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Prosecutor of the International Criminal Court**

***Statement to the United Nations Security Council on the situation in the
Libyan Arab Jamahiriya, pursuant to UNSCR 1970 (2011)***

**New York
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Mr. President,

1. I am honored to report to this Council on the Office of the Prosecutor's activities in furtherance of Resolution 1970. You adopted Resolution 1970 unanimously on 26 February, referring the situation in Libya to the International Criminal Court, and stressing *"the need to hold to account those responsible for attacks, including by forces under their control, on civilians."*
2. My report, submitted for your consideration in advance of this briefing, described in detail the factual and legal analysis conducted by the Office in order to implement this referral. Based on such analysis, we decided to open an investigation on 3 March. In carrying out the mandate given by the Council under Resolution 1970, the Office must apply the norms established by the Rome Statute: it must establish the truth on crimes alleged to have been committed in Libya, through an independent and impartial investigation. This is what we are doing.
3. To investigate the crimes committed, the Office has conducted more than 15 missions to 10 States. As of 26 April, 45 interviews of individuals with direct knowledge of the crimes committed were initiated or completed; and more than 569 documents were collected and reviewed, including videos and pictures. The Prosecution has taken no statement inside Libya in order to fulfill its duty to protect its witnesses.
4. The cooperation received from States, regional and other international organizations in accordance with paragraph 5 of Resolution 1970 was a critical component of the fast progress of the Libya investigation.
5. The Commission of Inquiry created by the Human Rights Council has been cooperating with the Office since its creation and has indicated its willingness to continue to do so. The Commission is in the process of preparing its report to the Human Rights Council, which is to be completed by the end of May. We are looking forward to its report and to having access to the data compiled by the COI, which will be very useful to the Prosecution for future action. We were discussing with the Commission Chair the difficulties to unveil the truth while an armed conflict is ongoing and the importance of the Commission's field activities.

Mr. President,

6. The evidence collected has confirmed the fears and concerns expressed in Resolution 1970. Two months ago the Security Council expressed *"grave concern at the situation in the Libyan Arab Jamahiriya, condemning the violence and use of force against civilians,"* deplored *"the gross and systematic violation of human rights, including the repression of peaceful demonstrators"* and *"the deaths of civilians."* Resolution 1970 rejected *"unequivocally the incitement to hostility and violence against the civilian population made from the highest level of the Libyan government,"* and considered *"that the widespread and systematic attacks currently taking place in the Libyan Arab Jamahiriya against the civilian population may amount to crimes against humanity."*
7. The evidence collected establishes reasonable grounds to believe that widespread and systematic attacks against the civilian population have been and continue to be committed in Libya, including murder and persecution as crimes against humanity. Additionally and since the end of February, there has been an armed conflict in Libya. In this context, there is also relevant information on the alleged commission of war crimes. The work of the Commission of Inquiry will be crucial to fully understand the armed conflict.
8. Let me start describing the incidents of crimes against humanity that the Office investigated. The evidence shows that security forces have been systematically shooting at peaceful protesters, following the same *modus operandi* in multiple locations. The evidence shows that events in neighboring Egypt and Tunisia prompted Libyan security forces to begin preparations for the possibility of demonstrations in Libya. As early as January, mercenaries were being hired and brought into Libya.
9. The incidents started on 15 and 16 February. Security forces arrested two lawyers who were requesting justice for the 1400 victims of the 1996 Abu Salim prison massacres. On 17 February, thousands of peaceful demonstrators protesting these arrests congregated in the square around the High Court of Benghazi. Security forces entered the square and reportedly fired live ammunition into the crowd, killing numerous demonstrators. This was the beginning of a series of similar incidents in different cities across Libya.
10. The efforts to cover up the crimes have made it difficult to ascertain the precise number of victims but there is credible information that estimates that, just as the

result of such shootings, 500 to 700 persons died in February alone. It is difficult to estimate the numbers because dead bodies were removed from streets and hospitals. Doctors were not allowed to document the number of dead and injured admitted to hospitals after the violent clashes began. Security forces were allegedly stationed in the hospitals and arrested injured individuals who sought medical treatment. Being injured became evidence of opposing the regime, and challenging the authority of the regime is a crime under Libyan law. To avoid punishment and risk of death some protestors sought medical attention in private homes and did not bring injured or dead persons to the hospitals.

11. Additionally, information collected by the Office shows that civilians in Tripoli and other areas under the control of the regime are reportedly subject to different forms of persecution. Systematic arrests, torture, killings and enforced disappearances have been reported in Tripoli, Al Zawiyah, Zintan and the area of the Nafousa Mountains. The victims are civilians who participated in demonstrations, are considered disloyal to the regime or talked to international media, activists and journalists. In addition citizens of Egypt and Tunisia were arrested and expelled en masse because of their perceived association with the popular uprising. The mosques they used to pray were destroyed.
12. There is relevant information concerning the alleged commission of rape. Victims of rape have reportedly been arrested and subject to harassment. In one high-profile case a woman gave a report to international media of how she had been raped by security forces because of her suspected association with the rebels. The Office is investigating these allegations.
13. Several sources have also reported the unlawful arrest, mistreatment and killings of sub-Saharan African civilians wrongly perceived to be mercenaries. Reportedly, angry mobs of protesters assaulted Sub-Saharan Africans in Benghazi and other cities and killed dozens of them. The new authorities in Benghazi allegedly arrested a number of Sub-Saharan Africans and it is unclear whether they were innocent immigrant workers or combatants, turned prisoners of war.
14. Specific allegations of war crimes committed include the use of imprecise weaponry such as cluster munitions, multiple rocket launchers and mortars, and other forms of heavy weaponry, in crowded urban areas, in particular Misrata. There are also reports of forces blocking humanitarian supplies. Some sources have also reported

the use of civilians as human shields and the torture of prisoners of war or civilians in the context of the armed conflict.

15. The total number of persons that have died since the beginning of the conflict is in the thousands. The number of those displaced, according to the UN, includes approximately 535,000 migrant workers, refugees and asylum seekers, and 327,342 Libyans internally displaced. Other organizations place the total of those displaced at 475,000.
16. The UN High Commissioner for Human Rights, Navi Pillay, the UNSG Special Representative for Children and Armed Conflict, Radhika Coomaraswamy, and the UNSG Special Representative on Sexual Violence in Conflict, Margot Wallström, have all spoken out about alleged crimes.

Mr. President,

17. Let me conclude referring to the next steps:
18. In accordance with the Statute, my duty is to focus investigations and prosecutions on those who bear the greatest responsibility for the most serious crimes, based on the evidence that emerges in the course of the investigation. This includes those who ordered, incited, financed or otherwise planned the commission of the alleged crimes
19. On this basis, in the coming weeks, implementing the mandate established by Security Council Resolution 1970, I will present a case before the Pre-Trial Chamber of the International Criminal Court.
20. I will request the Judges to issue arrest warrants against three individuals who appear to bear the greatest criminal responsibility for crimes against humanity committed on the territory of Libya since 15 February 2011.
21. In all the incidents to be presented to the Judges, the victims who were shot at by the security forces were unarmed civilians and there is no evidence of any attack against the security forces. To prove the case the Office has collected different types of evidence: there are least two eyewitnesses for each incident, documents and, in many cases, corroboration of details by pictures or videos.

22. Further cases will be opened as necessary, taking into account the full scope of criminality—including war crimes—allegedly committed by different individuals in the context of the Libya situation. Before proceeding, I will inform this Council in advance.
23. The Pre-Trial Chamber may decide to accept the application, to reject it or to ask my Office for additional information. Should the Judges decide to issue arrest warrants, the primary responsibility to execute them will lie with the territorial authorities.
24. The Interim National Council has committed itself to implement any arrest warrants, and has requested the cooperation of the international community. The Office still awaits any response on the question of arrest warrants from representatives of the regime in Tripoli.
25. Arresting those who ordered the commission of crimes will contribute to the protection of civilians in Libya because it will deter ongoing crimes. It will deter crimes by removing those who ordered the crimes, and by sending a serious message to other potential perpetrators, in Libya and in other situations, that the international community will not condone such crimes.
26. Arrests cannot be successfully conducted without serious planning and preparation, which takes time. The international community should take steps now to assist on such practical planning.
27. As UN Secretary-General Ban Ki-moon reflected in Kampala, *"now we have the ICC, permanent, increasingly powerful, casting a long shadow. There is no going back. In this new age of accountability, those who commit the worst of human crimes will be held responsible."*