

Land Use Allocation and Scrutinizing Committee
Consultation Meeting on Draft National Land Use Policy
18th October, 2014

Opening Speech by Director General of the Forest Department – Secretary of the Land Use Allotment Scrutinizing Committee

Presentation on draft national land use policy, U Aye Maung Sein, Director (retired) SLRD (Refer to Powerpoint)

INGOs, CSOs have been involved in drafting of the national land use policy and submitted to office of the President.

This land use policy will provide guidance that will apply to the whole country – and provide a model system for access to information by the public – improving rule of law and governance, and contribute to decentralisation, and ensure that laws not being implemented are implemented

This plan will be updated every five years

Presentation on public consultation action plan and CSO pre-consultation, U Shwe Thein, LCG (Refer to Powerpoint)

Sharing public consultation of draft national land use policy – addressing why there is a need for public consultation, what the plan is and what CS opportunities there are to engage.

As a committee, we are aiming to promote of a democratic process, and our expected results on public consultation are: improving land ownership and legitimacy of citizens, improved trust in government, meeting the needs of the people, and improved political and social stability.

The plans for public consultation will include: 17 events in states and regions in November: 14 events; an event in NPT and two additional events in Shan State. It is important that these events are open to all and that representatives of stakeholders are able to participate. We will use these events to provide an explanation of the policy brief and questions and answers. We will also be providing proper documentation which will be given to the communities. Following these public consultations there will be a national consultation workshop in December once the feedback from the earlier consultations has been implemented into the draft LUP. Third week of October will meet with states and regions to organise consultations. The consultations will happen in the 2nd-4th weeks of November.

The policy will be finalized by Union government after the consultation comments have been taken into account. It is important that everyone is able to read the draft policy and for this reason it is on the MOECAAF website. In the current draft there are no sector policy recommendations. We encourage civil society to read and comment on the draft policy and share with networks, and share feedback with the committee. Questions can be raised at the regional level or shared through the dedicated email luasc.myanmar@gmail.com.

Feedback will be documented through voice recording and note taking, registered properly in excel spread sheets – members of local groups will be providing support to feedback. The feedback will need to be taken account of systematically: by reviewing by the policy review team, categorized into different levels. Most feedback will be categorized into three areas: feedback which directly informs the policy, feedback which informs the law and the regulation, and feedback which is not deemed relevant. ALL of the relevant feedback will be considered in the revision process and decision on each piece of feedback will be documented – and this will contribute to helping make the policy strong.

During the draft preparation, already taken into account include the following: **the national dialogue on land tenure and land rights recommendations November 2012**, **recommendations from national tenure guideline workshop March 2013**, **roadmap and draft policy framework consulted on with CSOs August 2013**. These recommendations were integrated into the policy drafting. Other research and study reports from members of LCG were also fed into the draft policy.

CSOs will now be able to organise their own consultation meetings for one month: from 20 October to end of November. This way, when the public consultations begin, civil society will be prepared and ready to engage.

The available documents for this consultation include: power point, policy briefing notes and the draft policy – which we will distribute (the policy is also online). Each CSO led meeting will discuss the draft policy and then have questions and feedback, with the aim of reaching the grassroots – farmers, farmers and associations and communities – this is to ensure that we are able to protect the interests of the community by ensuring they have received the information and are able to feed into the policy drafting. The policy will be more effective if this input is taken into account.

Presentation on the framework of that national land law, U Aung Naing, Director Union Attorney General Office (Refer to Powerpoint)

A lot of ministries work in land management with different laws – it is important to have an umbrella for this work. It is important **that once the land law has been drafted** we are able to ensure that all policies correspond to it – the committee will do this – and to make sure the land law is in line with the laws of other ministries. We will be reviewing what should be in the land law and what should be taken out.

Forming **the national land use management council** - it will be important whenever there is a land dispute that the committee is part of it. The **national land use committee** will be established to work at the national and other levels – state, region and district. It will ensure that land law is in line with the laws of the states and regions (chapter 3).

Reserve land is something we need to take into consideration for growing populations. **Myanmar has forests and this will need to be tackled within the law (chapter 6)**.

Documentation and registration will be extremely important (chapter 7) to strengthen land ownership. We will need to address the problems and challenges facing registration, how a change in ownership is handled and systems for keeping land records. **We will also need to recognize the**

Comment [k1]: The same?

customary tenure and rights of ethnic groups and how to register this – this will mean improving the current land registration process.

With a growing population more land will be needed (chapter 8) and the planning will need to take account of infrastructure development including water, electricity, schools, security, hospitals and clinics – and the land needs of all of these. Policies to deal with urban and rural overpopulation needs tackling along with which organisations will have the right to plan/establish and extend urban and rural settlements. In addition it needs to be clear which organisations have the power to review planning. Critical will be outreach to the public on this.

Use of land resource and transfer of land (Chapter 9) – land is owned by the state in line with the 2008 constitution but those using the land have the right to do so including selling, mortgaging, leasing or gifting is permitted – systems relating to land use change will be based on zones. A system is to be developed for changing land use based on zones. Shifting cultivation and other traditional farming methods are to be recognized and policies relating to allowing the concession or lease of state land.

Land Resource Management (Chapter 10) – a body is to be established that will determine how land should be organized and managed, and to determine which body has final decision making powers.

Land Use Rights of Ethnic Nationalities (Chapter 11) - Adopting policy to enact traditional land use rights of ethnic nationalities, groups. Will create appropriate dispute settlement mechanism for ethnic peoples, including skilled tribal leaders.

Land Acquisition, compensation (Chapter 12) – determining how to carry out the land acquisition in accordance with the Land Acquisition Act. Policies on compensation are a second priority, plan to amend the 1894 act if necessary. Harmonising and having uniform laws from other areas relating to land acquisition. Refocus away from compensation towards alternative livelihoods, relocation and restitution. If a person has to move away because of land acquisition what kind of livelihood will he have. Need to move to new livelihood and ensure that the person has viable livelihood and have infrastructure in place before they move.

Land Dispute resolution and appeal (Chapter 13) – will determine organisation to enquire, hear and decide land disputes. Also will adopt policies around this, such as statute of limitations, appeals process etc. This will all be included in the law. Want to have a law that can ensure decisions can be accepted by the people and not lead to further problems. Land Council decisions will be definitive and final.

Other Chapters as per Powerpoint.

Question and answer discussion 11.20 – 12.05

1. Questions: Four points I would like to raise: a) relationship to FDI; b) land categories – how will you make sure people know about land categorizations / make accessible and how will you do outreach?; c) what does the LUP mean for foreign investors – who operate on the basis of a long-term lease – will there be provisions in the policy for the foreign investors? What are the terms of their use of the land under a lease under the law?; d) land registration – how will you ensure that communities have information on the land registration process? How will buildings (assets) built on the land be registered?

Answer: b) **There are ten land classifications.** Once these have been determined, it will be important to work with the different ministries which oversee this land. Some land will be turned into forest land (under 30% target to ensure 30% of land is forest land?). Different ministries have different policies, trying to make classification more centralized. The land classification process will address how the land will be used, and for what purpose. Ascertain and ensure categorization is correct – working with SLRD on this.

On question d) Although the state owns all land, land can be used by citizens and given as a grant (given by the state to the communities – to use the land). Foreign companies can also apply for grants and the ministry will give them a leasing grant or lease according to time limits (short-term, full-term). If you are given a 30 grant you can apply for a further 30 years twice (up to 90 years in total); alternatively, temporary settlement licenses can be given to citizens of Myanmar for 1-3 years – for residential use in residential areas; for commercial and other industrial activities a request for a grant can also be given in the form of an industrial lease. C) Foreigners can lease but only up to 1 year; for commercial investment the MIC can grant up to 15 years. B) **On land classifications: a zoning system will be implemented (agriculture e.g. as one category)** and this will be public information accessible to the public. D) there are rights to transfer land. There is a stamp duty to be paid on land transfers and a fair and equitable stamp duty will be addressed in the new laws (and is already included in the policy). We will also make sure there is legal harmonization pertaining to land use e.g. with infrastructure/public works investments and condominium law for apartments.

2. Question: What will be the timing for regular reviews of land policy/laws? It will need to be updated at least every generation/20 years.

Answer: the LUP will be updated every five years.

3. Question: the LUP will need to be in line with constitution – but also reflect the reality of what is happening in the field. As poverty alleviation is the ultimate aim of the government, the LUP should have a focus on poverty alleviation for the coming 10-15 years. Since Myanmar is an agricultural country, the role of small farmers is very important. So in the LUP what are the provisions that will give preferential treatment to SSFs? We are working towards industrialisation, how will this be reflected in the LUP?

4. Question: the LUP is based on a decentralized approach which is very welcome. But there will be a lot of negotiation between groups for example on religious land – this will be a difficult area to navigate but the LUP will need to include guidance on how to allocate religious land. This will help to reduce religious conflict between communities.

Answer: in those classifications, under residential there is a sub-group on cultural land and on heritage land. These classifications will deal with religious land – **the LUP will in this way contribute to the right to freedom of ethnic groups.**

Comment (UST): it is important to have a system to allow land registration for all and that ensures protection of security of tenure for ethnic groups and equal rights for access to land to promote gender equality. These issues will all be covered in the LUP.

5. Question: Land Use Policy development. It was said that LUSAC and LCG working together for the land policy. Page 17 talks about national dialogue on land tenure, draft national land use

policy. I've read about the platform of the land core group; promoting the right to use the land, security of land tenure and land tenure for small holder farmers. Regarding private investment the aim is to achieve economic growth, but have the LCG points been taken into consideration, because it is important to include for small scale farmers, as now they have a lot of conflicts with companies.

Answer: Probably that was from the recommendations of the national dialogue. 1st recommendation was to have a comprehensive policy, also important to consult stakeholders, and to have impartial land resolution process as well as systematic implementation of national land policy. Also a recommendation was to ensure land tenure for ethnic groups, and to have gender equality. These points that were made are all covered in the LUP.

6. Question: Now you talked about the National Land Use Council but there are also other land use management committees. Are these the same thing or are they different bodies? There should be a clear indication of the different bodies to make it simple to understand e.g. the existing bodies in ethnic states and regions dealing with land disputes already? How will these organisations be part of a national LU council?

Answer: There are differences between the 2 bodies. The LUP will be the highest guidance after the constitution. Once the policy is finalised there will only be one body (council) dealing with land use. Now there are two names but we need to standardise..

7. Question (FAO): on the complaints mechanism – there is a conflict between agricultural and fishing on fishing / farming ground. There is no clear indication of how land will be managed with regards to this.

Answer: in chapter 4 there will be classifications covering livestock (covering agricultural) land and fisheries land – so this issue will be covered.

8. Question: which framework will be used to oversee land use planning? A framework will be needed at macro and local / region/state level. Policy zoning will be very difficult and cannot be done in isolation from forestry – land zoning will need to be tackled together with forestry zoning.

Answer: this will be addressed by land use council and beneath this a land use management committee – and both of these will operate at different levels. These groups need terms of reference – the committee will be given the power to draw up a land use plan and indicate the zoning and classification. We need your advice and experience on this.

9. Question: Aung Kyaw Thein LCG – the LUP looks very good but there does not seem to be a strong mechanism for implementing this – in the field. What are the implementing mechanisms for this policy? If a national LUP will be established who will be on it? What are the approaches you are considering to ensure that it is established in a bottom up way and including local and national land consultants and voices? There needs to be a clear distinction between the state owned land and other land.

Answer: the LUP deals with land where ownership has been transferred. If the land is not used, it must be returned to the state and then the state will decide how to use it including allowing other commercial enterprises to apply to use it.

Answer: on who should form the national land use council: there will be a law to establish the council and it will include the chief minister of the regions/states, the vice-president (chairman of the council) and individuals with expertise on land. There is no detailed plan yet but there will be a variety of actors appointed.

Overview on national land resource management plan – pilot projects – Dr Myat Su Mon (refer to powerpoint)

Four pilot projects will be proposed.

The first project will be on centralizing land information system through improving the country's systems of land use management, land tenure admin and public access to land info. It is also important for us to understand the needs of the people and this will require providing public access to information. This will also increase transparency and openness – and we will take these into account as principles when development the centralizing land information system. This will also involve updating land tenure records in different agencies (through standardizing ICT) onto a single database which the public will also have access to. Strengthening departmental coordination and cooperation will be key.

Allocation of farmland – solving issues relating to land security and conflict / allocation of land disputes. Land use management committees need to be formed at different levels to deal with this

Presentation on One Map Myanmar Concept, Dr Myat Su Mon, AD, Forest Department (refer to presentation)

The government platform for verified open access spatial information: prepared by MOECAAF.

Different agencies have different information set unreconciled. Access is not easy and it is difficult to know which maps exist. There may be duplication of capacity – with different ministries doing the same thing. There is a significant lack of shared land information – addressing these gaps is an urgent priority. The one map concept is an attempt to address these problems.

It will include the development of decentralized regional mapping offices. Capacity development will be essential – of government / authorities as well as technological capacity including internet access. Following the standardisation, harmonization and alignment of spatial data, there will be a village level verification process. The data once verified will be hosted on the internet.

There has been learning from Laos and the Lao DECIDE info and also other countries such as Singapore and Indonesia which have one map systems. For Myanmar, it is important for the LUP that institutional challenges are addressed – and those related to Onemap are: need to have an effective sharing mechanism, commitment to openness and transparency, ensuring quality of process, enhanced quality and accuracy of spatial data, participatory implementation of the project, addressing the key technical challenges.

To deliver Onemap, technical expertise and capacity support as well as financial resources will be needed from the international community. 4 main stages of the One Map process.

- Initiation and Capacity Building – skill training of those involved in the process.
- Data collection and verification

- Request metadata on all spatial data, digitize each data, then standardise and harmonize.
- Village based inputs to ensure verification
- Internet Hosting
- Longer Term Technical Consolidation and Evolution

Organisational structure

National Land Use Council will have one map working group, liaising with government agencies and then have one map offices down to district level who will confer with village level.

Presentation on collaboration on national land resource management related monitoring and evaluation – Rob Obendorf

- Pilots – there is a heavy emphasis on learning by doing. The following will be done:
- Law harmonization
- National land inventory including compiling data – this information will managed by a land information unit within MOECAAF
- Building capacity of government staff at district TSP and village tract level will be prioritised
- One Map Myanmar
- Securing land resource tenure rights – linked to village level land use planning processes
- Coordination – USAID and the EU as well as SDC are working closely together to support MOECAAF as chair of LUASC. It is recognized that these are not the only land administrative development programmes. FAO officials are investigating rolling out VGs for government officials here.
- A sub working group on land will be created in the agriculture sector working group and this will be tied to the process around the national Land Use Policy.
- There are opportunities being made to ensure that all stakeholders are represented within these processes

Question and Discussion 14.30-15.30

1. Question: Myanmar legal aid network – what will the land conflict mechanism be? How will it link to the courts and legal processes? Is it possible to combine both legal and administrative channels? How are you planning to update the maps?

Answer: there are often cases related to vacant fallow and virgin land and trespass. The national land council will take forward land disputes and they will go to court if necessary – we will ensure that both channels are open and that case by case, individual cases can be referred to court.

Answer: Right now we are updating maps, many maps are from 1954. We also need to verify with Satellite imagery. We must examine the current maps that ministries are using. SLRD has field maps so we will be doing updates of the kwinn maps, SLRD is using land boundaries based on the information we have, if we get new information we can update it. So we need to work together with different ministries. There will be a process for digitising all maps. A lot of technical issues, and verification will be necessary. According to the skills of the GIS survey dept they will be able to use the system, and all updated information will be included updated and accurate. The main issue will be to update the current maps and give information to the communities. The department is doing their best to update information, updating GIS technology. All this data will be shared in OneMap Myanmar, and there will be public access to information.

2. Question: there are many issues related to military land grabbing – we face a lot problems on this in the field – how will you address this? Land acquisition act – before revising and reviewing the law the land acquisition act needs to be enforced. On engagement with farmers association – how will you engage with unions and what is your outreach programme to them?

Answer: we want to make the land acquisition process more transparent and that is why we want to review the law. Regarding the military land grabbing cases, we are discussing only land use policy, please try to be constructive, we want to have constructive discussion to promote rule of law. For farmer union and associations, these will be important stakeholders, so I don't think I need to respond further.

UST - Under the power of the national land use council the question is how can we effectively implement land use policy. On the basis of that we will be able to draw up a new land law and land acquisitions will be included in that. The land acquisition act is a comprehensive law which doesn't need criticizing. It has been mentioned that the land acquisition act

On compensation – through the land use policy process we will not be prioritizing the issue of compensation. Instead we will be prioritise relocation and resettlement rather than compensation when land acquisition is involved. A decent livelihood will be most important so our priority will be on relocation. Ultimately we will be keeping the good points of the land acquisition act.

On contract farming – this is a good thing because it will help increase productivity. Where it is damaging to small scale farmers then we will push back against it. We can't just say that contract farming is negative.

3. Question: If there is too much focus on relocation this will create problems – you have already mentioned that there is not enough reserve land available. Historically experiences with relocation have been problematic and have taken years to sort out relocation (due to overlap of land claims by communities). To find a new settlement area and find livelihoods will be too difficult. This will also lead to a lot of conflicts. Fishers and farmers already have a lot of conflicts over land. In the conflict areas there is a lot of land. It is important that when you develop the land policy you reorient it to conflict issues – how to resolve issues where people have lost land due to conflict. I raise this because you mentioned prioritizing relocation over compensation and this will result in a chain of problems.
4. Question: GPI – in which sectors has land been changing – commercial, agriculture, mining? In which classification is the change happening? Vacant, fallow and virgin land – how much of this is left in Myanmar. When you draft a national LUP – there are nine ministries relevant to land use policy – can CS also feed in pieces of research to help inform the policy (Indian land policy works with civil society to feed in research to policy formation).

Answer: Regarding land use changes – what I can say is that it is important. We are aiming towards industrial land use, or more towards residential land use, or will it focus more in agricultural sector, according to statistics I don't know, but in terms of changes it depends on how the land use is changing, but with increase in population of course we will have changing land uses.

Regarding how much VFV there is, I don't have data, we need to work with MoAI to work it out.

For Research many ministries have research departments according to the ministries. According to the land use policy we intend to work with INGOs based research papers on what NGOs are doing such as the upland shifting cultivation systems. Also included one area for ethnic nationalities. If you

have research and want to share with policy draft team then please share and we can take that into account, look at how we can integrate into our policy.

For VFV land, how much? It is important we need to know the land use resources we have in Myanmar. For the land resources, how will we get inventory, working systematically working on land use, we need to review this. Look at current situation, it is important to have data information to inform policy decisions. How can we raise public awareness, how do we protect and reform, this will be important during the review part of the policy. There will be an implementation part of the land use council, looking at how to implement, **to review land use policy with research**. Important part is to do research to strengthen policy implementation, from that what I have found, government agencies need more capacity and more funding to do this necessary. **If donors are interested in these research or pilot projects then they should be able to join in because the government needs support.**

Myanmar is moving forward with socio-economic development, from perspective of urban planning processes, there is a lot of urban change. A lot of agriculture land has been turned into urban construction. But we also need agriculture, so we need to research how much we need and then develop a process so that we can protect the farmers, and look at land use and extend urban settlement areas. Increasing population, need to have more jobs for the people. Need to have planning, to support owner protecting land use.

5. Question: In land use policy we have seen the process on how to implement, how many consultations etc. What about border areas though? These border areas should also have discussion, what about in different states and regions? **Should there be discussion in ethnic languages, and documentation in the local language. Important to translate into local languages.**

Answer: Before this meeting with committee members we discussed about this issue a lot. Some of the regions and states there will be language issues. To translate the policy it will take time, so we will explain in Myanmar and then provide translation into the local dialect. But it is a very good suggestion and consideration. For key national ethnic groups we will ask CSOs and others who speak local language to support the consultation.

6. Question: **Spectrum – it would be easier if rights were included under the banner of FPIC otherwise there will be conflicts resulting from that. Suggest to actively include international definitions of FPIC to clear up confusion in section 37 between consultation and choice.** 2nd question ties into the number of land use categories, looked at Peruvian land use categories and they had 120. Similar to Myanmar but more detailed divided into productive use. If we look at national parks desire is for nothing to happen, but indigenous groups are also living in these areas. **Perhaps need to go for a model that has an increased number of mixed-use categories particularly in the areas where conflict already exists.** Below ground mining assets etc, how to deal with some of these issues can only be dealt with using mixed use categories.

Answer: (Rob) **When looking at sub-classifications, perhaps the layering will be like mixed classification.**

Answer: FPIC as a concept is very important. FPIC as a term is not in the document but **we agree it should be part of it (the LUP).** As for classification we need to define very clearly.

7. Question: One map Myanmar, looks very interesting but wonder if it is technically very demanding considering the country context. the implementation of the national LUP and land law seems very dependent on OneMap. If OneMap is going to take a long time – given it is such a complex process – Without this one map system can we still implement the land law?

Answer: OneMap is not totally new and we are not starting from zero. We have forest cover assessment every five years, and also land use and land cover that is done looking at ranges which we do every 10 years. We also have the maps of SLRD which we can use, **in one district we have already started on the one map concept.** For the forest department we are looking at the land cover assessment, will be using high resolution to be able to assess more accurately the land use data

Answer: UST: there are two parts to onemap – one is to update the maps we currently have and develop one map for the whole of Myanmar. It will be very challenging and will take time but we are starting with a pilot to see how much time it will take and we will need to take the results of this into account. This is the first ever land use policy in Myanmar and we are trying to prioritise as well as doing learning by doing.

Answer: DG, Forest dept: each department has its own map and the plan is to have one ministry overseeing this – but this will be very difficult (Ministry of Home Affairs? MOECAFF?). It is important to work together with different agencies but it will be important to have one body which can manage this because now one district takes 3 months already This will be a new system and there are still things we need to finish and we need to build capacities. We will need a lot of technical support and expertise.

8. Question: private law firm representative: there are around 48 laws relevant to land issues. We need to harmonise with local and international law – treaties, multilateral agreements and conventions – how will this happen?

Answer: no answer.

Closing Remarks by Director General of the Forest Department – Secretary of the Land Use Allotment Scrutinizing Committee

Thank you to everyone for your participation and questions and suggestions. For Myanmar now our country is like a new baby that has been born, still very young. Myanmar used to be at the top of Asian countries more than 60 years ago, when I was young I went to visit the airport and we could see planes that came from Europe. At that time Yangon was the major transport hub for the region, but now we have moved back a lot. But now we have a new government and are trying to move forward again and making a new country. We are trying to build a new country. There are many new approaches that are being taken. Reform is very much necessary, for the land sector been trying to undertake difficult mandate of land reform, as you all know. When I look at history the land use policy is very important. We have been using different methods for land management because of lack of a land use policy. So we realise how important it is to have a policy, most neighbouring countries have land use policies so we are quite late. But yet being late can also have its good points,

because we can avoid the mistakes of other countries. We will be able to use new technologies reach international standards and learn from other countries.

I would like to thank everyone who support the land use policy and come here today, also special thanks to EU, USAID and SDC. USAID has been very quick in providing a technical consultant to help with the policy drafting. Would like to send thanks for other indirect and direct support from other organisations, especially FAO has been helping us quite a lot. Many organisations that have been helping a lot. Thank you to everyone to come together on a day like this on the weekend and for your recommendations to the meeting.