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

New York
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Mr. President,

1. It is my honor to brief the UN Security Council on the activities of the Office of the Prosecutor of the International Criminal Court in the situation of Libya in furtherance of UN Security Council Resolution 1970.
2. In accordance with the Office's policy, we are focusing the investigation on those bearing the greatest responsibility for the most serious crimes. Let me stress that the Security Council's consensus on the need to ensure justice for the victims of crimes in Libya, as expressed through Resolution 1970, and reiterated two months later during my first briefing, has greatly enhanced the cooperation received by the Office and this has facilitated our investigations.
3. As I anticipated in my previous briefing, on 16 May the Office requested arrest warrants against three individuals who, according to the evidence, were most responsible for the attacks against unarmed civilians on the streets and in their houses in Benghazi, Tripoli and elsewhere during the month of February.
4. After a thorough evaluation of the evidence presented, on 27 June, the Judges of Pre-Trial Chamber I issued warrants of arrest for Muammar Gaddafi, Saif Al-Islam Gaddafi, and Abdullah Al-Senussi for murders as a crime against humanity under article 7(1)(a) and persecution as a crime against humanity under article 7(1)(h).
5. The Chamber concluded that there were *"reasonable grounds to believe that Muammar Gaddafi and Saif Al-Islam are both mutually responsible as principals to the crimes pursuant to article 25(3)(a) of the Statute, as indirect co-perpetrators of the crimes against humanity of murder and persecution."*The Chamber found that Abdallah Al-Senussi was also responsible as a direct perpetrator.
6. The Judges' decision unveiled the crimes committed against civilians in Tripoli and other areas under the control of Muammar Gaddafi. In order to retain power, Gaddafi ordered the persecution of those considered dissidents. The Judges concluded that in order to stop the crimes and protect civilians it was necessary to arrest Mr. Gaddafi.

Mr. President,

7. Allow me to update you on the current situation of the three indictees.
8. On 20 October, Muammar Gaddafi died. The Registry of the Court is following the formal procedures to obtain official documents from the Libyan government to certify the death. The Pre-Trial Chamber, after reviewing the documents, may decide to withdraw the warrant against Muammar Gaddafi and to end the case against him.
9. Concerning Saif Al-Islam Gaddafi and Abdullah Al-Senussi, the Office is galvanizing efforts to ensure that they face justice. We have received questions from individuals linked to Saif Al-Islam about the legal conditions attaching to his potential surrender to the Court: what would happen to him if he appeared before the Judges, could he be sent back to Libya, what would happen if he were to be convicted, what would happen if he were to be acquitted? We clarified that in accordance with article 107 of the Statute he may request the Judges not to order his return to Libya after his conviction or acquittal but that he be sent to a different country, provided that country has consented to receiving him. Judges can also decide if he may be extradited to another State. It is a positive sign that the Court is seen as as a guarantor of the rights of the suspects.
10. On the other hand we are also receiving information that a group of mercenaries may be endeavoring to facilitate his escape from Libya. We are calling upon States to do all they can to disrupt any such operation. It is up to Saif Al-Islam Gaddafi and Abdullah Al Senussi to decide if they will surrender themselves, remain in hiding, or try to escape to another country. It is up to the UN Security Council and States to ensure that they face justice for the crimes for which they are charged.

Mr. President:

11. We are grateful for the strong and essential cooperation received from the Libyan authorities, including a recent invitation to visit Libya. During the last weekend, the Office conducted a first assessment mission to Libya to prepare for the collection of further evidence on the territory where the alleged crimes took place. The Office coordinated with local authorities but also with local civil society. The Office also met with various local committees, mandated to investigate crimes committed by all parties in Libya.

Mr. President:

12. The current focus of the Office investigations is twofold: firstly, it continues the collection of evidence against Saif Al-Islam Gaddafi and Abdullah Al-Senussi in preparation for their eventual trial. Secondly, the Office is continuing its investigations into gender crimes in Libya.
13. The Office will also continue to search out the personal assets of Saif Al-Islam Gaddafi and Abdallah Al-Senussi for the potential benefit of the victims, through reparations awarded by the Court. Since the opening of the situation, the Office has been in contact with the UN Sanctions Committee, which is assisted by a Panel of Experts and with Interpol to coordinate its investigative efforts in relation to the assets of the suspects. The Court has sent at the end of September requests for assistance to Libya, State Parties, and five UN Security Council non-State Parties to identify, trace, seize and freeze all the personal assets belonging to the suspects. The Office strongly encourages the Security Council and States to assist the Court in identifying and isolating these assets.
14. The Prosecution is mindful that in Libya, rape is considered to be one of the most serious crimes, affecting not just the victim, but also the family and the community, and can trigger retaliation and honor-based violence. Accordingly, the Prosecution has adopted a strategy which seeks to limit the exposure of victims. The Office is therefore organising its investigation by focusing on obtaining alternate evidence and identifying avenues of investigation which support charges without the need for multiple victim statements. In this respect, the Office has been in contact with sources reporting multiple victims of sexual violence, allegedly committed by Gaddafi security forces. While it is premature to draw conclusions on specific numbers, the information and evidence indicates at this stage that hundreds of rapes occurred during the conflict.
15. The investigation will benefit from a reporting system that has been set up by the NTC, through the Ministry of Women and Social Affairs, with the purpose of affording rape victims the opportunity to come forward.
16. The Prosecution has also interviewed a limited number of victims, who were kidnapped and raped in unknown secret detention centers.
17. The information and evidence thus far collected does not yet indicate who may be the most responsible for such gender crimes. The Prosecution has collected some evidence showing that commanders gave orders to commit rape in the Western

Mountains area and is screening possible witnesses that indicated that Muammar Gaddafi, Al-Senussi and other high officials were discussing the use of rape to persecute those considered dissidents or rebels.

Mr. President:

18. Let me conclude. There are allegations of crimes committed by NATO forces, allegations of crimes committed by NTC-related forces, including the alleged detention of civilians suspected to be mercenaries and the alleged killing of detained combatants, as well as allegations of additional crimes committed by pro-Gaddafi forces. These allegations will be examined impartially and independently by the Office.
19. The Office was informed that the new Libyan authorities are in the process of preparing a comprehensive strategy to address crimes, including the circumstances surrounding the death of Muammar Gaddafi. In accordance with the Rome Statute the International Criminal Court should not intervene if there are genuine national proceedings. Should the Libyan authorities decide to prosecute Saif al-Islam Gaddafi and Abdullah al Sanussi for the same crimes under investigation by the International Criminal Court, they should submit an admissibility challenge and it will be for the ICC Judges to decide.
20. The Office's analysis will benefit from the work of the UN Commission of Enquiry, which should present a report in March 2012. The Office is coordinating with the Commission Chairperson Philippe Kirsch.
21. The Office will be prepared to present a comprehensive report on the crimes allegedly committed by the different parties in Libya since 15 February 2011 and the existence of genuine national proceedings, during its third briefing to the UN Security Council in May 2012.
22. In summary, the Office will continue investigations into Saif Al-Islam Gaddafi and Abdallah Al-Senussi and into rapes and in May will evaluate the possibility for further investigations. I should clarify that the possibility to carry out all of these investigations will depend on the budget available to the Office. This is a matter currently under discussion and it will be decided during December 2011 in the upcoming session of the Assembly of States Parties.

Thank you.