving many countries prolongs the crisis and fuels violence across Libya. Those factors must not be forgotten as we consider the situation in Libya, and neither must we lose sight of them, as we assess the situation there.

First, we emphasize that, according to international law, States have the primary responsibility to address crimes committed on their territory and to ensure accountability for them in accordance with their jurisdiction. That includes atrocities and serious crimes. Ensuring accountability and follow-up is primarily the responsibility of the Libyan authorities that are committed to doing so and are cooperating well with the ICC, as made clear by the report to the Council.

Secondly, constructive cooperation between Libya and the ICC is based on the principle of complementarity, in accordance with the Court's Statute. Therefore, we stress that the concerns, interests and needs of the relevant Libyan authorities must be taken into account.

Thirdly, criminal prosecution is purely technical and is based on evidence and clues. It must not be politicized in order to ensure its success. We therefore call for criminal proceedings to be handled in a non-politicized manner and not to be exploited to exert pressure to obtain political gains and concessions.

Fourthly, we hope that the support provided by the members of the Council for the work of the ICC will extend to other cases, in view of the threats that the Court faces as a result of its investigations into cases related to the crimes of the Israeli occupation. We also expect the same seriousness in dealing with violations in the occupied Palestinian territories, including the mass graves in Gaza. That is necessary in order for the Court to prove to the world that it is not a tool in the hands of certain members of the international community for them to threaten whomever they want and whenever they want. That further demonstrates that it is right to denounce the policy of double standards.

In conclusion, we emphasize that supporting stability in Libya and finding a comprehensive political solution in order to emerge from the bottleneck is the only way to ensure justice, accountability and the rule of law.

**Mr. Hwang** (Republic of Korea): I would like to thank Prosecutor Karim Khan of the International Criminal Court for his comprehensive report and briefing on the situation in Libya. I also welcome the participation of the Permanent Representative of Libya in our meeting today.

When the Council referred the situation in Libya to the Court in 2011, nobody could have imagined that the Council would continue to receive disturbing reports of evidence pointing to widespread crimes against humanity in the country, even after a decade. As the International Organization for Migration has recently pointed out, at least 3,100 deaths and disappearances were recorded in 2023 along the Mediterranean migratory route, under inhumane conditions. Moreover, more than 3,000 people are currently held in harsh detention centres, with documented grave human rights violations.

Reflecting these harsh realities, half of the Prosecutor's key lines of inquiry into the Libyan situation are devoted to ongoing crimes against humanity, including crimes against migrants and violations in detention facilities. That underscores the continuing relevance of the work of the Office of the Prosecutor in restoring justice in Libya and promoting regional security. Expressing our appreciation for the efforts of the Office in investigating the situation, I would like to highlight the following points.

First, the Republic of Korea welcomes the report from the Prosecutor detailing improved cooperation from the Libyan authorities. That cooperation has facilitated significant advances in all active investigations, ranging from evidence collection to supporting national criminal proceedings over the past six months. Korea urges the Libyan authorities to continue and enhance that cooperation, so as to assist the Court in ensuring accountability and upholding justice.

Secondly, we also welcome the Prosecutor's submission of a road map for the completion of the investigation phase by the end of 2025. If done successfully, the completion of the investigation would once again deliver the message to the world that no perpetrators of heinous crimes will enjoy impunity. In that regard, we note that, as stated in the report, civil society partners assert that the investigation should extend beyond 2025, and we believe that the concerns underlying that assertion should not be neglected. Therefore, we appreciate the Prosecutor's sincere efforts to actively incorporate the perspectives of its civil society partners in refining its completion strategy in order to ensure that the mandate is fully realized.

Thirdly, while the efforts of the Office of the Prosecutor remain vital in delivering justice to the Libyan people, it is equally crucial to adopt a comprehensive approach that addresses the root causes of prevalent crimes against humanity. The continued inability to form a unified Government has not only worsened the security landscape, but has also allowed human trafficking networks to thrive, exposing migrants and detainees to substantial risk.

Given those circumstances, we strongly urge major political actors to engage sincerely in establishing legitimate unified governance across the country. We also encourage Operation IRINI to continue its efforts to dismantle the criminal networks benefiting from human trafficking, thereby aiding the broader stabilization endeavours in Libya.

Finally, we would like to reiterate the importance of the International Criminal Court's integrity, independence and impartiality, which are fundamental to upholding justice and accountability in international law. As one of the principal contributors to the Court, the Republic of Korea stands firm in its support and reaffirms its full confidence in the Court's noble endeavours.

**Mrs. Rodrigues-Birkett** (Guyana): I thank the Prosecutor of the International Criminal Court, Mr. Karim Khan, for his presentation of the twenty-seventh report of his Office on the situation in Libya. I also welcome the participation of Ambassador Taher El-Sonni, Permanent Representative of Libya, in today's meeting.

Guyana welcomes the Prosecutor's indication that significant landmarks were achieved in the discharge of the mandate of the office during the reporting period, despite challenges related to the complex political landscape and security situation in Libya and the resource constraints of the Office. We have noted the Office's assessment that there has been a significant increase in momentum in its investigation since the establishment of the renewed strategy in 2022. We also welcome the development of the road map towards completion of the investigative activities of the Court by the end of 2025, noting that the road map was the result of extensive consultations with key stakeholders.

It must be underscored that cooperation is essential to the work of the Court in the investigative, prosecution and judicial phases. We view as a positive the increased cooperation between the Libyan authorities and the Office of the Prosecutor, noting the willingness of the Libyan authorities to discuss engagement with the Office beyond the investigative phase in the context of complementarity activities. The constructive engagement between the Deputy Prosecutor and the Attorney General of Libya and the multiple entry visas recently issued are welcome. We urge continued cooperation in accordance with resolution 1970 (2011). We have also noted the progress made with the investigations across key lines of inquiry, in particular the collection and analysis of evidence, and look forward to the commencement of the judicial phase.

We express grave concern regarding crimes committed against migrants and stress that the rights of migrants must be fully respected. In that regard, the Office's support to domestic authorities in the investigation of crimes committed against migrants is critical.



Engagement with stakeholders is important to the Court's work, particularly in investigative activities. We commend the Office of the Prosecutor's strengthened engagement with victims and survivors, witnesses, affected communities and civil society organizations.

The security situation remains a cause for concern in the light of its effects on the work of the Court with its investigative activities. We encourage peace and call on the parties to continue to show restraint.

Guyana recognizes the need for additional resources to support the work of the Court. My Government has been contributing and encourages others to do so. We also underscore the absolute necessity for the Court, its officials and those cooperating with it to be able to function free from threats and intimidation.

In conclusion, I reaffirm Guyana's unwavering support for the International Criminal Court. Justice for victims and an end to impunity are central to the achievement of peace and security.

**Mr. Kanu** (Sierra Leone): I thank Mr. Karim Khan, Prosecutor of the International Criminal Court (ICC), for his informative and sobering briefing and for presenting the twenty-seventh report of the Prosecutor on the situation in Libya, as mandated by resolution 1970 (2011). Sierra Leone commends the Prosecutor and his Office for the unwavering commitment to transparency and international accountability, as well as for the diligent and consistent efforts of his Office over the past six months on the Libya situation.

I also welcome the Permanent Representative of Libya to this meeting.

Sierra Leone reiterates its prioritization of accountability as a means to reinforce the protection of civilians in situations of armed conflict and respect for fundamental human rights and to end impunity for atrocity crimes. On the Prosecutor's twenty-seventh report, we would like to emphasize the following three points.

First, we commend the Prosecutor's Office for its renewed investigative strategy, outlined in April 2022), and welcome the road map to conclude the investigation phase in the Libya situation by 2025. The outlined road map for completion has the potential to achieve the mandate of the Security Council. We understand and acknowledge the importance of the activities of the Office of the Prosecutor and the need for it to continue over the next 18 months to achieve the desired outcomes.

We also take note of the two critical phases outlined for the completion — the investigative phase from May 2024 to conclusion in 2025 and the judicial and complementarity phase. We acknowledge the efforts of the Office of the Prosecutor to secure additional warrants of arrest and the commitment to initiate at least one trial by the end of 2025. We anticipate the forthcoming implementation of those endeavours.

Secondly, we commend the efforts of the Prosecutor and his team to implement the Court's renewed investigative strategy. Their work has shown significant progress, particularly in addressing crimes committed between 2014 and 2020, focusing on detention crimes and crimes against migrants and providing support for victims and witness security.

We are cognizant of the Court's challenges in Libya, including the complex political landscape and resource constraints. We therefore welcome the efforts of the Office of the Prosecutor to enhance its role and engage with Libyan authorities and people through evidence collection, warrant issuance and victim support. In that regard, Sierra Leone reaffirms its unwavering support for the Court in pursuing justice and accountability in Libya.

While welcoming the efforts made so far by the Court, we emphasize the importance of upholding the Court's impartiality and independence to enable it carry out its mandate effectively. To that end, we call for the provision of adequate human and financial resources commensurate with the Court's responsibilities and functions.

We reaffirm our unwavering dedication to upholding and defending the principles enshrined in the Rome Statute and to ensuring that the Court's integrity remains steadfast, despite increasing threats or actions taken against it and those cooperating with it.

Thirdly, cooperation plays a crucial role in the fulfilment of the Court's mandate. In welcoming the increased interaction and cooperation between the Court and the Libyan authorities, noted in the Prosecutor's report, we call for support for Libya's national capacity in victim support, investigations and prosecution to also be increased.

We believe States should have a primary responsibility to deliver justice and accountability for their people. If they lack the capacity or resources, we encourage cooperation with international partners in

that endeavour. In that regard, we reaffirm our support for the people of Libya in pursuing accountability and justice within the broader framework of the peace process.

We reiterate the application of the principle of complementarity, while emphasizing its integral role in combating heinous crimes and fostering bilateral engagement between the Court and Libyan authorities, as well as with neighbouring States and civil society in Libya. We therefore welcome the ongoing cooperation between those entities. Furthermore, we call for increased regional and international support, especially in the light of the complex and evolving political situation in Libya.

In conclusion, Sierra Leone expresses deep concern over the public statements made by States and by elected and other Government officials relating to investigations being carried out in situations before the ICC. The statements are deeply regrettable and are seen as threats or attempts to undermine the independence, integrity and impartiality of the Court. We urge States to respect the independence and impartiality of the Court, as we cannot afford to be selective on the important issue of accountability and the rule of law.

Sierra Leone reaffirms its full support for the International Criminal Court. We reassure the people of Libya of our support and reiterate our commitment to the principle of the sovereignty and territorial integrity of States. Recognizing the importance of working together for justice, Sierra Leone is fully committed to continue playing an active role in that shared endeavour.

**Mr. De La Gasca** (Ecuador) (*spoke in Spanish*): I thank the Prosecutor of the International Criminal Court for presenting his report on the situation in Libya, whose Permanent Representative I welcome to this meeting.

My delegation is pleased to note that, despite the political and security situation in Libya and the budgetary constraints faced by the Office of the Prosecutor, there has been demonstrable progress on the objectives of the renewed strategy that was presented two years ago. I would like to highlight progress in the lines of investigation, particularly those relating to crimes in detention centres and against migrants, the collection of evidence, the issuance of arrest warrants and the strengthening of engagement with victims' groups and civil society organizations.

It has been 13 years since the Security Council decided to refer the situation in Libya to the International Criminal Court. Therefore, Ecuador welcomes with interest the road map presented by the Prosecutor for the completion of the investigation phase by the end of 2025, and the support activities that will take place after that. The successful implementation of the road map, which we understand to be the result of talks with all stakeholders, will require intense interaction with national authorities on the basis of the principle of complementarity.

In that regard, my delegation notes with satisfaction that the level of cooperation from the Libyan authorities has steadily increased, and we are confident that that trend will grow in the future. It is also necessary to maintain and deepen coordination with third States and international agencies, which have proven their ability to achieve positive results in investigations. Moreover, we encourage the Office of the Prosecutor and other actors to provide Libyan institutions with the technical cooperation they require to strengthen their national justice system.

The presentation of the road map marks a turning point in the involvement of the Council in the situation in Libya. Ecuador hopes that its implementation will contribute to national reconciliation by promoting the rule of law and combating impunity.

Finally, I reiterate my country's support for the International Criminal Court, as well as its commitment to the principles and values established in the Rome Statute.

**Mr. Nebenzia** (Russian Federation) (*spoke in Russian*): The position of the Russian Federation — that the politicized activities of the so-called International Criminal Court (ICC) are unacceptable — remains unchanged. Accordingly, we see no point to having a representative of the puppet institution, which openly serves the interests of Western States, present today in the Chamber. The ICC has absolutely nothing to do with justice.

The best illustration of the soundness of our assessment is the work of the ICC in Libya. Let us try to evaluate it objectively in terms of its contribution to the maintenance of international peace and security, as the Security Council should be doing. The Council is no place for ritualistic rhetoric, but rather an organ with the tools and mandate for practical action.

We have all studied the ICC report on the situation in Libya and have learned from it that the Prosecutor's Office plans to finalize all lines of investigation by the end of 2025. The investigation of the situation will then have taken no less than 14 years. I cannot but note that the entire activity of the Nuremberg Tribunal, which investigated the most large-scale and heinous crimes in the history of humankind took less than two years from investigation to enforcement of sentences.

Since the ICC Prosecutor's Office has decided to wind down its investigative work, it is worth taking stock and looking at what the Court has been doing all these years in Libya.

The first undeniable fact is that the ICC submitted 27 reports to the Security Council, the main thrust of which was to explain why the investigation was struggling. The Council devoted 27 meetings to their consideration. During that time, the ICC Prosecutor's Office has had three Prosecutors.

The Security Council referred the situation in Libya to the ICC in 2011, at the height of the Libyan conflict. In a matter of days, the Court issued arrest warrants for Al-Qadhafi, his son and his intelligence chief. Since then, the ICC usually blamed its inaction in Libya on the difficult security situation on the ground. Yet in the midst of the conflict, that did not prevent the ICC from acting quickly. As is well known, the ICC compensated for the lack of verified information by using fake news to formulate charges.

Not a single arrest warrant was issued for the rebels, despite the fact that Libya's statehood was destroyed with the assistance of NATO's democratic bomber aircraft. The crimes of other parties to the conflict, including the war crimes of the NATO coalition, were also of no interest to the ICC.

I note that, in order to perform that same trick, the infamous International Tribunal for the Former Yugoslavia established a special commission to assess NATO's actions. The ICC does not need such a commission because everyone there already knows that NATO is incapable of committing any crimes.

I also note that the former Libyan leader, Muammar Al-Qadhafi, was brutally murdered shortly after being declared wanted by the ICC, and the ICC investigators also turned a blind eye to that crime. Saif Al-Islam Al-Qadhafi is still wanted by the ICC, despite the fact that he was already convicted by a Libyan court and

released under amnesty. In this case, the ICC decided to ignore the principle of double jeopardy, which states that one cannot be prosecuted twice for the same crime. At the same time, the case against Libya's intelligence chief was dropped and dismissed as inadmissible because of a parallel trial in a Libyan court. Two other accused members of Al-Qadhafi's armed forces died.

At the end of the day, what should matter for the Security Council is that the ICC has become complicit in the destruction of Libya's statehood and the impunity of the perpetrators of that crime, with grave implications for the peace and security of the entire region. Since then, the ICC's activity has essentially come to a halt. In order to avoid admitting its inaction, the so-called Court informed the Council that it had begun investigating potential crimes against humanity committed against migrants and refugees.

In that regard, two points are noteworthy. First, the reason for the flow of migrants out of that country is the destruction of Libya's statehood. Secondly, according to Western non-governmental organizations (NGOs), the main responsibility for crimes against migrants lies with European Union States and the European Border and Coast Guard Agency, commonly known as Frontex, which organizes the interception of distressed asylum seekers in the Mediterranean and their forceful return to Libya. The ICC has received requests from those NGOs to investigate European migration agencies and their activities in the Mediterranean. Instead, the ICC Prosecutor's Office is investigating crimes against migrants, in cooperation with the joint investigation team based in the European Union Agency for Criminal Justice Cooperation, and it has even joined the team.

There is an obvious conflict of interest here. After all, the ICC, pursuant to its Statute, has to verify that European investigations are in line with the principle of complementarity. Mr. Khan, is that not right? But instead of carrying out such an assessment, the ICC joined the investigation without hesitation, as if European investigators needed capacity-building and the ICC was a technical assistance body for rich countries. Yet we are talking about investigations into the deaths of thousands of migrants, violence, kidnappings and, most importantly, the deliberate inaction of European States when it comes to migrant boats in distress. In this situation, it is not surprising that the investigation, which has been under way for seven years, is not yielding any results.

Last year, the issuance of four sealed arrest warrants was announced in relation to the situation in Libya. A reasonable question arises — from whom and for what purpose were those warrants kept secret? The Court could have prepared a classified report for the members of the Security Council only or could have communicated that information in a closed meeting. After all, the Council has all the tools it needs to work with classified information. The people sitting here are not professors who engage in theoretical deliberations about impunity, but rather delegations that should be dealing with the practical aspects of peaceful settlements. How can information of such importance for the peace process be kept from the Council? Who exactly were the accused, what forces do they represent, and were they involved in the peace process in Libya? Those are all very relevant questions that are directly related to the Council's implementation of its mandate under the Charter of the United Nations.

The ICC's keenness to issue sealed warrants also raises concerns about guarantees of a fair trial, since the names of the those declared wanted by the Prosecutor's Office often become known only after their deaths. Finally, secret warrants are an extremely useful tool — not only for imitating vigorous activity, alleging that all the crimes had been committed by people who have already died, but also for interfering in the peace process. After all, we all know who holds the "remote control" of this so-called Court.

In his latest report, Mr. Khan again laments a lack of funding for the Libyan file. Where are the tens of millions of dollars that Western States recently contributed to the ICC? Those States publicly stated that they wanted to pay for the unlawful investigation into Ukraine, but Mr. Khan tried to convince everyone that this was not about justice made to order. Seemingly, those generous Western donations would go to all cases on the Court's docket. How can one explain, then, the lack of funding on the Libyan track? I would also like to know whether the United States voluntary contribution to the ICC budget is being used to investigate the situation in Palestine.

Double standards and all-out politicization are not a unique feature of the Libyan file. They permeate the entire work of the ICC. Its continued inaction against the backdrop of the tragedy unfolding in Gaza is particularly revealing. We would like to recall that the ICC has been preliminarily examining the situation in

Palestine since 2015 and has been conducting a formal investigation since 2021. Yet it has accomplished nothing over those nine years.

In that connection, I wonder if the Court's effectiveness on this track is in any way influenced by the fact that a new bipartisan draft bill has been submitted to the United States Congress on sanctions against ICC officials involved in investigating actions of not just the United States, but also its allies. On 29 April, the Speaker of the House of Representatives explicitly called on the United States Administration to "immediately and unequivocally demand that the ICC stand down" and "use every available tool to prevent such an abomination".

It should be recalled that recently congressmen praised the ICC's investigation of the situation in Ukraine and even hastily amended the legislation prohibiting cooperation with the ICC in order to be able to directly pay for the made-to-order trial against Russia. Now the legislation will probably have to be amend once again.

Therefore, we can see that the ICC is a political tool in the hands of the West. It does not promote reconciliation. On the contrary, it is actively hindering the peace process by trying to influence the parties in the interests of its Western masters. In other words, it is doing anything but implementing resolution 1970 (2011).

Thirteen years of failure and imitation of work on the situation in Libya are enough to confirm not only that the ICC is useless when it comes to resolving the Libyan crisis, but also that it is outright harmful. The Security Council should finally recognize that referring the Libyan file to the ICC was a mistake that must not be repeated and take the long-overdue decision to withdraw the referral of that situation to the Court. That would ensure that the political process moves forward on the basis of a national consensus of all sociopolitical forces, which, in turn, would be more in line with the mandate of the Security Council than listening to the meaningless reports of the Office of the Prosecutor of that puppet institution.

We are convinced that the ICC's effectiveness should not be measured by the number of visits, meetings or offices it has opened. It should also not be judged on the basis of Mr. Khan's eloquence. The international community does not have another 14 years for the ICC to exercise its insistence on staying in a country where it has not accomplished its goals.



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

Mozambique wishes to thank Mr. Karim Ahmad Khan, Chief Prosecutor of the International Criminal Court (ICC), for his important briefing. We welcome the presence of His Excellency the Permanent Representative of Libya to the United Nations in this meeting.

Pursuing accountability for the most serious crimes under international law is a matter of great priority to the international community as a whole and to the Security Council in particular. That is the reason why the Security Council referred the situation in Libya to the ICC, through its resolution 1970 (2011).

In that context, we welcome the significant progress outlined in the report of the Prosecutor of the ICC with regard to the progress made in the four key lines of inquiry defined. We welcome, in particular, the outlined road map for the completion of the investigation phase of the ICC's activities in relation to the situation in Libya by the end of 2025. Mindful of the complexity of the investigation of international crimes, we underscore the need for the ICC to expedite its efforts to deliver tangible results for the Libyan people by completing investigations, so as to surrender the alleged perpetrators of crimes to a fair, independent and impartial trial.

The transition to the judicial phase prior to the end of 2025, set out in the road map, is an important step towards the conclusion of the cycle of accountability. We strongly believe that the victims of the horrendous crimes committed on the Libyan territory deserve justice. As such, the delivery of justice must be part of the healing process of the victims and those affected. It must not serve to perpetuate the suffering of the people of Libya.

It is our view that the Libyan people have endured significant challenges over the years. Their pursuit of truth, justice and reparations is crucial for the healing and rebuilding processes. The Libyan people deserve to know that the international community stands firmly with them in their quest for justice, truth and reparations. To that end, cooperation plays a pivotal role. The positive engagement of the Office of the Prosecutor with the Libyan authorities, as outlined in the report under consideration, is highly commendable.

The recent visit by the Deputy Prosecutor of the ICC to Libya, her meetings with the Attorney General of Libya, other national authorities, victims' groups and stakeholders, as well as the regular meetings of the Office of the Prosecutor with civil society organizations and human rights defenders, offer a good example of actions vital to the fulfilment of the Prosecutor's mandate, in line with resolution 1970 (2011). We therefore encourage the Office of the Prosecutor and the Libyan authorities to continue working in partnership, in line with the principle of complementarity, enshrined in the Rome Statute. In that regard, we welcome the launch of the new policy paper of the Office of the Prosecutor on complementarity and cooperation. We hope that its implementation will bring tangible results in relation to accountability processes in different situation countries, as envisaged in the report.

Mozambique encourages the Office of the Prosecutor in its efforts to ensure accountability and justice, to uphold the rule of law and to contribute to peace and stability in Libya. It is our firm belief that justice in Libya must not be delayed.

I now resume my functions as President of the Council.

I give the floor to the representative of Libya.

**Mr. El-Sonni (Libya)** (*spoke in Arabic*): At the outset, I would like to congratulate you, Mr. President, on your country's assumption of the presidency of the Council for this month and wish you every success. We also thank Mr. Karim Khan, Prosecutor of the International Criminal Court, for his briefing and his twenty-seventh report, of which we have taken note.

We align ourselves with the statement delivered by the representative of the sisterly State of Algeria, in particular with regard to the fact that the situation in Libya now must not be viewed in isolation from the extent of the foreign interference in my country and its direct effect for nearly 14 years.

We have welcomed Mr. Khan's efforts on several occasions since he took office. He and his team have been keen to visit Libya many times within the framework of the existing cooperation between the Libyan authorities and the International Criminal Court (ICC), the most recent of which was a meeting between the ICC Deputy Prosecutor and the Libyan Attorney General last month. The meeting was focused on exchanging information and increasing

joint cooperation to investigate the grave violations committed in general and the crimes committed in the city of Tarhuna specifically and the mass graves discovered there, to ensure complementarity between the national and international judiciaries. We reaffirm that achieving justice on Libyan soil is an issue of sovereign national jurisdiction. The Libyan judiciary is committed to ensuring fair and impartial trials for all suspects, however long it takes. The crimes perpetrated are not subject to any statute of limitations, in accordance with the Libyan penal code. In that regard, we stress once again that our cooperation with the ICC according to its mandate is complementary to the work of the Libyan judiciary and never a substitute for it.

We followed carefully Mr. Khan's briefing today. It made numerous references to global challenges and included many calls to support law enforcement efforts. But today I am addressing members of the Council in a more realistic way in the light of what my country is experiencing. We have read the twenty-seventh report, which is the sixth to be produced by Mr. Khan, in which he mentions a strategy based on three tracks: first, investigating the crimes committed in detention facilities; secondly, investigating the crimes related to the 2014–2020 operations; and thirdly, investigating the crimes committed against migrants. We have several comments and questions regarding the contents of the report, and we hope that Mr. Khan will be able to respond to them.

First, the report indicates that the Office of the Prosecutor will seek to complete the investigations into those tracks before the end of 2025 to ensure that it is "trial-ready in relation to all arrest warrants issued by the pre-trial Chamber during the investigation phase". At the same time, the report says that the Office will not seek additional arrest warrants after the investigation phase is completed in 2025. Does that mean that after all those years of investigations and field visits by the ICC team and the evidence that it has collected according to its statements and reports — and I am not talking about Mr. Khan and his tenure specifically, but rather about his institution, which began its work in Libya almost 13 years ago — we will not see any tangible results commensurate with the grave violations mentioned in the report until the end of next year? Will Libyans now have to wait even longer? We expected tangible results after all those years. We have seen results achieved at record speed on several other international issues, so why is the process so slow in the case of Libya?

Secondly, the report indicates that,

"[a]t a minimum, under this road map, the Office wishes to support the commencement of at least one trial before the Court in relation to this situation before the end of 2025, with multiple trials to follow during the judicial phase".

Once again, we are surprised at the hypothesis of the ICC holding that trial as if it were a natural result, without any reference to the possibility of the Libyan judiciary holding it if conditions permit. Does that mean that the names of the specific defendants will be decided by the Court and that those suspects will appear before it? That too must be clarified.

Thirdly, the report states that "[t]he roadmap also outlines a number of activities beyond 2025 which may be undertaken to secure a longer-term positive legacy of support". We infer from that the ICC's intention to continue its work for years to come, as if the strategy implies that it will continue indefinitely. We believe that is illogical and goes beyond the ICC's mandate, as if its role is to carry out capacity-building. There is no clear indication as to whether Libya wants that.

The issue of the mass graves discovered in Tarhuna was, and will remain, one of the worst atrocities that Libya has witnessed in modern times, and we regret that those involved in that heinous case have not yet been identified by the ICC, despite its team's numerous visits, the amount of evidence and proof that it has amassed and cooperation from the Libyan Attorney General's Office. So far, no arrest warrants have been issued against all those involved, especially those who have fled the country, even though the Attorney General has issued arrest warrants against them.

Something that is truly regrettable and that we hope Mr. Khan can clarify — perhaps it is just a misunderstanding — is that the report completely omits the crimes committed in Tarhuna as a matter under investigation. For example, in paragraph 42 on investigations into crimes between 2014 and 2020, we note that there is no reference to the investigation into the mass graves in Tarhuna or the Tarhuna crimes, as they were referred to in the past. The same applies to the twenty-sixth report, even though the crimes in Tarhuna were mentioned in reports 19 through 25. Also, in his briefings, Mr. Khan presented those crimes as a priority, but in his most recent report they are omitted completely, while he mentions a number of crimes that are under investigation, naming the relevant

cities and describing the types of crimes committed there, but with no mention of the investigation of the Tarhuna crimes in his road map or strategy. Does that mean that the case has been closed by Mr. Khan, that the investigation has been completed and that all those involved and their supporters have been identified?

We call for clarification, because if Mr. Khan does not make this case his highest priority despite all the available evidence, what is the point of Libya remaining under the ICC's tutelage, when there are crimes as clear as those committed in Tarhuna? We believe in the importance of international law and international humanitarian law, but Libyans are wondering: what did the Court do for them and where are the results after 13 years, 27 reports, dozens of visits and hundreds of pieces of evidence? Thirteen years after 2011, only one name has been identified, and that person has been killed. It will be 14 years next year, and we still do not know the names of the suspects or how they will be held accountable. Those are questions asked by all Libyans.

If the Libyan case is so complex, the evidence incriminating those involved so difficult to obtain and the perpetrator still unknown, it is better to direct Mr. Khan's efforts and resources to what is easier, clearer and broadcast live. I am talking about Gaza, about the genocide, grave violations and war crimes that have been committed there for the past seven months before the eyes of everyone. The world expects Mr. Khan to prove the usefulness of the ICC, to be courageous and issue arrest warrants for the criminals of the Israeli occupation forces who boast day and night about their crimes and have repeatedly and publicly declared their intention to commit genocide against the Palestinian people. The peoples of the world and the human conscience want Mr. Khan to identify those involved in the children's mass grave in Gaza, the artificial famine in the Gaza Strip, the ethnic cleansing and the genocide perpetrated in the Holocaust of the twenty-first century, the Gaza Holocaust. The world is wondering: what is Mr. Khan waiting for? Does he need more evidence? Does he not see the potential threats to civilians in Rafah and the massacre that could happen at any time? That is the real test for the ICC. Is it politicized or is it neutral and independent, because its credibility has always been questioned, and now its credibility is at stake.

**The President:** I now give the floor to Prosecutor Karim Khan to respond to questions and comments.

**Mr. Khan:** The opportunity to respond is a blessing and a curse, but I thank you, Mr. President, nonetheless.

If I may be indulged and respond first to my friend and brother, the Permanent Representative of Libya, the starting point in terms of my term is what I said in my briefing. I think that it is quite obvious that Security Council referrals cannot be a never-ending story. They are not an exercise of action or a fig leaf. They require focus to demonstrate that, in the real world, the law can provide shelter for people that very often have no shelter and are exposed to the elements of hate, division, tribalism, sectarianism or outside interference. And that gave rise to the strategic plan and the report that has just been presented, which is a road map of how we can close the investigative stage. I had the great benefit — and I am very grateful for my friend's time — of speaking with my friend this morning, and he is quite aware that the meeting between the Deputy Prosecutor and the Attorney General was productive and effective, and of the fact that, as an officer of the Court, I am bound by certain judicial decisions and cannot speak on certain issues and our full activity. However, I have said — and he knows exactly what I am talking about — that there has been activity on a number of case files over this period. I am not misleading the Security Council in the report when I say that there has been demonstrable, clear action in this situation.

In terms of the issue of forced wait, nobody — apart from victims — wants tangible results more than the Court does. I accept that international justice and the international architecture are under siege, and we have to prove that it has value and that we have the stamina to move forward, even if the sun is not shining and even if there is a storm around us. That is exactly what the men and women of the Office are doing. The goal of closing the investigative stage by the end of next year is based upon where we are, what we have done and the new approach. Of course, if we have more things that I can announce, I will not wait, but certain issues are either subject to judicial orders or they require more cooperation from Libya. We are not running down the sand, we are not running down the timer for any extraneous purpose.

In terms of the goal of initial proceedings, because there is a whole process, the goal is simply because we are trying to improve and work with the registry as well to improve tracking and arrest warrant execution across a range of situations. The hope is that initial proceedings can take place by the end of next year. Now, whether

that is realized or not is not down only to me. It requires a community of support from the Council, from States Members of the United Nations, from States parties and, of course, from Libya itself, because, of course, nobody should care for the Libyan victims more than Libya. Therefore, this is very much a *cri de cœur* to work together to fulfil an international legal obligation that was imposed by the Security Council in resolution 1970 (2011). It is not an optional extra, it is hard law, by dint of Chapter VII, and it requires certain obligations in terms of that. Of course, if and when initial proceedings take place, any individual party or State can file any admissibility challenge.

Therefore, in terms of locations, yes, I have said very publicly in this Chamber from Tripoli that I have been to Tarhuna, and we are looking at a range of situations. We are moving forward, and I am very alive to and very cognizant of the legitimate views and concerns of victims and of the fact that so many people in Libya, from east and west and from all communities, have suffered so much for many reasons. I think that we have the bandwidth and sophisticated understanding to realize all the drivers, but I am driven by the Rome Statute and the need, not to spout hot air, but to make sure that the law applies with more effectiveness — realizing that international law is very imperfect and that there has been a very imperfect application of the law over many decades. That is, however, not an excuse for us not to do more and to do better in Libya and elsewhere. That is my response.

In terms of the remarks made by the representative of the Russian Federation, I was very pleased and grateful for his kind concern regarding the pressure that is being placed on me or the Office or the Court. I want to reassure him that, in terms of threats against

me personally or against the Office to stand down or to cease and desist, we will not be swayed — whether it is by warrants for my arrest or for the arrest of elected officials of the Court by the Russian Federation or whether it is by other elected officials in any other jurisdiction. We have a duty to stand up for justice and to stand up for victims, and I am fully cognizant that there are Goliaths in this room. There are Goliaths with power and with influence, and we are an international organization and international servants. And we have something called the law. All I can do is say that we will stand up to the best of our ability. We will stand up and apply the law with integrity and with independence. We are judged, either by judges if there are warrants, by God or by history — and that applies to me, of course, as much as it does to anybody else. But we are not going to desist, and no State that is on the right side of history and that is a custodian of the Charter of the United Nations should feel that it has a privileged position to play fast and loose with the Charter of the United Nations or with the international work of the International Criminal Court (ICC). I welcome support from any quarter, including the support that was expressed by the representative of the Russian Federation. I hope that we have more of that — no interference in the work of the ICC.

I thank you so much, Mr. President, for the opportunity to say a few words.

**The President:** I thank Mr. Khan for his additional clarifications.

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

*The meeting rose at noon.*