



Original: English

No.: ICC-01/19

Date: 18 October 2019

**PRE-TRIAL CHAMBER III**

**Before:** Judge Olga Herrera Carbuccion, Presiding Judge  
Judge Robert Fremr  
Judge Geoffrey Henderson

**SITUATION IN THE PEOPLE'S REPUBLIC OF BANGLADESH/ REPUBLIC OF  
THE UNION OF MYANMAR**

**PUBLIC**

**Supplementary Information for Request for authorisation of an investigation  
pursuant to article 15**

**Source:** Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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**Legal Representatives of the Applicants**

**Unrepresented Victims**

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**(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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**States' Representatives**

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**REGISTRY**

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**Registrar**

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**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

## I. INTRODUCTION

1. The Prosecution hereby submits supplementary information to its Request for authorisation of an investigation pursuant to article 15, filed on 4 July 2019.<sup>1</sup> This supplementary information is relevant to the issue of admissibility under the complementarity criterion. This issue is now before the Chamber, and the supplementary information is submitted in the interest of the completeness of its analysis. The information is based on sources reviewed to 1 October 2019, including public statements and press releases by the Myanmar authorities.<sup>2</sup> Among these sources, the Prosecution hereby makes available to the Chamber a public statement issued by the Myanmar authorities since the Prosecution filed its Article 15(3) Request which specifically addresses the Article 15(3) Request.<sup>3</sup>

## II. PROCEDURAL BACKGROUND

2. By a memorandum dated 12 June 2019, the Prosecutor notified the President of the Court, in accordance with regulation 45 of the Regulations of the Court (“Regulations”), of her intention to submit a request for authorisation of an investigation into the Situation in Bangladesh/Myanmar. On 25 June 2019, the Presidency of the Court assigned the Situation in Bangladesh/Myanmar to Pre-Trial Chamber III.<sup>4</sup> On 26 June 2019, the Prosecution submitted a request, pursuant to regulation 37(2) of the Regulations, for extension of the applicable page limit under regulation 38, which was granted on 28 June 2019.<sup>5</sup> The Prosecution thereafter filed the Article 15(3) Request on 4 July 2019.

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<sup>1</sup> [ICC-01/19-7](#) (“Article 15(3) Request”).

<sup>2</sup> *See also* [Article 15\(3\) Request](#), para. 28.

<sup>3</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#).

<sup>4</sup> Decision on the constitution of Pre-Trial Chamber III and on the assignment of the situation in the People’s Republic of Bangladesh/Republic of the Union of Myanmar, 25 June 2019, [ICC-01/19-1](#).

<sup>5</sup> Request for extension of page limit for a request for authorisation of an investigation pursuant to article 15 of the Rome Statute, 26 June 2019, [ICC-01/19-2](#).

3. Also on 26 June 2019, the Registry applied for an extension of time for victims to make representations under article 15(3) of the Rome Statute (“Statute”) and rule 50(3) of the Rules of Evidence and Procedure (“Rules”).<sup>6</sup> On 28 June 2019, the Chamber granted the Registry an extension of time limits for the transmission of victims’ representations, as well as its Final Consolidated Report, until 31 October 2019, and, *inter alia*, ordered the Prosecution to inform victims pursuant to rule 50(1) of the Rules that they may submit their representations until 28 October 2019.<sup>7</sup>
4. On 30 August, 13 and 27 September and 11 October 2019, the Registry filed its first, second, third and fourth reports on victims’ representations, respectively,<sup>8</sup> and on 11 October 2019, filed its first transmission of victims’ representations.<sup>9</sup>
5. This supplementary information is filed in advance of the 31 October 2019 extended time limit granted by the Chamber for transmission of victims’ representations as well as the Registry’s final consolidated report.<sup>10</sup>
6. The Prosecution notes that on 10 and 16 October 2019 respectively, Dr Tin Aung Aye<sup>11</sup> and the Confederation of Trade Unions Myanmar (“CTUM”)<sup>12</sup> (collectively, “the Applicants”) filed applications to present observations under rule 103(1)

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<sup>6</sup> Public redacted version of “Registry’s Request for Extension of Notice Period and Submissions on the Article 15(3) Process”, 26 June 2019, [ICC-01/19-3-Red](#).

<sup>7</sup> Decision on the ‘Registry’s Request for Extension of Notice Period and Submissions on the Article 15(3) Process’, 28 June 2019, [ICC-01/19-6](#), p. 8.

<sup>8</sup> First Registry Report on Victims’ Representations Pursuant to the Pre-Trial Chamber’s Decision ICC-01/19-6 of 28 June 2019, 30 August 2019, ICC-01/19-10-Conf; Second Registry Report on Victims’ Representations Pursuant to the Pre-Trial Chamber’s Decision ICC-01/19-6 of 28 June 2019, 13 September 2019, ICC-01/19-11-Conf; Third Registry Report on Victims’ Representations Pursuant to the Pre-Trial Chamber’s Decision ICC-01/19-6 of 28 June 2019, 27 September 2019, ICC-01/19-12-Conf; Fourth Registry Report on Victims’ Representations Pursuant to the Pre-Trial Chamber’s Decision ICC-01/19-6 of 28 June 2019, 11 October 2019, ICC-01/19-15-Conf. *See also* public redacted versions of the first three reports, filed on 3 September 2019 ([ICC-01/19-10-Red](#)), 13 September 2019 ([ICC-01/19-11-Red](#)), 30 September 2019 ([ICC-01/19-12-Red](#)) and 17 October 2019 ([ICC-01/19-15-Red](#)) respectively.

<sup>9</sup> First Registry Transmission of Victims’ Representations Pursuant to the Pre-Trial Chamber’s Decision ICC-01/19-6 of 28 June 2019, 11 October 2019, [ICC-01/19-14](#).

<sup>10</sup> Decision on the ‘Registry’s Request for Extension of Notice Period and Submissions on the Article 15(3) Process’, 28 June 2019, [ICC-01/19-6](#).

<sup>11</sup> Application pursuant to Rule 103(1) of the Rules of Procedure and Evidence, 10 October 2019, [ICC-01/19-13](#).

<sup>12</sup> Application pursuant to Rule 103(1) of the Rules of Procedure and Evidence, 16 October 2019, [ICC-01/19-16](#).

seeking to *challenge* the Prosecution factual and legal submissions.<sup>13</sup> The Prosecution will submit in a separate filing that both applications should be set aside because the procedure for authorisation of an investigation under article 15(3) of the Statute and rule 50 of the Rules is not adversarial:<sup>14</sup> as such it does not envisage the participation of any State, organisation or person other than the Prosecutor and the victims.<sup>15</sup> Following the proper procedure under article 15, and in the interest of the completeness of its own analysis, the Prosecution will seek to receive from the Applicants the relevant information in their possession—including the information referred to in their applications. It is the Prosecution’s duty under articles 15 and 54 of the Statute to request all the available information and, in full transparency, determine whether there is a reasonable basis to proceed and seek the opening of an investigation.

### III. ADMISSIBILITY–COMPLEMENTARITY CRITERION

7. The supplementary information provided below does not affect the Prosecution’s conclusion in the Article 15(3) Request that one or more of “the potential case(s) [as identified in the Request and in confidential *ex parte* Annexes 5 and Annex 7]

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<sup>13</sup> See for instance Application pursuant to Rule 103(1) of the Rules of Procedure and Evidence, 10 October 2019, [ICC-01/19-13](#), para. 5 (“The need for submissions which challenge the Prosecutor’s assumptions and her adopted narrative is imperative in an adversarial system of law and should not be viewed by the learned Pre-Trial Chamber as unnecessarily provocative. This need is even more pronounced given the highly polarized and charged nature of the Myanmar debate.”), para. 12 (the Applicant will submit “observations which will be of benefit to future suspects”); Application pursuant to Rule 103(1) of the Rules of Procedure and Evidence, 16 October 2019, [ICC-01/19-16](#), para. 3 (“[t]he Applicant agrees that the need for submissions which challenge the Prosecutor’s assumptions and adopted narrative is imperative in an adversarial system of law and should not be viewed by the learned Pre-Trial Chamber as unnecessarily provocative.”), para. 8 (“[w]ith the benefit of historical and contemporary documentation acquired from State authorities and foreign archives, the Applicant will, in particular, elaborate on and challenge the following issues arising out of the Prosecutor’s Request; a) The alleged intentional policy to deport 787,000 Rohingya people from Myanmar to Bangladesh in the context of two waves of violence; b) The “*Rohingya self-identity as a distinct ethnic group with their ... long standing connection to Rakhine State*” c) the creation of conditions and institution of policies to prevent the return of “*displaced Rohingya and failed agreements to repatriate them*”, and; d) Myanmar’s citizenship laws and other targeted policies which, according to the Prosecutor “*have been implemented in a discriminatory and arbitrary manner*”).

<sup>14</sup> See *contra* Application pursuant to Rule 103(1) of the Rules of Procedure and Evidence, 10 October 2019, [ICC-01/19-13](#), para. 5; Application pursuant to Rule 103(1) of the Rules of Procedure and Evidence, 16 October 2019, [ICC-01/19-16](#), para. 3.

<sup>15</sup> See article 15(3) of the Statute and rule 50(1) of the Rules.

against senior members of the *Tatmadaw*, other Security Forces and other Myanmar authorities would be admissible under the complementarity criterion.”<sup>16</sup> This information relates to, first, Myanmar’s position regarding ICC proceedings and complementarity; second, the characteristics and activities of the Independent Commission of Inquiry (“ICOE”); and third, the Court of Inquiry’s activities.<sup>17</sup>

#### **A. Position of the Government of Myanmar on International Criminal Court proceedings and complementarity**

8. In his address during the UN General Assembly’s 74<sup>th</sup> session (“UN GA Address”) on 29 September 2019, U Kyaw Tint Swe, Union Minister for the Office of the State Counsellor of Myanmar “reaffirmed Myanmar’s position on [...] the jurisdiction of [the] International Criminal Court (ICC) over the issue in Rakhine State”,<sup>18</sup> and advanced a series of criticisms regarding the Article 15(3) Request, including that it (i) excludes alleged crimes committed by ARSA with “deliberate omission of the undisputed fact that their actions precipitated the displacement;<sup>19</sup> (ii) “relies heavily on human rights reports that contain factual errors with regard to both international and Myanmar law;<sup>20</sup> and (iii) “mischaracterizes the criminal justice system of Myanmar”.<sup>21</sup> The Union Minister also noted that “[t]he Government’s position remains that the Court does not have jurisdiction over alleged crimes in [Myanmar]”.<sup>22</sup>

<sup>16</sup> [Article 15\(3\) Request](#), para. 235. *See also* para. 228.

<sup>17</sup> *See* [Article 15\(3\) Request](#), para. 235 (“[t]o the extent that the work of the ICOE is ongoing, and with respect to any activity of the recently-formed military investigation court, the Prosecution will continue to review its assessment in light of new information”). *See also* paras. 236, 246 (with respect to the military investigation court/ court of inquiry), 247 (with respect to the ICOE).

<sup>18</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#), p. 1.

<sup>19</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#), p. 9. *But see* [Article 15\(3\) Request](#), paras. 24, 61-66, *in particular*, 65-66.

<sup>20</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#), p. 9. In relation to this allegation, no further particulars are provided.

<sup>21</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#), p. 9. In relation to this allegation, no further particulars are provided.

<sup>22</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#), p. 9.

9. The Union Minister further noted that “the Independent Commission of Enquiry is currently preparing its report, with recommendations for further action”, while a “military investigation into Rakhine-allegations is currently being undertaken by the Office of the Judge Advocate General. A recent announcement suggests that there will soon be a court martial.”<sup>23</sup> According to the Union Minister, “[t]he integrity of these independent investigations should not be compromised by international actors.”<sup>24</sup>
10. Consistent with its practice in the proceedings on the Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute,<sup>25</sup> the Prosecution, by this filing, makes the full text of the UN GA Address available to the Chamber.

## **B. Relevant national proceedings in Myanmar**

### **1. The Independent Commission of Enquiry (“ICOE”)**

11. While there is supplementary information regarding the ICOE, such information does not affect the conclusion in the Article 15(3) Request that “the ICOE does not lead to the inadmissibility before the Court, pursuant to the principle of complementarity, of the potential case(s) identified”.<sup>26</sup> The supplementary information described below relates to the ICOE’s characteristics and powers,<sup>27</sup> and to steps undertaken by the ICOE,<sup>28</sup> and does not affect the Prosecution’s overall conclusion that the available information indicates inaction on the part of the Myanmar authorities concerning the potential case(s) identified in the Article 15(3) Request, such that the potential case(s) would be admissible

<sup>23</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#), p. 9.

<sup>24</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#), p. 9.

<sup>25</sup> Application under Regulation 46(3), Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute, 9 April 2018, [ICC-RoC46\(3\)-01/18-1](#). See e.g. Request under Regulation 46(3) of the Regulations of the Court, Notice of the Public Statement Issued by the Government of Myanmar, [ICC-RoC46\(3\)-01/18-36](#).

<sup>26</sup> [Article 15\(3\) Request](#), para. 247.

<sup>27</sup> [Article 15\(3\) Request](#), paras. 247-253.

<sup>28</sup> [Article 15\(3\) Request](#), paras. 247, 254-256.

pursuant to the complementarity criteria in article 17(1)(a) and (b) of the Statute.<sup>29</sup> In addition, the supplementary information does not touch upon the information provided in the Article 15(3) Request regarding: (1) the statements by Myanmar officials pointing to the Myanmar authorities' unwillingness within the meaning of article 17(2)(a) and (c) to genuinely carry out the investigation with which the ICOE has been tasked;<sup>30</sup> and (2) previous domestic initiatives not resulting in effective investigations leading to criminal accountability,<sup>31</sup> indicating inaction or unwillingness on the part of the Myanmar authorities within the context of the earlier (2016) wave of violence.

12. Since it filed the Article 15(3) Request, the Prosecution has located an unofficial translation in English of the Investigation Committees Act 1950,<sup>32</sup> which applies to the ICOE according to the ICOE's terms,<sup>33</sup> and to which the Prosecution refers in this filing.

13. Consistent with the discussion in the Article 15(3) Request regarding the establishment of the ICOE by the Myanmar Government,<sup>34</sup> the Investigation Committees Act 1950 covers "the special committee or commission appointed by the Union Government [...] for enquiry into any special issue"<sup>35</sup> and provides for the appointment of its members.<sup>36</sup>

14. Additionally, the Act provides that when the committee or commission is "mandated to decide on a matter", the decision shall be made by majority with

<sup>29</sup> [Article 15\(3\) Request](#), para. 228.

<sup>30</sup> [Article 15\(3\) Request](#), paras. 247, 257.

<sup>31</sup> [Article 15\(3\) Request](#), paras. 247, 258-271.

<sup>32</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation). *See also* Bergsmo, M., "[Myanmar, Colonial Aftermath, and Access to International Law](#)", *Torkel Opsahl Academic EPublisher*, Occasional Paper Series No. 9 (2019) (first published on 15 August 2019), fn. 10.

<sup>33</sup> [Article 15\(3\) Request](#), para. 251.

<sup>34</sup> [Article 15\(3\) Request](#), para. 249. *See also* para. 248 (commissions of inquiry assessed for the purposes of the complementarity determination were established by a quasi-judicial authority).

<sup>35</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 2 ("Whenever this Act mentions the term "Investigation Committee", it shall also denote the special committee or commission appointed by the Union Government or State or Regional Government for enquiry into any special issue").

<sup>36</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 3 ("In establishing an Investigation Committee, the members of its committee shall be appointed by the President of the Government of Myanmar with their mission stated explicitly.")



the chairperson casting the deciding vote.<sup>37</sup> The Act also provides that “[n]o civil actions or any other actions shall be instituted against any members of the committee for anything done in good faith under this act”.<sup>38</sup>

15. Consistent with the discussion in the Article 15(3) Request on the ICOE’s characteristics,<sup>39</sup> the Act provides that the investigation of the special committee or commission “shall be deemed to be a criminal case proceeding”,<sup>40</sup> and ultimately that “[u]pon completion of the investigation, the Chair shall arrange to submit to authority concerned the report together with written decisions and the recommendations of the investigation committee.”<sup>41</sup>

16. Consistent with the discussion in the Article 15(3) Request regarding the ICOE’s powers,<sup>42</sup> under the Investigation Committees Act 1950, the committee shall have powers *inter alia* to compel the production of documents and the attendance of witnesses.<sup>43</sup>

17. Additionally, under the Act “[a]ll witnesses are obliged to give their testimony truthfully”, with false testimony amounting to a crime.<sup>44</sup> In relation to witness protection, the Act provides that witnesses are protected from the consequences of self-incrimination.<sup>45</sup> It also provides that “[w]ithout the pre-sanction of the

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<sup>37</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 4.

<sup>38</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 14.

<sup>39</sup> [Article 15\(3\) Request](#), para. 251. *See also* para. 248 (some of the commissions of inquiry assessed for the purposes of the complementarity determination were explicitly authorised to refer persons to the competent authorities, to such an extent that arrests had been made and charges brought in connection with their inquiries.)

<sup>40</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 5.

<sup>41</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 13. “Every member of the Committee shall sign the report but any member who has dissenting opinion may state his opinion separately.”

<sup>42</sup> [Article 15\(3\) Request](#), para. 253. *See also* para. 248 (commissions of inquiry assessed for the purposes of the complementarity determination had certain judicial and investigative powers).

<sup>43</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 9.

<sup>44</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 6.

<sup>45</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 6 (“The Investigation Committee may allow the witness to produce the evidence in oral or written. All witnesses are obligated to give their testimony truthfully. False testimony is a commitment of crime according to Section 193 of the Penal Code. However, the witnesses shall have the right to enjoy the privileges mentioned in Section 132 of the Evidence Act”). *See also* [Evidence Act 1872](#), s. 132 (“A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate, such witness, or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind: Proviso.

Union President, no civil or criminal case shall be instituted against a person who made written or verbal testimony".<sup>46</sup>

18. As was the case at the time of filing the Article 15(3) Request,<sup>47</sup> the ICOE's activity appears to be ongoing, because it does not appear to have submitted its report.<sup>48</sup> Since the Prosecution filed its Article 15(3) Request, the ICOE has reportedly held additional meetings to discuss documents received from the *Tatmadaw* and the Myanmar Police Force, work progress and the preparation of its report.<sup>49</sup> The ICOE has reportedly expanded its Evidence Collection and Verification Team ("ECVT") "in order to hasten their evidence collection."<sup>50</sup> An advance team co-led by two ICOE members visited Bangladesh in August, reportedly in preparation for the deployment of the ICOE's ECVT "in Cox's Bazar to interview and collect evidence from those who are residing in the Camps therein".<sup>51</sup> The Government of Bangladesh reportedly has agreed in principle to allow the ECVT to carry out its activity in Cox's Bazar.<sup>52</sup>

## 2. Court of Inquiry

19. Supplementary information has become available regarding the activities of the military Court of Inquiry, described in the Article 15(3) Request as an "investigation court".<sup>53</sup> Again, this information does not affect the conclusion in

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Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.")

<sup>46</sup> [Investigation Committees Act](#), Act No. IV of 1950 (unofficial translation), s. 15.

<sup>47</sup> [Article 15\(3\) Request](#), para. 252.

<sup>48</sup> UNGA Statement dated 29 September 2019, [BGD-OTP-0001-5198](#), p. 9. *See also* ICOE, Press release of 10<sup>th</sup> meeting dated 17 August 2019, [BGD-OTP-0001-5201](#); ICOE, Press release of 11<sup>th</sup> meeting dated 11 September 2019, [BGD-OTP-0001-5186](#).

<sup>49</sup> ICOE, Press release of 10<sup>th</sup> meeting dated 17 August 2019, [BGD-OTP-0001-5201](#); ICOE, Press release of 11<sup>th</sup> meeting dated 11 September 2019, [BGD-OTP-0001-5186](#) ("The twelfth meeting of the ICOE is scheduled for October 2019").

<sup>50</sup> ICOE, Press release of 10<sup>th</sup> meeting dated 17 August 2019, [BGD-OTP-0001-5201](#).

<sup>51</sup> ICOE, Press release dated 22 August 2019, [BGD-OTP-0001-5189](#) ("The Advance Team also conducted a day visit to the Camps in Cox's Bazar namely: Balukhali, Jamtoli and Kutupalong"). *See also* ICOE, Press release of 10<sup>th</sup> meeting dated 17 August 2019, [BGD-OTP-0001-5201](#).

<sup>52</sup> ICOE, Press release dated 22 August 2019, [BGD-OTP-0001-5189](#).

<sup>53</sup> [Article 15\(3\) Request](#), paras. 235-236, 246.

the Article 15(3) Request regarding the admissibility of potential case(s) under the complementarity criterion.<sup>54</sup> In addition, the supplementary information described below relates to the Court of Inquiry's activities and not to the information provided in the Article 15(3) Request indicating inaction in relation to the potential case(s) identified in the Request, or unwillingness within the meaning of article 17(2)(a) and (c) with respect to any investigation or proceedings undertaken, regarding (i) the inquiry by the *Tatmadaw* Investigation Team and subsequent proceedings into the killing of ten Rohingya victims in Inn Din and their outcome;<sup>55</sup> and (ii) the alleged removal from their posts of senior *Tatmadaw* officers.<sup>56</sup>

20. As reflected in the Union Minister's UN GA Address at the end of September 2019, the Office of the Commander-in-Chief of Defence Services had reported that (i) the Court of Inquiry had conducted an investigation in Buthidaung and Maungdaw townships in Rakhine State;<sup>57</sup> (ii) following its investigation, the Court of Inquiry found that, "due to the weakness in following the instructions in some of the incidents at Gutabyin [Gu Dar Pyin] village",<sup>58</sup> a "Court-Martial will proceed in accordance with the procedures of Military Justice"; and (iii) the Court of Inquiry will continue to pursue the remaining task of investigation.<sup>59</sup> No further details were given regarding who was being tried before the court-martial or for what offence and it does not affect the Prosecution's overall conclusion that the available information indicates inaction on the part of the Myanmar

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<sup>54</sup> [Article 15\(3\) Request](#), paras. 236, 246 (finding that the information surrounding the establishment from 18 March 2019 of a military investigation court the Court of Inquiry did not affect the admissibility of the potential case(s) under the complementarity criterion).

<sup>55</sup> [Article 15\(3\) Request](#), paras. 235-244.

<sup>56</sup> [Article 15\(3\) Request](#), para. 245.

<sup>57</sup> Office of the Commander-in-Chief of Defence Services, Court of Inquiry conducts investigation in Buthidaung and Maungdaw regions, [BGD-OTP-0001-5195](#) ("for the second time on 15 July 2019, and arrived back in Nay Pyi Taw on 5 August 2019").

<sup>58</sup> Office of the Commander-in-Chief of Defence Services, Court-Martial underway in connection with finding of Court of Inquiry, [BGD-OTP-0001-5192](#).

<sup>59</sup> Office of the Commander-in-Chief of Defence Services, Court-Martial underway in connection with finding of Court of Inquiry, [BGD-OTP-0001-5192](#).

authorities such that the potential case(s) would be admissible pursuant to the complementarity criteria in article 17(1)(a) and (b) of the Statute.<sup>60</sup>

#### IV. CONCLUSION

21. In the interest of the completeness of its analysis, the Prosecution submits before the Chamber the aforementioned information.



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**Fatou Bensouda, Prosecutor**

Dated this 18<sup>th</sup> day of October 2019

At The Hague, The Netherlands

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<sup>60</sup> [Article 15\(3\) Request](#), para. 228.